

Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the Companies Act 1989, Cross Heading: Investigatory powers of the Director. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 14

SUPERVISORY AND QUALIFYING BODIES: RESTRICTIVE PRACTICES

Textual Amendments

- F1** Sch. 14 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 5, **Sch. 2 para. 2(2)** (with reg. 6(2))

PART I

PREVENTION OF RESTRICTIVE PRACTICES]

Investigatory powers of the Director

- 4 (1) The following powers are exercisable by the [^{F1}OFT] for the purpose of investigating any matter in connection with [^{F2}its] functions under paragraph 1 or 3.
- (2) The [^{F1}OFT] may by a notice in writing require any person to produce, at a time and place specified in the notice, to the [^{F1}OFT] or to any person appointed by [^{F3}it] for the purpose, any documents which are specified or described in the notice and which are documents in his custody or under his control and relating to any matter relevant to the investigation.
- (3) The [^{F1}OFT] may by a notice in writing require any person to furnish to the [^{F1}OFT] such information as may be specified or described in the notice, and specify the time within which and the manner and form in which any such information is to be furnished.
- (4) A person shall not under this paragraph be required to produce any document or disclose any information which he would be entitled to refuse to produce or disclose on grounds of legal professional privilege in proceedings in the High Court or on the grounds of confidentiality as between client and professional legal adviser in proceedings in the Court of Session.
- (5) ^{F4}.....

Textual Amendments

- F1** Words in Sch. 14 para. 4 substituted (1.4.2003) by [2002 c. 40, ss. 278, 279, Sch. 25 para. 21\(4\)\(c\)\(i\); S.I. 2003/766, art. 2, Sch.](#) (with transitional and transitory provision in [art. 3](#))
- F2** Word in Sch. 14 para. 4(1) substituted (1.4.2003) by [2002 c. 40, ss. 278, 279, Sch. 25 para. 21\(4\)\(c\)\(ii\); S.I. 2003/766, art. 2, Sch.](#) (with transitional and transitory provision in [art. 3](#))

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- F3** Word in Sch. 14 para. 4(2) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 21(4)(c)(iii); S.I. 2003/766, art. 2, Sch. (with transitional and transitory provision in art. 3)
- F4** Sch. 14 para. 4(5) repealed (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 21(4)(c)(iv), Sch. 26; S.I. 2003/766, art. 2, Sch. (with transitional and transitory provision in art. 3)

Enforcement

- [^{F5}4A (1) The court may, on an application by the OFT, enquire into whether any person (“the defaulter”) has refused or otherwise failed, without reasonable excuse, to comply with a notice under paragraph 4.
- (2) An application under sub-paragraph (1) shall include details of the possible failure which the OFT considers has occurred.
- (3) In enquiring into a case under sub-paragraph (1), the court shall hear any witness who may be produced against or on behalf of the defaulter and any statement which may be offered in defence.
- (4) Sub-paragraphs (5) and (6) apply where the court is satisfied, after hearing any witnesses and statements as mentioned in sub-paragraph (3), that the defaulter has refused or otherwise failed, without reasonable excuse, to comply with the notice under paragraph 4.
- (5) The court may punish the defaulter as it would have been able to punish him had he been guilty of contempt of court.
- (6) Where the defaulter is a body corporate, the court may punish any director or officer of the defaulter as it would have been able to punish that director or officer had the director or officer been guilty of contempt of court.
- [Where the defaulter is a partnership constituted under the law of Scotland, the court ^{F6}(6A) may punish any partner of the defaulter as it would have been able to punish him had he been guilty of contempt of court.]
- (7) In this section “the court”—
- (a) in relation to England and Wales, means the High Court, and
- (b) in relation to Scotland, means the Court of Session.]

Textual Amendments

- F5** Sch. 14 para. 4A inserted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 21(4)(d); S.I. 2003/766, art. 2, Sch. (with transitional and transitory provision in art. 3)
- F6** Sch. 14 para. 4A(6A) inserted (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, Sch. para. 10(2)

- ^{F7}4B (1) A person commits an offence if he intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under paragraph 4.
- (2) A person who commits an offence under sub-paragraph (1) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

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Textual Amendments

- F7** Sch. 14 para. 4B inserted (1.4.2003) by 2002 c. 40, s. 278, Sch. 25 para. 21(4)(d); S.I. 2003/766, **art. 2**, Sch. (with transitional and transitory provision in **art. 3**)

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