

SCHEDULE 1

Amendments to the Competition Act 1998

40.—(1) Section 63 (power to enter premises: OFT’s special investigations) is amended as follows.

(2) In subsection (1)—

- (a) for the word “may” there is substituted “ shall ”;
- (b) for the words “an OFT’s special investigation is being, or is likely to be, obstructed” there is substituted—
 - “(a) the Commission has requested the OFT to conduct an Article 22(2) inspection which the Commission has ordered by a decision under Article 20(4) of the EC Competition Regulation;
 - (b) the Article 22(2) 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 22(2) inspection.”

(3) In subsection (2)—

- (a) for the words “An OFT’s special investigation” there is substituted “ An Article 22(2) inspection ”;
- (b) in paragraph (a), after the words “has attempted to enter” there is inserted “ any business ”;
- (c) in paragraph (c)—
 - (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 “An OFT’s special investigation” there is substituted “ An Article 22(2) inspection ”;
- (b) in paragraph (a)—
 - (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 ”.

(5) In subsection (4)—

- (a) for the words “An OFT’s special investigation” there is substituted “ An Article 22(2) inspection ”;
- (b) in paragraph (a)—
 - (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 ”.

(6) For subsection (5) there is substituted—

“(5) A warrant under this section shall authorise a named authorised officer of the OFT and any other authorised officer of the OFT, or Commission official, accompanying the named authorised officer—

- (a) to enter any business premises specified in the warrant using such force as is reasonably necessary for the purpose;

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- (b) to search for books and records which an authorised officer of the OFT 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; and
- (d) to seal the premises, any part of the premises or any books or records which an authorised officer of the OFT has power to seal, for the period and to the extent necessary for the inspection.”.

(7) In subsection (7), for the words “named officer” there is substituted “ named authorised officer ”.

(8) After subsection (9) there is inserted—

“(10) In this section—

“business premises” means any premises of an undertaking or association of undertakings which an authorised officer of the OFT has power to enter in the course of the Article 22(2) inspection;

“Commission official” means any person authorised by the Commission to assist with the Article 22(2) inspection.”.

(9) In the sidenote, for the words “Power to enter premises: OFT’s special investigations” there is substituted “ Power to enter business premises under a warrant: Article 22(2) inspections ”.

Changes to legislation:

There are currently no known outstanding effects for the The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004, Paragraph 40.