

**1976 No. 98**
**FAIR TRADING**
**The Restrictive Trade Practices (Services) Order 1976**

*Laid before Parliament in draft*

*Made - - - - 26th January 1976*

*Coming into Operation 22nd March 1976*

Whereas a notice has been published by the Secretary of State complying with the terms of section 111(2) of the Fair Trading Act 1973(a) (hereinafter referred to as “the Act of 1973”) and all the representations made with respect thereto have been taken into consideration:

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

Now, therefore, the Secretary of State in exercise of powers conferred on her by sections 107 and 110 of the Act of 1973 hereby makes the following Order:—

**1.—**(1) This Order may be cited as the Restrictive Trade Practices (Services) Order 1976 and shall come into operation on 22nd March 1976.

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

**2.—**(1) The services brought under control by this Order are all services without exception.

(2) The services described in this Order as designated services are all services except those described in Schedule 4 to the Act of 1973.

**3.—**(1) It is directed that, subject to the provisions of Part X of the Act of 1973, the agreements to which Part I of the Restrictive Trade Practices Act 1956(c) applies shall include agreements (whether made before or after the passing of the Act of 1973 and whether before or after the making of this Order) which—

(a) are agreements between two or more persons carrying on business

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(a) 1973 c. 41.  
(c) 1956 c. 68.

(b) 1889 c. 63.

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within the United Kingdom in the supply of services brought under control by this Order, or between two or more such persons together with one or more other parties, and

(b) are agreements under which restrictions, in respect of the matters specified in paragraph (2) below for the purposes of section 107(1)(b) of the Act of 1973, are accepted by two or more parties, and

(c) are not agreements described in the Schedule hereto.

(2) The matters specified for the purposes of the said section 107(1)(b) are the following, that is to say—

(a) the charges to be made, quoted or paid for designated services supplied, offered or obtained;

(b) the terms or conditions on or subject to which designated services are to be supplied or obtained;

(c) the extent (if any) to which, or the scale (if any) on which, designated services are to be made available, supplied or obtained;

(d) the form or manner in which designated services are to be made available, supplied or obtained;

(e) the persons or classes of persons for whom or from whom, or the areas or places in or from which, designated services are to be made available or supplied or are to be obtained.

*Alan Williams,*  
Minister of State,  
Department of Prices and Consumer  
Protection.

26th January 1976.

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#### SCHEDULE

1. For the purposes of determining whether any agreement to which such an association as is mentioned in section 112 of the Act of 1973 is a party falls within a paragraph of this Schedule—

(a) if the association does not carry on business in the supply of the relevant service or belong to the relevant class of persons, but represents persons who do, it shall be deemed to carry on such a business or belong to that class; and

(b) there shall be disregarded any person who does not carry on the relevant business or belong to the relevant class and who is a party to the agreement by virtue only of the operation of that section.

2.—(1) An agreement to which the only parties are operators of international sea transport services and the only restrictions accepted thereunder are in respect of such services.

(2) An agreement to which the only parties are such operators and persons for whom such services are being supplied and the only restrictions accepted thereunder are in respect of such services so far as those services relate to goods.

(3) An agreement to which the only parties are operators of international sea transport services and one other person carrying on business in the supply of another service and the only restrictions accepted under the agreement relate to the supply or acquisition of that other service in connection with the operation of international sea transport services.

(4) In this paragraph “international sea transport services” means the international carriage of passengers or goods wholly or partly by sea; and where the carriage is not wholly by sea, the carriage by sea and the carriage otherwise than by sea form part of the same service.

3.—(1) An agreement to which the only parties are air transport undertakings and the only restrictions accepted thereunder are in respect of carriage by air.

(2) An agreement entered into between an air transport undertaking and its agent and the only restrictions accepted thereunder are accepted in pursuance of such an agreement as is described in (1) above.

(3) In this paragraph “air transport undertaking” shall have the same meaning as in the Air Navigation Order 1974(a).

4.—(1) An agreement to which the only parties are road passenger transport operators, and the only restrictions accepted thereunder relate to the provision of stage carriages or express carriages or both.

(2) For the purposes of this paragraph “stage carriage” and “express carriage” shall have the meaning given those expressions by sections 117 and 118 of the Road Traffic Act 1960(b).

5.—(1) An agreement entered into between the Treasury or both the Treasury and the Secretary of State and building societies and the only restrictions accepted thereunder relate to the raising of funds or the making of loans.

(2) An agreement to which the only parties are building societies and the only restrictions accepted thereunder are accepted in pursuance of such an agreement as is described in (1) above.

(3) An agreement to which the only parties are building societies, and the only restrictions accepted thereunder relate to the rates of interest charged or to be charged for loans, or to the rates of interest paid or to be paid to shareholders or depositors.

(4) In this paragraph a “building society” means a society incorporated under the Building Societies Act 1962(c) or any enactment repealed by that Act (and includes a Northern Ireland society defined in section 134 of that Act).

6. An agreement to which the Bank of England or the Treasury or both are parties and which relates exclusively to the exercise of control by the Bank of England and the Treasury or one of them, as the case may be, over financial institutions or over the monetary system generally, or to the conduct of markets in money, in public sector debt instruments or in foreign currencies.

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(a) S.I. 1974/1114 (1974 II, p. 4057).      (b) 1960 c. 16.  
(c) 1962 c. 37.

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7. An agreement to which the only parties carry on business in the supply of banking services and the only restrictions accepted thereunder relate to the supply of such services in Northern Ireland, or in Northern Ireland and the Republic of Ireland.

8. An agreement to which the only parties are persons permitted by or under Part I of the Insurance Companies Act 1974(a) or Part II of the Insurance Companies Act (Northern Ireland) 1968(b) to carry on insurance business and the only restrictions accepted thereunder relate to the provision of insurance services.

9. An agreement to which the only parties are trustees or managers of unit trust schemes authorised under the provisions of the Prevention of Fraud (Investments) Act 1958(c), or of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940(d), and the only restrictions accepted thereunder relate to the management of, or the sale and purchase of units of, unit trust schemes authorised as aforesaid.

10. An agreement arising by virtue of a recommendation made by an association such as is described in section 112(1) of the Act of 1973 and which is either represented on the body known as the Panel on Take-overs and Mergers or is a member of such an association represented thereon, being a recommendation to comply with the provisions of the City Code on Take-overs and Mergers or a recommendation made for the purpose of implementing a decision of the Panel.

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(a) 1974 c. 49.  
(c) 1958 c. 45.

(b) 1968 c. 6. (N.I.).  
(d) 1940 c. 9. (N.I.).

## 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 about goods) to restrictive agreements in the supply and acquisition of services.

All services are brought under control by the Order, and all services are designated services with the exception of those listed in Schedule 4 to the Fair Trading Act 1973. As a consequence agreements between two or more persons carrying on business in the supply of any services under which restrictions in respect of the matters specified in Article 3(2) of the Order are accepted in relation to those or other services (other than those listed in Schedule 4) will in general be brought within Part I of the 1956 Act.

Part I will not however apply to agreements of the particular descriptions specified in the Schedule to this Order. These, subject to the conditions laid down in the Schedule, relate to—

- (a) international sea transport services;
- (b) carriage by air;
- (c) road passenger transport;
- (d) the raising of funds and making of loans by building societies;
- (e) the exercise of financial control by the Treasury or the Bank of England;
- (f) banking services in Northern Ireland;
- (g) the provision of insurance services;
- (h) Unit Trust schemes;
- (i) the implementation of decisions of the Panel on Take-overs and Mergers.

Particulars of agreements existing at the date of operation of this Order must be furnished for registration within three months from that date, unless the agreement is terminated within that time, and particulars of other agreements must be furnished before the relevant restrictions become effective and in any event within three months of their making.

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