

SCHEDULE 2

(introduced by sections 17(7) and 37(4))

FURTHER POWERS OF COMMISSION UNDER SECTION 17 OR 37

- 1 Where the Commission—
- (a) gives notice under subsection (1) of section 17 to any person having possession or control of any documents mentioned in subsection (3) of that section;
 - (b) gives notice under section 17(4) to any person having possession or control of any documents mentioned in subsection (6) of that section;
 - (c) requires any person under section 37(1) or (3) to provide it with information or documents referred to in that section,
- and the person refuses or fails to produce or deliver any of the documents or the information within the time specified in the notice or requirement or to cause them to be so produced or delivered, the Commission may apply to the court for an order requiring the person to produce or deliver the documents or information or to cause them or it to be produced or delivered to the person appointed at the place fixed by the Commission within such time as the court may order.
- 2 Where the Commission takes possession of any such documents or information which have or has been produced or delivered to it, it must—
- (a) in the case mentioned in paragraph 1(a) or (c), without delay serve on the practitioner against whom the complaint is made, and any other person to whom the notice was given or requirement made;
 - (b) in the case mentioned in paragraph 1(b), without delay serve on the complainer,
- a notice giving particulars and the date on which it took possession.
- 3 Before the expiry of the period of 14 days after service of a notice under paragraph 2 the person on whom the notice has been served may apply to the court for an order directing the Commission to return such documents or information to the person from whom they were received by the Commission or to such other person as the applicant may request; and on the hearing of any such application the court may make the order applied for or such other order as it thinks fit.
- 4 If no application is made to the court under paragraph 3, or if the court on any such application directs that the documents or information in question remain in the custody or control of the Commission, the Commission may make enquiries to ascertain the person to whom they belong and may deal with the documents or information in accordance with the directions of the person.