This chapter analyses the law on illegality and restraint of trade. The law on illegality is very complicated. Illegal acts vary greatly in range and severity. The Supreme Court has recently held that a 'range of factors' need to be considered when deciding whether the claimant’s illegality should defeat a claim, and it is likely that the law will become increasingly flexible in this area. Restraint of trade is concerned with balancing the competing rights of private parties, notably the employer’s right to expect a certain degree of loyalty as regards his business against the employee’s freedom to leave his employment and to undertake new business activities. The key consideration tends to be whether restraint of trade clauses are reasonable.
22. Illegality and restraint of trade