



Fair Trading Act 1973

1973 CHAPTER 41

PART II

REFERENCES TO CONSUMER PROTECTION ADVISORY COMMITTEE

Order in pursuance of report of Advisory Committee

22 Order of Secretary of State in pursuance of report on reference to which s.17 applies

- (1) The provisions of this section shall have effect where a report of the Advisory Committee on a reference to which section 17 of this Act applies has been laid before Parliament in accordance with the provisions of Part VII of this Act, and the report states that the Committee—
 - (a) agree with the proposals set out in the reference, or
 - (b) would agree with those proposals if they were modified in a manner specified in the report.
- (2) In the circumstances mentioned in the preceding subsection, the Secretary of State may, if he thinks fit, by an order made by statutory instrument make such provision as—
 - (a) in a case falling within paragraph (a) of the preceding subsection, is in his opinion appropriate for giving effect to the proposals set out in the reference, or
 - (b) in a case falling within paragraph (b) of that subsection, is in his opinion appropriate for giving effect either to the proposals as set out in the reference or to those proposals as modified in the manner specified in the report, as the Secretary of State may in his discretion determine.
- (3) Any such order may contain such supplementary or incidental provisions as the Secretary of State may consider appropriate in the circumstances; and (without prejudice to the generality of this subsection) any such order may restrict the prosecution of offences under the next following section in respect of contraventions

of the order where those contraventions also constitute offences under another enactment

- (4) No such order, and no order varying or revoking any such order, shall be made under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

23 Penalties for contravention of order under s.22

Subject to the following provisions of this Part of this Act, any person who contravenes a prohibition imposed by an order under section 22 of this Act, or who does not comply with a requirement imposed by such an order which applies to him, shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding £400;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

24 Offences due to default of other person

Where the commission by any person of an offence under section 23 of this Act is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

25 Defences in proceedings under s.23

- (1) In any proceedings for an offence under section 23 of this Act it shall, subject to subsection (2) of this section, be a defence for the person charged to prove—
- (a) that the commission of the offence was due to a mistake, or to reliance on information supplied to him, or to the act or default of another person, an accident or some other cause beyond his control, and
 - (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.
- (2) If in any case the defence provided by the preceding subsection involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing, giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (3) In proceedings for an offence under section 23 of this Act committed by the publication of an advertisement, it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements, and that he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under section 23 of this Act.

26 Limitation of effect of orders under s.22

A contract for the supply of goods or services shall not be void or unenforceable by reason only of a contravention of an order made under section 22 of this Act; and, subject to the provisions of section 33 of the Interpretation Act 1889 (which relates to offences under two or more laws), the provisions of this Part of this Act shall not be construed as—

- (a) conferring a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of such an order, or
- (b) affecting any restriction imposed by or under any other enactment, whether public, local or private, or
- (c) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Part of this Act.