

## SCHEDULE 1

### Amendments to the Competition Act 1998

**37.**—(1) Section 62 (power to enter premises: Commission investigations) is amended as follows.

(2) In subsection (1)—

- (a) for the word “may” there is substituted “shall”;
- (b) for the words “a Commission investigation is being, or is likely to be, obstructed” there is substituted—
  - “(a) the Commission has ordered an Article 20 inspection;
  - (b) the Article 20 inspection is being, or is likely to be, obstructed; and
  - (c) the measures that would be authorised by the warrant are neither arbitrary nor excessive having regard to the subject matter of the Article 20 inspection.”.

(3) In subsection (2)—

- (a) for the words “A Commission investigation” there is substituted “An Article 20 inspection”;
- (b) in paragraph (a)—
  - (i) for the words “an official of the Commission (“the Commission official”)” there is substituted “a Commission official”;
  - (ii) for the words “the provision under which the investigation is being conducted” there is substituted “Article 20(3) of the EC Competition Regulation”; and
  - (iii) for the words “premises” there is substituted “any business premises”.
- (c) in paragraph (b)—
  - (i) the words “on the premises” shall cease to have effect;
  - (ii) after the words “suspecting that there are” there is inserted “on any business premises”.

(4) In subsection (3)—

- (a) for the words “A Commission investigation” there is substituted “An Article 20 inspection”;
- (b) the words “on the premises” shall cease to have effect;
- (c) after the words “suspecting that there are” there is inserted “on any business premises”;
- (d) in paragraph (a),
  - (i) for the words “an official of the Commission” there is substituted “a Commission official”;
  - (ii) for the words “the provision under which the investigation is being conducted” there is substituted “Article 20(3) of the EC Competition Regulation”.

(5) In subsection (4)—

- (a) for the words “A Commission investigation” there is substituted “An Article 20 inspection”;
- (b) paragraph (a) shall cease to have effect;
- (c) in paragraph (b),
  - (i) after the words “suspecting that there are” there is inserted “on any business premises”;

*Status: This is the original version (as it was originally made).*

- (ii) the words “on the premises” shall cease to have effect; and
  - (iii) for the words “the Commission official” there is substituted “a Commission official”.
- (6) For subsection (5) there is substituted—
- “(5) A warrant under this section shall authorise a named officer of the OFT and any other OFT officer, or Commission official, accompanying the named officer—
- (a) to enter any business premises specified in the warrant using such force as is reasonably necessary for the purpose;
  - (b) to search for books and records which a Commission official has power to examine, using such force as is reasonably necessary for the purpose;
  - (c) to take or obtain copies of or extracts from such books and records;
  - (d) to seal the premises, any part of the premises or any books or records which a Commission official has power to seal, for the period and to the extent necessary for the inspection.”.
- (7) After subsection (9) there is inserted—
- “(10) In this section—
- “business premises” means any premises of an undertaking or association of undertakings which a Commission official has under Article 20 of the EC Competition Regulation power to enter in the course of the Article 20 inspection;
  - “Commission official” means any of the persons authorised by the Commission to conduct the Article 20 inspection; and
  - “OFT officer” means any officer of the OFT whom the OFT has authorised in writing to accompany the named officer.
- (11) In subsection (10), the reference in the definition of “business premises” to Article 20 of the EC Competition Regulation does not include a reference to that Article as applied by Article 21 of that Regulation.”.
- (8) In the sidenote, for the words “Power to enter Premises: Commission investigations” there is substituted “Power to enter business premises under a warrant: Article 20 inspections”.