

SCHEDULE 2

Rule 7(2)

No. 69 Warrant for entry of premises issued under section 28 of the Competition Act 1998

(O. 122 r. 3(7))

In the High Court of Justice in Northern Ireland 20 , No. Division

Applicant: [Director General of Fair Trading] [name of Regulator]

Respondent:

TO: [insert name and address of Respondent or, if a company, its registered office and registered number].

1. This Warrant was issued by a Judge of the High Court on the day of 2000, on the application of the [Director General of Fair Trading] [name of Regulator]¹ ("the Director") under section 28(1) [(a)] [(b)] [(c)]¹ of the Competition Act 1998 ("the Act"). The Warrant continues in force until the end of the period of one calendar month beginning with the day on which it is issued.

¹Delete as appropriate

2. This Warrant is issued in respect of an investigation by the Director into [set out the subject matter and purpose of the investigation].

3. On production of this Warrant, [insert name], who is an officer of the Director ("the named officer") and [insert name], who is an officer of the Director authorised in writing by the Director to accompany the named officer, are authorised—

- (a) to enter the premises at [insert address] ("the premises"), using such force as is reasonably necessary for the purpose;
- (b) to search the premises and take copies of, or extracts from, any document appearing to be of a kind in respect of which the application referred to in paragraph 1 of this Warrant was granted ("the relevant kind");
- (c) to take possession of any documents appearing to be of the relevant kind if—
 - (i) such action appears to be necessary for preserving the documents or preventing interference with them; or
 - (ii) it is not reasonably practicable to take copies of the documents on the premises

provided that any document of which possession is taken may be retained for a period of three months;

- (d) to take any other steps which appear necessary for the purpose mentioned in paragraph 3(c)(i) above;
- (e) to require any person to provide an explanation of any document appearing to be of the relevant kind or to state, to the best of his knowledge and belief, where it may be found;

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- (f) to require any information which is held in a computer and is accessible from the premises and which the named officer considers relates to any matter relevant to the investigation, to be produced in a form—
 - (i) in which it can be taken away, and
 - (ii) in which it is visible and legible.

WARNING

4. Section 42(1) of the Act provides that a person is guilty of an offence if he fails to comply with a requirement imposed on him under section 28 of the Act.

5. If a person is charged with an offence under section 42(1) of the Act in respect of a requirement to produce a document, it is a defence for him to prove—

- (a) that the document was not in his possession or under his control; and
- (b) that it was not reasonably practicable for him to comply with the requirement.

6. If a person is charged with an offence under section 42(1) of the Act in respect of a requirement—

- (a) to provide information,
- (b) to provide an explanation of a document, or
- (c) to state where a document is to be found,

it is a defence for him to prove that he had a reasonable excuse for failing to comply with the requirement.

7. A person guilty of an offence under section 42(1) of the Act is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum (currently £5,000);
- (b) on conviction on indictment, to an unlimited fine.

8. Section 42(7) of the Act provides that a person who intentionally obstructs an officer in the exercise of his powers under a warrant issued under section 28 of the Act is guilty of an offence and 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 and/or an unlimited fine.

9. Under section 43 of the Act, a person is guilty of an offence if, having been required to produce a document under section 28 of the Act—

- (a) he intentionally or recklessly destroys or otherwise disposes of it, falsifies it or conceals it, or
- (b) he causes or permits its destruction, disposal, falsification or concealment.

10. A person guilty of an offence under section 43 of the Act is 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 and/or an unlimited fine.

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11. Section 44(1) of the Act provides that, if information is provided by a person to the Director in connection with any function of the Director under Part I of the Act, that person is guilty of an offence if—

- (a) the information is false or misleading in a material particular, and
- (b) he knows that it is or is reckless as to whether it is.

12. By virtue of section 44(2) of the Act, a person who—

- (a) provides any information to another person, knowing the information to be false or misleading in a material particular, or
- (b) recklessly provides any information to another person which is false or misleading in a material particular,

knowing that the information is to be used for the purpose of providing information to the director in connection with any of its functions under Part I of the Act, is guilty of an offence.

13. A person who is guilty of an offence under section 44(1) or (2) of the Act is 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.

14. Section 72 of the Act provides that, if an offence under sections 42 to 44 of the Act is committed by a body corporate and is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

“Officer”, in relation to a body corporate means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

15. If the affairs of a body corporate are managed by its members, paragraph 14 above applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

16. In this Warrant—

“document” includes information recorded in any form;

“information” includes estimates and forecasts;

“premises” does not include domestic premises unless—

- (a) they are also used in connection with the affairs of an undertaking, or
- (b) documents relating to the affairs of an undertaking are kept there,

but does include any vehicle.

Dated the day of 2000

(signed)

No. 70 Warrant for entry of premises issued under section 62 of the Competition Act 1998

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(O. 121 r. 3(8))

In the High Court of Justice in Northern Ireland 20 , No.
Division

Applicant: Director General of Fair Trading

Respondent:

TO: *[insert name and address of Respondent or, if a company, its registered office and registered number]*.

1. This Warrant was issued by a Judge of the High Court on the day of 2000, on the application of the Director General of Fair Trading (“the Director”) under section 62(1) of the Competition Act 1998 (“the Act”). The Warrant continues in force until the end of the period of one month beginning with the day on which it is issued.

2. This Warrant is issued in respect of an investigation by the European Commission into *[set out the subject matter and purpose of the investigation]* and more fully particularised in a Decision of the European Commission dated the day of 2000, numbered in Case No. and addressed to , the Respondent.

3. On production of this Warrant, *[insert name]*, who is an officer of the Director (“the named officer”) and *[insert name]*, who is an officer of the Director authorised in writing by the Director to accompany the named officer, and *[insert name]*, who is an official of the European Commission, are authorised to enter the premises at *[insert name]* (“the premises”), and to search for books and records which the official of the European Commission has power to examine, using such force as is reasonably necessary for the purpose.

WARNING

4. Section 65 of the Act provides that a person who intentionally obstructs any person in the exercise of his powers under a warrant issued under section 62 of the Act is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum (currently £5,000); or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years and/or an unlimited fine.

5. Section 72 of the Act provides that, if an offence under section 65 of the Act is committed by a body corporate and is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on his part,

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the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

“Officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

6. If the affairs of a body corporate are managed by its members, Section 72 of the Act applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

7. In this Warrant, “premises” means any premises, land or means of transport which an official of the European Commission has power to enter in the course of the investigation.

Dated this day of 2000

(signed)

No. 71 Warrant for entry of premises issued under section 63 of the Competition Act 1998

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(O. 121 r. 3(9))

In the High Court of Justice in Northern Ireland 20 , No.
Division

Applicant: Director General of Fair Trading

Respondent:

TO: *[insert name and address of Respondent or, if a company, its registered office and registered number]*.

1. This Warrant was issued by a Judge of the High Court on the day of 2000, on the application of the Director General of Fair Trading ("the Director") under section 63(1) of the Competition Act 1998 ("the Act"). The Warrant continues in force until the end of the period of one month beginning with the day on which it is issued.

2. This Warrant is issued in respect of an investigation into *[set out the subject matter and purpose of the investigation]* and more fully particularised in a Decision of the European Commission dated the day of 2000, numbered in Case No. .

3. On production of this Warrant, *[insert name]*, who is an officer of the Director ("the named officer") *[insert name]*, who is an officer of the Director authorised in writing by the Director to accompany the named officer, and *[]*, who is a named official of the European Commission, are authorised to enter the premises at *[insert address]* ("the premises"), and to search for books and records which the named officer and other authorised officers have power to examine, using such force as is reasonably necessary for the purpose.

WARNING

4. Section 65 of the Act provides that a person who intentionally obstructs any person in the exercise of his powers under a warrant issued under section 63 of the Act is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum (currently £5,000); or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years and/or an unlimited fine.

5. Section 72 of the Act provides that, if an offence under section 65 of the Act is committed by a body corporate and is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“Officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

6. If the affairs of a body corporate are managed by its members, section 72 of the Act applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

7. In this Warrant, “premises” means any premises, land or means of transport which an official of the European Commission has power to enter if the investigation were being conducted by the European Commission.

Dated this day of 2000

(signed)