

1969 No. 1842

RESTRICTIVE TRADE PRACTICES

The Restrictive Trade Practices (Information Agreements)

Order 1969

Laid before Parliament in draft

Made - - - 18th December 1969

Coming into Operation 1st February 1970

Whereas a notice has been published complying with the terms of section 5(5) of the Restrictive Trade Practices Act 1968(a) and all the representations made with respect thereto have been taken into consideration :

And Whereas a draft of this Order has been laid before, and approved by a resolution of, each House of Parliament :

Now, therefore, the Secretary of State in exercise of her powers under section 5(2) of the Restrictive Trade Practices Act 1968 as having effect by virtue of the Transfer of Functions (Monopolies, Mergers and Restrictive Trade Practices) Order 1969(b) hereby makes the following Order :—

1. This Order may be cited as the Restrictive Trade Practices (Information Agreements) Order 1969 and shall come into operation on 1st February 1970.

2.—(1) In this Order “the Act of 1956” and “the Act of 1968” mean, respectively, the Restrictive Trade Practices Act 1956(c) and the Restrictive Trade Practices Act 1968.

(2) The Interpretation Act 1889(d) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3.—(1) It is directed that the provisions of Part I of the Act of 1956 (including sections 7 and 8 thereof) shall apply in relation to the following class of information agreements, that is to say, agreements (other than agreements described in Part I of the Schedule hereto) which relate to any of the matters specified in paragraph (2) of this Article, whether or not they relate to any other matters.

(2) The matters referred to in paragraph (1) are as follows :—

(a) the prices charged or quoted or to be charged or quoted otherwise than to any of the parties to the relevant agreement for goods which have been or are to be supplied or offered or for the application of any process of manufacture to goods ;

(a) 1968 c. 66.
(c) 1956 c. 68.

(b) S.I. 1969/1534 (1969 III, p. 4991).
(d) 1889 c. 63.

(b) the terms or conditions on or subject to which goods have been or are to be supplied otherwise than to any such party or any such process has been or is to be applied to goods otherwise than for any such party.

Signed by order of the Secretary of State.

Edmund Dell,

Minister of State,

Department of Employment and Productivity.

18th December 1969.

Article 3(1)

SCHEDULE

PART I

AGREEMENTS TO WHICH THE ORDER DOES NOT APPLY

1. An agreement particulars of which would, but for the provisions of this paragraph, be required to be furnished to the Secretary of State by virtue of section 31 (provisions relating to export agreements) of the Act of 1956.
2. An agreement which, insofar as it contains provisions for or in relation to the furnishing of information with respect to the matters mentioned in Article 3(2), contains only provisions of one or more of the following kinds, that is to say,—
 - (a) provision for or in relation to the furnishing of such information by parties to the agreement whereby each such party is to furnish such information separately and directly to a specified authority;
 - (b) provision for or in relation to the furnishing of such information by parties to the agreement whereby each such party is to furnish such information separately and directly to a person who does not carry on such a business as is mentioned in section 6(1) of the Act of 1956 or, where the parties are members of an unincorporated trade association, to a person employed by them solely for the purposes of the association, and under which neither that information nor information based thereon is to be furnished directly or indirectly by that person to any party to the agreement except—
 - (i) information which does not relate to any party other than the party to whom it is furnished; or
 - (ii) information which has been furnished to a specified authority at the written request of the authority, and then only in a form that prevents any information being identified, except by the party to whom the information relates, as being information relating to any particular party;
 - (c) provision for or in relation to the furnishing of such information which at the time it is to be furnished is information which has already been published in such manner that it is readily available to persons who are or may be purchasing goods or who are or may be requiring the application of processes of manufacture to goods, being goods or processes of descriptions to which the information relates; including, but without prejudice to the generality of the foregoing, the furnishing of particulars of prices charged for goods at any market or other place at which such goods are regularly offered for sale by a substantial number of sellers;
 - (d) provision for or in relation to the furnishing of such information by parties to the agreement whereby each such party is to furnish such information separately and directly to a person who does not carry on such a business as is mentioned in section 6(1) of the Act of 1956 or, where the parties are members of an unincorporated trade association, to a person employed by them solely for the purposes of the association, and under which neither

that information nor information based thereon is to be furnished directly or indirectly by that person to any party before the information or, as the case may be, the information based thereon has been published in the manner described in head (c) of this paragraph.

3. An agreement—

(a) of which the terms, by virtue of which it is an information agreement to which Part I of the Act of 1956 would but for this paragraph apply by virtue of this Order, are incidental to other terms of the agreement, and

(b) of which those other terms are terms by virtue of which, apart from this Order, the said Part I would apply to the agreement but for the provisions of section 7 or section 8 of the said Part I.

4.—(1) An agreement, made before the date on which this Order comes into operation, in respect of which the Minister certifies before that date that it is an agreement in relation to which the provisions of section 45(2) of the Agriculture (Miscellaneous Provisions) Act 1968(a) would have applied if this Order, apart from this paragraph, had been in force at all relevant times, and that had notice of the proposed terms thereof been served on him he would not have objected to those terms.

(2) An agreement, whenever made, of a kind mentioned in paragraph (a) or paragraph (b) of subsection (5) of the said section 45 and which is made as the result of the making of an agreement, between a board and a trade association, which is excluded from the operation of this Order by virtue of sub-paragraph (1) of this paragraph.

(3) In this paragraph “Minister” and “board” have the meanings respectively assigned to them in subsection (7) of the said section 45.

5.—(1) An agreement to which the only parties are bodies carrying on the business of the production and supply of gas under national ownership.

(2) An agreement to which the only parties are bodies carrying on the business of the generation and supply of electricity under national ownership.

6. In this Part “specified authority” means any of the bodies mentioned in Part II of this Schedule.

PART II

1. Any Government Department (including any Department of the Government of Northern Ireland) and any Committee established by any such Department.
2. The National Economic Development Council and any of its Economic Development Committees.
3. The National Board for the Review of Government Contracts.
4. The National Board for Prices and Incomes.
5. The Industrial Reorganisation Corporation.
6. The Monopolies Commission.
7. Any local authority as defined in section 66 of the Finance Act 1965(b).
8. The White Fish Authority.
9. The Herring Industry Board.
10. The Home-Grown Cereals Authority.
11. The Meat and Livestock Commission.
12. The Northern Ireland Livestock Marketing Commission.
13. The Central Council for Agricultural and Horticultural Co-operation.

(a) 1968 c. 34.

(b) 1965 c. 25.

14. The National Seed Development Organisation.
15. The Sugar Board.
16. The Shipbuilding Industry Board.
17. The National Research Development Corporation.
18. The Metrication Board.
19. Any development council established under the Industrial Organisation and Development Act 1947(a).
20. Any Royal Commission.
21. Any consultative council or committee or consumers' council established by Act of Parliament in relation to an industry carried on under national ownership.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order applies Part I of the Restrictive Trade Practices Act 1956 (which relates to the registration and judicial investigation of agreements) to information agreements (other than those described in Part I of the Schedule to this Order) which provide for the furnishing of information about prices and the terms and conditions in connection with the sale of goods or the application of any process of manufacture to goods.

The agreements described in Part I of the Schedule to this Order which are excluded from the class of agreements made subject to registration and judicial investigation are those, subject to the conditions laid down therein,—

- (a) which relate to exports,
- (b) which relate to information furnished to a Government Department or other authority specified in Part II of the Schedule,
- (c) which relate to the furnishing of information already published or to be made public,
- (d) which relate to the furnishing of information as an incidental matter in agreements already excluded from registration and judicial investigation by virtue of sections 7 or 8 of the Act of 1956,
- (e) which are entered into by an agricultural marketing board and are of a kind referred to in section 45 of the Agriculture (Miscellaneous Provisions) Act 1968,
- (f) where the only parties are the nationalised gas industries or the nationalised electricity industries.

Agreements existing at the date of operation of this Order must be registered within three months from that date, and other agreements must be registered before they become effective and in any event within three months of their making.

(a) 1947 c. 40.

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