



# Restrictive Practices Court Act 1976

## CHAPTER 33

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## ELIZABETH II



# Restrictive Practices Court Act 1976

## 1976 CHAPTER 33

An Act to consolidate certain enactments relating to the Restrictive Practices Court. [22nd July 1976]

**B**E 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) The Restrictive Practices Court ("the Court") established by the Restrictive Trade Practices Act 1956 shall continue in being by that name as a superior court of record. The Court. 1956 c. 68.

(2) The Court shall consist of the following members—  
 (a) five nominated judges ; and  
 (b) not more than ten appointed members.

(3) Of the nominated judges one, to be selected by the Lord Chancellor, shall be President of the Court.

(4) The Court shall have an official seal which shall be judicially noticed.

2.—(1) The nominated judges of the Court shall be— Judges of the Court.  
 (a) three puisne judges of the High Court nominated by the Lord Chancellor ;  
 (b) one judge of the Court of Session nominated by the Lord President of that Court ;

(c) one judge of the Supreme Court of Northern Ireland nominated by the Lord Chief Justice of Northern Ireland.

(2) A judge of any court who is nominated under this section shall not be required to sit in any place outside the jurisdiction of that court, and shall be required to perform his duties as a judge of that court only when his attendance on the Restrictive Practices Court is not required.

(3) In the case of the temporary absence or inability to act of a nominated judge, the Lord Chancellor, the Lord President of the Court of Session, or the Lord Chief Justice of Northern Ireland (as the case may be) may nominate another judge of the same court to act temporarily in his place, and a judge so nominated shall, when so acting, have all the functions of the judge in whose place he acts.

(4) No judge shall be nominated under this section except with his consent.

Non-judicial  
members.

3.—(1) The other members of the Court (“appointed members”) may be appointed by Her Majesty on the recommendation of the Lord Chancellor, and any person recommended for appointment shall be a person appearing to the Lord Chancellor to be qualified by virtue of his knowledge of or experience in industry, commerce or public affairs.

(2) An appointed member shall hold office for such period (not less than three years) as may be determined at the time of his appointment, and shall be eligible for reappointment, but—

(a) he may at any time by notice in writing to the Lord Chancellor resign his office ;

(b) the Lord Chancellor may, if he thinks fit, remove any appointed member for inability or misbehaviour, or on the ground of any employment or interest which appears to the Lord Chancellor incompatible with the functions of a member of the Court.

(3) In the case of the temporary absence or inability to act of an appointed member, the Lord Chancellor may appoint a temporary member, being a person appearing to him to be qualified as provided in subsection (1) above, to act in place of that member ; and a temporary member shall, when so acting, have all the functions of an appointed member.

Provision for  
additional  
judges or  
members.

4.—(1) The Lord Chancellor may—

(a) after consultation with the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland, by order increase the number of nominated judges of the Court ;

(b) with the approval of the Minister for the Civil Service, by order increase the maximum number of appointed members ;

and sections 1 to 3 above, as to the number of judges and members, have effect subject to any order in force under this section.

(2) Orders under this section shall be made by statutory instrument ; and an order shall be of no effect until it is approved by resolution of each House of Parliament.

5.—(1) There may be paid to the appointed members of the Court, and to any temporary member, such remuneration as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine. Pay and pensions of non-judicial members.

(2) In the case of any such holder of the office of appointed member as may be determined by the Lord Chancellor acting with that approval, there shall be paid such pension, allowance or gratuity to or in respect of him on his retirement or death, or such contributions or other payments towards provision for such a pension, allowance or gratuity as may be so determined.

(3) As soon as may be after the making of any determination under subsection (2) above the Lord Chancellor shall lay before each House of Parliament a statement of the amount of the pension, allowance or gratuity or contributions or other payments, as the case may be, payable in pursuance of the determination.

6.—(1) The Lord Chancellor may appoint such officers and servants of the Court as he may, with the approval of the Minister for the Civil Service as to numbers and conditions of service, determine. Administration.

(2) The principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force applies, with the necessary adaptations, to officers and servants of the Court as to other persons employed in the civil service of the State. 1972 c. 11.

(3) The central office of the Court shall be in London.

(4) Subject to its rules, the Court may sit at such times and in such place or places in any part of the United Kingdom as may be most convenient for the determination of proceedings before it.

(5) When sitting in public in London, the Court shall sit at the Royal Courts of Justice or at such other place as the Lord Chancellor may appoint.

(6) The Court may sit either as a single court or in two or more divisions concurrently and either in private or in public.

**Hearing and judgment.**

7.—(1) For the hearing of any proceedings the Court shall consist of a presiding judge and at least two other members, except that in the case of proceedings involving only issues of law the Court may instead consist of a single member being a judge.

(2) On the hearing of any proceedings, the opinion of the judge or judges sitting as members of the Court upon any question of law shall prevail ; but subject to this the decision of the Court shall be taken by all the members sitting, or, in the event of a difference of opinion, by the votes of the majority of the members.

In the event of an equality of votes, the presiding judge shall be entitled to a second or casting vote.

(3) The judgment of the Court in any proceedings shall be delivered by the presiding judge.

**Right of audience.**

8.—(1) Every person who has the right of audience at the trial of an action in the High Court or in the Court of Session, or in proceedings preliminary to such a trial, shall have the like right at the hearing of any application to the Court, whether sitting in England and Wales or in Scotland, or in proceedings preliminary to such a hearing, as the case may be.

(2) Every person who has the right of audience at the trial of an action in the High Court of Northern Ireland, or in proceedings preliminary to such trial, shall have the like right at the hearing of any application to the Court when sitting in Northern Ireland, or in proceedings preliminary to such a hearing, as the case may be.

**Procedure.**

9.—(1) The procedure in or in connection with any proceedings before the Court and, subject to the approval of the Treasury, the fees chargeable in respect of such proceedings, shall be such as may be determined by rules made by the Lord Chancellor.

Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Without prejudice to the generality of subsection (1) above, rules made under that subsection may provide—

(a) with respect to the persons to be made respondents to any application to the Court ;

- (b) with respect to the place at which the Court is to sit for the purposes of any proceedings ;
- (c) with respect to the evidence which may be required or admitted in any proceedings ;
- (d) for securing, by means of preliminary statements of facts and contentions, and by the production of documents, the administration of interrogatories and other methods of discovery, that all material facts and considerations are brought before the Court by all parties to any proceedings, including the Director General of Fair Trading.

(3) In relation to the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, and all other matters incidental to its jurisdiction, the Court shall have the like powers, rights, privileges and authority—

- (a) in England and Wales, as the High Court ;
- (b) in Scotland, as the Court of Session ; and
- (c) in Northern Ireland, as the High Court of Northern Ireland.

(4) No person shall be punished for contempt of the Court except by or with the consent of a judge who is a member of the Court.

**10.**—(1) Subject to and in accordance with this section, an Appeal appeal lies from any decision or order of the Court—

- (a) in the case of proceedings in England and Wales, to the Court of Appeal ;
- (b) in the case of proceedings in Scotland, to the Court of Session ; and
- (c) in the case of proceedings in Northern Ireland, to the Court of Appeal in Northern Ireland.

(2) In proceedings under Part III of the Fair Trading Act 1973 c. 41. 1973 (consumer protection) the appeal lies on a question of fact or on a question of law.

(3) In proceedings other than those referred to in subsection (2) above—

- (a) the appeal lies on a question of law only and the Court's decision on a question of fact is final ; and
- (b) the appeal—
  - (i) to the Court of Appeal, or to the Court of Appeal in Northern Ireland, is by way of case stated ; and

(ii) to the Court of Session, is by way of stated case.

Consequential amendment, savings and repeals.  
1967 c. 28.

**11.—**(1) In paragraph (e) of subsection (4) of section 3 of the Superannuation (Miscellaneous Provisions) Act 1967 for “4(1) of the Restrictive Trade Practices Act 1956” substitute “3(1) of the Restrictive Practices Court Act 1976”.

(2) In so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision of this Act, it is not invalidated by the repeal but has effect as if done under that provision.

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

Short title, extent and commencement.

**12.—**(1) This Act may be cited as the Restrictive Practices Court Act 1976.

(2) This Act extends to Northern Ireland.

(3) This Act shall come into operation on such day as the Lord Chancellor may appoint by order made by statutory instrument.



## SCHEDULE

Section 11.

## REPEALS

Chapter	Short Title	Extent of Repeal
4 & 5 Eliz. 2. c. 68.	The Restrictive Trade Practices Act 1956.	Sections 2 to 5. In section 23, subsection (1); in subsection (2), from the beginning of that subsection to the end of paragraph (a); subsection (3). In the Schedule, paragraphs 1 to 8 and 10 to 12.
1972 c. 11.	The Superannuation Act 1972.	In Schedule 6, paragraph 35.
1973 c. 41.	The Fair Trading Act 1973.	In Schedule 12, the entries so far as they relate to section 23 of the Restrictive Trade Practices Act 1956 and the Schedule to that Act.

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