



RESTRAINT OF TRADE

A restraint of trade is an agreement entered into by and between employer and employee in terms of which, upon termination of the agreement, the employee's trading activities will be restricted. A restraint of trade protects the employer's commercial interests and is deemed fair unless proved otherwise.

An agreement of restraint may be cancelled, by a High Court Judge, if there are cogent conflicting interests. In this respect intervention, on the side of the employee, may be done if freedom of trade trumps the sanctity of the contract.

An employee who does not want to be bound by a restraint must prove that it is contrary to public policy (area & period of the restraint, type of business concerned and under what circumstances the contract was terminated) and unreasonable (calculated to exclude competition).

Avoid any unpleasant situations by seeking legal advice from Moni Attorneys Incorporated before you enter into a restraint of trade.

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