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SCHEDULES

SCHEDULE 1

Section 3(2).

PROHIBITION ORDERS, PROHIBITION NOTICES AND NOTICES TO WARN

PART I

PROHIBITION ORDERS

- 1 If the Secretary of State proposes to make a prohibition order (hereafter in this Part of this Schedule referred to as " an order "), then, subject to paragraph 5 of this Schedule, it shall be his duty before he makes the order—
- (a) to publish, in such manner as he thinks fit and not less than 28 days before he makes the order, a notice stating—
- (i) that he proposes to make the order and, in such terms as he thinks fit, the proposed effect of the order, and
- (ii) that any person may make representations in writing to the Secretary of State about the proposed order before a date specified in the notice (which must be after the expiration of the period of 28 days beginning with the date of first publication of the notice); and
- (b) to consider any such representations made within that period.
- 2 The effect of an order must not be more restrictive, but may be less restrictive, than the proposed effect of it as stated in the notice aforesaid.
- 3 Without prejudice to the power to make a further order and subject to the following paragraph, an order shall cease to have effect at the expiration of a period specified in the order which must not be longer than twelve months beginning with the date on which the order comes into force.
- 4 An order may revoke a previous order or may vary it otherwise than by providing for it to be in force after the expiration of twelve months beginning with the date of the coming into force of the previous order.
- 5 Paragraphs 1 and 2 of this Schedule shall not apply to an order if the order contains a statement that in the opinion of the Secretary of State the risk of danger connected with the goods to which the order relates is such that the order must be made without delay.

PART II

PROHIBITION NOTICES

Preliminary

- 6 In this Part of this Schedule—

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" notice " means a prohibition notice ;

" notification " means a notification in writing ; and

" the trader " in relation to a proposed notice or an actual notice means the person on whom the proposed notice is proposed to be served or on whom the actual notice has been served.

7 A notice must specify the date on which it comes into force.

General procedure

8 If the Secretary of State proposes to serve a notice in respect of any goods, then, subject to paragraph 14 of this Schedule, it shall be his duty before he serves the notice to serve on the trader a notification—

- (a) stating that the Secretary of State proposes to serve on him a notice in respect of the goods ; and
- (b) specifying the goods in a manner sufficient to identify them and stating that, for the reasons set out in the notification, the Secretary of State considers that the goods are not safe ; and
- (c) stating that the trader may make representations, in writing or both in writing and orally, for the purpose of satisfying the Secretary of State that the goods are safe but that if the trader intends to make such representations he must, before the expiration of the period of 14 days beginning with the day when the notification is served on him, inform the Secretary of State of his intention indicating whether the representations are to be in writing only or both in writing and oral.

9 Subject to paragraph 14 of this Schedule, the Secretary of State shall not serve a notice on the trader in respect of any goods before the expiration of the period of 14 days beginning with the day on which the Secretary of State served on him a notification in pursuance of the preceding paragraph relating to the goods ; and if within that period the trader informs the Secretary of State as mentioned in sub-paragraph (c) of the preceding paragraph, then—

- (a) the Secretary of State shall not serve a notice on the trader in consequence of the notification before the expiration of the period of 28 days beginning with the day aforesaid ; and
- (b) if during that period the trader makes to the Secretary of State such written representations as are mentioned in the said sub-paragraph (c) the Secretary of State shall not serve a notice on the trader in consequence of the notification before the Secretary of State has considered the report of a person appointed in pursuance of the following paragraph in consequence of the representations.

10 Where, in consequence of the service on the trader of a notification in pursuance of paragraph 8 of this Schedule, the trader informs the Secretary of State as mentioned in sub-paragraph (c) of that paragraph within the period so mentioned and makes to the Secretary of State within that period or the 14 days beginning with the end of that period such written representations as are so mentioned, it shall be the duty of the Secretary of State—

- (a) to appoint a person to consider the written representations; and
- (b) if the trader informed the Secretary of State in pursuance of the said sub-paragraph (c) that the representations would be both written and oral, to inform the trader of the place and time (which must not be before the expiration of the 14 days aforesaid and of 7 days beginning with

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the day when the information is given to the trader) at which the oral representations may be made to the person appointed ;

and the trader or his representative may at that place and time make to the person appointed oral representations for the purpose of satisfying the Secretary of State that the goods in question are safe and may call and examine witnesses in connection with the representations.

- 11 The person appointed in pursuance of the preceding paragraph to consider written representations with respect to any goods shall, after considering the representations, any oral representations made in pursuance of that paragraph with respect to the goods and any statements made by witnesses in connection with the oral representations, make a report (including recommendations) to the Secretary of State about the representations and the proposed notice.
- 12 If at any time after the Secretary of State has served a notification on the trader in pursuance of paragraph 8 of this Schedule the Secretary of State decides not to serve a notice on him in consequence of the notification, it shall be the duty of the Secretary of State to inform him of the decision; and after the Secretary of State informs him of the decision the notification and anything done in consequence of it in pursuance of the preceding paragraphs of this Schedule shall be disregarded for the purposes of those paragraphs.
- 13 Where a notification is served on the trader in respect of any goods in pursuance of paragraph 8 of this Schedule, a notice served on him in consequence of the notification may relate to some only of those goods.

Special procedure

- 14 Paragraphs 8 to 13 of this Schedule shall not apply to a notice which contains a statement that the Secretary of State considers that the risk of danger connected with the goods to which the notice relates is such that the notice must come into force without delay; and references to a notice in paragraphs 15 to 18 of this Schedule are to a notice containing such a statement.
- 15 A notice in respect of any goods must—
- (a) state that, for the reasons set out in the notice, the Secretary of State considers that the goods are not safe ; and
 - (b) state that the trader may, at such time as the trader thinks fit, make representations in writing to the Secretary of State for the purpose of satisfying him that the goods are safe.
- 16 If representations in writing about a notice are made by the trader to the Secretary of State it shall be the duty of the Secretary of State to consider the representations and either to revoke the notice and to inform the trader that he has revoked it or—
- (a) to appoint a person to consider the representations; and
 - (b) to serve on the trader a notification stating that he may make to the person appointed oral representations for the purpose mentioned in the preceding paragraph and specifying the place and time (which, except with the agreement of the trader, must not be before the expiration of 21 days beginning with the date of service of the notification) at which the oral representations may be made ;
- and the trader or his representative may at that place and time make to the person appointed oral representations for the purpose aforesaid and may call and examine witnesses in connection with the representations.

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17 The person appointed in pursuance of the preceding paragraph to consider written representations with respect to any goods shall, after considering the representations, any oral representations made in pursuance of that paragraph with respect to the goods and any statements made by witnesses in connection with the oral representations, make a report (including recommendations) to the Secretary of State about the representations and the notice in question.

18 Where the Secretary of State has appointed a person in pursuance of paragraph 16 of this Schedule to consider any representations relating to a notice then, without prejudice to the operation of paragraphs 19 and 20 of this Schedule, paragraphs 16 and 17 of this Schedule shall not apply to any subsequent representations in writing about the notice.

Other representations

19 If at any time the trader on whom a notice has been served makes representations in writing to the Secretary of State for the purpose of satisfying him that the goods to which the notice relates are safe and, by virtue of the preceding paragraph, paragraph 16 of this Schedule does not apply to the representations, it shall be the duty of the Secretary of State to consider the representations and to serve on the trader, before the expiration of one month beginning with the day when the Secretary of State receives the representations, a notification stating—

- (a) that the Secretary of State will revoke the notice or vary it or declines to do so ; or
- (b) that the Secretary of State has appointed a person to consider the representations and that the trader may make to the person appointed, at a place specified in the notification and a time so specified (which, except with the agreement of the trader, must not be before the expiration of the period of 21 days beginning with the date of service of the notification), oral representations for the purpose aforesaid ;

and the trader or his representative may at that place and time make to the person appointed oral representations for the purpose aforesaid and may call and examine witnesses in connection with the representations.

20 The person appointed in pursuance of the preceding paragraph to consider written representations with respect to any goods shall, after considering the representations, any oral representations made in pursuance of that paragraph with respect to the goods and any statements made by witnesses in connection with the oral representations, make a report (including recommendations) to the Secretary of State about the representations and the notice in question.

Miscellaneous

21 The Secretary of State may revoke or vary a notice by serving on the trader a notification stating that the notice is revoked or, as the case may be, is varied as specified in the notification ; but the Secretary of State shall not have power to vary a notice so as to make the effect of the notice more restrictive for the trader.

22 It shall be the duty of the Secretary of State to consider any report made to him in pursuance of paragraph 17 or 20 of this Schedule and, after considering the report, to inform the trader of the Secretary of State's decision with respect to the notice in question.

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- 23 Where the Secretary of State has appointed a time in pursuance of this Part of this Schedule for oral representations, he may appoint a later time or further times for the representations ; and where he does so references in this Part of this Schedule to the appointed time shall be construed as references to the later time or, as the case may be, as including the further times.
- 24 If a person discloses a secret manufacturing process or a trade secret contained in information obtained by him in consequence of the inclusion of the information in written or oral representations made in pursuance of this Part of this Schedule or in a statement made by a witness in connection with such oral representations, then, subject to the following paragraph, he shall be guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding two years and a fine and, on summary conviction, to a fine of an amount not exceeding the statutory maximum ; and it is hereby declared that the reference above to written representations includes such written representations as are mentioned in paragraph 19 of this Schedule.
- 25 A person shall not be guilty of an offence under the preceding paragraph in consequence of his disclosure of a process or trade secret contained in information if—
- (a) the information was obtained by him as a person appointed by the Secretary of State in pursuance of this Part of this Schedule to consider the representations in question and the disclosure was made in his report to the Secretary of State about the representations or was made for the purpose of criminal proceedings or an investigation with a view to such proceedings; or
 - (b) the information was obtained by him otherwise than as a person so appointed and the disclosure was made as mentioned in paragraphs (a) to (e) of section 4(3) of this Act; or
 - (c) the disclosure was of publicised information.

PART III

NOTICES TO WARN

- 26 If the Secretary of State proposes to serve on a person a notice to warn in respect of any goods, it shall be the duty of the Secretary of State before he serves the notice to serve on the person a notification in writing—
- (a) containing a draft of the notice and stating that the Secretary of State proposes to serve on the person such a notice in the form of the draft; and
 - (b) stating that, for the reasons set out in the notification, the Secretary of State considers that the goods specified in the draft are not safe ; and
 - (c) stating that the person may make representations, in writing or both in writing and orally, for the purpose of satisfying the Secretary of State that the goods are safe but that if the person intends to make such representations he must, before the expiration of the period of 14 days beginning with the day when the notification is served on him, inform the Secretary of State of his intention indicating whether the representations are to be in writing only or both in writing and oral.
- 27 Paragraphs 9 to 13, 21 and 23 to 25 of this Schedule shall with the necessary modifications have effect in relation to a notice to warn as they have effect in relation to a prohibition notice but as if—

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- (a) the reference to paragraph 14 of this Schedule in the said paragraph 9 were omitted ;
- (b) for the references to paragraph 8 of this Schedule in paragraphs 9, 10, 12 and 13 of this Schedule there were substituted references to the preceding paragraph ;
- (c) in the said paragraph 13 for the words from " relate " onwards there were substituted the words " be less onerous than the draft of the notice contained in the notification " ;
- (d) in the said paragraph 21 the words " or vary " and the words from " or, as " onwards were omitted ; and
- (e) in paragraph 24 of this Schedule the words from " and it is " onwards were omitted and in that paragraph and paragraph 25 of this Schedule for the references to Part II of this Schedule there were substituted references to provisions of that Part as applied by this paragraph.