1965 No. 22

RESTRICTIVE TRADE PRACTICES

The Restrictive Practices Court (Amendment) Rules 1965

Made - - - -	12*th January* 1965
Laid before Parliament	18*th January* 1965
Coming into Operation	19*th January* 1965

I, Gerald, Baron Gardiner, Lord High Chancellor of Great Britain, in exercise of the powers conferred on me by section 23 of the Restrictive Trade Practices Act 1956(a), hereby make the following Rules: —

1.—(1) These Rules may be cited as the Restrictive Practices Court (Amendment) Rules 1965 and shall come into force on 19th January 1965.

(2) The Interpretation Act 1889(b) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) In these Rules a rule referred to by number means the rule so numbered in the Restrictive Practices Court Rules 1957(c) as amended(d).

2. In rule 18 for the words " six weeks " there shall be substituted the words " three months ".

3. In rule 20 for the words from " within six weeks " to the end of the first sentence there shall be substituted the words " within three months after the expiry of the time limited for the delivery of a statement of case by every respondent who has entered an appearance ".

4. At the beginning of rule 21 there shall be inserted the words " In proceedings in England and Wales or in Northern Ireland " and for the words " twenty-eight days " in that rule there shall be substituted the words " six weeks ".

5. In rule 22 after the word " and " where it first appears there shall be inserted the words " in proceedings in England and Wales or in Northern Ireland ".

6. In rule 23 after the word " respondent " where it last appears there shall be inserted the words " or for a final order under rule 64A or 64B ".

7. The following rule shall be substituted for rule 25—

" 25. In proceedings in Scotland—

(*a*) the Registrar shall, within seven days after the expiration of the time

(a) 4 & 5 Eliz. 2. c. 68.
(b) 52 & 53 Vict. c. 63.
(c) S.I. 1957/603 (1957 II, p. 1955).
(d) The amending Rules are not relevant to the subject matter of these Rules.

limited for filing statements of case, make up an open record consisting of the notice of reference, the statement or statements of case and the answer or answers, and file two copies thereof with the proper officer of the Court, at the same time delivering a copy thereof to each of the respondents; and thereafter the parties shall forthwith proceed to adjust their pleadings;

(*b*) upon the expiration of twenty-eight days from the filing of the open record, or of such period of continuation as may be allowed by the Court on cause shown, the record shall be deemed to be closed, and thereafter no amendment of the pleadings shall be made except by leave of the Court; and

(*c*) within fourteen days after the closing of the record the Registrar shall file two copies of the closed record with the proper officer of the Court, and shall at the same time deliver fifteen copies thereof to each of the respondents."

8. At the beginning of rule 26 and of rule 27 there shall be inserted the words " In proceedings in England and Wales or in Northern Ireland ".

9. In rule 30 after the words " notice of reference " there shall be inserted the words " and, in Scotland, a copy of the closed record or, as the case may be, of the open record as adjusted to date ".

10. In rule 33 for the words from the beginning of the rule to the words " has expired " there shall be substituted the words " As soon as practicable after every respondent to whom the Registrar has delivered an answer has delivered his reply or after the time for his doing so has expired, or in Scotland as soon as practicable after the closing of the record "; and in paragraph (*a*) of that rule after the words " dealt with " there shall be inserted the words " (including, in Scotland, any preliminary question of relevance or sufficiency of specification arising on the pleadings) ".

11. At the end of paragraph (*j*) of rule 36 there shall be inserted the words " (including, in Scotland, any preliminary question of relevance or sufficiency of specification arising on the pleadings) ".

12. At the end of rule 42 there shall be inserted the words " and any reference in these Rules to discovery, or further discovery, of documents shall be construed as a reference to the recovery of documents under a commission and diligence granted under this rule ".

13. In rule 58 for the words " the final hearing " there shall be substituted the words " before the Court ".

14. After rule 64 there shall be inserted the following rules:—

" *Procedure on Summary Application for Final Order*

64A. If at any time before the final hearing every respondent who has entered an appearance (with the exception of any respondent who has been debarred under rule 23 from taking any further part in the proceedings) notifies the Registrar that he is willing to submit to a declaration that the restrictions in the agreement to which the notice of reference applies are contrary to the public interest or, as the case may be, to such a declaration and to an order under subsection (3) or subsection (4) of

section 20 of the Act, the Registrar shall apply to the Court for such a declaration and, where appropriate, for such an order within 28 days after being so notified by every such respondent.

64B. Where no appearance has been entered or where, after entry of an appearance, no statement of case has been delivered, the Registrar may apply to the Court for a declaration that the restrictions in the agreement to which the notice of reference applies are contrary to the public interest and, where appropriate, for an order under subsection (3) or subsection (4) of section 20 of the Act; and any such application may be made—

(*a*) where no appearance has been entered, not earlier than four weeks after the expiration of the time limited for entry of appearance by the respondent on whom the notice of reference was last served;

(*b*) where no statement of case has been delivered, not earlier than four weeks after the expiration of the time limited for delivery of a statement of case by the respondent who last entered an appearance.

64C. Not later than 21 days before an application under either of the two last foregoing rules is due to be heard the Registrar shall file with the proper officer of the Court a draft of the declaration and of any order for which he intends to apply and shall at the same time serve a copy of the draft on every respondent, whether he has entered an appearance or not, together with notice of the time and place appointed for the hearing of the application.

64D. Every respondent shall be entitled to be heard on the application as to whether the restrictions set out in the draft declaration are restrictions accepted by the parties to the agreement to which the notice of reference applies and as to any other matters which the Court considers can properly be raised on the hearing of the application, not being matters which, in the opinion of the Court, ought to have been raised in a statement of case."

15. In rule 82 for the words " 11 Parliament Square " there shall be substituted the words " 2 Parliament Square ".

16. In rule 86 for the words " by agreement or by order of the Court " there shall be substituted the words " by the Court or, except where the Court otherwise directs, by consent in writing ".

17. In rule 87 for the words " the month of August " there shall be substituted the words " the months of August and September ".

Dated 12th January 1965.

Gardiner, C.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules amend the Restrictive Practices Court Rules 1957 (1) by extending the time for the delivery of pleadings; (2) by enabling the Registrar to make a summary application for a final order where no statement of case has been delivered, or where all respondents who have entered an appearance agree to the application; and (3) by providing for the adoption of the Scottish practice in relation to adjustment of pleadings in the case of proceedings in Scotland.