



# Protection of Trading Interests Act 1980

## 1980 CHAPTER 11

An Act to provide protection from requirements, prohibitions and judgments imposed or given under the laws of countries outside the United Kingdom and affecting the trading or other interests of persons in the United Kingdom. [20th March 1980]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Overseas measures affecting United Kingdom trading interests**

- (1) If it appears to the Secretary of State—
  - (a) that measures have been or are proposed to be taken by or under the law of any overseas country for regulating or controlling international trade ; and
  - (b) that those measures, in so far as they apply or would apply to things done or to be done outside the territorial jurisdiction of that country by persons carrying on business in the United Kingdom, are damaging or threaten to damage the trading interests of the United Kingdom,the Secretary of State may by order direct that this section shall apply to those measures either generally or in their application to such cases as may be specified in the order.
- (2) The Secretary of State may by order make provision for requiring, or enabling the Secretary of State to require, a person in the United Kingdom who carries on business there to give notice to the Secretary of State of any requirement or prohibition imposed or threatened to be imposed on that person pursuant to any measures in so far as this section applies to them by virtue of an order under subsection (1) above.
- (3) The Secretary of State may give to any person in the United Kingdom who carries on business there such directions for prohibiting compliance with any such requirement or prohibition as aforesaid as he considers appropriate for avoiding damage to the trading interests of the United Kingdom.

- (4) The power of the Secretary of State to make orders under subsection (1) or (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Directions under subsection (3) above may be either general or special and may prohibit compliance with any requirement or prohibition either absolutely or in such cases or subject to such conditions as to consent or otherwise as may be specified in the directions; and general directions under that subsection shall be published in such manner as appears to the Secretary of State to be appropriate.
- (6) In this section " trade " includes any activity carried on in the course of a business of any description and " trading interests " shall be construed accordingly.

## **2 Documents and information required by overseas courts and authorities**

- (1) If it appears to the Secretary of State—
  - (a) that a requirement has been or may be imposed on a person or persons in the United Kingdom to produce to any court, tribunal or authority of an overseas country any commercial document which is not within the territorial jurisdiction of that country or to furnish any commercial information to any such court, tribunal or authority; or
  - (b) that any such authority has imposed or may impose a requirement on a person or persons in the United Kingdom to publish any such document or information,the Secretary of State may, if it appears to him that the requirement is inadmissible by virtue of subsection (2) or (3) below, give directions for prohibiting compliance with the requirement.
- (2) A requirement such as is mentioned in subsection (1)(a) or (b) above is inadmissible—
  - (a) if it infringes the jurisdiction of the United Kingdom or is otherwise prejudicial to the sovereignty of the United Kingdom; or
  - (b) if compliance with the requirement would be prejudicial to the security of the United Kingdom or to the relations of the government of the United Kingdom with the government of any other country.
- (3) A requirement such as is mentioned in subsection (1)(a) above is also inadmissible—
  - (a) if it is made otherwise than for the purposes of civil or criminal proceedings which have been instituted in the overseas country ; or
  - (b) if it requires a person to state what documents relevant to any such proceedings are or have been in his possession, custody or power or to produce for the purposes of any such proceedings any documents other than particular documents specified in the requirement.
- (4) Directions under subsection (1) above may be either general or special and may prohibit compliance with any requirement either absolutely or in such cases or subject to such conditions as to consent or otherwise as may be specified in the directions ; and general directions under that subsection shall be published in such manner as appears to the Secretary of State to be appropriate.
- (5) For the purposes of this section the making of a request or demand shall be treated as the imposition of a requirement if it is made in circumstances in which a requirement to the same effect could be or could have been imposed; and

- (a) any request or demand for the supply of a document or information which, pursuant to the requirement of any court, tribunal or authority of an overseas country, is addressed to a person in the United Kingdom ; or
  - (b) any requirement imposed by such a court, tribunal or authority to produce or furnish any document or information to a person specified in the requirement,
- shall be treated as a requirement to produce or furnish that document or information to that court, tribunal or authority.
- (6) In this section " commercial document " and " commercial information " mean respectively a document or information relating to a business of any description and " document" includes any record or device by means of which material is recorded or stored.

### **3 Offences under ss. 1 and 2**

- (1) Subject to subsection (2) below, any person who without reasonable excuse fails to comply with any requirement imposed under subsection (2) of section 1 above or knowingly contravenes any directions given under subsection (3) of that section or section 2(1) above shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine ;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (2) A person who is neither a citizen of the United Kingdom and Colonies nor a body corporate incorporated in the United Kingdom shall not be guilty of an offence under subsection (1) above by reason of anything done or omitted outside the United Kingdom in contravention of directions under section 1(3) or 2(1) above.
- (3) No proceedings for an offence under subsection (1) above shall be instituted in England, Wales or Northern Ireland except by the Secretary of State or with the consent of the Attorney General or, as the case may be, the Attorney General for Northern Ireland.
- (4) Proceedings against any person for an offence under this section may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.
- (5) In subsection (1) above " the statutory maximum" means—
- (a) in England and Wales and Northern Ireland, the pre scribed sum within the meaning of section 28 of the Criminal Law Act 1977 (at the passing of this Act £1,000);
  - (b) in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (at the passing of this Act £1,000);
- and for the purposes of the application of this subsection in Northern Ireland the provisions of the said Act of 1977 relating to the sum mentioned in paragraph (a) shall extend to Northern Ireland.

### **4 Restriction of Evidence (Proceedings in Other Jurisdictions) Act 1975**

A court in the United Kingdom shall not make an order under section 2 of the Evidence (Proceedings in Other Jurisdictions) Act 1975 for giving effect to a request issued by or on behalf of a court or tribunal of an overseas country if it is shown that the request infringes the jurisdiction of the United Kingdom or is otherwise prejudicial to the sovereignty of the United Kingdom; and a certificate signed by or on behalf of

the Secretary of State to the effect that it infringes that jurisdiction or is so prejudicial shall be conclusive evidence of that fact.

## **5 Restriction on enforcement of certain overseas judgments**

- (1) A judgment to which this section applies shall not be registered under Part II of the Administration of Justice Act 1920 or Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 and no court in the United Kingdom shall entertain proceedings at common law for the recovery of any sum payable under such a judgment.
- (2) This section applies to any judgment given by a court of an overseas country, being—
  - (a) a judgment for multiple damages within the meaning of subsection (3) below;
  - (b) a judgment based on a provision or rule of law specified or described in an order under subsection (4) below and given after the coming into force of the order ; or
  - (c) a judgment on a claim for contribution in respect of damages awarded by a judgment falling within paragraph (a) or (b) above.
- (3) In subsection (2)(a) above a judgment for multiple damages means a judgment for an amount arrived at by doubling, trebling or otherwise multiplying a sum assessed as compensation for the loss or damage sustained by the person in whose favour the judgment is given.
- (4) The Secretary of State may for the purposes of subsection (2)(b) above make an order in respect of any provision or rule of law which appears to him to be concerned with the prohibition or regulation of agreements, arrangements or practices designed to restrain, distort or restrict competition in the carrying on of business of any description or to be otherwise concerned with the promotion of such competition as aforesaid.
- (5) The power of the Secretary of State to make orders under subsection (4) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Subsection (2)(a) above applies to a judgment given before the date of the passing of this Act as well as to a judgment given on or after that date but this section does not affect any judgment which has been registered before that date under the provisions mentioned in subsection (1) above or in respect of which such proceedings as are there mentioned have been finally determined before that date.

## **6 Recovery of awards of multiple damages**

- (1) This section applies where a court of an overseas country has given a judgment for multiple damages within the meaning of section 5(3) above against—
  - (a) a citizen of the United Kingdom and Colonies ; or
  - (b) a body corporate incorporated in the United Kingdom or in a territory outside the United Kingdom for whose international relations Her Majesty's Government in the United Kingdom are responsible; or
  - (c) a person carrying on business in the United Kingdom,
 (in this section referred to as a " qualifying defendant ") and an amount on account of the damages has been paid by the qualifying defendant either to the party in whose favour the judgment was given or to another party who is entitled as against the qualifying defendant to contribution in respect of the damages.

- (2) Subject to subsections (3) and (4) below, the qualifying defendant shall be entitled to recover from the party in whose favour the judgment was given so much of the amount referred to in subsection (1) above as exceeds the part attributable to compensation ; and that part shall be taken to be such part of the amount as bears to the whole of it the same proportion as the sum assessed by the court that gave the judgment as compensation for the loss or damage sustained by that party bears to the whole of the damages awarded to that party.
- (3) Subsection (2) above does not apply where the qualifying defendant is an individual who was ordinarily resident in the overseas country at the time when the proceedings in which the judgment was given were instituted or a body corporate which had its principal place of business there at that time.
- (4) Subsection (2) above does not apply where the qualifying defendant carried on business in the overseas country and the proceedings in which the judgment was given were concerned with activities exclusively carried on in that country.
- (5) A court in the United Kingdom may entertain proceedings on a claim under this section notwithstanding that the person against whom the proceedings are brought is not within the jurisdiction of the court.
- (6) The reference in subsection (1) above to an amount paid by the qualifying defendant includes a reference to an amount obtained by execution against his property or against the property of a company which (directly or indirectly) is wholly owned by him ; and references in that subsection and subsection (2) above to the party in whose favour the judgment was given or to a party entitled to contribution include references to any person in whom the rights of any such party have become vested by succession or assignment or otherwise.
- (7) This section shall, with the necessary modifications, apply also in relation to any order which is made by a tribunal or authority of an overseas country and would, if that tribunal or authority were a court, be a judgment for multiple damages within the meaning of section 5(3) above.
- (8) This section does not apply to any judgment given or order made before the passing of this Act.

## **7 Enforcement of overseas judgment under provision corresponding to s .6**

- (1) If it appears to Her Majesty that the law of an overseas country provides or will provide for the enforcement in that country of judgments given under section 6 above, Her Majesty may by Order in Council provide for the enforcement in the United Kingdom of judgments given under any provision of the law of that country corresponding to that section.
- (2) An Order under this section may apply, with or without modification, any of the provisions of the Foreign Judgments (Reciprocal Enforcement) Act 1933.

## **8 Short title, interpretation, repeals and extent**

- (1) This Act may be cited as the Protection of Trading Interests Act 1980.

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*Status: This is the original version (as it was originally enacted).*

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- (2) In this Act " overseas country " means any country or territory outside the United Kingdom other than one for whose international relations Her Majesty's Government in the United Kingdom are responsible.
- (3) References in this Act to the law or a court, tribunal or authority of an overseas country include, in the case of a federal state, references to the law or a court, tribunal or authority of any constituent part of that country.
- (4) References in this Act to a claim for, or to entitlement to, contribution are references to a claim or entitlement based on an enactment or rule of law.
- (5) The Shipping Contracts and Commercial Documents Act 1964 (which is superseded by this Act) is hereby repealed, together with paragraph 18 of Schedule 2 and paragraph 24 of Schedule 3 to the Criminal Law Act 1977 (which contain amendments of that Act).
- (6) Subsection (5) above shall not affect the operation of the said Act of 1964 in relation to any directions given under that Act before the passing of this Act.
- (7) This Act extends to Northern Ireland.
- (8) Her Majesty may by Order in Council direct that this Act shall extend with such exceptions, adaptations and modifications, if any, as may be specified in the Order to any territory outside the United Kingdom, being a territory for the international relations of which Her Majesty's Government in the United Kingdom are responsible.