

CHAPTER 86

APPLICATIONS UNDER SECTION 28, 28A, 62, 62A, 63, 65G OR 65H OF THE COMPETITION ACT 1998

Application and interpretation of this Chapter

86.1.-(1) This Chapter applies to applications for warrants under section 28, 28A, 62, 62A, 63, 65G or 65H of the Competition Act 1998.

(2) In this Chapter, “the Act of 1998” means the Competition Act 1998.

(3) Words and expressions used in this Chapter and in the Act of 1998 shall have the meaning given in the Act of 1998.

Disapplication of certain rules to this Chapter

86.2. The following rules shall not apply to a petition to which this Chapter applies:-

- rule 4.3 (lodging of processes),
- rule 4.4 (steps of process),
- rule 4.5(1)(b) (copy inventory of productions to be sent to other parties),
- rule 4.6 (intimation of steps of process),
- rule 4.11 (documents not to be borrowed),
- rule 4.12 (borrowing and returning documents),
- rule 14.4 (form of petitions),
- rule 14.5 (first order in petitions),
- rule 14.6 (period of notice for lodging answers),
- rule 14.7 (intimation and service of petitions),
- rule 14.8 (procedure where answers lodged),
- rule 14.9 (unopposed petitions).

Applications for warrants

86.3.-(1) An application for a warrant under section 28, 28A, 62, 62A, 63, 65G or 65H of the Act of 1998 shall be made by petition in Form 86.3.

(2) The petition shall state –

- (a) the address or other identification of the premises which are intended to be the subject of the warrant;
- (b) the name of the occupier of those premises;
- (c) the section of the Act of 1998 under which the application is being made;
- (d) the subject matter of the investigation to which the application relates;
- (e) a statement of the grounds for the application; and
- (f) a prayer indicating the warrant sought.

(3) There shall be lodged with the petition –

- (a) a draft warrant;
- (b) a signed witness statement in support of the application;
- (c) the written authorisation of the OFT containing the name of the officer who it is intended will be the named officer;
- (d) in the case of an application under section 62, 62A or 63 of the Act of 1998, the written authorisations of the European Commission containing the names of any of its officials and other persons authorised by it for any of the purposes set out in section 62(10), 62A(12) or 63(10) of the Act of 1998 as applicable who it is intended will accompany the named officer in executing the warrant; and

(e) the written authorisation of the OFT containing the names of any other person who it is intended will accompany the named officer in executing the warrant.

(4) On lodging the petition, the petitioner shall provide the Deputy Principal Clerk with the draft warrant in electronic form compatible with the software used by the court.

(5) The petition and any documents lodged, sent or retained under these Rules in connection with the petition shall be treated as confidential and open only to the court unless the Lord Ordinary otherwise directs.

Hearing of petition

86.4.-(1) On the lodging of the petition, the Keeper of the Rolls shall appoint the petition to a hearing to determine the petition.

(2) The petition shall be heard and determined in private unless the Lord Ordinary otherwise directs.

Form of warrants

86.5.-(1) A warrant issued under section 28, 28A, 62, 62A, 63, 65G or 65H of the Act of 1998 shall indicate –

- (a) the address or other identification of the premises subject to the warrant;
- (b) the names of the named officer and any other persons authorised by the warrant to accompany the named officer in executing the warrant;
- (c) the date on which the warrant was issued; and
- (d) that the warrant continues in force until the end of the period of one month beginning with the day on which it is issued.

(2) Subject to paragraph (3), a warrant issued under section 28, 28A, 62, 62A, 63, 65G or 65H of the Act of 1998 may be borrowed by the petitioner.

(3) The petitioner shall give a receipt for any warrant borrowed under paragraph (2) and shall return the warrant to the Deputy Principal Clerk by the end of the period of one month referred to in paragraph (1)(d).

(4) Where a warrant is borrowed under paragraph (2), a certified copy of a warrant issued under section 28, 28A, 62, 62A, 63, 65G or 65H of the Act of 1998 shall be retained by the Deputy Principal Clerk.

Service of copy petition and interlocutor

86.6. Within 7 days after the date of first execution of a warrant which has been issued by the court under section 28, 28A, 62, 62A, 63, 65G or 65H of the Act of 1998, the petitioner shall serve on the occupier of the premises which are the subject of the warrant and such other persons as may be specified by the court in the interlocutor granting the prayer of the petition –

- (a) a copy of the petition; and
- (b) a certified copy of the interlocutor granting the prayer of the petition.