



Department
for Business
Innovation & Skills

BIS Powers of Entry Review

Final Report

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Contents

1. Introduction by Minister	4
2. Executive Summary	5
3. Context of Review	7
4. Reporting/analysis of the review of each power of entry	9
4.1 Powers of entry that have already been repealed / revoked or are due to be repealed / revoked	9
4.1.1 Powers of entry that have been repealed.....	9
4.1.2 Powers of entry that will be repealed.....	10
4.1.3 Powers of entry that have been superseded.....	10
4.2 Powers of entry to be consolidated.....	12
4.2.1 Legislation to be consolidated by the Consumer Rights Bill 2014.....	12
4.2.2 Competition powers being consolidated.....	13
4.3 Powers of entry to be retained with additional safeguards.....	17
4.4 Powers of entry to be retained unchanged	33
Annex A	39

1. Introduction by Minister

The Government recognises the importance of respecting human rights and is committed to preserving the rights of individuals in their homes and businesses from unnecessary intrusion. The intention of Government is very clear: It is essential that powers of entry achieve the right balance between the need to enforce the law and ensure public protection and to provide sufficient safeguards and rights to the individual. As a result of this public authorities should have fewer powers to enter people's homes and the privacy and rights of homeowners and businesses should be protected and strengthened wherever possible.

That is why this Government has already passed the Protection of Freedoms Act 2012 to ensure that this approach is reflected in the day to day enforcement activities. This new approach will apply to public authorities with powers that allow them to enter into a private dwelling, business premises, land or vehicles for defined purposes such as ensuring businesses comply with relevant legislation.

With these dual aims in mind this report sets out how the Department for Business, Innovation and Skills proposes to reform 170 powers of entry.

2. Executive Summary

Under section 42 of the Protection of Freedoms Act 2012, each Minister of the Crown who is a member of the Cabinet must, review relevant powers of entry and relevant associated powers for which the Minister is responsible with a view to deciding whether to make an order under section 39(1), 40 or 41 in relation to any of them.

Each Minister must prepare a report of that review and lay a copy of the report before Parliament.

Our approach

BIS has the second largest number of powers of entry on statute compared to other government departments. Much of this is due to a complex regulatory landscape which has evolved over 150 years. As such, a robust validation exercise was carried out by policy and legal colleagues ensuring active engagement was undertaken between counterparts in other government departments and executive agencies.

BIS has already made substantial progress on reducing the number of powers of entry by repealing 10 powers of entry. BIS is already in the progress of consolidating 105 consumer law powers in the Consumer Rights Bill 2014, which is currently before Parliament.

Outcome

This report sets out the results of BIS' review of its powers of entry and where possible sets out what action will be or has been taken. The table below sets out the number of powers of entry owned by the department and a breakdown of action that will be or has been taken.

Total powers of entry in scope of review	
1. Total powers of entry repealed/reformed or to be repealed	14
2. Total powers of entry identified for consolidation	115
3. Total powers of entry identified for additional safeguards	24
4. Total powers of entry to remain unchanged	17
Net Total	170

Going forward

It is our aim to publish a consultation document setting out more detail about the powers of entry which BIS is proposing to amend outside the Consumer Rights Bill 2014 and those powers that BIS is proposing to retain unchanged. This will be made available on www.gov.uk/bis, setting out more clearly a timetable detailing when we will be able to begin making the proposed changes to the powers of entry listed.

3. Context of Review

The Government recognises the importance of respecting human rights and is committed to preserving the rights of individuals in their homes and businesses from unnecessary intrusion. The intention of Government is very clear: public authorities should have fewer powers to enter people's homes and the privacy and rights of homeowners and businesses should be protected and strengthened wherever possible. It is essential that powers of entry, as with any enforcement power, achieve the right balance between the need to enforce the law and ensure public protection and provide sufficient safeguards and rights to the individual.

A power of entry is a right for a person (usually a state official of a specified description, for example, police officers, local authority trading standards officers or the enforcement staff of a regulatory body) to enter a private dwelling, business premises, land or vehicles (or a combination of these) for a defined purposes (for example, to search for and seize evidence as part of an investigation, inspect animals for signs of disease or to inspect premises to ascertain whether regulatory requirements have been complied with).

The Department for Business, Innovation and Skills is responsible for powers of entry set out in nearly 100 different pieces of legislation. These pieces of legislation span a time period of over 150 years and are derived from both EU and domestic sources. This diversity makes it confusing for businesses to know what the powers of people seeking access to their premises are in any given circumstance. For instance a business might produce two different kinds of products and find that the enforcement regime for each one is different because the underlying legislation was made at different times and therefore includes different associated powers and different safeguards. BIS seeks to modernise these powers of entry to reflect current thinking and ensure better consistency in enforcement practices across the powers in this document.

The Department's powers of entry can be divided into 4 categories:

- 1) Powers that are no longer needed and have been or will be repealed
- 2) Powers that will be consolidated
- 3) Powers to be retained with additional safeguards
- 4) Powers to be retained as they are

For the powers that will be retained with additional safeguards and for powers that will be consolidated the Department proposes to apply a standard set of safeguard as appropriate. These are set out below.

- 1) **Restriction on powers of entry** – Powers of entry will not apply to premises which are **wholly or mainly private dwellings** without a warrant.
- 2) **Requirement to give reasonable notice** – to occupiers before officers can exercise powers of entry without a warrant, subject to specific exemptions. The exemptions include:

- where the enforcement authority is a market surveillance authority for the purposes of EU law;
 - where the requirement for notice has been waived by the occupier;
 - where the enforcer has reasonable cause to suspect a breach;
 - where giving notice would reasonably be supposed to defeat the purpose of the entry. This is to include the following circumstances: where there is reasonable suspicion that evidence may be lost or destroyed or where unannounced spot-checks are necessary;
 - where it is not practical in all the circumstances to give notice. This should be capable of including circumstances where there is reasonable cause to suspect that there is imminent risk to public health or safety.
- 3) A requirement for officers to issue **a receipt for the seized items**.
- 4) A requirement that, if requested, enforcers should allow **a trader to take copies of any seized documents**.
- 5) **Goods or documents that are seized may not be detained for more than 3 months**; or where the goods or documents are reasonably required by the enforcement authority in connection with the enforcement of these Regulations, for longer than they are so required.
- 6) **Notice of test and intended proceedings** - an officer must inform owners whose goods are seized of the results of any tests on the goods seized. If the results of the tests lead to prosecution, then the officer shall allow the person whose goods were seized, the opportunity to also test the products (if it is practicable to do so).
- 7) **Compensation for loss or damage** - where goods have been seized, if there has been no breach and the loss has not been due to any neglect or default by that person. Any dispute as to the amount of compensation payable will be determined by arbitration.

4. Reporting/analysis of the review of each power of entry

4.1 Powers of entry that have already been repealed / revoked or are due to be repealed / revoked

Total powers of entry in scope of review	
1. Total powers of entry repealed/reformed or to be repealed	14
2. Total powers of entry identified for consolidation	115
3. Total powers of entry identified for additional safeguards	24
4. Total powers of entry to remain unchanged	17
Net Total	170

4.1.1 Powers of entry that have been repealed

Ten powers of entry identified under this Review have already been repealed as they were no longer necessary to keep on the statute books.

Name	No of powers	Implementation date
Property Misdescriptions Act 1991 ¹ – paragraph 4 of Schedule 1 (enforcement)	2	October 2013
Regional Development Agencies Act 1998 ² – section 21 (rights of entry), paragraph 5 of Schedule 5 (acquisition of land) and paragraph 11 of Schedule 6 (vesting and acquisition of land: supplementary provisions)	3	July 2012
Postal Services Act 2000 ³ – section 49 (powers of entry and seizure)	1	October 2011
Distribution of German Enemy Property (No. 1) Order 1950 ⁴ – article 22 (power of constable to enter premises under warrant to search for and seize German enemy property)	1	July 2012
Calibration of Tanks and Vessels (EEC Requirements) Regulations 1975 ⁵ - regulation 9 (powers of inspectors)	2	July 2011
Gas Appliances (Safety) Regulations 1995 ⁶ – regulation 24 (surveillance by notified bodies)	1	July 2012
TOTAL	10	

¹ 1991 c. 29.

² 1998 c. 45.

³ 2000 c. 26.

⁴ S.I. 1950/1642.

⁵ S.I. 1975/2125.

⁶ S.I. 1995/1629.

4.1.2 Powers of entry that will be repealed

Trading with the Enemy Act 1939⁷: This Act prohibits trading with the enemy, purchasing enemy currency and enables the collection and taking into custody of enemy debts and property. An “enemy” is a State at war with the UK, an individual, business or company based in such a state or a person specified by Order by BIS. The power of entry in section 3 (inspection and supervision of businesses) allows an inspector appointed by BIS to enter any premises used for the purpose of a business carried on by a person named by BIS in an order, for the purpose of securing compliance with the Act. The inspector can also inspect books and documents and require the production of information. The Act was brought in as a result of the Second World War between 1939 and 1945. This power of entry is now redundant and BIS plans to repeal this power in due course.

4.1.3 Powers of entry that have been superseded

Name	No of powers	Implementation date
Waste Electrical and Electronic Equipment Regulations 2006 ⁸ – regulation 72 (entry and inspection)	2	January 2014
Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008 ⁹ – regulation 12 (further powers to obtain evidence)	1	January 2013
TOTAL	3	

Waste Electrical and Electronic Equipment Regulations 2006: These Regulations were superseded by the Waste Electrical Electronic and Equipment Regulations 2013 in January 2014, which implemented Directive 2012/19/EU.

The Directive requires all producers that place electrical and electronic equipment (“EEE”) on the market to take responsibility for financing the costs of the collection, treatment, recovery and environmentally sound disposal of waste EEE. There is also a requirement on producers to put a symbol of a crossed out wheeled bin on all EEE placed on the market and report various information. Distributors of EEE have obligations to take back waste EEE and provide information to customers. Operators of waste EEE treatment facilities have data reporting obligations and must comply with specific treatment requirements. The Directive is aimed at contributing to the protection of human health and the environment. Powers of entry to enforce the Regulations are necessary to adequately enforce the above obligations and avoid infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

As a result the 2013 Regulations still contain two powers of entry for the Environment Agency and the Secretary of State in regulation 89 (entry and inspection), but these have been recast to include additional safeguards. These include: the requirement to obtain a

⁷ 1939 c.89.

⁸ S.I. 2006/3289.

⁹ S.I. 2008/37.

warrant for premises that are wholly or mainly a private dwelling, to provide a receipt for items seized, to allow the trader to make copies of records seized and a time limit for the detention of items seized. These powers of entry have been approved by the Home Office Powers of Entry Gateway as necessary and proportionate.

Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008: These Regulations were superseded by the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012¹⁰ in January 2013, which implemented obligations under Directive 2011/65/EU¹¹.

The Directive restricts the placing on the market of EEE containing more than the restricted levels of heavy metals and two flame retardants and applies to importers, manufacturers and distributors. It also includes requirements about the use of 'CE' markings to indicate conformity with the Regulations. The Directive is aimed at contributing to the protection of human health and the environment. Powers of entry to enforce the Regulations are necessary to avoid infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

As a result the 2012 Regulations still contain two powers of entry for the National Measurement Office ("NMO") in paragraphs 2 and 4 of Schedule 2 (test purchases, powers of entry etc and warrants), but these have been recast to include additional safeguards. These include: the requirement to obtain a warrant for premises that are wholly or mainly a private dwelling, to give reasonable notice for entry without a warrant (unless certain circumstances apply), to provide a receipt for items seized and a time limit for the detention of items seized. These powers of entry have been approved by the Home Office Powers of Entry Gateway as necessary and proportionate.

¹⁰ S.I. 2012/3032.

¹¹ Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (recast).

4.2 Powers of entry to be consolidated

Total powers of entry in scope of review	
1. Total powers of entry repealed/reformed or to be repealed	14
2. Total powers of entry identified for consolidation	115
3. Total powers of entry identified for additional safeguards	24
4. Total powers of entry to remain unchanged	17
Net Total	170

4.2.1 Legislation to be consolidated by the Consumer Rights Bill 2014

Consumer law has grown up piecemeal and consequently it now covers rules for such diverse sectors as internet-based retailers and doorstep sellers, from travel companies to estate agents as well as retailers of cars and electronic products. There are also rules ensuring the safety and authenticity of products offered for sale, such as toys, clothing and electrical goods, and rules to protect consumers from unfair trading.

As a result the investigatory powers of consumer law enforcers are currently scattered in around 60 different pieces of legislation. These powers include powers of entry and inspection and seizure of goods and documents. However, the powers currently vary across consumer law. These slight variations in the powers cause confusion and potential disputes with officers as it is difficult for businesses and enforcers to know what officers' powers are in every circumstance, leading to unnecessary costs to business.

In the Consumer Rights Bill, currently before Parliament, the consumer law powers are consolidated and simplified into a generic set. In setting out the generic powers in one place, they have been aligned as far as possible across consumer law to simplify them and reduce the likelihood of disputes as to enforcers' powers.

At the same time to protect civil liberties, the Bill adds safeguards to the powers, so that enforcers are required to give two days' notice to businesses of routine inspections and restricting powers to enter wholly or mainly private dwellings so that a warrant is required to exercise a power of entry to these premises.

The equivalent powers in the existing legislation are being repealed. This means that the 105 existing powers of entry will be consolidated into just two. These measures have been cleared by the Powers of Entry Gateway.

This is a key response to the Retail theme of the Government's Red Tape Challenge in July 2011 which aims to reduce regulation. Consolidating and simplifying consumer law powers reduces disruption to businesses and generates net savings to businesses of £45 million over 10 years.

The full list of powers being repealed is provided at Annex A.

4.2.2 Competition powers being consolidated

Competition Act 1998¹²: This Act makes provision about competition such as the abuse of a dominant position in the market and investigations conducted in connection with Articles 101 and 102 (common rules on competition) of the Treaty on the Functioning of the European Union¹³ (“TFEU”). It contains a group of powers that allow the Competition and Markets Authority (“CMA”) and concurrent regulators¹⁴ to enter premises to investigate breaches of competition law. Additionally, it contains powers that allow the CMA to assist the European Commission or Member States to gather evidence through inspections of premises.

BIS proposes to explore consolidating the powers of entry under the Competition Act 1998 into fewer and simpler powers, which would grant the enforcement authorities the same powers as under the current regime.

Competition Act 1998 section 27 (power to enter business premises without a warrant): This power gives the CMA and concurrent regulators the power to enter business premises. An officer can then require the production of documentary evidence, to enforce Chapter I and Chapter II prohibitions under the Competition Act 1998 and/or Articles 101 and 102 TFEU. An officer can also take copies of and take steps to preserve such documents. This is not a power to search.

Competition Act 1998 section 28 (power to enter business premises under a warrant): This power of entry is a “back up warrant power”. These are commonly provided in legislation to back up other powers of entry. They enable enforcement authorities to apply for a warrant where their other powers of entry will be for one reason or another ineffective. This might be because their other power of entry does not allow them access to domestic premises, because they have already been refused access using their other power or because they believe that this will happen. The warrant will enable them to use force to access the premises.

This is a backup warrant power of entry to the power in section 27. The power enables the CMA and concurrent regulators to apply for a warrant to enter and *search* business premises. Once on the premises the officer can search, copy, seize and take steps to preserve documents and require an explanation of a document. The officer can use such force as is reasonably necessary and the warrant remains in force for one month. Anything seized may be retained for three months.

¹² 1998 c.41.

¹³ Previously Articles 81 and 82 of the treaty establishing the European Community.

¹⁴ Concurrent regulators are those listed in section 54 of the Competition Act 1998: Ofcom, Ofgem, the Director General of Electricity Supply for Northern Ireland, Ofwat, the Office of Rail Regulation, the Director General of Gas for Northern Ireland, the Civil Aviation Authority and Monitor. This is due to be amended by the Enterprise and Regulatory Reform Act 2013 to omit the Director General of Electricity Supply for Northern Ireland and the Director General of Gas for Northern Ireland and substitute the Northern Ireland Authority for Utility Regulation (date to be appointed). It is also due to be amended by the Financial Services (Banking Reform) Act 2013 to add the Payment Systems Regulator and the Financial Conduct Authority (date to be appointed).

Competition Act 1998 section 28A (power to enter domestic premises under a warrant): This power enables the CMA and concurrent regulators to apply for a warrant to enter and search *any premises*, or any part of premises, that are used as a dwelling and are also used in connection with the affairs of an undertaking or association of undertakings or premises where documents relating to the affairs of an undertaking or association of undertakings are kept. Once on the premises the officer has the same powers as under section 28. The officer can use such force as is reasonably necessary and the warrant remains in force for one month. Anything seized may be retained for three months.

Without these powers the CMA would find it virtually impossible to investigate infringements of the Chapter I and Chapter II prohibitions and Articles 101 and 102 TFEU. Undertakings under investigation may have a particularly strong incentive to conceal their activities and not respond to CMA information requests made through other means and/or they may conceal or destroy evidence. This concern is aggravated by the nature of the infringements, which will often involve evidence which is fragmentary or diffuse. In some cases, individuals may seek to conceal relevant evidence in dwellings. This has happened, for example, in cartel cases investigated by the European Commission under Article 101(1) TFEU. The European Commission has a power to search domestic premises under Article 21(1) of Regulation 1/2003 and it is the Government's policy to harmonise as far as possible the application of national competition law with EU competition law.

Consolidation of Competition Act 1998 s27, 28 and 28A: BIS proposes to explore consolidating these three powers into two powers (one with a warrant and one without) for CMA and concurrent regulators to enter and search premises to enforce Chapter I and Chapter II prohibitions under the Competition Act 1998 and Articles 101 and 102 TFEU.

BIS proposes to add the following safeguards to this power:

- | | |
|--|------------------------------------|
| 1) Updating definitions of business premises and domestic premises | |
| 2) Notice | 3) Time of entry |
| 4) Receipt | 5) Copies |
| 6) Seized | 7) Compensation for loss or damage |

Competition Act 1998 - section 62 (power to enter business premises under a warrant: Article 20 inspections): This power of entry allows the CMA to apply for a warrant to enter business premises in order to assist the European Commission with inspections under Article 20 of Regulation 1/2003¹⁵ to enforce Articles 101 and 102 TFEU. A warrant will only be granted where an Article 20 inspection would otherwise be obstructed and the warrant is not excessive. In effect this power of entry and that under section 62A are back up warrant powers, where the original power is a power of entry for the EU Commission in Regulation 1/2003. Once on the premises the officer can search for, copy and preserve books and records. The officer can use such force as is reasonably necessary and the warrant remains in force for one month. Without this power the CMA would not be able to meet its obligations under Article 20(6) of Regulation 1/2003.

Competition Act 1998 - section 62A (power to enter non-business premises under a warrant: Article 21 inspections): This power of entry allows the CMA to apply for a warrant to enter non-business premises (which may include a private dwelling) in order to assist the European Commission with inspections conducted under Article 21 of Regulation 1/2003 to enforce Articles 101 and 102 TFEU. A warrant will only be granted where this is not arbitrary or excessive taking into account factors in subsection (2) including the seriousness of the suspected infringement. Once on the premises the officer can search for and copy books and records. The officer can use such force as is reasonably necessary and the warrant remains in force for one month. Without this power the CMA would not be able to meet its obligations under Article 21(4) of Regulation 1/2003.

Competition Act 1998 – section 62B (powers when conducting an Article 22(2) inspection): This section gives the CMA the same powers of entry as Commission officials under Article 20(2) of Regulation 1/2003 to assist the European Commission with inspections under Article 22(2) to enforce Articles 101 and 102 TFEU. This is a power to enter business premises to examine, copy, and preserve books and records and require explanations of facts and documents.

Competition Act 1998 section 63 (power to enter business premises under a warrant: Article 22(2)): This is a back-up warrant power of entry to the power in section 62B. It allows the CMA to apply for a warrant to enter business premises. Once on the premises the officer can search for, copy and preserve books and records. An officer can use such force as is reasonably necessary and the warrant remains in force for one month.

Without the two powers of entry in sections 62B and 63 the CMA would not be able to meet its obligations under Article 22(2) of Regulation 1/2003.

Competition Act 1998 section 65F (power to enter business premises without a warrant): This is a power of entry for the CMA to enter business premises in order to assist another EU National Competition Authority with inspections under Article 22(1) of

¹⁵ Council Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.

Regulation 1/2003. Once on the premises the officer can request the production of, copy and preserve documents and require an explanation of documents.

Competition Act 1998 section 65G (power to enter business premises under a warrant): This is a back-up warrant power of entry to the power in section 65F. It allows the CMA to apply for a warrant to enter business premises. Once on the premises the officer can search for, copy and preserve documents (if necessary by seizing them) and require an explanation of documents. An officer can use such force as is reasonably necessary and the warrant remains in force for one month. Anything seized may be retained for three months.

Competition Act 1998 section 65H (power to enter domestic premises under a warrant): This is also a back-up warrant power of entry to the power in section 65F. It allows the CMA to apply for a warrant to enter *any premises*, or any part of premises, that are used as a dwelling and are used in connection with the affairs of an undertaking or association of undertakings or where documents relating to the affairs of an undertaking or association of undertakings are kept. Once on the premises the officer can search for, copy and preserve documents (if necessary by seizing) and require an explanation of documents. An officer can use such force as is reasonably necessary and the warrant remains in force for one month. Anything seized can be retained for three months.

Without the three powers of entry in sections 65F, 65G and 65H the CMA would be unable to effectively carry out investigations on behalf of another EU National Competition Authority as required by Articles 22(1) and 35(1) of Regulation 1/2003. Furthermore, the CMA might find it difficult to obtain assistance from other EU National Competition Authorities in its own investigations if it could not reciprocate effectively in investigations on behalf of other such authorities.

Consolidation of Competition Act 1998 s62, 62A, 62B, 63, 65F, 65G and 65H: BIS proposes to explore consolidating these seven powers into one power of entry for the CMA to aid the European Commission or another EU National Competition Authority to enter and search business premises to enforce Articles 101 and 102 TFEU. Additionally, to take similar actions under a warrant at a private dwelling or at a business premise if access has been refused or evidence is at the risk of being destroyed or removed.

BIS proposes to add the following safeguards to this power:

1) Updating definitions of business premises and domestic premises

2) Notice

3) Time of entry

4) Receipt

5) Copies

6) Seized

7) Compensation for loss or damage (from CMA not European Commission)

4.3 Powers of entry to be retained with additional safeguards.

Total powers of entry in scope of review	
1. Total powers of entry repealed/reformed or to be repealed	14
2. Total powers of entry identified for consolidation	115
3. Total powers of entry identified for additional safeguards	24
4. Total powers of entry to remain unchanged	17
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Ordnance Survey Act 1841¹⁶: This Act authorises and facilitates the completion of a survey of Great Britain, including the continued maintenance of the national survey as change takes place on the ground. The power of entry in section 2 (surveyor, &c. empowered to enter lands to fix boundaries) allows Ordnance Survey to enter onto land and property of all types, at a reasonable time, for the purpose of conducting surveys and measurements to complete and maintain the national survey. This includes where necessary to identify and record the alignment of administrative and electoral boundaries and when required affix survey marks and survey monuments in support of the present and future conduct of the national mapping. Repealing the rights of entry granted in this Act would potentially make it impossible for Ordnance Survey to maintain the completeness and currency of its mapping at agreed levels, since it would be possible for any land owner or occupier of any land to refuse Ordnance Survey access to land. This would result in an inability to guarantee the completeness or accuracy of the national map to users of all types including for Land Registration, Central and Local Government functions and for National Security. The following safeguards are already in place for this order; notice of visit, time of visit and compensation for any loss or damage. BIS proposes to add the following safeguards onto this power.

¹⁶ 1841 c. 30.

BIS proposes to add the following safeguards to this power:

- 1) Warrant: It is proposed that in the cases where a surveyor seeks to enter a premise that is mainly or wholly a private dwelling without consent a warrant should be acquired first

Gun Barrel Proof Act 1868¹⁷: This Act makes provision for the two Proof Houses¹⁸ to regulate the gun trade. The power of entry in section 138 (application to Justice for Warrant for Seizure of forged Stamps, &c.) allows two Proof Houses to enter and search *any premises* with a warrant. Since this power can only be used with a warrant, which requires a judge to be convinced that there is a reasonable suspicion of the need to enter a premise and confiscate property we do not believe that reasonable notice needs to be given as this might lead to evidence being destroyed. Likewise, as counterfeit guns might endanger human life BIS does not propose to apply a safeguard around the time of day entry could take place. Finally, this power only allows for the seizing of counterfeit stamps and gun barrels so the generic safeguard which allows the owner to take copies of documents is not applicable.

BIS proposes to add the following safeguards to this power:

- | | | |
|------------|--|----------------------------|
| 1) Receipt | 2) Seized: This will ensure that the Proof House must ascertain whether seized goods are fraudulent within 3 months. If a product is fraudulent then the Proof House will be able to keep the seized goods until a court orders their destruction. | 3) Compensation for damage |
|------------|--|----------------------------|

Employment Agencies Act 1973¹⁹: this Act and the Regulations made under it provide for the regulation of the recruitment sector. The Act defines “employment agency” and “employment business”, prohibits fee charging to work-seekers, allows the Secretary of State to make regulations to secure the proper conduct of employment agencies and businesses, creates a number of offences and enables the prohibition of an individual from being involved in the running of an employment agency or business. The power of entry in section 9 (inspection) allows the Employment Agency Standards Inspectorate (“EASI”) to enter any relevant business premises, at a reasonable time, in order to inspect those

¹⁷ 1868 c.cxiii.

¹⁸ The two Proof Houses are the Gunmakers Company London and the Birmingham Proof House, who were set up to check that gun barrels are safe, in particular in relation to pressure and standards of view and they are authorised to mark, by proof, guns that pass their assessment.

¹⁹ 1973 c. 35.

premises and determine whether the Act and any Regulations made under it are being complied with or to enable EASI to exercise its functions under the Act. This includes a power to inspect, copy and seize records and documents and to require the production of information, records and documents. Without this power it would be difficult to ensure the compliance of the recruitment sector with this legislation. "Relevant business premises" covers any premises that are, have been or are to be used for or in connection with the carrying on of an employment agency or business, or another premises used for the carrying on of a business by someone who also carries on an employment agency or business. This means that "relevant business premises" could include premises used as a private dwelling. The power already contains a safeguard for records and documents seized to be returned as soon as reasonably practicable and there is no power to conduct tests. In practice EASI also give reasonable notice of most inspections.

BIS proposes to add the following safeguards to this power:

1) Warrant: It is proposed that in the cases where EASI seeks to enter a premise that is mainly or wholly a private dwelling without consent a warrant should be acquired first

2) Notice

3) Receipt

4) Copies

5) Compensation for loss or damage

National Minimum Wage Act 1998²⁰: This Act provides for a national minimum wage. The power of entry in section 14 (powers of officers) allows HMRC to enter any relevant premises at a reasonable time to check that workers are paid the national minimum wage. This includes a power to require the production of records; to remove them in order to copy them; require an explanation of records and the production of additional information to determine whether the Act or an enforcement notice is being complied with. Without this power it would be difficult to enforce the national minimum wage. While this power is primarily used at business addresses rather than private dwellings, "relevant premises" covers any premises at which an employer carries on business, so would cover a business conducted from a premises, which was primarily used as a private dwelling. In practice where records are removed for copying NMW teams always provide a receipt and they are required to return the originals as soon as reasonably practicable.

BIS proposes to add the following safeguards to this power:

1) Warrant: It is proposed that in the cases where HMRC seeks to enter a premise that is mainly or wholly a private dwelling without consent a warrant should be acquired first	2) Notice
3) Receipt	3) Compensation for loss or damage

Enterprise Act 2002²¹: Part 6 of this Act provides for a criminal offence of individuals engaging in cartel agreements e.g. price fixing and limiting production. The power of entry in section 194 (power to enter premises under a warrant) allows the CMA and in Scotland the procurator fiscal to apply for a warrant for the CMA to enter *any premises* in the investigation of cartels offences. A warrant will only be granted where other methods of obtaining documentary evidence have failed or are likely to seriously prejudice the investigation. Once on the premises the officer can search for, seize or preserve documents. The Criminal Justice and Police Act 2001²² also provides powers to seize additional material in order to sift out relevant documents away from the premises. An officer can use such force as is reasonably necessary and the warrant remains in force for one month. If the CMA's power to seek and execute search warrants were removed it would make it virtually impossible for it to investigate and successfully prosecute the cartel offence.

²⁰ 1998 c. 39.

²¹ 2002 c. 40.

²² 2001 c. 16.

BIS proposes to add the following safeguards to this power:

1) Receipt	2) Copies
3) Seized	4) Compensation for loss or damage

Working Time Regulations 1998²³: These Regulations implement Directive 93/104/EC²⁴ and parts of Directive 94/33/EC²⁵, which aim to protect workers and young people at work against adverse effects on their health and safety caused by working excessively long hours, night work or having inadequate rest.

The power of entry in paragraph 2(2)(a) of Schedule 3 (powers of inspectors) allows the Health and Safety Executive, trading standards, the Civil Aviation Authority, the Vehicle and Operator Services Agency and the Office of Rail Regulation to enter *any premises* which an inspector believes it is necessary to enter to carry into effect the Regulations within the field of responsibility of that enforcement authority²⁶. Once on the premises an inspector may examine and investigate; require information; require the production of books, records and documents; require assistance and exercise any other power necessary to carry into effect the Regulations. The power of entry relates to enforcement of Regulations 4 to 9, 24, 24A and 27A including the limits on the working week, provisions related to night work, the provision of health assessments for night workers, rest breaks for workers involved in certain kinds of work and some related record keeping requirements²⁷. Without this power of entry the underlying rights referred to in the Directive would be difficult to enforce effectively. The power of entry covers any premises, which would include private dwellings (although not in respect of workers employed as domestic servants in private households²⁸). Therefore BIS proposes to add the safeguard that a warrant is necessary in respect of premises that are mainly or wholly private dwellings. BIS also proposes to add the safeguard that reasonable notice is given, subject to exceptions. There is already a safeguard in relation to the time of entry: it is confined to any reasonable time, unless, in the opinion of the inspector, the situation is or may be dangerous, in which case, the inspector may enter at any time. Therefore BIS does not propose any new safeguard about the time of entry. There is no express power for inspectors to seize documents or records or goods, nor to carry out any tests on them, although there is power to require the production of records and documents, to inspect them and to take copies of them. However, inspectors' powers include *any other power which is necessary* for the purpose of carrying into effect the Regulations, within the field of responsibility of the inspector's enforcement authority. Therefore, BIS has considered whether further safeguards, which relate to the seizure of goods or documents, should be added to cover anything which might be done under this provision.

However, it might be very rare, if ever, that it would be necessary to seize anything, or to test goods. If that is the case, such safeguards could be unnecessary and could have the unintended effect of indicating that the seizure of items may be necessary and so unduly encourage seizure. Therefore BIS has considered whether alternative safeguards might be more appropriate. The circumstances in which some sort of power to remove items might be more likely to be necessary would be to remove items for the purposes of copying them (for example, computer software containing records). If so, then it might be

²³ S.I. 1998/1833.

²⁴ Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time.

²⁵ Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work.

²⁶ Regulation 28 prescribes their fields of responsibility and the Regulations that the enforcers are required to enforce.

²⁷ The other duties on the employer can be enforced by the employee who can present a claim to an employment tribunal under Regulation 30.

²⁸ These workers are excluded by Regulation 19.

more appropriate to have a safeguard to the effect that if any items are removed from the premises for the purposes of taking copies, they must be returned as soon as reasonably practicable. This could also be combined with a requirement for a receipt, and the safeguard of compensation for any loss and damage.

Another alternative approach could be to give guidance on this power. This could point out the narrow limits of the power: anything sought to be done under it, and the way in which it is done, must meet the test of necessity.

BIS proposes to add the following safeguards to this power:		
1) Warrant: It is proposed that in the cases where an enforcement officer seeks to enter a premise that is mainly or wholly or private dwelling without consent a warrant should be acquired first.		
2) Notice		
3) Further safeguards to cover the possibility of the powers being used to remove records either:		
(a) applying the template safeguards of receipt, detention for no more than 3 months, compensation for loss or damage and notice of test results, or	(b) applying safeguards that if items are removed for the purposes of copying a receipt must be provided, they must be returned as soon as reasonably practicable, and compensation for loss or damage.	(c) giving guidance on use of the powers and their remit.

Radio Equipment and Telecommunications Equipment Terminal Regulations 2000²⁹: These Regulations implement Directive 1999/5/EC³⁰. The main objective of the Directive is to establish a single market for telecommunications equipment by creating a regulatory framework for the placing on the market and putting into service of radio equipment and telecommunications terminal equipment in the territory of the European Union.

The power of entry in paragraph 8 of Schedule 9 (powers of search etc.) allows the enforcement authorities (Ofcom and the Secretary of State) to enter business premises at a reasonable time. An officer can also inspect apparatus; examine any procedure connected with the production of any apparatus; seize and detain equipment documents, records and information and break open containers.

²⁹ S.I. 2000/730.

³⁰ Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity.

The power of entry in paragraph 9 of Schedule 9 (powers of search etc.) is a back up warrant power of entry. This power allows enforcement authorities to apply for a warrant to enter *any premises* where other methods of entry have or are likely to fail. Once on the premises the officer has the same powers described in relation to the power of entry under paragraph 8. The warrant remains in force for one month and the officer may use force if necessary.

Without these powers of entry enforcement authorities would be unable to effectively investigate breaches which might lead to proliferation of non-compliant apparatus on the market. Since these Regulations implement EU legislation this scenario would risk infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

BIS proposes to add the following safeguards to this power:

1) Updating definition of business premises		2) Notice of test results
3) Receipt	4) Copies	5) Seized
6) Time of entry	7) Compensation for loss or damage	

These Regulations also contain powers of entry for trading standards, which are dealt with in the Consumer Rights Bill. If the Bill receives Royal Assent, we are proposing to use Order making powers in the Bill to make Ofcom and the Secretary of State's use of enforcement powers under these Regulations subject to the same safeguards.

Noise Emission in the Environment by Equipment for use Outdoors Regulations

2001³¹: These Regulations implement Directive 2000/14/EC³². The Directive aims to protect the wellbeing of citizens and the environment by harmonising the permissible noise levels and other requirements for placing on the market of 57 specified types of equipment. The power of entry in paragraph 3 of Schedule 13 (powers of search etc.) allows VCA to enter business premises at a reasonable time. An officer can also inspect equipment; examine any procedure connected with the production of any equipment; seize and detain equipment, documents, records and information and break open containers.

³¹ S.I. 2001/1701.

³² Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors.

The power of entry in paragraph 4 of Schedule 13 (powers of search etc.) is a back up warrant power of entry. This power allows VCA to apply for a warrant to enter *any premises* where other methods of entry have or are likely to fail. Once on the premises the officer has the same powers described in relation to the power of entry under paragraph 3. The warrant remains in force for one month and the officer may use force if necessary.

Without these powers VCA would be unable to effectively enforce these Regulations which could lead to a proliferation of non-compliant equipment on the market and negatively affect the wellbeing of citizens and the environment. Since these Regulations implement EU legislation this scenario would risk infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

BIS proposes to add the following safeguards to this power:

1) Updating definition of business premises		2) Notice of test results	
3) Receipt	4) Copies	5) Seized	
6) Time of entry	7) Compensation for loss or damage		

End-of-Life Vehicles Regulations 2003³³ and End-of-Life Vehicles (Producer Responsibility) Regulations 2005³⁴: These two sets of Regulations implement Directive 2000/53/EC³⁵. The Directive aims to reduce the environmental impact of vehicles when they are scrapped by stipulating certain vehicle design features such as restrictions on the use of certain heavy metals. The Directive also introduces other requirements on manufacturers to aid vehicle dismantling and recycling, sets recycling and recovery targets and tightens vehicle treatment standards at end of life. The VCA enforces the heavy metal restrictions and certain other technical requirements and BIS officials enforce the producer responsibility requirements.

The power of entry in regulation 22A of the 2003 Regulations (entry and inspection) allows VCA to enter business premises at a reasonable time for the purpose of carrying out their functions under the Regulations. An officer can also undertake an examination or investigation; take measurements, photographs and recordings; take samples; require the production of information; inspect and take copies of records and require assistance of persons present. Without a power of entry the VCA would be unable to effectively enforce

³³ S.I. 2003/2635.

³⁴ S.I. 2005/263.

³⁵ Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles.

the Regulations. Since these Regulations implement EU legislation this scenario would risk infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

BIS proposes to add the following safeguards to this power:

1) Updating definition of business premises to exclude premises that are wholly or mainly a private dwelling.

2) Notice of test results

The power of entry in Schedule 6 to the 2005 Regulations (powers of entry and inspection of premises exercisable by the Secretary of State and persons authorised under regulation 22) allows BIS officials to enter business premises at a reasonable time. An officer can also undertake examinations and investigations; secure premises; take measurements, photographs and recordings; take samples; require the production of records and require assistance. Without a power of entry BIS would be unable to effectively enforce the Regulations. Since these Regulations implement EU legislation this scenario would risk infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

BIS proposes to add the following safeguards to this power:

1) Updating definition of business premises to exclude premises that are wholly or mainly a private dwelling.

2) Notice of test results

Measuring Instruments (Active Electrical Energy Meters) Regulations 2006³⁶: These Regulations implement Directive 2004/22/EC³⁷. The primary aim of the Directive is to create a single market in measuring instruments for the benefit of manufacturers and consumers across Europe. The Directive requirements are both general (the essential requirements that apply to all measuring instruments) and instrument specific. These Regulations implement instrument specific requirements for active electrical energy meters, which is a device that measures the active electrical energy consumed in a circuit.

³⁶ S.I. 2006/1679.

³⁷ Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments.

The Directive requires manufacturers to follow a conformity assessment procedure to ensure that the product satisfies the requirements of the Directive, but gives them a wide choice of assessment procedures from which to choose.

The power of entry in regulation 18(1)(c) (powers of entry and inspection) allows the NMO and the Northern Ireland Authority for Utility Regulation to enter business premises at a reasonable time to inspect and test meters; inspect and take copies of any document relating to such a meter and seize evidence and meters liable to be forfeited.

The power of entry in regulation 18(3) (powers of entry and inspection) is a back up warrant power of entry. This power allows enforcement authorities to apply for a warrant to enter *any premises* where other methods of entry have or are likely to fail. Once on the premises the officer has the same powers described in relation to the power of entry under regulation 18(1)(c). The warrant remains in force for one month and the officer may use force if necessary.

Without these powers the enforcement authorities would be unable to investigate complaints which could lead to non-compliant meters being used for billing and possible consumer detriment. Since these Regulations implement EU legislation this scenario would risk infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

BIS proposes to add the following safeguards to this power:		
1) Updating definition of business premises	2) Notice	
3) Receipt	4) Copies	5) Seized
6) Time of entry	7) Compensation for loss or damage	8) Notice of test results

Export of Radioactive Sources (Control) Order 2006³⁸ and Export Control Order 2008³⁹: These Orders control the export of certain goods including military equipment, dual-use goods (goods that have both civil and military purposes) and radioactive sources. The 2008 Order contains the penalty and licensing provisions relating to Regulation 428/2009⁴⁰ and Regulation 1236/2005⁴¹. The powers of entry relate to the use by

³⁸ S.I. 2006/1846.

³⁹ S.I. 2008/3231.

⁴⁰ Council Regulation (EC) no. 428/2009 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology.

exporters of “open” licences granted under these Orders. Exporters choose to apply or register to use these licences to assist them to export quickly and easily.

Export of Radioactive Sources (Control) Order 2006 – article 7(4) (record keeping and inspection) and Export Control Order 2008 – article 31(2) (inspection of records): The powers of entry in article 7(4) of the 2006 Order (recording keeping and inspection) and article 31(2) of the 2008 Order (inspection of records) grant the Export Control Organisation and HMRC entry to any premises (in practice mainly business premises), at a reasonable time, to check that companies holding “open” licences are compliant with the requirements set out in the Orders. An officer can then inspect and copy the register, records or other documents that the exporter is required to keep by the Orders.

Exporters choose to apply or register to use these licences to assist them to export goods quickly and easily. Compliance with the terms and conditions of the licence are checked retrospectively and on a sample basis rather than at the point of export. Whilst most companies cooperate and invite enforcement officers on to their premises to conduct an audit, there are some companies who, if this power were to be repealed, would use this as an opportunity to avoid the audit function. In such cases the enforcement authorities would be unable to check that these exporters were complying with the terms and conditions of their open licences.

BIS proposes to add the following safeguards to this power:

1) Warrant: It is proposed that in the cases where an enforcement officer seeks to enter a premise that is mainly or wholly or private dwelling a warrant should be acquired first unless entry is by consent.

2) Notice

Measuring Instruments (Gas Meters) Regulations 2006⁴²: These Regulations also implement Directive 2004/22/EC with instrument specific requirements for gas meters. The power of entry in regulation 18(1)(c) (powers of entry and inspection) provides for the NMO and the Northern Ireland Authority for Utility Regulation to enter business premises at a reasonable time to inspect and test meters; inspect and take copies of any document relating to such a meter and seize evidence and meters liable to be forfeited.

⁴¹ Council Regulation (EC) No. 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

⁴² S.I. 2006/2647.

The power in regulation 18(3) (powers of entry and inspection) is a back up warrant power of entry. This power allows enforcement authorities to apply for a warrant to enter *any premises* where other methods of entry have or are likely to fail. Once on the premises the officer has the same powers described in relation to the power of entry under regulation 18(1)(c). The warrant remains in force for one month and the officer may use force if necessary.

Without these powers the enforcement authorities would be unable to investigate complaints which could lead to non-compliant meters being used for billing and possible consumer detriment. Since these Regulations implement EU legislation this scenario would risk infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

BIS proposes to add the following safeguards to this power:		
1) Updating definition of business premises	2) Notice	
3) Receipt	4) Copies	5) Seized
6) Time of entry	7) Compensation for loss or damage	8) Notice of test results

Electromagnetic Compatibility Regulations 2006⁴³

The aim of these Regulations which implement Directive 2004/108/EC⁴⁴, is to guarantee free movement of electrical products whilst creating an acceptable electromagnetic environment within the EU. The Directive therefore seeks to ensure that electromagnetic disturbances produced by electrical equipment do not affect the correct functioning of other such equipment, including telecommunication and electricity distribution networks. The measures also seek to ensure that such equipment has an appropriate level of immunity to electromagnetic disturbances so that it can function as intended.

The power of entry in regulation 39(2)(a) (powers of search) grants enforcement authorities (OFCOM, the Secretary of State, Ofgem and the Northern Ireland Authority for Utility Regulation) entry to business premises at a reasonable time for the purpose of ascertaining whether there has been a contravention of the Regulations. An officer can

⁴³ S.I. 2006/3418.

⁴⁴ Directive 2004/108/EC of the European Parliament and of the Council of 15 December 2004 on the approximation of the Laws of Member States relating to electromagnetic compatibility and repealing Directive 89/336/EEC.

also inspect any apparatus or fixed installation; examine procedures; initiate assessments to determine whether there has been a breach of the Regulations; seize and detain apparatus, documents, records and information and break open containers.

The power of entry in regulation 40(2) (provisions supplemental to regulation 39) is a back up warrant power of entry. This power allows enforcement authorities to apply for a warrant to enter *any premises* where other methods of entry have or are likely to fail. Once on the premises the officer has the same powers as described in relation to the power of entry under regulation 39(2)(a). The warrant remains in force for one month and the officer may use force if necessary.

BIS proposes to add the following safeguards to this power:

1) Updating definition of business premises to exclude premises that are wholly or mainly a private dwelling.		
2) Compensation for loss or damage	3) Receipt	4) Copies
5) Seized	6) Time of entry	

Without these powers of entry the enforcement authorities would be unable to effectively investigate breaches which might lead to a proliferation of non-compliant apparatus on the market. Since these Regulations implement EU legislation this scenario would risk infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

These Regulations also contain powers of entry for trading standards, which are dealt with in the Consumer Rights Bill. If the Bill receives Royal Assent, we are proposing to use Order making powers in the Bill to make OFCOM, the Secretary of State, Ofgem and the Northern Ireland Authority for Utility Regulation's use of enforcement powers under these Regulations subject to the same safeguards.

Batteries and Accumulators (Placing on the Market) Regulations 2008⁴⁵ and The Waste Batteries and Accumulators Regulations 2009⁴⁶: These two sets of Regulations implement Directive 2006/66/EC⁴⁷ and the supplementary rules in Regulation 1103/2010⁴⁸. The aim of the Directive is to minimise the negative impact of waste batteries

⁴⁵ S.I. 2008/2164.

⁴⁶ S.I. 2009/890.

⁴⁷ Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC.

⁴⁸ Commission Regulation (EU) No. 1103/2010 of 29 November 2010 establishing pursuant to Directive 2006/66/EC of the European Parliament and of the Council, rules as regards capacity labelling of portable secondary (rechargeable) and automotive batteries and accumulators.

and accumulators on the environment, and to ensure a single market for batteries and accumulators. It seeks to achieve these aims by establishing collection and recycling targets including restrictions on the use of certain materials and the need to label batteries with a symbol of a crossed out wheeled-bin. They contain technical requirements for new batteries placed on the market.

The power of entry in regulation 11 (further powers to obtain evidence) of the 2008 Regulations provides for the NMO to enter business premises at a reasonable time to obtain evidence as to whether or not batteries or appliances are infringing goods. An officer can also examine and investigate any process of assembly or manufacture or other aspect of supply; take measurements, photographs and recordings; require assistance; take samples; require the production of, inspect and take copies of records; inspect and seize articles, substances and records or require their production at a later time. Without this power the NMO would be unable to effectively enforce these Regulations. This scenario would risk infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

BIS proposes to add the following safeguards to this power:

1) Updating definition of business premises to exclude premises that are wholly or mainly a private dwelling.

2) Notice of test results

3) Receipt

4) Copies

5) Seized

6) Compensation for loss or damage

The power of entry in regulation 88(2)(a) (powers of entry and inspection without a warrant) of the 2009 Regulations provides for the Environment Agency and the VCA to enter business premises at a reasonable time for the purposes of carrying out their functions under the Regulations. An officer can also undertake an examination or investigation; take measurements, photographs and recordings; take samples; require the production of, inspect and take copies of records; inspect and seize articles, substances and records or require their production at a later time.

The power of entry in regulation 88(4) (powers of entry and inspection with a warrant) of the 2009 Regulations is a back-up warrant power to enter *any premises* where other methods of entry have or are likely to fail. Once on the premises the officer has the same powers described in relation to the power of entry under regulation 88(2)(a). The warrant remains in force for one month and the officer may use force if necessary.

BIS proposes to add the following safeguards to this power:		
1) Updating definition of business premises to exclude premises that are wholly or mainly a private dwelling.	2) Notice of test results	
3) Receipt	4) Copies	5) Seized
6) Time of entry	7) Compensation for loss or damage	

Without these powers of entry the enforcement authorities would be unable to effectively enforce these Regulations. This scenario would risk infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008⁴⁹: These Regulations implement Regulation 1523/2007⁵⁰ which creates an EU-wide ban on the import, export and sale of cat and dog fur. The power of entry in regulation 3 (powers of investigation and enforcement allows trading standards and Her Majesty's Revenue and Customs ("HMRC") to enter business premises at a reasonable time, for the purpose of enforcing the Regulations. An officer can also inspect and purchase goods; examine procedures; require the production of records; seize and detain goods and records; take copies of records and break open containers. Without this power it would not be possible for trading standards officers and HMRC to enter business premises to investigate and enforce the offences created by the Regulations. This scenario would risk infraction proceedings being brought against the UK for a failure to properly enforce EU legislation.

BIS proposes to add the following safeguards to this power:
1) Updating definition of business premises to exclude premises that are wholly or mainly a private dwelling.

⁴⁹ S.I. 2008/2795.

⁵⁰ Regulation (EC) No. 1523/2007 of the European Parliament and of the Council of 11 December 2007 banning the placing on the market and the import to, or export from, the Community of cat and dog fur, and products containing such fur.

2) Notice of test results	3) Receipt	4) Copies
5) Seized	6) Compensation for loss or damage	

4.4 Powers of entry to be retained unchanged

Total powers of entry in scope of review	
1. Total powers of entry repealed/reformed or to be repealed	14
2. Total powers of entry identified for consolidation	115
3. Total powers of entry identified for additional safeguards	24
4. Total powers of entry to remain unchanged	17
Net Total	170

Video Recordings Act 1984⁵¹: This Act applies to all video recordings including videos, DVDs and video games and provides a system for age classification. It also creates a series of offences relating to supplying and possessing video recordings that contravene the requirements of the Act. The power of entry in section 17 (entry, search and seizure) allows the police to apply for a warrant to enter *any premises* when there are reasonable grounds to believe that an offence under the Act has been or is about to be committed in any premises and that evidence of such is in those premises. This includes a power to search premises and seize anything found there which there are reasonable grounds to believe may be required as evidence. The Criminal Justice and Police Act 2001 also provides powers to seize additional material in order to sift out relevant material away from the premises. A constable can use reasonable force and the warrant remains in force for three months. This power allows the police to assist relevant enforcement agencies to enforce copyright law. Warrants are executed by a police constable who must comply with the provisions of PACE and the codes of practice issued under it, this includes the timing of the entry, giving of information to the occupier of the premises as to the procedure, a receipt for any material seized, allowing documents to be copied and a notice regarding the retention and return of material. Therefore, we are not proposing to add any additional safeguards.

Companies Act 1985⁵²: Part 14 of this Act allows the Insolvency Service to investigate live companies for potential mispractice.

The power of entry in section 448 (entry and search premises) allows the Insolvency Service to apply for a warrant authorising a police constable, together with any other person named on it, such as one of their inspectors or investigators, to enter any premises in order to investigate live companies. Once on the premises they can search for, copy, seize and require an explanation of documents. The Criminal Justice and Police Act 2001

⁵¹ 1984 c. 39.

⁵² 1985 c. 6.

also provides powers to seize additional material in order to sift out relevant documents away from the premises. They can use such force as is reasonably necessary and the warrant remains in force for one month. Anything seized can be retained for three months or until the conclusion of any relevant criminal proceedings.

A warrant is only sought where all other avenues for obtaining documents have been tried and failed or where there are reasonable grounds for believing that a criminal offence with a sufficiently serious penalty has been committed and that there are documents on any premises relating to the offence, which, if required, will be removed, hidden, tampered with or destroyed. In these circumstances, advance notice of the execution of the warrant would be inappropriate. Repeal of this power would remove the only power available to inspectors or investigators to seek a warrant to gain entry and search premises in order to take possession of documents which are required to investigate live companies. Warrants are executed by a police constable who must comply with the provisions of the Police and Criminal Evidence Act 1984⁵³ ("PACE") and the codes of practice issued under it, this includes the timing of the entry, giving of information to the occupier of the premises as to the procedure, a receipt for any material seized, allowing documents to be copied and a notice regarding the retention and return of material. Therefore, we are not proposing to add any additional safeguards.

The power in section 453A (power to enter and remain on premises) may only be used by an inspector or investigator appointed under sections 431, 432, 442 or 447 and only with the approval of the Secretary of State. Where an inspector or investigator has entered 'relevant premises' (those that the inspector or investigator believes are used wholly or partly for purposes of the company's business) at a reasonable time, this power permits them to remain there while it will materially assist their investigation. It does not give the inspector or investigator a right to force entry to the premises nor to search for or seize documents.

As soon as reasonably practicable after gaining entry the inspector or investigator must provide a written statement entitled "Statement of Powers, Rights and Obligations" which explains the powers of an inspector or investigator and the rights and obligations of the company, the occupier and any persons on the premises. This ensures that individuals are aware at the outset of the extent of the investigatory powers.

This power provides the investigator or inspector the opportunity to observe the business premises and the operation of the business generally, which materially assists the conduct of enquiries. The power also affords the opportunity to further explain the powers which are being exercised on behalf of the Secretary of State to those affected and to discuss the release of documents. Usually, copies of documents are handed over voluntarily once the powers under the Companies Act 1985 have been explained. Without this power the investigator or inspector would be unable to gather valuable information concerning the company, which would impede the progress of the investigation and might afford the opportunity for the company's records and documents, which are crucial to the investigation, to be removed or destroyed.

⁵³ 1984 c. 60.

In the circumstances in which this power might be used, advance notice of the use of the power would be inappropriate. As the power does not permit the seizure of documents or goods no additional safeguards are proposed.

Outer Space Act 1986⁵⁴: The Outer Space Act 1986 is the legal basis for the regulation of activities in outer space carried out by organisations or individuals established in the UK or one of its Crown Dependencies or Overseas Territories. The aim of the Act is to ensure compliance with the UK's obligations under international treaties and principles covering the use of outer space. The licensing regime under the Act enables the UK Government to comply with these obligations and to ensure, amongst other things, that activity does not pose risks to public health and safety, or UK national security.

The power of entry in section 9 (warrant authorising direct action) allows the UK Space Agency to apply for a warrant to enter *any premises* at a reasonable time and do anything necessary to secure compliance with the international obligations of the UK with respect to the launching and operation of space objects and the carrying on of other activities in outer space by persons connected with this country. They can use reasonable force if necessary and the warrant remains in force for one month. This power is necessary to ensure that the UK can meet its international obligations in relation to space objects and activities in outer space⁵⁵. For example under the UN Liability Convention the UK is ultimately liable for third party costs from accidental damage arising from UK space activities. Also, there could be risks to public health and safety or UK national security. We do not consider it appropriate to add safeguards about things that might be seized as this might allow someone to compromise the national security of the UK by building and launching unlicensed satellites. This power is only likely to be used when a satellite has been illegally launched or operated and will rarely require entry into any premises.

Copyright, Designs and Patents Act 1988⁵⁶: This Act provides the owners of copyright, designs and patents the rights to protect that intellectual property. It also provides a group of powers of entry to seize and detain infringing copies and other articles. The powers of entry exercisable by trading standards were part of the consultation on the review of consumer law powers and are not in the scope of this consultation. The powers of entry exercisable by intellectual property owners and the police are dealt with in this consultation.

The power of entry in section 100 (right to seize infringing copies and other articles) allows a copyright owner or a person authorised by them to seize an infringing copy of a work

⁵⁴ 1986 c. 38.

⁵⁵ The relevant international agreements are: the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and Other Celestial Bodies (the "Outer Space Treaty"), adopted by the General Assembly of the United Nations (the "UN") in its resolution 2222 (XXI) and entering into force on 10th October 1967; the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (the "Rescue Agreement") adopted by the General Assembly of the UN in its resolution 2345 (XXII) and entering into force on 3rd December 1968; the Convention on International Liability for Damage Caused by Space Objects (the "Liability Convention") adopted by the General Assembly of the UN in its resolution 2777 (XXVI) and entering into force on 1st September 1972 and the Convention on Registration of Objects Launched into Outer Space (the "Registration Convention") adopted by the General Assembly in its resolution 3235 (XXIX) and entering into force on 15th September 1976.

⁵⁶ 1988 c. 48.

found exposed or immediately available for sale or hire. It enables a copyright holder to act where obtaining an order under section 99 would be impracticable for example where the infringing copy would no longer be available and the purpose of the order would be defeated. Without this power copyright holders would not be able to effectively enforce their copyright, which might deter innovators from operating in the UK. The use of such an order is already strictly limited. Firstly, before anything is seized under this section notice of the time and place of the proposed seizure must be given to a local police station. Additionally, this power only grants access to enter premises to which the public have access and a rights holder may not use any force in seizing infringing copies. Finally, upon the seizing of any infringing copies a notice in the prescribed form containing the prescribed particulars as to the person by whom or on whose authority the seizure is made and the grounds on which it is made must be left behind. Therefore we do not propose any additional safeguards on this power.

The power of entry in section 109 (search warrants) allows the police to apply for a warrant to enter *any premises* if there are reasonable grounds to believe an offence under section 107(1), (2) or (2A) (making or dealing with infringing articles etc.) has been or is about to be committed in any premises and that evidence of such is in those premises. Once on the premises the constable can search for and seize any article reasonably believed to be evidence that an offence has or is about to be committed. The Criminal Justice and Police Act 2001 also provides powers to seize additional material in order to sift out relevant material away from the premises. A constable can use such reasonable force as is necessary and the warrant remains in force for three months. This power allows the police to assist relevant enforcement agencies to enforce copyright law. Warrants are executed by a police constable who must comply with the provisions of PACE and the codes of practice issued under it, this includes the timing of the entry, giving of information to the occupier of the premises as to the procedure, a receipt for any material seized, allowing documents to be copied and a notice regarding the retention and return of material. Therefore, we are not proposing to add any additional safeguards.

The power of entry in section 196 (right to seize illicit recordings) allows a person having performer's rights or recording rights in relation to a performance, or a person authorised by them, to seize an illicit recording of the performance exposed or immediately available for sale or hire. It enables a the rights holder to act where obtaining an order under section 204 would be impracticable for example where the illicit recording would no longer be available and the purpose of the order would be defeated. Without this power rights holders would not be able to effectively enforce their rights, which might deter innovators from operating in the UK. The use of such an order is already strictly limited. Firstly, before anything is seized under this section notice of the time and place of the proposed seizure must be given to a local police station. Additionally, this power only grants access to enter premises to which the public have access and a rights holder may not use any force in seizing infringing copies. Finally, upon the seizing of any infringing copies a notice in the prescribed form containing the prescribed particulars as to the person by whom or on whose authority the seizure is made and the grounds on which it is made must be left behind. Therefore we do not propose any additional safeguards on this power.

The power of entry in section 200 (search warrants) allows the police to apply for a warrant to enter *any premises* when there are reasonable grounds to believe that an offence under section 198(1) or (1A) (making, importing, possessing, selling etc. or distributing illicit recordings) has been or is about to be committed in any premises and

that evidence of such is in those premises. . Once on the premises the constable can search for and seize any article reasonably believed to be evidence that an offence has or is about to be committed. The Criminal Justice and Police Act 2001 also provides powers to seize additional material in order to sift out relevant material away from the premises. A constable can use such reasonable force as is necessary and the warrant remains in force for three months. This power allows the police to assist relevant enforcement agencies to enforce copyright law. Warrants are executed by a police constable who must comply with the provisions of PACE and the codes of practice issued under it, this includes the timing of the entry, giving of information to the occupier of the premises as to the procedure, a receipt for any material seized, allowing documents to be copied and a notice regarding the retention and return of material. Therefore, we are not proposing to add any additional safeguards.

Section 296ZD (rights and remedies in respect of devices and services designed to circumvent technological measures) was inserted to deal with advancements in technology and covers devices that circumvent copyright and unauthorised broadcasts. It ensures that rights holders are equally protected against these sorts of infringements and this includes providing the same power of entry in section 100 described above. For the reasons given above we do not propose adding any additional safeguards.

The power of entry of section 297B (search warrants) allows the police to apply for a warrant to enter *any premises* when there are reasonable grounds to believe that an offence under s.297A(1) (unauthorised decoders) has been or is about to be committed in any premises and that evidence of such is in those premises. Once on the premises the constable can search for and seize any article reasonably believed to be evidence that an offence has or is about to be committed. The Criminal Justice and Police Act 2001 also provides powers to seize additional material in order to sift out relevant material away from the premises. A constable can use such reasonable force as is necessary and the warrant remains in force for three months. This power allows the police to assist relevant enforcement agencies to enforce copyright law. Warrants are executed by a police constable who must comply with the provisions of PACE and the codes of practice issued under it, this includes the timing of the entry, giving of information to the occupier of the premises as to the procedure, a receipt for any material seized, allowing documents to be copied and a notice regarding the retention and return of material. Therefore, we are not proposing to add any additional safeguards.

Trade Mark Act 1994⁵⁷: This Act implements Directive 89/104/EEC⁵⁸, makes provision in connection with Regulation 40/94⁵⁹ and gives effect to other international agreements on the use of trade marks⁶⁰. It provides for the registration of trade marks, infringement proceedings and creates a range of criminal offences relating to the unauthorised use of trade marks. The power of entry in section 92A (search warrants) allows the police to

⁵⁷ 1994 c. 26.

⁵⁸ First Council Directive of 21 December 1988 to approximate the laws of the Member States relating to trade marks (89/104/EEC).

⁵⁹ Council Regulation (EC) No. 40/94 of 20 December 1993 on the Community trade mark.

⁶⁰ The Act also gives effect to the Madrid Protocol Relating to the International Registration of Marks of 27th June 1989 and to certain provisions of the Paris Convention for the Protection of Industrial Property of 20th March 1883.

apply for a warrant to enter *any premises* when there are reasonable grounds for suspecting that an offence under section 92 (unauthorised use of trade mark etc. in relation to goods) has been or is about to be committed in any premises and that evidence of such is in those premises. This includes a power to search for and seize an article if it's reasonably believed to be evidence of an offence that has been or is about to be committed. The Criminal Justice and Police Act 2001 also provides powers to seize additional material in order to sift out relevant material away from the premises. A constable can use reasonable force and the warrant remains in force for three months. This power allows the police to assist relevant enforcement agencies to enforce copyright law. Warrants are executed by a police constable who must comply with the provisions of PACE and the codes of practice issued under it, this includes the timing of the entry, giving of information to the occupier of the premises as to the procedure, a receipt for any material seized, allowing documents to be copied and a notice regarding the retention and return of material. Therefore, we are not proposing to add any additional safeguards.

Arbitration Act 1996⁶¹: This Act supports arbitral proceedings. Arbitration is a voluntary process of dispute resolution where parties choose to have an independent panel consider both sides of the dispute, and make a decision to resolve it. Arbitration is a confidential process. The power of entry in section 44 (court powers exercisable in support of arbitral proceedings) is a power (subject to the parties agreeing otherwise) for the court to order entry to *any premises* in the possession or control of a party to the arbitral proceedings, in order to inspect, photograph, preserve, take into custody or detention, take samples from, observe or conduct an experiment upon property which is the subject of or relevant to the arbitral proceedings. Without this power, parties to arbitration proceedings are much more likely to litigate than arbitrate as courts in litigation would have more tools to resolve a dispute than courts in an arbitration. This is consistent with the Government's policy priority of maintaining the UK as a good place to have arbitrations. The fact that UK arbitrations offer so much freedom to parties to agree how to conduct the proceedings, and that arbitrations offer such a complete set of tools to resolve disputes, makes London one of the major world centres for international arbitration, attracting significant income to the UK. It is unlikely that the London/UK representatives of the international arbitration community, and UK arbitration bodies would be in favour of any change. The power of entry in the Arbitration Act 1996 is already subject to two levels of safeguard: it is subject to a court order and it is open to the parties to agree that the court will not have such a power. In addition, unless it is an urgent application, the application for an order must be made on notice and with the permission of the arbitral tribunal or the agreement in writing of the parties. We are therefore not recommending adding further safeguards.

Postal Services Act 2000⁶²: This Act sets out a legal framework for postal services and the provision of a universal postal service. Under this Act there are powers of entry for the United Kingdom's designated Universal Service Provider, currently Royal Mail, to enter upon and survey any land for the purpose of ascertaining whether the land would be suitable for use for any purpose in connection with the provision of a universal postal service and to assist compulsory purchases.

⁶¹ 1996 c. 23.

⁶² 2000 c. 26.

Paragraph 10 of Schedule 5 (modification of sections 11, 12 and 13 of the Compulsory Purchase Act 1965 to enable the acquisition of a right over land) introduces three powers of entry in section 11 of the Compulsory Purchase Act 1965⁶³. Section 11(1) is a power of entry to enable the acquiring authority to take possession of land that they have served a notice to compulsorily purchase. They must give at least 14 days notice and interest is added to the compensation agreed or awarded from the date of possession until it is paid. Section 11(2) is a power of entry to take possession of land subject to compulsory purchase after paying money into court in accordance with Schedule 3 of the Compulsory Purchase Act 1965. Section 11(3) is a power of entry to enter land subject to compulsory purchase to probe or bore to ascertain the nature of the soil and setting out the line of works. They must give between 3 and 14 days notice and pay compensation for any damage caused. These powers are modified by paragraph 10 of Schedule 5 to enable the Universal Service Provider to exercise them in order to obtain rights over land in England and Wales.

Paragraph 20 of Schedule 5 (modification of paragraph 3(1) of Schedule 2 to the Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947 to enable the acquisition of a right over land) introduces a power of entry in paragraph 3(1) of Schedule 2 to the Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947⁶⁴. This is a power of entry to enable an acquiring authority to enter and take possession of land that they have served notice to compulsorily purchase. They must give 14 days notice and make a payment of compensation and interest. This power is modified by paragraph 20 of Schedule 5 to enable the Universal Service Provider to exercise it in order to obtain rights over land in Scotland.

The Universal Service Provider would also need the authorisation of the Secretary of State before they could compulsorily purchase land and consequently use powers under either the Compulsory Purchase Act 1965 or the Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947.

The power of entry in paragraph 2 of Schedule 6 (entry on land for exploratory purposes) allows the Universal Service Provider to enter undeveloped land only. Any land with a building or structure on it or planning permission for one, including a garden, yard or outhouse is excluded from this power. With this power an official of the Universal Service Provider may, at any reasonable time, enter upon and survey any land for the purpose of ascertaining whether the land would be suitable for use for any purpose in connection with the provision of a universal postal service. This includes the power to search and bore for the purpose of ascertaining the nature of the soil. There is already a requirement for 28 days notice and to provide compensation for loss or damage.

The powers of entry in the Postal Services Act 2000 complement one another to ensure the uninterrupted provision of a universal postal service. The powers of entry for exploratory purposes are also a potential useful tool in contamination cases where the Universal Service Provider might require access to neighbouring land and the owner is being uncooperative. Whilst Royal Mail have been able to acquire new sites for operational premises (i.e. new Mail Centres, Delivery Offices and Distribution hubs) without the need to use statutory powers of compulsory purchase they are seen as an important fall-back to

⁶³ 1965 c. 56.

⁶⁴ 1947 c. 42.

help safeguard the continued provision of the universal postal service. The power is still required to enable the Universal Service Provider to provide and maintain the universal postal service in accordance with evolving needs. BIS does not propose to add additional safeguards to this power as it already has safeguards concerning giving notice of visit, time of visit and compensation for loss or damage.

Annex A

Powers to be consolidated via Consumer Rights Bill 2014

NO	statute	Section
1.	Trade Descriptions Act 1968 ⁶⁵	Section 28(1) Power to enter premises and inspect and seize goods & documents
2.		Section 28(3) Power to enter premises and inspect and seize goods & documents
3.	Hallmarking Act 1973 ⁶⁶	Section 9(3) Enforcement of Act (applying section 28(1) Trade Descriptions Act 1968)
4.		Section 9(3) Enforcement of Act (applying section 28(3) Trade Descriptions Act 1968)
5.	Prices Act 1974 ⁶⁷	Paragraph 9 of Schedule 1 Enforcement (applying paragraph 3(2))
6.		Paragraph 10 of Schedule 1 Enforcement (applying paragraph 3(2))
7.	Consumer Credit Act 1974 ⁶⁸	Section 162(1) Powers of entry and inspection
8.		Sections 162(3) Powers of entry and inspection
9.	Estate Agents Act 1979 ⁶⁹	Section 11(1A) Powers of entry and inspection
10.		Section 11(4) Powers of entry and inspection
11.	Video Recordings Act 1984	Section 16A Enforcement (applying section 28(1) Trade Descriptions Act 1968)
12.		Section 16A Enforcement (applying section 28(3) Trade Descriptions Act 1968)
13.	Weights and Measures Act 1985 ⁷⁰	Section 79(1) General powers of inspection & entry
14.		Section 79(3) General powers of inspection & entry
15.	Consumer Protection Act 1987 ⁷¹	Section 29 Powers of search etc.
16.		Section 30 Provisions supplemental to s. 29
17.	Education Reform Act	Section 215(2) Unrecognised degrees: enforcement

⁶⁵ 1968 c. 29.

⁶⁶ 1973 c. 43.

⁶⁷ 1974 c. 24.

⁶⁸ 1974 c. 39.

⁶⁹ 1979 c. 38.

⁷⁰ 1985 c. 72.

⁷¹ 1987 c. 43.

18.	1988 ⁷²	Section 215(4) Unrecognised degrees: enforcement
19.	Copyright, Designs and Patents Act 1988	Section 107A Enforcement by local weights and measures authority (applying section 28(1) Trade Descriptions Act 1968)
20.		Section 107A Enforcement by local weights and measures authority (applying section 28(3) Trade Descriptions Act 1968)
21.		Section 198A Enforcement by local weights and measures authority (applying section 28(1) Trade Descriptions Act 1968)
22.		Section 198A Enforcement by local weights and measures authority (applying section 28(3) Trade Descriptions Act 1968)
23.	Clean Air Act 1993 ⁷³	Section 30 Regulations about motor fuel (applying section 28(1) Trade Descriptions Act 1968)
24.		Section 30 Regulations about motor fuel (applying section 28(3) Trade Descriptions Act 1968)
25.	Sunday Trading Act 1994 ⁷⁴	Paragraph 3 of Schedule 2 Powers of entry
26.	Trade Marks Act 1994	Section 92A Search warrants
27.	Olympic Symbol etc (Protection) Act 1995 ⁷⁵	Section 8A(2) Enforcement by trading standards authority (applying section 28(1) Trade Descriptions Act 1968)
28.		Section 8A(2) Enforcement by trading standards authority (applying section 28(3) Trade Descriptions Act 1968)
29.	Enterprise Act 2002	Section 227A Power to enter premises without a warrant
30.		Section 227C Power to enter premises with a warrant
31.	Fireworks Act 2003 ⁷⁶	Section 12(2) Enforcement (applying section 29 Consumer Protection Act 1987)
32.		Section 12(2) Enforcement (applying section 30 Consumer Protection Act 1987)
33.	Christmas Day (Trading) Act 2004 ⁷⁷	Section 3 Enforcement (applying paragraph 3 of Schedule 2 Sunday Trading Act 1994)
34.	Financial Services Act 2012 ⁷⁸	Section 107(2)(g) Financial Services Act 2012 (applying section 162(1) Consumer Credit Act 1974 ⁷⁹)
35.		Section 107(2)(g) Financial Services Act 2012 (applying section 162(3) Consumer Credit Act 1974)
36.	Crystal Glass (Descriptions)	Regulation 8(3) (applying section 28(1) Trade Descriptions Act 1968)

⁷² 1988 c. 40.

⁷³ 1993 c. 11.

⁷⁴ 1994 c. 20.

⁷⁵ 1995 c. 32.

⁷⁶ 2003 c. 22.

⁷⁷ 2004 c. 26.

⁷⁸ 2012 c. 21.

⁷⁹ 1974 c. 39.

37.	Regulations 1973 ⁸⁰	Regulation 8(3) (applying section 28(3) Trade Descriptions Act 1968)
38.	Measuring Container Bottles (EEC Requirements) Regulations 1977 ⁸¹	Regulation 8(1) Powers of inspection and entry
39.		Regulation 8(3) Powers of inspection and entry
40.	Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977 ⁸²	Regulation 13(1) Powers of inspection and entry
41.		Regulation 13(3) Powers of inspection and entry
42.	Motor Cycle Noise Act 1987 ⁸³	Paragraph 3 of the Schedule Enforcement (applying section 29 Consumer Protection Act 1987)
43.		Paragraph 3 of the Schedule Enforcement (applying section 30 Consumer Protection Act 1987)
44.	Measuring Instruments (EEC Requirements) Regulations 1988 ⁸⁴	Regulation 26(1) Powers of inspection and entry
45.		Regulation 26(3) Powers of inspection and entry
46.	Simple Pressure Vessels (Safety) Regulations 1991 ⁸⁵	Paragraph 3 of Schedule 5 Enforcement in relation to vessels as consumer goods (applying section 29 Consumer Protection Act 1987)
47.		Paragraph 3 of Schedule 5 Enforcement in relation to vessels as consumer goods (applying section 30 Consumer Protection Act 1987)
48.	Package Travel, Package Holidays and Package Tours Regulations 1992 ⁸⁶	Paragraph 4(1) of Schedule 3 Enforcement
49.		Paragraph 4(2) of Schedule 3 Enforcement
50.	Footwear (Indication of Composition) Labelling Regulations 1995 ⁸⁷	Regulation 10(2) Enforcement (applying section 28(1) Trade Descriptions Act 1968)
51.		Regulation 10(2) Enforcement (applying section 28(3) Trade

⁸⁰ S.I. 1973/1952.

⁸¹ S.I. 1977/932.

⁸² S.I. 1977/1753.

⁸³ 1987 c. 34.

⁸⁴ S.I. 1988/186.

⁸⁵ S.I. 1991/2479.

⁸⁶ S.I. 1992/3238.

⁸⁷ S.I. 1995/2489.

		Descriptions Act 1968)
52.	Lifts Regulations 1997 ⁸⁸	Paragraph 2 of Schedule 15 Enforcement (applying section 29 Consumer Protection Act 1987)
53.		Paragraph 2 of Schedule 15 Enforcement (applying section 30 Consumer Protection Act 1987)
54.	Pressure Equipment Regulations 1999 ⁸⁹	Paragraph 2 of Schedule 8 Enforcement (applying section 29 Consumer Protection Act 1987)
55.		Paragraph 2 of Schedule 8 Enforcement (applying section 30 Consumer Protection Act 1987)
56.	Motor Fuel (Composition and Content) Regulations 1999 ⁹⁰	Paragraph 2(1) of Schedule A1 Rights of entry and inspection
57.		Paragraph 2(3) of Schedule A1 Rights of entry and inspection
58.	Radio Equipment and Telecommunications	Paragraph 8(2) of Schedule 9 Powers of search etc.
59.	Terminal Equipment Regulations 2000	Paragraph 9(2) of Schedule 9 Powers of search etc.
60.	Non-automatic Weighing Instruments Regulations 2000 ⁹¹	Regulation 38(1) Powers of inspection and entry
61.		Regulation 38(3) Powers of inspection and entry
62.	Medical Devices Regulations 2002 ⁹²	Regulation 61 Enforcement etc. (applying section 29 Consumer Protection Act 1987)
63.		Regulation 61 Enforcement etc. (applying section 30 Consumer Protection Act 1987)
64.	Personal Protective Equipment Regulations 2002 ⁹³	Paragraph 1 of Schedule 10 (applying section 29 Consumer Protection Act 1987)
65.		Paragraph 1 of Schedule 10 (applying section 30 Consumer Protection Act 1987)
66.	Packaging (Essential Requirements) Regulations 2003 ⁹⁴	Paragraph 2 of Schedule 4 Enforcement (applying section 29 Consumer Protection Act 1987)
67.		Paragraph 2 of Schedule 4 Enforcement (applying section 30 Consumer Protection Act 1987)
68.	Recreational Craft Regulations 2004 ⁹⁵	Paragraph 1 of Schedule 17 Enforcement (applying section 29 Consumer Protection Act 1987)

⁸⁸ S.I. 1997/831.

⁸⁹ S.I. 1999/2001.

⁹⁰ S.I. 1999/3107.

⁹¹ S.I. 2000/3236.

⁹² S.I. 2002/618.

⁹³ S.I. 2002/1144.

⁹⁴ S.I. 2003/1941.

⁹⁵ S.I. 2004/1464.

69.		Paragraph 1 of Schedule 17 Enforcement (applying section 30 Consumer Protection Act 1987)
70.	General Product Safety Regulations 2005 ⁹⁶	Regulation 22(2) Powers of entry and search etc.
71.		Regulation 23(3) Provisions supplemental to regulation 22 and search warrants etc.
72.	Weights and Measures (Packaged Goods) Regulations 2006 ⁹⁷	Paragraph 1 of Schedule 7 Powers of entry and inspection
73.		Paragraph 2 of Schedule 7 Powers of entry and inspection
74.	Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006 ⁹⁸	Regulation 25(1) Powers of entry and inspection
75.		Regulation 25(3) Powers of entry and inspection
76.	The Measuring Instruments (Automatic Rail Weighbridges) Regulations 2006 ⁹⁹	Regulation 26(1) Powers of entry and inspection
77.		Regulation 26(3) Powers of entry and inspection
78.	Measuring Instruments (Automatic Catchweighers) Regulations 2006 ¹⁰⁰	Regulation 28(1) Powers of entry and inspection
79.		Regulation 28(3) Powers of entry and inspection
80.	Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006 ¹⁰¹	Regulation 26(1) Powers of entry and inspection
81.		Regulation 26(3) Powers of entry and inspection
82.	Measuring Instruments (Beltweighers) Regulations 2006 ¹⁰²	Regulation 26(1) Powers of entry and inspection
83.		Regulation 26(3) Powers of entry and inspection

⁹⁶ S.I. 2005/1803.

⁹⁷ S.I. 2006/659.

⁹⁸ S.I. 2006/1255.

⁹⁹ S.I. 2006/1256.

¹⁰⁰ S.I. 2006/1257.

¹⁰¹ S.I. 2006/1258.

¹⁰² S.I. 2006/1259.

84.	Measuring Instruments (Capacity Serving Measures) Regulations 2006 ¹⁰³	Regulation 23(1) Powers of entry and inspection
85.		Regulation 23(3) Powers of entry and inspection
86.	Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006 ¹⁰⁴	Regulation 25(1): Powers of entry and inspection
87.		Regulation 25(3): Powers of entry and inspection
88.	Measuring Instruments (Material Measures of Length) Regulations 2006 ¹⁰⁵	Regulation 23(1): Powers of entry and inspection
89.		Regulation 23(3): Powers of entry and inspection
90.	Measuring Instruments (Cold-water Meters) Regulations 2006 ¹⁰⁶	Regulation 25(1) Powers of entry and inspection
91.		Regulation 25(3) Powers of entry and inspection
92.	Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006 ¹⁰⁷	Regulation 26(1): Powers of entry and inspection
93.		Regulation 26(3): Powers of entry and inspection
94.	Electromagnetic Compatibility Regulations 2006	Regulation 39(2) Powers of search
95.		Regulation 40(2) Provisions supplemental to regulation 39
96.	Business Protection from Misleading Marketing Regulations 2008 ¹⁰⁸	Regulation 23(1) Power of entry and investigation, etc.
97.		Regulation 24(1) Power to enter premises with a warrant

¹⁰³ S.I. 2006/1264.

¹⁰⁴ S.I. 2006/1266.

¹⁰⁵ S.I. 2006/1267.

¹⁰⁶ S.I. 2006/1268.

¹⁰⁷ S.I. 2006/1269.

¹⁰⁸ S.I. 2008/1276.

98.	Consumer Protection from Unfair Trading Regulations 2008 ¹⁰⁹	Regulation 21(1) Power of entry and investigation, etc.
99.		Regulation 22(1) Power to enter premises with a warrant
100.	Supply of Machinery (Safety) Regulations 2008 ¹¹⁰	Paragraph 11 of Schedule 5 Powers of other enforcement authorities (applying section 29 Consumer Protection Act 1987)
101.		Paragraph 11 of Schedule 5 Powers of other enforcement authorities (applying section 30 Consumer Protection Act 1987)
102.	Textile Products (Labelling and Fibre Composition) Regulations 2012 ¹¹¹	Regulation 13 Power of entry and investigation, etc
103.		Regulation 15 Power to enter premises with a warrant
104.	Cosmetic Products Enforcement Regulations 2013 ¹¹²	Paragraph 3 of Schedule 2 Power to enter premises
105.		Paragraph 5 of Schedule 2 Warrants

¹⁰⁹ S.I. 2008/1277.

¹¹⁰ S.I. 2008/1597.

¹¹¹ S.I. 2012/1102.

¹¹² S.I. 2013/1478.

Powers of entry in the Competition Act 1998 to be consolidated

no	Statute	Section
1.	Competition Act 1998	Section 27 Power to enter business premises without a warrant
2.		Section 28 Power to enter business premises under a warrant
3.		Section 28A Power to enter domestic premises under a warrant
4.		Section 62 Power to enter business premises under a warrant: Article 20 inspections
5.		Section 62A Power to enter non-business premises under a warrant: Article 21 inspections
6.		Section 62B Powers when conducting an Article 22(2) inspection
7.		Section 63 Power to enter business premises under a warrant: Article 22(2) inspections
8.		Section 65F Power to enter business premises without a warrant
9.		Section 65G Power to enter business premises under a warrant
10.		Section 65H Power to enter domestic premises under a warrant

Powers of entry to be retained with additional safeguards

Title of regs	Number of powers
Ordnance Survey Act 1841 – section 2 (surveyor, &c. empowered to enter lands to fix boundaries)	1
Gun Barrel Proof Act 1868 – section 138 (application to Justice for Warrant for Seizure of forged Stamps, &c.)	1
Employment Agencies Act 1973 – section 9 (inspection)	1
National Minimum Wage Act 1998 – section 14 (powers of officers)	1
Enterprise Act 2002 – section 194 (power to enter premises under a warrant)	1
Working Time Regulations 1998 - section paragraph 2(2)(a) of Schedule 3 (powers of inspectors)	1
Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 - paragraphs 8 and 9 of Schedule 9 (enforcement)	2
Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001 – paragraphs 3 and 4 of Schedule 13 (enforcement)	2
End of Life Vehicles Regulations 2003 – regulation 22A (entry and inspection) End of Life Vehicles (Producer Responsibility) Regulations 2005 – Schedule 6 (powers of entry and inspection of premises exercisable by the Secretary of State and persons authorised under regulation 22)	2
Measuring instruments (Active Electrical Energy Meters) Regulations 2006 - regulation 18(1)(c) and (3) (powers of entry and inspection)	2
Export of Radioactive Sources (Control) Order 2006 – article 7(4) (record keeping and inspection) Export Control Order 2008 – article 31(2) (inspection of records)	2
Measuring Instruments (Gas Meters) Regulations 2006 - regulation 18(1)(c) and (3) (powers of entry and inspection)	2
Electromagnetic Compatibility Regulations 2006 – regulation 39(2)(a) (powers of search) and regulation 40(2) (provisions supplemental to regulation 39)	2
Batteries and Accumulators (Placing on the Market) Regulations 2008 – regulation 11 (further powers to obtain evidence) Waste Batteries and Accumulators Regulations 2009 – regulation 88(2)(a) and (4) (powers of entry and inspection without a warrant)	3
Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008 – regulation 3 (powers of investigation and enforcement)	1
total	24

Powers of entry to be retained unchanged

Title of regs	Number of powers
Video recordings Act 1984 - section 17 (entry, search and seizure)	1
Companies Act 1985 section 448 (entry and search of premises) and section 453A (power to enter and remain on premises)	2
Outer Space 1986 – section 9 (warrant authorising direct action)	1
Copyright, Designs and Patents Act 1988 - section 100 (right to seize infringing copies and other articles), section 109 (search warrants), section 196 (right to seize illicit recordings), section 200 (search warrants), section 296ZD (rights and remedies in respect of devices and services designed to circumvent technological measures) and section 297B (search warrants)	6
Trade Marks Act 1994 - section 92A (search warrants)	1
Arbitration Act 1996 – section 44 (court powers exercisable in support of arbitral proceedings)	1
Postal Services Act 2000 – paragraph 10 of Schedule 5 (modification of sections 11, 12 and 13 of the Compulsory Purchase Act 1965 to enable the acquisition of a right over land), paragraph 20 of Schedule 5 (modification of paragraph 3(1) of Schedule 2 to the Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947 to enable the acquisition of a right over land) and paragraph 2 of Schedule 6 (entry on land for exploratory purposes)	5
total	17

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