



Restrictive Trade Practices Act 1968

CHAPTER 66

ARRANGEMENT OF SECTIONS

Section

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ELIZABETH II



1968 CHAPTER 66

An Act to amend Part I of the Restrictive Trade Practices Act 1956 and to make further provision as to agreements conflicting with Free Trade agreements.

[25th October, 1968]

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.—(1) If it appears to the Board of Trade, on consideration of an agreement proposed to be made by any parties, that the conditions set out in subsection (2) of this section are complied with in respect of the proposed agreement, they may, by order made on or before the conclusion of the agreement, approve the agreement for the purposes of this section; and any agreement so approved shall be exempt from registration under Part I of the Act of 1956 during the continuance in force of the order.

Exemption from registration of certain agreements of importance to the national economy.

(2) The conditions for the making of an order under subsection (1) of this section in respect of an agreement (in this section referred to as the conditions of exemption) are—

- (a) that the agreement is calculated to promote the carrying out of an industrial or commercial project or scheme of substantial importance to the national economy;
- (b) that its object or main object is to promote efficiency in a trade or industry or to create or improve productive capacity in an industry;
- (c) that that object cannot be achieved or achieved within a reasonable time except by means of the agreement or of an agreement for similar purposes;
- (d) that no relevant restrictions are accepted under the agreement other than such as are reasonably necessary to achieve that object; and

(e) that the agreement is on balance expedient in the national interest ;

and in considering the national interest for the purposes of paragraph (e) of this subsection the Board shall take into account any effects which an agreement is likely to have on persons not parties thereto as purchasers, consumers or users of any relevant goods.

(3) An order under this section shall continue in force for such period as may be specified therein, which may be extended by subsequent order of the Board: but the period so specified or extended shall not exceed the period which appears to the Board sufficient for the purposes for which the order was made.

(4) An order under this section approving an agreement may be revoked by order of the Board at any time after the expiration of one year from the day on which the first-mentioned order was made if it appears to them—

(a) that the object or main object of the agreement has not been or is not likely to be achieved, or that any other condition of exemption is no longer satisfied in respect of the agreement ; or

(b) that the agreement is used for purposes other than those for which it was approved,

and may be so revoked at any time if the Board become aware of circumstances by reason of which, if known to them at the material time, the agreement would not have been approved ; but no order revoking an order under this section approving an agreement shall be made by the Board by virtue of paragraph (a) or (b) of this subsection unless the Board have given to each of the parties at least twenty-eight days' notice of their intention to revoke the order.

(5) The Board shall lay before each House of Parliament a copy of any order made under this section and of the agreement to which the order relates, and make available for public inspection a copy of any such agreement :

Provided that this subsection shall not apply to an agreement which varies an agreement previously approved under this section, or an order approving such an agreement, if in the opinion of the Board the variation does not substantially affect the operation of restrictions accepted under the agreement previously approved.

Exemption
from
registration of
agreements
holding
down prices.

2.—(1) A competent authority may by order approve for the purposes of this section any agreement made at the request of the competent authority, or any term included at their request in any agreement, being an agreement or term which relates exclusively to the prices to be charged in connection with transactions of any description and is designed either to prevent or restrict increases or to secure reductions in those prices.

(2) Where an agreement is approved by order under this section, the agreement shall be exempt from registration under Part I of the Act of 1956 during the continuance in force of the order; and where a term of an agreement is so approved, that term, and any restrictions accepted thereunder, shall during the continuance in force of the order be disregarded for all purposes in determining whether the said Part I applies to the agreement.

(3) An order under this section shall continue in force for such period as may be specified therein, which may be extended by subsequent order of the competent authority: but the period so specified shall not exceed two years, and shall not be extended by more than two years at a time.

(4) An order under this section may at any time be revoked by order of the competent authority if it appears to that authority that the relevant agreement or term is used for purposes other than those for which it was approved.

(5) A competent authority shall make available for public inspection a copy of any agreement or term of an agreement approved by order under this section.

(6) This section applies to agreements made before as well as after the commencement of this Act.

(7) The competent authorities for the purposes of this section are the Board of Trade, the Secretary of State, the Minister of Agriculture, Fisheries and Food, the Minister of Health, the Minister of Power, the Minister of Public Building and Works and the Minister of Technology.

3.—(1) Sections 1 and 2 of this Act shall apply, with the necessary modifications, in relation to any recommendation made by or on behalf of a trade association as they apply in relation to an agreement; and where any such recommendation is approved by order under either of those sections, subsection (7) of section 6 of the Act of 1956 (application of Part I to agreements for the constitution of associations in consequence of recommendations) shall not apply in relation to the recommendation during the continuance in force of the order. Supplementary provisions as to exempted agreements.

(2) In the case of an order under section 1 of this Act approving a recommendation made by or on behalf of a trade association, the requirement of subsection (4) of that section as to the giving of notice of intention to revoke the order shall be treated as a requirement to give such notice as is there mentioned to the association; and any notice under that subsection which is required to be given to a trade association or to each of the members of a trade association shall be treated as duly so given if it is given either to the association or to the secretary, manager or other similar officer of the association.

(3) An order under section 1 or section 2 of this Act made before the conclusion of the agreement or issue of the recommendation to which it relates may be made subject to conditions as to the time within which the agreement is to be concluded or the recommendation issued, and as to the furnishing of copies of the agreement or recommendation to the Board of Trade or other competent authority.

(4) There may be omitted from the copies of any agreement, term of an agreement or recommendation to be laid before Parliament under section 1 of this Act, and to be made available for public inspection under that section or under section 2 of this Act, any such particulars as would, in the opinion of the Board of Trade or other competent authority, fall to be entered in the special section of the register referred to in subsection (3) of section 11 of the Act of 1956 if the relevant agreement were subject to registration under Part I of that Act.

(5) If any agreement, term of an agreement or recommendation approved by order under section 1 or section 2 of this Act is subsequently varied, the order shall cease to have effect unless the variation is also approved by order under the said section 1 or the said section 2, as the case may be; and a variation may be so approved if (and only if) the agreement, term or recommendation could be so approved as varied.

(6) The approval by order under section 1 or section 2 of this Act of an agreement or recommendation made by or on behalf of a trade association shall not be affected by any change in the persons who are members of the association or are represented on the association by such members, but without prejudice to the power of the Board of Trade or other competent authority to revoke the order under the said section 1 or section 2.

(7) No order made by the Court in proceedings under Part I of the Act of 1956 for restraining any person from making an agreement or recommendation, and no corresponding undertaking given to the Court in such proceedings, shall be construed as extending to an agreement or recommendation which is exempt from registration by virtue of an order under section 1 or section 2 of this Act.

Agreements to comply with standards of dimension, design or quality, etc.

4.—(1) The following shall be substituted for subsection (3) of section 7 of the Act of 1956:—

“(3) In determining whether an agreement is an agreement to which this Part of this Act applies, no account shall be taken of any term by which the parties or any of them agree to comply with or apply, in respect of the production, supply or acquisition of any goods or the application to goods of any process of manufacture—

(a) standards of dimension, design or quality; or

(b) arrangements as to the provision of information or advice to purchasers, consumers or users, being either standards or arrangements for the time being approved by the British Standards Institution or standards or arrangements prescribed or adopted by any trade association or other body and for the time being approved by order of the Board of Trade."

(2) The power of the Board of Trade to make orders for purposes of subsection (3) of the said section 7 as amended by subsection (1) of this section shall be exercisable by statutory instrument, and shall include power to revoke or vary an order by a subsequent order.

5.—(1) In this section "information agreement" means an ^{Information} agreement between two or more persons carrying on within the ^{agreements.} United Kingdom any such business as is mentioned in subsection (1) of section 6 of the Act of 1956, whether with or without other parties, being an agreement under which provision is made for or in relation to the furnishing by two or more parties to each other or to other persons (whether parties or not) of information with respect to any of the following matters, that is to say—

- (a) the prices charged, quoted or paid or to be charged, quoted or paid for goods which have been or are to be supplied, offered or acquired or for the application of any process of manufacture to goods ;
- (b) the terms or conditions on or subject to which goods have been or are to be supplied or acquired or any such process has been or is to be applied to goods ;
- (c) the quantities or descriptions of goods produced, supplied or acquired or to be produced, supplied or acquired ;
- (d) the costs incurred or to be incurred in producing, supplying or acquiring goods or in applying any such process to goods ;
- (e) the processes of manufacture which have been or are to be applied to any goods or the quantities or descriptions of goods to which any such process has been or is to be applied ;
- (f) the persons or classes of persons to or for whom goods have been or are to be supplied, or from or for whom goods have been or are to be acquired, or for whom any such process has been or is to be applied ;
- (g) the areas or places in or from which goods have been or are to be supplied or acquired or in which any such process has been or is to be applied to goods.

(2) The Board of Trade may by order direct that the provisions of Part I of the Act of 1956 shall apply in relation to information agreements of any class described in the order; and for the purposes of determining whether an agreement is one to which the said Part I applies by virtue of any such order, and of the application of the said Part I and of this Act to agreements to which the said Part I so applies—

- (a) references in the said Part I (other than in subsection (1) of section 6) or in this Act to restrictions shall include references to provisions for or in relation to the furnishing of information, and references to the acceptance of restrictions shall be construed accordingly; and
- (b) references in the said Part I to subsection (1) of section 6 of the Act of 1956 or to matters described in that subsection or in paragraphs (a) to (e) of that subsection shall include references to subsection (1) of this section or to the furnishing of information with respect to matters described in that subsection.

(3) An order under this section may describe the classes of information agreements to which it applies by reference to one or more of the following matters, that is to say—

- (a) the trade or industry in which the persons to whom the provision for or in relation to the furnishing of information made by the agreement applies are engaged, or the class of business carried on by such persons;
- (b) the character of the provision for or in relation to the furnishing of information made by the agreement, or the goods, processes, transactions, areas, places or other matters with respect to which that provision relates;
- (c) any other features which appear to the Board to be expedient.

(4) The power of the Board to make orders under this section shall be exercisable by statutory instrument and shall include power to revoke or vary an order by a subsequent order; but no order shall be made under this section unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament.

(5) The Board of Trade shall, before laying before Parliament the draft of an order for applying Part I of the Act of 1956 in relation to information agreements of any class, publish in such manner as they think appropriate a notice—

- (a) describing the classes of agreements to which the proposed order would apply; and

- (b) specifying a period (not being less than twenty-eight days) within which representations with respect to the proposed order may be made to the Board,

and in settling the draft to be laid before Parliament shall take into consideration any such representations received by them within that period.

6.—(1) The particulars to be furnished under section 10 of the Act of 1956 in respect of an agreement which is subject to registration under Part I of that Act, and the particulars to be so furnished of the variation or determination of such an agreement, shall be furnished as follows, that is to say—

- (a) in the case of an agreement made after the commencement of this Act (other than an agreement to which any of the following paragraphs apply), before the date on which any relevant restriction accepted under the agreement takes effect, and in any case within three months from the day on which the agreement is made ;
- (b) in the case of an agreement approved by order under section 1 or section 2 of this Act which becomes subject to registration by virtue of the expiration or revocation of that order, and in the case of an agreement which becomes subject to registration by virtue of the revocation of an order under section 7(3) of the Act of 1956 as amended by section 4 of this Act, within one month from the day on which the agreement becomes so subject ;
- (c) in the case of an agreement which becomes subject to registration by virtue of an order under section 5 of this Act coming into force after the making of the agreement, within three months from the day on which the agreement becomes so subject ;
- (d) in the case of an agreement (whether made before or after the commencement of this Act) which becomes subject to registration by virtue of a variation after the commencement of this Act, within the time which would apply under paragraph (a) above if the agreement were made on the day on which it becomes so subject ;
- (e) in the case of a variation after the commencement of this Act of an agreement (whether made before or after the commencement of this Act), being a variation which extends or adds to the restrictions accepted under the agreement, within the time which would apply under paragraph (a) above in the case of an agreement made on the day of the variation ;

- (f) in the case of any other variation of an agreement, and of the determination of an agreement, within three months from the day of the variation or determination ;
- (g) in the case of an agreement which was subject to registration, but of which particulars had not been duly furnished, at the commencement of this Act, within three months from the commencement of this Act.

(2) Any reference in this section to a period calculated from a specified day is a reference to the period in question inclusive of that day.

Consequences
of failure to
register.

7.—(1) If particulars of any agreement (whether made before or after the commencement of this Act) which is subject to registration under Part I of the Act of 1956 are not duly furnished under section 10 of that Act within the time required by section 6 of this Act or within such further time as the Registrar may, upon application made within that time, allow—

- (a) the agreement shall be void in respect of all relevant restrictions accepted thereunder ; and
- (b) it shall be unlawful for any person party to the agreement who carries on business within the United Kingdom to give effect to, or enforce or purport to enforce, the agreement in respect of any such restrictions.

(2) No criminal proceedings shall lie against any person on account of a contravention of paragraph (b) of subsection (1) of this section ; but the obligation to comply with that paragraph is a duty owed to any person who may be affected by a contravention of it and any breach of that duty is actionable accordingly subject to the defences and other incidents applying to actions for breach of statutory duty.

(3) Without prejudice to any right which any person may have by virtue of subsection (2) of this section to bring civil proceedings in respect of an agreement affected by the said paragraph (b), the Restrictive Practices Court may, upon application made by the Registrar, make against any person party to any such agreement who carries on business within the United Kingdom such order as appears to the Court to be proper for restraining him—

- (a) from giving effect to, or enforcing or purporting to enforce, the agreement in respect of any relevant restrictions ;
- (b) from giving effect to, or enforcing or purporting to enforce, other agreements in contravention of subsection (1) of this section ;

and nothing in subsection (2) of this section shall prevent the enforcement of any such order by appropriate proceedings.

(4) In relation to an agreement for the constitution of a trade association which is subject to registration in consequence of the making of a recommendation to which subsection (7) of section 6 of the Act of 1956 applies, the power of the Court under subsection (3) of this section shall include power to make such order as appears to the Court to be proper for restraining the association or any person acting on its behalf from making other such recommendations.

(5) Where any issue, whether of law or of fact or partly of law and partly of fact, has been finally determined on an application under subsection (3) of this section in respect of an agreement, then in any proceedings brought in respect of that agreement by virtue of subsection (2) of this section in which the same issue arises—

- (a) any finding of fact relevant to that issue which was made on the application shall be evidence (and in Scotland sufficient evidence) of that fact; and
- (b) any decision on a question of law relevant to that issue which was given on the application shall be binding on the court in so far as the material facts found in those proceedings are the same as were found on the application.

(6) Where any agreement which is subject to registration under Part I of the Act of 1956 is varied so as to extend or add to the relevant restrictions accepted under the agreement, the foregoing provisions of this section shall apply, with the necessary modifications, in relation to the variation as they apply in relation to an original agreement which is subject to registration under the said Part I.

3.—(1) In subsection (1) of section 19 of the Act of 1956 (regulations for purposes of registration) the following shall be substituted for paragraph (b)— Particulars to be furnished for registration.

“(b) for excluding from the particulars to be furnished or from the particulars to be entered in the register under this Part of this Act—

(i) such details as to parties or other persons, prices, terms or other matters as are material for the purpose only of defining the particular application from time to time of continuing restrictions accepted under agreements of which particulars are so entered;

(ii) particulars of such variations as may be specified in the regulations, being variations the registration of which is in the opinion of the Registrar unnecessary for the purposes of this Part of this Act;”.

(2) Nothing in regulations made by virtue of the said paragraph (b) shall affect the power of the Registrar under subsection (2) of section 14 of the said Act to require the furnishing of further documents or information by any such person as is mentioned in that subsection.

Modification
of duty of
Registrar to
take
proceedings for
investigation.

9.—(1) Where an agreement of which particulars are entered or filed in the register pursuant to Part I of the Act of 1956 has been determined (whether by effluxion of time or otherwise), or has been so determined in respect of all relevant restrictions accepted thereunder, before proceedings in respect of the agreement have been taken by the Registrar in the Restrictive Practices Court, the Registrar shall not be required to take such proceedings but may do so if he thinks fit.

(2) If it appears to the Board of Trade, upon the representation of the Registrar, that the relevant restrictions accepted under an agreement of which particulars are so entered or filed are not of such significance as to call for investigation by the Restrictive Practices Court, they may give directions discharging the Registrar from taking proceedings in the Court in respect of that agreement during the continuance in force of the directions.

(3) The Board may at any time upon the representation of the Registrar withdraw any directions given by them under subsection (2) of this section if satisfied that there has been a material change of circumstances since the directions were given.

(4) Section 12 of the Act of 1956 shall cease to have effect except in its application to agreements as to which directions are in force thereunder at the commencement of this Act: and in relation to an agreement to which such directions apply paragraph (b) of subsection (2) of that section shall have effect as if for the reference to the power of the Board of Trade to give further directions under that section there were substituted a reference to the power of the Board to give directions under subsection (2) of this section.

Presumption
as to public
interest.

10.—(1) In subsection (1) of section 21 of the Act of 1956 (which specifies certain grounds upon which a restriction may be declared by the Court not to be contrary to the public interest) the following paragraph shall be inserted after paragraph (g):—

“(h) that the restriction does not directly or indirectly restrict or discourage competition to any material degree in any relevant trade or industry and is not likely to do so.”

(2) In any proceedings before the Court under section 20 of the Act of 1956 in respect of an agreement, the fact that the

agreement has or has not at any time been the subject of an order under section 1 or section 2 of this Act shall not be treated as relevant to the question whether any restrictions accepted under the agreement are contrary to the public interest.

(3) Notwithstanding anything in subsection (4) of section 22 of the Act of 1956, leave to make an application under that section for the discharge of a declaration or order of the Restrictive Practices Court made before the commencement of this Act may, if the applicant proposes to rely on the amendment of section 21 of that Act effected by subsection (1) of this section, be granted upon prima facie evidence of the relevance of that amendment to the application.

11.—(1) Subsection (6) of section 6 of the Act of 1956 (which relates to agreements made by trade associations) shall not apply to any industrial and provident society approved by the Board of Trade for the purposes of this section; and an industrial and provident society so approved shall be treated as not being a trade association for the purposes of subsections (3) and (5) of section 8 (excepted agreements) of the Act of 1956. Wholesale co-operative societies.

(2) The Board of Trade may, if they think fit, approve for the purposes of this section any industrial and provident society which, in the opinion of the Board, satisfies the following conditions namely—

- (a) that it carries on business in the production or supply of goods or in the application to goods of any process of manufacture; and
- (b) that its shares are wholly or mainly held by industrial and provident societies, being retail societies or societies whose shares are wholly or mainly held by retail societies.

(3) The power of approval conferred by subsection (2) of this section shall not be exercisable after the end of the relevant period, that is to say—

- (a) in the case of a society which immediately before the commencement of this Act is registered or deemed to be registered under the Industrial and Provident Societies Act 1965 or under the corresponding law in Northern Ireland, the period of three months beginning with the commencement of this Act; 1965 c. 12.
- (b) in the case of a society which is so registered after the commencement of this Act, the period of three months beginning with the date on which it is so registered.

(4) Where an agreement made before the commencement of this Act by an industrial and provident society is subject to registration under Part I of the Act of 1956 but would not have

been subject to registration thereunder if subsection (6) of section 6 of the Act of 1956 had not been enacted and the society had at all times fallen to be treated as not being a trade association for the purposes of subsections (3) and (5) of section 8 of that Act, the agreement shall cease to be subject to registration under the said Part I if that society is approved by the Board of Trade for the purposes of this section.

(5) In this section—

1965 c. 12.

“ industrial and provident society ” means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 or under the corresponding law in Northern Ireland ;

“ retail society ” means a society which carries on business in the sale by retail of goods for the domestic or personal use of individuals dealing with the society, or in the provision of services for such individuals ;

“ the corresponding law in Northern Ireland ” means the law for the time being in force in Northern Ireland for purposes corresponding to those of the Industrial and Provident Societies Act 1965.

Restrictions
conflicting
with Free
Trade
Agreements.

12.—(1) If in the case of any agreement to which this section applies—

(a) it is determined by the Council constituted by the Convention of 1960 Establishing the European Free Trade Association that relevant restrictions accepted under the agreement contravene or conflict with Article 15 of the Convention (set out in Part I of Schedule 1 to this Act) ; or

(b) it is agreed between the Government of the United Kingdom and the Government of the Republic of Ireland that relevant restrictions so accepted contravene or conflict with Article XV (set out in Part II of the said Schedule) of the Agreement of 1966 between these Governments Establishing a Free Trade Area between the two countries,

the Board of Trade may by order annul the agreement in respect of those restrictions and make in relation thereto any such order as could be made by the Restrictive Practices Court in the case of restrictions found to be contrary to the public interest on an application made under section 20 of the Act of 1956.

(2) The power of the Board of Trade to make orders under this section shall be exercisable by statutory instrument and shall include power to revoke or vary an order by subsequent order ; and any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Section 11 of the Monopolies and Restrictive Practices 1948 c. 66. (Inquiry and Control) Act 1948 shall apply to the enforcement of orders under this section as it applies to the enforcement of orders under section 10 of that Act.

(4) This section applies to any agreement of which particulars are entered or filed in the register pursuant to Part I of the Act of 1956 or of which particulars have been furnished to the Board of Trade pursuant to section 31 of that Act (export agreements); but nothing in this section applies to restrictions which have been found not to be contrary to the public interest on an application made to the Restrictive Practices Court before the commencement of this Act.

(5) For the purposes of this section "relevant restriction" includes any restriction by virtue of which an agreement would be subject to registration under Part I of the Act of 1956 apart from subsection (8) of section 8 of that Act (exception for export agreements).

13.—(1) The jurisdiction conferred on the High Court, the Court of Session and the High Court of Northern Ireland by section 13 (rectification of the register, etc.) and section 15 (power to order examination on oath) of the Act of 1956 is hereby transferred to the Restrictive Practices Court; and section 18 of that Act (powers of the said Courts in case of default in furnishing particulars) shall cease to have effect.

(2) In the exercise of its jurisdiction under section 7 of this Act, and of the jurisdiction transferred to it by subsection (1) of this section, the Restrictive Practices Court shall have power to order the payment of costs by any party to proceedings before the Court.

14.—(1) In this Act the following expressions have the meanings hereby assigned to them:—

"the Act of 1956" means the Restrictive Trade Practices Act 1956;

"relevant restriction" means any restriction by virtue of which an agreement is subject to registration under Part I of the Act of 1956, or would be so subject apart from any order under section 1 or section 2 of this Act;

"trade association" has the same meaning as in section 6 of the Act of 1956.

(2) This Act shall be construed as one with the Act of 1956, and references in that Act to Part I of that Act shall include references to this Act.

Interpretation
and
construction.
1956 c. 68.

Application to Northern Ireland.

15. This Act extends to Northern Ireland ; and without prejudice to subsection (2) of section 13 of this Act, section 37 of the Act of 1956 (powers of the Parliament of Northern Ireland) shall have effect as if references to that Act included references to this Act.

Minor and consequential amendments, repeals and savings.

16.—(1) The Act of 1956 shall have effect subject to the amendments set out in Schedule 2 to this Act, being minor amendments and amendments consequential on the foregoing provisions of this Act.

(2) The enactments described in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) Nothing in this Act affects—

(a) the jurisdiction of the High Court, the Court of Session or the High Court of Northern Ireland in any proceedings under section 13, 15 or 18 of the Act of 1956 which are pending at the commencement of this Act ;
or

(b) the operation of the Schedule to the Act of 1956 as applied by section 8 of the Resale Prices Act 1964.

1964 c. 58.

Short title and commencement.

17.—(1) This Act may be cited as the Restrictive Trade Practices Act 1968.

(2) This Act shall come into force at the expiration of the period of one month beginning with the day on which it is passed.

SCHEDULES

SCHEDULE 1

Section 12.

PROVISIONS OF FREE TRADE AGREEMENTS RELATING TO RESTRICTIVE BUSINESS PRACTICES

PART I

CONVENTION ESTABLISHING THE EUROPEAN FREE TRADE ASSOCIATION

ARTICLE 15

Restrictive business practices

1. Member States recognise that the following practices are incompatible with this Convention in so far as they frustrate the benefits expected from the removal or absence of duties and quantitative restrictions on trade between Member States:

- (a) agreements between enterprises, decisions by associations of enterprises and concerted practices between enterprises which have as their object or result the prevention, restriction or distortion of competition within the Area of the Association ;
- (b) actions by which one or more enterprises take unfair advantage of a dominant position within the Area of the Association or a substantial part of it.

2. If any practice of the kind described in paragraph 1 of this Article is referred to the Council in accordance with Article 31, the Council may, in any recommendation in accordance with paragraph 3 or in any decision in accordance with paragraph 4 of that Article, make provision for publication of a report on the circumstances of the matter.

3.—(a) In the light of experience gained, the Council shall consider not later than 31st December, 1964, and may consider at any time thereafter, whether further or different provisions are necessary to deal with the effects of restrictive business practices or dominant enterprises on trade between Member States.

(b) Such review shall include consideration of the following matters:

- (i) specification of the restrictive business practices or dominant enterprises with which the Council should be concerned ;
- (ii) methods of securing information about restrictive business practices or dominant enterprises ;
- (iii) procedures for investigations ;
- (iv) whether the right to initiate inquiries should be conferred on the Council.

(c) The Council may decide to make the provisions found necessary as a result of the review envisaged in sub-paragraphs (a) and (b) of this paragraph.

SCH. 1

PART II

THE AGREEMENT ESTABLISHING A FREE TRADE AREA BETWEEN
THE UNITED KINGDOM AND THE REPUBLIC OF IRELAND

ARTICLE XV

Restrictive Business Practices

The parties recognise that the following practices are incompatible with this Agreement in so far as they frustrate the benefits expected from the removal or absence of duties and quantitative restrictions on trade between their territories—

- (a) agreements between enterprises, decisions by associations of enterprises and concerted practices between enterprises which have as their object or result the prevention, restriction or distortion of competition within the area to which this Agreement applies ;
- (b) actions by which one or more enterprises take unfair advantage of a dominant position within the area to which this Agreement applies ;

and, at the request of either of them, the parties shall enter into consultation in accordance with paragraph (3) of Article XXIII with a view to the elimination of any such practice in so far as it is incompatible with this Agreement.

Section 16.

SCHEDULE 2

MINOR AND CONSEQUENTIAL AMENDMENTS OF RESTRICTIVE TRADE
PRACTICES ACT 1956

In section 7, in subsection (2), at the end there shall be added the words "or which is exempt from registration by virtue of an order under section 1 or section 2 of the Restrictive Trade Practices Act 1968".

In section 10, in paragraph (a) of subsection (1), after the words "the names" there shall be inserted the words "and addresses", and for any reference in the section, whether express or implied, to the period specified in that section there shall be substituted a reference to the time within which particulars are required to be furnished under section 6 of this Act.

In section 11, in subsection (2), for the words from "which he is authorised" to the end there shall be substituted the words "obtained by him under the following provisions of this Part of this Act".

In section 23, in paragraph (d) of subsection (2), after the word "party" there shall be inserted the words "to proceedings under section 20 or section 22 of this Act".

In the Schedule, in paragraph 4, at the end there shall be added the words "except that in the case of proceedings involving only issues of law the Court may instead consist of a single member being a judge".

In the Schedule, in paragraph 9, for the words "before it" there shall be substituted the words "under section 20 or section 22 of this Act".

SCHEDULE 3

Section 17.

ENACTMENTS REPEALED

Chapter	Short Title	Extent
4 & 5 Eliz. 2. c. 68.	The Restrictive Trade Practices Act 1956.	In section 9, in subsection (1), the words "Subject to the provisions of this section", and subsections (2) to (4). In section 10, in subsection (3), the words "by virtue of an order made under section nine of this Act", and subsection (5). Section 12, except in its application to agreements as to which directions are in force thereunder at the commencement of this Act. In section 13, in subsection (2), the words "section nine of", and subsection (5). In section 15, subsection (4). Section 18. Section 24.
1966 c. 33.	The Prices and Incomes Act 1966.	Section 18. Section 24.

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