

FREEDOM OF INFORMATION ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedules

Schedule 3: Powers of entry and inspection

Issue of Warrants

261. *Paragraph 1(1)* allows a circuit judge to issue a warrant to the Commissioner where the judge is satisfied by information from the Commissioner on oath that there are reasonable grounds for suspecting either that the public authority has failed or is failing to comply with any of the requirements of Part I of the Act, so much of a decision notice as requires steps to be taken, or an information notice or enforcement notice, or that an offence under section 77 has been or is being committed. The judge must also be satisfied that evidence of the failure or of the offence is to be found on the premises specified.
262. *Paragraph 1(2)* sets out the action that may be taken under the warrant. The Commissioner or his officers or staff may, within seven days, enter and search the premises in question and inspect, examine, operate and test any relevant equipment. They may inspect and seize any documents or other material which may be evidence of the alleged contravention or offence.
263. *Paragraph 2(1)* sets out further conditions for the issue of a warrant. The judge must be satisfied that:
- a) the Commissioner has given seven days' notice in writing to the occupier of the premises demanding access;
 - b) access was demanded at a reasonable hour and was unreasonably refused; or, if entry was granted, the occupier refused unreasonably to comply with a request; and
 - c) the occupier has been notified by the Commissioner of the application for the warrant and has had an opportunity of being heard by the judge.
264. *Paragraph 2(2)* says that the above conditions do not apply if the judge is satisfied that the case is one of urgency, or that meeting the conditions would defeat the purpose for which the warrant is being sought.
265. *Paragraph 3* requires the judge to issue not only the warrant but also two certified copies of it.