

SCHEDULE 1

Amendments to the Competition Act 1998

38. After section 62 there is inserted—

“ 62A Power to enter non-business premises under a warrant: Article 21 inspections

(1) A judge of the High Court shall issue a warrant if satisfied, on an application made to the High Court in accordance with the rules of court by the OFT, that—

- (a) the Commission has ordered an Article 21 inspection; and
- (b) the measures that would be authorised by the warrant are neither arbitrary nor excessive having regard in particular to the matters mentioned in subsection (2).

(2) Those matters are—

- (a) the seriousness of the suspected infringement of Article 81(1) or 82 of the Treaty;
- (b) the importance of the evidence sought;
- (c) the involvement of the undertaking or association of undertakings concerned; and
- (d) whether it is reasonably likely that business books and records relating to the subject matter of the Article 21 inspection are kept on the non-business premises that would be specified in the warrant.

(3) 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 to enter any non-business premises specified in the warrant.

(4) A warrant under this section may authorise a named officer of the OFT and any other OFT officer, or Commission official, accompanying the named officer to search for books or records which a Commission official has power to examine.

(5) A warrant under this section may authorise a named officer of the OFT and any other OFT officer, or Commission official, accompanying the named officer to take or obtain copies of books or records of which a Commission official has power to take or obtain copies.

(6) A warrant granted under this section may authorise the use, for either or both of the purposes mentioned in subsections (3) and (4), of such force as is reasonably necessary.

(7) A warrant under this section may authorise persons specified in the warrant to accompany the named officer who is executing it.

(8) Any person entering any premises by virtue of a warrant under this section may take with him such equipment as appears to him to be necessary.

(9) On leaving any premises entered by virtue of a warrant the named officer must, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured as he found them.

(10) A warrant under this section continues in force until the end of the period of one month beginning with the day on which it is issued.

(11) In the application of this section to Scotland, references to the High Court are to be read as references to the Court of Session.

(12) In this section—

“non-business premises” means any premises to which a decision of the Commission ordering the Article 21 inspection relates;

Changes to legislation: *There are currently no known outstanding effects for the The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004, Paragraph 38. (See end of Document for details)*

“Commission official” means any of the persons authorised by the Commission to conduct the Article 21 inspection; and

“OFT officer” means any officer of the OFT whom the OFT has authorised in writing to accompany the named officer.”.

Changes to legislation:

There are currently no known outstanding effects for the The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004, Paragraph 38.