

SCHEDULE 4

Powers of entry in misuse of aid examinations

PART 3

Entry with a warrant

Power to enter business premises with a warrant

6.—(1) On an application made to it by the CMA, the court may issue a warrant if it is satisfied that—

- (a) there are reasonable grounds to suspect that there has been a misuse of aid by the beneficiary;
- (b) entry to the business premises of the beneficiary is necessary for the CMA to decide under regulation 19 whether there has been a misuse of aid by the beneficiary;
- (c) the suspected misuse of aid is sufficiently serious to justify entering the business premises of the beneficiary; and
- (d) the requirements in sub-paragraph (2) or (3) are met.

(2) The requirements of this sub-paragraph are met if there are reasonable grounds to suspect that—

- (a) there are on the business premises documents which the CMA has the power under regulation 19(4)(b) to request for the purposes of deciding whether there has been a misuse of aid; and
- (b) if the documents were requested under regulation 19(4)(b), they would not be produced but would be concealed, removed, tampered with or destroyed.

(3) The requirements of this sub-paragraph are met if there are reasonable grounds to suspect that there are on the business premises documents—

- (a) the production of which has been requested under regulation 19(4)(b); and
- (b) which have not been produced as requested.

Application for warrant

7. An application for a warrant under paragraph 6 must be made in accordance with the rules of the court.

Powers conferred by search warrant

8.—(1) A warrant issued under paragraph 6 authorises a named officer and any other authorised officer to accompany the named officer to—

- (a) enter the premises specified in the warrant, using such force as is reasonably necessary for that purpose;
- (b) search the premises and take copies of any document appearing to be a relevant document;
- (c) seize any document appearing to be a relevant document if—
 - (i) such action appears to be necessary for preserving the document or preventing interference with it; or
 - (ii) it is not reasonably practicable to take copies of the document on the premises;

- (d) take any other steps which appear to be necessary for the purpose mentioned in sub-paragraph (c)(i);
- (e) require any person on the premises to provide an explanation of any document appearing to be a relevant document;
- (f) require any person on the premises to state, to the best of the person's knowledge and belief, where a document appearing to be a relevant document may be found; and
- (g) require any information which is stored in any electronic form and is accessible from the premises and which the named officer considers relevant to the purpose of deciding under regulation 19 whether there has been a misuse of aid by the beneficiary to be produced in a form—
 - (i) in which it can be taken away; and
 - (ii) in which it is visible and legible or from which it can readily be produced in a visible and legible form.

(2) A warrant issued under paragraph 6 may authorise persons specified in the warrant to accompany the named officer who is executing the warrant.

(3) Any person entering premises by virtue of a warrant issued under paragraph 6 may take with the person such equipment as appears to the person to be necessary.

Warrants: further provision

9. A warrant issued under paragraph 6 must specify—
- (a) the nature of the offences created by paragraph 15; and
 - (b) the purpose of the intended entry.

Time period

10. A warrant issued under paragraph 6 continues in force until the end of the period of one month beginning with the day on which it is issued.

Execution of warrants: notice

11.—(1) This paragraph applies if the court has issued a warrant under paragraph 6 on the basis that the requirements in paragraph 6(3) are met.

(2) Unless giving notice would be likely to frustrate or seriously prejudice the purpose of entering the premises, a warrant does not authorise entry to any business premises unless the named officer gives at least two working days' notice of the intended entry to the occupier of the premises.

Execution of warrants: evidence of authority

12.—(1) If the occupier of the business premises is present at the time when a named officer seeks to execute the warrant, the named officer must—

- (a) identify themselves to the occupier; and
- (b) produce to the occupier the warrant and documentary evidence that they are a named officer.

(2) If there is no person at the business premises when the named officer seeks to execute the warrant, the named officer must, before executing it—

- (a) take such steps as are reasonable in all the circumstances to inform the occupier of the intended entry; and

- (b) if the occupier is informed, afford the occupier or the occupier's legal or other representative a reasonable opportunity to be present when the warrant is executed.
- (3) If the named officer is unable to inform the occupier of the intended entry, the named officer must, on executing the warrant, leave a copy of it in a prominent place on the premises.

Execution of warrants: securing premises after entry

13. On leaving any premises which a named officer has entered under a warrant issued under paragraph 6, the named officer must, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secure as the named officer found them.

Execution of warrants: seizure

14. Any document seized under a warrant issued under paragraph 6 may be retained for a period of no more than 3 months.