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# SCHEDULES

## SCHEDULE 1

Section 6.

### LIMITATION OF ACTIONS UNDER PART I

#### PART I

##### ENGLAND AND WALES

1 After section 11 of the <sup>M1</sup>Limitation Act 1980 (actions in respect of personal injuries) there shall be inserted the following section—

**“11A Actions in respect of defective products.**

- (1) This section shall apply to an action for damages by virtue of any provision of Part I of the Consumer Protection Act 1987.
- (2) None of the time limits given in the preceding provisions of this Act shall apply to an action to which this section applies.
- (3) An action to which this section applies shall not be brought after the expiration of the period of ten years from the relevant time, within the meaning of section 4 of the said Act of 1987; and this subsection shall operate to extinguish a right of action and shall do so whether or not that right of action had accrued, or time under the following provisions of this Act had begun to run, at the end of the said period of ten years.
- (4) Subject to subsection (5) below, an action to which this section applies in which the damages claimed by the plaintiff consist of or include damages in respect of personal injuries to the plaintiff or any other person or loss of or damage to any property, shall not be brought after the expiration of the period of three years from whichever is the later of—
  - (a) the date on which the cause of action accrued; and
  - (b) the date of knowledge of the injured person or, in the case of loss of or damage to property, the date of knowledge of the plaintiff or (if earlier) of any person in whom his cause of action was previously vested.
- (5) If in a case where the damages claimed by the plaintiff consist of or include damages in respect of personal injuries to the plaintiff or any other person the injured person died before the expiration of the period mentioned in subsection (4) above, that subsection shall have effect as respects the cause of action surviving for the benefit of his estate by virtue of section 1 of the Law Reform (Miscellaneous Provisions) Act 1934 as if for the reference to that period there were substituted a reference to the period of three years from whichever is the later of—
  - (a) the date of death; and

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- (b) the date of the personal representative’s knowledge.
- (6) For the purposes of this section “personal representative” includes any person who is or has been a personal representative of the deceased, including an executor who has not proved the will (whether or not he has renounced probate) but not anyone appointed only as a special personal representative in relation to settled land; and regard shall be had to any knowledge acquired by any such person while a personal representative or previously.
- (7) If there is more than one personal representative and their dates of knowledge are different, subsection (5)(b) above shall be read as referring to the earliest of those dates.
- (8) Expressions used in this section or section 14 of this Act and in Part I of the Consumer Protection Act 1987 have the same meanings in this section or that section as in that Part; and section 1(1) of that Act (Part I to be construed as enacted for the purpose of complying with the product liability Directive) shall apply for the purpose of construing this section and the following provisions of this Act so far as they relate to an action by virtue of any provision of that Part as it applies for the purpose of construing that Part.”

**Marginal Citations**

**M1** 1980 c. 58.

- 2 In section 12(1) of the said Act of 1980 (actions under the <sup>M2</sup>Fatal Accidents Act 1976), after the words “section 11” there shall be inserted the words “ “or 11A ”.

**Marginal Citations**

**M2** 1976 c. 30.

- 3 In section 14 of the said Act of 1980 (definition of date of knowledge), in subsection (1), at the beginning there shall be inserted the words “ “Subject to subsection (1A) below, ” and after that subsection there shall be inserted the following subsection—
- “(1A) In section 11A of this Act and in section 12 of this Act so far as that section applies to an action by virtue of section 6(1)(a) of the Consumer Protection Act 1987 (death caused by defective product) references to a person’s date of knowledge are references to the date on which he first had knowledge of the following facts—
- (a) such facts about the damage caused by the defect as would lead a reasonable person who had suffered such damage to consider it sufficiently serious to justify his instituting proceedings for damages against a defendant who did not dispute liability and was able to satisfy a judgment; and
  - (b) that the damage was wholly or partly attributable to the facts and circumstances alleged to constitute the defect; and
  - (c) the identity of the defendant;

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but, in determining the date on which a person first had such knowledge there shall be disregarded both the extent (if any) of that person's knowledge on any date of whether particular facts or circumstances would or would not, as a matter of law, constitute a defect and, in a case relating to loss of or damage to property, any knowledge which that person had on a date on which he had no right of action by virtue of Part I of that Act in respect of the loss or damage.”

- 4 In section 28 of the said Act of 1980 (extension of limitation period in case of disability), after subsection (6) there shall be inserted the following subsection—
- “(7) If the action is one to which section 11A of this Act applies or one by virtue of section 6(1)(a) of the Consumer Protection Act 1987 (death caused by defective product), subsection (1) above—
- (a) shall not apply to the time limit prescribed by subsection (3) of the said section 11A or to that time limit as applied by virtue of section 12(1) of this Act; and
  - (b) in relation to any other time limit prescribed by this Act shall have effect as if for the words “six years” there were substituted the words “three years ”.”
- 5 In section 32 of the said Act of 1980 (postponement of limitation period in case of fraud, concealment or mistake)—
- (a) in subsection (1), for the words “subsection (3)” there shall be substituted the words “subsections (3) and (4A) ”; and
  - (b) after subsection (4) there shall be inserted the following subsection—
- “(4A) Subsection (1) above shall not apply in relation to the time limit prescribed by section 11A(3) of this Act or in relation to that time limit as applied by virtue of section 12(1) of this Act.”
- 6 In section 33 of the said Act of 1980 (discretionary exclusion of time limit)—
- (a) in subsection (1), after the words “section 11” there shall be inserted the words “or 11A ”;
  - (b) after the said subsection (1) there shall be inserted the following subsection—
- “(1A) The court shall not under this section disapply—
- (a) subsection (3) of section 11A; or
  - (b) where the damages claimed by the plaintiff are confined to damages for loss of or damage to any property, any other provision in its application to an action by virtue of Part I of the Consumer Protection Act 1987.”;
- (c) in subsections (2) and (4), after the words “section 11” there shall be inserted the words “or subsection (4) of section 11A ”;
  - (d) in subsection (3)(b), after the words “section 11” there shall be inserted the words “ , by section 11A ”; and
  - (e) in subsection (8), after the words “section 11” there shall be inserted the words “or 11A ”.

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## PART II

### SCOTLAND

7 The <sup>M3</sup>Prescription and Limitation (Scotland) Act 1973 shall be amended as follows.

#### Marginal Citations

**M3** 1973 c. 52.

8 In section 7(2), after the words “not being an obligation” there shall be inserted the words “to which section 22A of this Act applies or an obligation”.

9 In Part II, before section 17, there shall be inserted the following section—

**“16A Part II not to extend to product liability.**

—This Part of this Act does not apply to any action to which section 22B or 22C of this Act applies.”

10 After section 22, there shall be inserted the following new Part—

### “PART IIA

#### PRESCRIPTION OF OBLIGATIONS AND LIMITATION OF ACTIONS UNDER PART I OF THE CONSUMER PROTECTION ACT 1987

##### *Prescription of Obligations*

**22A Ten years’ prescription of obligations.**

- (1) An obligation arising from liability under section 2 of the 1987 Act (to make reparation for damage caused wholly or partly by a defect in a product) shall be extinguished if a period of 10 years has expired from the relevant time, unless a relevant claim was made within that period and has not been finally disposed of, and no such obligation shall come into existence after the expiration of the said period.
- (2) If, at the expiration of the period of 10 years mentioned in subsection (1) above, a relevant claim has been made but has not been finally disposed of, the obligation to which the claim relates shall be extinguished when the claim is finally disposed of.
- (3) In this section a claim is finally disposed of when—
  - (a) a decision disposing of the claim has been made against which no appeal is competent;
  - (b) an appeal against such a decision is competent with leave, and the time limit for leave has expired and no application has been made or leave has been refused;
  - (c) leave to appeal against such a decision is granted or is not required, and no appeal is made within the time limit for appeal; or

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- (d) the claim is abandoned;  
“relevant claim” in relation to an obligation means a claim made by or on behalf of the creditor for implement or part implement of the obligation, being a claim made—
  - (a) in appropriate proceedings within the meaning of section 4(2) of this Act; or
  - (b) by the presentation of, or the concurring in, a petition for sequestration or by the submission of a claim under section 22 or 48 of the Bankruptcy (Scotland) Act 1985; or
  - (c) by the presentation of, or the concurring in, a petition for the winding up of a company or by the submission of a claim in a liquidation in accordance with the rules made under section 411 of the Insolvency Act 1986;

“relevant time” has the meaning given in section 4(2) of the 1987 Act.

- (4) Where a relevant claim is made in an arbitration, and the nature of the claim has been stated in a preliminary notice (within the meaning of section 4(4) of this Act) relating to that arbitration, the date when the notice is served shall be taken for those purposes to be the date of the making of the claim.

#### *Limitation of actions*

### **22B 3 year limitation of actions.**

- (1) This section shall apply to an action to enforce an obligation arising from liability under section 2 of the 1987 Act (to make reparation for damage caused wholly or partly by a defect in a product), except where section 22C of this Act applies.
- (2) Subject to subsection (4) below, an action to which this section applies shall not be competent unless it is commenced within the period of 3 years after the earliest date on which the person seeking to bring (or a person who could at an earlier date have brought) the action was aware, or on which, in the opinion of the court, it was reasonably practicable for him in all the circumstances to become aware, of all the facts mentioned in subsection (3) below.
- (3) The facts referred to in subsection (2) above are—
  - (a) that there was a defect in a product;
  - (b) that the damage was caused or partly caused by the defect;
  - (c) that the damage was sufficiently serious to justify the pursuer (or other person referred to in subsection (2) above) in bringing an action to which this section applies on the assumption that the defender did not dispute liability and was able to satisfy a decree;
  - (d) that the defender was a person liable for the damage under the said section 2.
- (4) In the computation of the period of 3 years mentioned in subsection (2) above, there shall be disregarded any period during which the person seeking to bring the action was under legal disability by reason of nonage or unsoundness of mind.

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- (5) The facts mentioned in subsection (3) above do not include knowledge of whether particular facts and circumstances would or would not, as a matter of law, result in liability for damage under the said section 2.
- (6) Where a person would be entitled, but for this section, to bring an action for reparation other than one in which the damages claimed are confined to damages for loss of or damage to property, the court may, if it seems to it equitable to do so, allow him to bring the action notwithstanding this section.

### **22C Actions under the 1987 Act where death has resulted from personal injuries.**

- (1) This section shall apply to an action to enforce an obligation arising from liability under section 2 of the 1987 Act (to make reparation for damage caused wholly or partly by a defect in a product) where a person has died from personal injuries and the damages claimed include damages for those personal injuries or that death.
- (2) Subject to subsection (4) below, an action to which this section applies shall not be competent unless it is commenced within the period of 3 years after the later of—
  - (a) the date of death of the injured person;
  - (b) the earliest date on which the person seeking to make (or a person who could at an earlier date have made) the claim was aware, or on which, in the opinion of the court, it was reasonably practicable for him in all the circumstances to become aware—
    - (i) that there was a defect in the product;
    - (ii) that the injuries of the deceased were caused (or partly caused) by the defect; and
    - (iii) that the defender was a person liable for the damage under the said section 2.
- (3) Where the person seeking to make the claim is a relative of the deceased, there shall be disregarded in the computation of the period mentioned in subsection (2) above any period during which that relative was under legal disability by reason of nonage or unsoundness of mind.
- (4) Where an action to which section 22B of this Act applies has not been brought within the period mentioned in subsection (2) of that section and the person subsequently dies in consequence of his injuries, an action to which this section applies shall not be competent in respect of those injuries or that death.
- (5) Where a person would be entitled, but for this section, to bring an action for reparation other than one in which the damages claimed are confined to damages for loss of or damage to property, the court may, if it seems to it equitable to do so, allow him to bring the action notwithstanding this section.
- (6) In this section “relative” has the same meaning as in the Damages (Scotland) Act 1976.
- (7) For the purposes of subsection (2)(b) above there shall be disregarded knowledge of whether particular facts and circumstances would or would not, as a matter of law, result in liability for damage under the said section 2.

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## Supplementary

### 22D Interpretation of this Part.

- (1) Expressions used in this Part and in Part I of the 1987 Act shall have the same meanings in this Part as in the said Part I.
  - (2) For the purposes of section 1(1) of the 1987 Act, this Part shall have effect and be construed as if it were contained in Part I of that Act.
  - (3) In this Part, “the 1987 Act” means the Consumer Protection Act 1987.”
- 11 Section 23 shall cease to have effect, but for the avoidance of doubt it is declared that the amendments in Part II of Schedule 4 shall continue to have effect.
- 12 In paragraph 2 of Schedule 1, after sub-paragraph (gg) there shall be inserted the following sub-paragraph—
- “(ggg) to any obligation arising from liability under section 2 of the Consumer Protection Act 1987 (to make reparation for damage caused wholly or partly by a defect in a product);”.

## SCHEDULE 2

Section 13.

### PROHIBITION NOTICES AND NOTICES TO WARN

#### Modifications etc. (not altering text)

- C1 Sch. 2 applied (with modifications) (7.6.2000) by [S.I. 2000/1315](#), **reg. 18(6)**
- C2 Sch. 2 applied (with modifications) (17.8.2015) by [The Pyrotechnic Articles \(Safety\) Regulations 2015 \(S.I. 2015/1553\)](#), **reg. 1, Sch. 7 paras. 1(p), 2**
- C3 Sch. 2 applied (with modifications) (8.12.2016) by [The Electrical Equipment \(Safety\) Regulations 2016 \(S.I. 2016/1101\)](#), **reg. 1, Sch. 3 paras. 1, 2 (with reg. 3)**
- C4 Sch. 2 applied (with modifications) (8.12.2016) by [The Simple Pressure Vessels \(Safety\) Regulations 2016 \(S.I. 2016/1092\)](#), **reg. 1, Sch. 5 paras. 1(p), 2 (with reg. 3)**
- C5 Sch. 2 applied (with modifications) (8.12.2016) by [The Pressure Equipment \(Safety\) Regulations 2016 \(S.I. 2016/1105\)](#), **reg. 1, Sch. 7 paras. 1(p), 2 (with reg. 88)**
- C6 Sch. 2 applied (with modifications) (8.12.2016) by [The Electromagnetic Compatibility Regulations 2016 \(S.I. 2016/1091\)](#), **reg. 1, Sch. 7 paras. 1, 2 (with regs. 74, 75(5))**
- C7 Sch. 2 applied (with modifications) (8.12.2016) by [The Lifts Regulations 2016 \(S.I. 2016/1093\)](#), **reg. 1, Sch. 7 paras. 1(o), 2 (with regs. 3-5)**
- C8 Sch. 2 applied (with modifications) (3.8.2017) by [The Recreational Craft Regulations 2017 \(S.I. 2017/737\)](#), **reg. 1, Sch. 13 paras. 1(q), 2 (with reg. 89)**
- C9 Sch. 2 applied (with modifications) (26.12.2017) by [The Radio Equipment Regulations 2017 \(S.I. 2017/1206\)](#), **reg. 1, Sch. 10 paras. 1, 2 (with regs. 3-5, 77)**
- C10 Sch. 2 applied (with modifications) (21.4.2018) by [The Personal Protective Equipment \(Enforcement\) Regulations 2018 \(S.I. 2018/390\)](#), **reg. 1(1), Sch. 1 (with reg. 2(1)-(3))**
- C11 Sch. 2 applied (with modifications) (21.4.2018) by [The Gas Appliances \(Enforcement\) and Miscellaneous Amendments Regulations 2018 \(S.I. 2018/389\)](#), **reg. 1(1), Sch. 1 (with reg. 2)**
- C12 Sch. 2 applied (with modifications) (N.I.) (16.7.2021) by [The Market Surveillance \(Northern Ireland\) Regulations 2021 \(S.I. 2021/858\)](#), **reg. 1(1), Sch. 2 paras. 1, 2 (with reg. 3)**

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## PART I

### PROHIBITION NOTICES

- 1 A prohibition notice in respect of any goods shall—
  - (a) state that the Secretary of State considers that the goods are unsafe;
  - (b) set out the reasons why the Secretary of State considers that the goods are unsafe;
  - (c) specify the day on which the notice is to come into force; and
  - (d) state that the trader may at any time make representations in writing to the Secretary of State for the purpose of establishing that the goods are safe.
  
- 2 (1) If representations in writing about a prohibition notice are made by the trader to the Secretary of State, it shall be the duty of the Secretary of State to consider whether to revoke the notice and—
  - (a) if he decides to revoke it, to do so;
  - (b) in any other case, to appoint a person to consider those representations, any further representations made (whether in writing or orally) by the trader about the notice and the statements of any witnesses examined under this Part of this Schedule.

(2) Where the Secretary of State has appointed a person to consider representations about a prohibition notice, he shall serve a notification on the trader which—

  - (a) states that the trader may make oral representations to the appointed person for the purpose of establishing that the goods to which the notice relates are safe; and
  - (b) specifies the place and time at which the oral representations may be made.

(3) The time specified in a notification served under sub-paragraph (2) above shall not be before the end of the period of twenty-one days beginning with the day on which the notification is served, unless the trader otherwise agrees.

(4) A person on whom a notification has been served under sub-paragraph (2) above or his representative may, at the place and time specified in the notification—

  - (a) make oral representations to the appointed person for the purpose of establishing that the goods in question are safe; and
  - (b) call and examine witnesses in connection with the representations.
  
- 3 (1) Where representations in writing about a prohibition notice are made by the trader to the Secretary of State at any time after a person has been appointed to consider representations about that notice, then, whether or not the appointed person has made a report to the Secretary of State, the following provisions of this paragraph shall apply instead of paragraph 2 above.

(2) The Secretary of State shall, before the end of the period of one month beginning with the day on which he receives the representations, serve a notification on the trader which states—

  - (a) that the Secretary of State has decided to revoke the notice, has decided to vary it or, as the case may be, has decided neither to revoke nor to vary it; or
  - (b) that, a person having been appointed to consider representations about the notice, the trader may, at a place and time specified in the notification, make oral representations to the appointed person for the purpose of establishing that the goods to which the notice relates are safe.

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- (3) The time specified in a notification served for the purposes of sub-paragraph (2)(b) above shall not be before the end of the period of twenty-one days beginning with the day on which the notification is served, unless the trader otherwise agrees or the time is the time already specified for the purposes of paragraph 2(2)(b) above.
- (4) A person on whom a notification has been served for the purposes of sub-paragraph (2)(b) above or his representative may, at the place and time specified in the notification—
- (a) make oral representations to the appointed person for the purpose of establishing that the goods in question are safe; and
  - (b) call and examine witnesses in connection with the representations.
- 4 (1) Where a person is appointed to consider representations about a prohibition notice, it shall be his duty to consider—
- (a) any written representations made by the trader about the notice, other than those in respect of which a notification is served under paragraph 3(2)(a) above;
  - (b) any oral representations made under paragraph 2(4) or 3(4) above; and
  - (c) any statements made by witnesses in connection with the oral representations,
- and, after considering any matters under this paragraph, to make a report (including recommendations) to the Secretary of State about the matters considered by him and the notice.
- (2) It shall be the duty of the Secretary of State to consider any report made to him under sub-paragraph (1) above and, after considering the report, to inform the trader of his decision with respect to the prohibition notice to which the report relates.
- 5 (1) The Secretary of State may revoke or vary a prohibition 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.
- (2) The Secretary of State shall not vary a prohibition notice so as to make the effect of the notice more restrictive for the trader.
- (3) Without prejudice to the power conferred by section 13(2) of this Act, the service of a notification under sub-paragraph (1) above shall be sufficient to satisfy the requirement of paragraph 4(2) above that the trader shall be informed of the Secretary of State's decision.

## PART II

### NOTICES TO WARN

- 6 (1) If the Secretary of State proposes to serve a notice to warn on any person in respect of any goods, the Secretary of State, before he serves the notice, shall serve on that person a notification which—
- (a) contains a draft of the proposed notice;
  - (b) states that the Secretary of State proposes to serve a notice in the form of the draft on that person;
  - (c) states that the Secretary of State considers that the goods described in the draft are unsafe;

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- (d) sets out the reasons why the Secretary of State considers that those goods are unsafe; and
  - (e) states that that person may make representations to the Secretary of State for the purpose of establishing that the goods are safe if, before the end of the period of fourteen days beginning with the day on which the notification is served, he informs the Secretary of State—
    - (i) of his intention to make representations; and
    - (ii) whether the representations will be made only in writing or both in writing and orally.
- (2) Where the Secretary of State has served a notification containing a draft of a proposed notice to warn on any person, he shall not serve a notice to warn on that person in respect of the goods to which the proposed notice relates unless—
- (a) the period of fourteen days beginning with the day on which the notification was served expires without the Secretary of State being informed as mentioned in sub-paragraph (1)(e) above;
  - (b) the period of twenty-eight days beginning with that day expires without any written representations being made by that person to the Secretary of State about the proposed notice; or
  - (c) the Secretary of State has considered a report about the proposed notice by a person appointed under paragraph 7(1) below.
- 7 (1) Where a person on whom a notification containing a draft of a proposed notice to warn has been served—
- (a) informs the Secretary of State as mentioned in paragraph 6 (1)(e) above before the end of the period of fourteen days beginning with the day on which the notification was served; and
  - (b) makes written representations to the Secretary of State about the proposed notice before the end of the period of twenty-eight days beginning with that day,
- the Secretary of State shall appoint a person to consider those representations, any further representations made by that person about the draft notice and the statements of any witnesses examined under this Part of this Schedule.
- (2) Where—
- (a) the Secretary of State has appointed a person to consider representations about a proposed notice to warn; and
  - (b) the person whose representations are to be considered has informed the Secretary of State for the purposes of paragraph 6(1)(e) above that the representations he intends to make will include oral representations,
- the Secretary of State shall inform the person intending to make the representations of the place and time at which oral representations may be made to the appointed person.
- (3) Where a person on whom a notification containing a draft of a proposed notice to warn has been served is informed of a time for the purposes of sub-paragraph (2) above, that time shall not be—
- (a) before the end of the period of twenty-eight days beginning with the day on which the notification was served; or
  - (b) before the end of the period of seven days beginning with the day on which that person is informed of the time.

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- (4) A person who has been informed of a place and time for the purposes of sub-paragraph (2) above or his representative may, at that place and time—
- (a) make oral representations to the appointed person for the purpose of establishing that the goods to which the proposed notice relates are safe; and
  - (b) call and examine witnesses in connection with the representations.
- 8 (1) Where a person is appointed to consider representations about a proposed notice to warn, it shall be his duty to consider—
- (a) any written representations made by the person on whom it is proposed to serve the notice; and
  - (b) in a case where a place and time has been appointed under paragraph 7(2) above for oral representations to be made by that person or his representative, any representations so made and any statements made by witnesses in connection with those representations,
- and, after considering those matters, to make a report (including recommendations) to the Secretary of State about the matters considered by him and the proposal to serve the notice.
- (2) It shall be the duty of the Secretary of State to consider any report made to him under sub-paragraph (1) above and, after considering the report, to inform the person on whom it was proposed that a notice to warn should be served of his decision with respect to the proposal.
- (3) If at any time after serving a notification on a person under paragraph 6 above the Secretary of State decides not to serve on that person either the proposed notice to warn or that notice with modifications, the Secretary of State shall inform that person of the decision; and nothing done for the purposes of any of the preceding provisions of this Part of this Schedule before that person was so informed shall—
- (a) entitle the Secretary of State subsequently to serve the proposed notice or that notice with modifications; or
  - (b) require the Secretary of State, or any person appointed to consider representations about the proposed notice, subsequently to do anything in respect of, or in consequence of, any such representations.
- (4) Where a notification containing a draft of a proposed notice to warn is served on a person in respect of any goods, a notice to warn served on him in consequence of a decision made under sub-paragraph (2) above shall either be in the form of the draft or shall be less onerous than the draft.
- 9 The Secretary of State may revoke a notice to warn by serving on the person on whom the notice was served a notification stating that the notice is revoked.

### PART III

#### GENERAL

- 10 (1) Where in a notification served on any person under this Schedule the Secretary of State has appointed a time for the making of oral representations or the examination of witnesses, he may, by giving that person such notification as the Secretary of State considers appropriate, change that time to a later time or appoint further times at which further representations may be made or the examination of witnesses may be continued; and paragraphs 2(4), 3(4) and 7(4) above shall have effect accordingly.

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- (2) For the purposes of this Schedule the Secretary of State may appoint a person (instead of the appointed person) to consider any representations or statements, if the person originally appointed, or last appointed under this sub-paragraph, to consider those representations or statements has died or appears to the Secretary of State to be otherwise unable to act.
- 11 In this Schedule—
- “the appointed person” in relation to a prohibition notice or a proposal to serve a notice to warn, means the person for the time being appointed under this Schedule to consider representations about the notice or, as the case may be, about the proposed notice;
  - “notification” means a notification in writing;
  - “trader”, in relation to a prohibition notice, means the person on whom the notice is or was served.

### SCHEDULE 3

Section 36.

#### AMENDMENTS OF PART I OF THE HEALTH AND SAFETY AT WORK ETC. ACT 1974

- 1 (1) Section 6 (general duties of manufacturers etc. as regard articles and substances for use at work) shall be amended as follows.
- (2) For subsection (1) (general duties of designers, manufacturers, importers and suppliers of articles for use at work) there shall be substituted the following subsections—
- “(1) It shall be the duty of any person who designs, manufactures, imports or supplies any article for use at work or any article of fairground equipment—
    - (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being set, used, cleaned or maintained by a person at work;
    - (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;
    - (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all such times as are mentioned in paragraph (a) above and when it is being dismantled or disposed of; and
    - (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.
  - (1A) It shall be the duty of any person who designs, manufactures, imports or supplies any article of fairground equipment—

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- (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public;
  - (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;
  - (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public; and
  - (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.”
- (3) In subsection (2) (duty of person who undertakes the design or manufacture of an article for use at work to carry out research), after the word “work” there shall be inserted the words ““or of any article of fairground equipment ””.
- (4) In subsection (3) (duty of persons who erect or install articles for use at work)—
- (a) after the words “persons at work” there shall be inserted the words ““or who erects or installs any article of fairground equipment ””; and
  - (b) for the words from “it is” onwards there shall be substituted the words ““the article is erected or installed makes it unsafe or a risk to health at any such time as is mentioned in paragraph (a) of subsection (1) or, as the case may be, in paragraph (a) of subsection (1) or (1A) above. ””
- (5) For subsection (4) (general duties of manufacturers, importers and suppliers of substances for use at work) there shall be substituted the following subsection—
- “(4) It shall be the duty of any person who manufactures, imports or supplies any substance—
- (a) to ensure, so far as is reasonably practicable, that the substance will be safe and without risks to health at all times when it is being used, handled, processed, stored or transported by a person at work or in premises to which section 4 above applies;
  - (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;
  - (c) to take such steps as are necessary to secure that persons supplied by that person with the substance are provided with adequate information about any risks to health or safety to which the inherent properties of the substance may give rise, about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health at all such times as are mentioned in paragraph (a) above and when the substance is being disposed of; and

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- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.”
- (6) In subsection (5) (duty of person who undertakes the manufacture of a substance for use at work to carry out research)—
  - (a) for the words “substance for use at work” there shall be substituted the word “substance”; and
  - (b) at the end there shall be inserted the words “at all such times as are mentioned in paragraph (a) of subsection (4) above”.
- (7) In subsection (8) (relief from duties for persons relying on undertakings by others)—
  - (a) for the words “for or to another” there shall be substituted the words “for use at work or an article of fairground equipment and does so for or to another”;
  - (b) for the words “when properly used” there shall be substituted the words “at all such times as are mentioned in paragraph (a) of subsection (1) or, as the case may be, in paragraph (a) of subsection (1) or (1A) above”; and
  - (c) for the words “by subsection (1)(a) above” there shall be substituted the words “by virtue of that paragraph”.
- (8) After the said subsection (8) there shall be inserted the following subsection—
  - “(8A) Nothing in subsection (7) or (8) above shall relieve any person who imports any article or substance from any duty in respect of anything which—
    - (a) in the case of an article designed outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who designed the article; or
    - (b) in the case of an article or substance manufactured outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who manufactured the article or substance.”
- (9) In subsection (9) (definition of supplier in certain cases of supply under a hire-purchase agreement), for the words “article for use at work or substance for use at work” there shall be substituted the words “article or substance”.
- (10) For subsection (10) (meaning of “properly used”) there shall be substituted the following subsection—
  - “(10) For the purposes of this section an absence of safety or a risk to health shall be disregarded in so far as the case in or in relation to which it would arise is shown to be one the occurrence of which could not reasonably be foreseen; and in determining whether any duty imposed by virtue of paragraph (a) of subsection (1), (1A) or (4) above has been performed regard shall be had to any relevant information or advice which has been provided to any person by the person by whom the article has been designed, manufactured, imported or supplied or, as the case may be, by the person by whom the substance has been manufactured, imported or supplied.”

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- (a) in subsections (1) and (2) (notices in respect of activities which are or are about to be carried on and involve a risk of serious personal injury), for the word “about”, in each place where it occurs, there shall be substituted the word “likely”;
- (b) for subsection (4) (notice to have immediate effect only if the risk is imminent) there shall be substituted the following subsection—

“(4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) above shall take effect—

- (a) at the end of the period specified in the notice; or
- (b) if the notice so declares, immediately.”

3 After section 25 there shall be inserted the following section—

**“25A Power of customs officer to detain articles and substances.**

- (1) A customs officer may, for the purpose of facilitating the exercise or performance by any enforcing authority or inspector of any of the powers or duties of the authority or inspector under any of the relevant statutory provisions, seize any imported article or imported substance and detain it for not more than two working days.
- (2) Anything seized and detained under this section shall be dealt with during the period of its detention in such manner as the Commissioners of Customs and Excise may direct.
- (3) In subsection (1) above the reference to two working days is a reference to a period of forty-eight hours calculated from the time when the goods in question are seized but disregarding so much of any period as falls on a Saturday or Sunday or on Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of Great Britain where the goods are seized.”

4 After section 27 (power to obtain information) there shall be inserted the following section—

**“27A Information communicated by the Commissioners of Customs and Excise.**

- (1) If they think it appropriate to do so for the purpose of facilitating the exercise or performance by any person to whom subsection (2) below applies of any of that person’s powers or duties under any of the relevant statutory provisions, the Commissioners of Customs and Excise may authorise the disclosure to that person of any information obtained for the purposes of the exercise by the Commissioners of their functions in relation to imports.
- (2) This subsection applies to an enforcing authority and to an inspector.
- (3) A disclosure of information made to any person under subsection (1) above shall be made in such manner as may be directed by the Commissioners of Customs and Excise and may be made through such persons acting on behalf of that person as may be so directed.

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- (4) Information may be disclosed to a person under subsection (1) above whether or not the disclosure of the information has been requested by or on behalf of that person.”
- 5 In section 28 (restrictions on disclosure of information), in subsection (1)(a), after the words “furnished to any person” there shall be inserted the words “ “under section 27A above or ”.
- 6 In section 33(1)(h) (offence of obstructing an inspector), after the word “duties” there shall be inserted the words “ “or to obstruct a customs officer in the exercise of his powers under section 25A ”.
- 7 In section 53(1) (general interpretation of Part I)—
- (a) after the definition of “article for use at work” there shall be inserted the following definition—
- “ “article of fairground equipment” means any fairground equipment or any article designed for use as a component in any such equipment;”
- (b) after the definition of “credit-sale agreement” there shall be inserted the following definition—
- “ “customs officer” means an officer within the meaning of the Customs and Excise Management Act 1979;”
- (c) before the definition of “the general purposes of this Part” there shall be inserted the following definition—
- “ “fairground equipment” means any fairground ride, any similar plant which is designed to be in motion for entertainment purposes with members of the public on or inside it or any plant which is designed to be used by members of the public for entertainment purposes either as a slide or for bouncing upon, and in this definition the reference to plant which is designed to be in motion with members of the public on or inside it includes a reference to swings, dodgems and other plant which is designed to be in motion wholly or partly under the control of, or to be put in motion by, a member of the public;”
- (d) after the definition of “local authority” there shall be inserted the following definition—
- “ “micro-organism” includes any microscopic biological entity which is capable of replication;”
- (e) in the definition of “substance”, after the words “natural or artificial substance” there shall be inserted the words ““(including micro-organisms) ”.

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SCHEDULE 4

Section 48.

MINOR AND CONSEQUENTIAL AMENDMENTS

*The Explosives<sup>M4</sup> Act 1875*

**Marginal Citations**

**M4** 1875 c. 17.

- 1 In sections 31 and 80 of the Explosives Act 1875 (prohibitions on selling gunpowder to children and on use of fireworks in public places), for the words from “shall be liable” onwards there shall be substituted the words “ “shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale ”.

*The<sup>M5</sup> Trade Descriptions Act 1968*

**Marginal Citations**

**M5** 1968 c. 29.

- 2 (1) In section 2 of the Trade Descriptions Act 1968 (meaning of trade description)—
- (a) for paragraph (g) of subsection (4) (marks and descriptions applied in pursuance of the<sup>M6</sup> Consumer Safety Act 1978) there shall be substituted the following paragraph—
    - “(g) the Consumer Protection Act 1987;” and
  - (b) in subsection (5)(a) (descriptions prohibited under certain enactments), for the words “or the Consumer Safety Act 1978” there shall be substituted the words “ “or the Consumer Protection Act 1987 ”.

(2)<sup>F1</sup> .....

**Textual Amendments**

**F1** Sch. 4 para. 2(2) repealed (20.6.2003) by 2002 c. 40, ss. 278(2), 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 10)

**Marginal Citations**

**M6** 1978 c. 38.

*The<sup>M7</sup> Fair Trading Act 1973*

**Marginal Citations**

**M7** 1973 c. 41.

- 3 <sup>F2</sup> .....

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**Textual Amendments**

- F2** Sch. 4 para. 3 repealed (20.6.2003) by 2002 c. 40, ss. 278(2), 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 10)

*The <sup>M8</sup>Consumer Credit Act 1974*

**Marginal Citations**

- M8** 1974 c. 39.

- 4 **F3** .....

**Textual Amendments**

- F3** Sch. 4 para. 4 repealed (20.6.2003) by 2002 c. 40, ss. 278(2), 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 10)

*The Torts (Interference with Goods) Act 1977*

- 5 In section 1 of the <sup>M9</sup>Torts (Interference with Goods) Act 1977 (meaning of “wrongful interference”), after paragraph (d) there shall be inserted the following words—

“and references in this Act (however worded) to proceedings for wrongful interference or to a claim or right to claim for wrongful interference shall include references to proceedings by virtue of Part I of the Consumer Protection Act 1987 (product liability) in respect of any damage to goods or to an interest in goods or, as the case may be, to a claim or right to claim by virtue of that Part in respect of any such damage.”

**Marginal Citations**

- M9** 1977 c. 32.

*The <sup>M10</sup>Estate Agents Act 1979*

**Marginal Citations**

- M10** 1979 c. 38.

- 6 In section 10(3)(a) of the Estate Agents Act 1979 (exceptions to general restrictions on disclosure of information), after the words “or the Airports Act 1986” there shall be inserted the words “ “or the Consumer Protection Act 1987. ”

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### *The <sup>M11</sup>Competition Act 1980*

#### **Marginal Citations**

**M11** 1980 c. 21.

7 <sup>F4</sup> .....

#### **Textual Amendments**

**F4** Sch. 4 para. 7 repealed (20.6.2003) by 2002 c. 40, ss. 278(2), 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 10)

### *The <sup>M12</sup>Employment Act 1982*

#### **Marginal Citations**

**M12** 1982 c. 46.

<sup>F5g</sup> .....

#### **Textual Amendments**

**F5** Sch. 4 para. 8 repealed (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(1), 302, Sch.1

### *The <sup>M13</sup>Telecommunications Act 1984*

#### **Marginal Citations**

**M13** 1984 c. 12.

9 (1) <sup>F6</sup> .....

(2) In section 101(3) of the said Act of 1984 (enactments specified in exceptions to general restrictions on disclosure of information), after paragraph (g) there shall be inserted the following paragraph—

“(h) the Consumer Protection Act 1987.”

#### **Textual Amendments**

**F6** Sch. 4 para. 9(1) repealed (8.2.2007) by Wireless Telegraphy Act 2006 (c. 36), ss. 125, 126, Sch. 9 Pt. 1

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*The <sup>M14</sup>Airports Act 1986*

**Marginal Citations**

**M14** 1986 c. 31.

- 10 In section 74(3) of the Airports Act 1986 (enactments specified in exceptions to general restrictions on disclosure of information), after paragraph (h) there shall be inserted the following paragraph—
- “(i) the Consumer Protection Act 1987.”

*The <sup>M15</sup>Gas Act 1986*

**Marginal Citations**

**M15** 1986 c. 44.

- 11 In section 42 of the Gas Act 1986—
- (a) in subsection (3) (restrictions on disclosure of information except for the purposes of certain enactments), at the end there shall be inserted the following paragraph—
- “(j) the Consumer Protection Act 1987.”;
- (b) after subsection (5) there shall be inserted the following subsection—
- “(6) In relation to the Consumer Protection Act 1987 the reference in subsection (2)(b) above to a weights and measures authority shall include a reference to any person on whom functions under that Act are conferred by regulations under section 27(2) of that Act.”

*The <sup>M16</sup>Insolvency Act 1986*

**Marginal Citations**

**M16** 1986 c. 45.

- 12 In section 281(5)(a) of the Insolvency Act 1986 (discharge from bankruptcy not to release bankrupt from liability in respect of personal injuries), for the word “being” there shall be substituted the words ““or to pay damages by virtue of Part I of the Consumer Protection Act 1987, being in either case””.

*The <sup>M17</sup>Motor Cycle Noise Act 1987*

**Marginal Citations**

**M17** 1987 c. 34.

- 13 For paragraphs 3 to 5 of the Schedule to the Motor Cycle Noise Act 1987 (enforcement) there shall be substituted the following paragraph—

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“3 Part IV of the Consumer Protection Act 1987 (enforcement), except section 31 (power of customs officers to detain goods), shall have effect as if the provisions of this Act were safety provisions within the meaning of that Act; and in Part V of that Act (miscellaneous and supplemental), except in section 49 (Northern Ireland), references to provisions of the said Part IV shall include references to those provisions as applied by this paragraph.”

## SCHEDULE 5

Section 48.

### REPEALS

Chapter	Short title	Extent of repeal
3 & 4 Geo. 5. c. 17.	The Fabrics (Misdescription) Act 1913.	The whole Act.
1967 c. 80.	The Criminal Justice Act 1967.	In Part I of Schedule 3, the entry relating to the Fabrics (Misdescription) Act 1913.
1967 c. 29. (N.I.).	The Fines Act (Northern Ireland) 1967.	In Part I of the Schedule, the entry relating to the Fabrics (Misdescription) Act 1913.
1968 c. 29.	The Trade Descriptions Act 1968.	Section 11.
1972 c. 34.	The Trade Descriptions Act 1972.	The whole Act.
1972 c. 70.	The Local Government Act 1972.	In Part II of Schedule 29, paragraph 18(1).
1973 c. 52.	The Prescription and Limitation (Scotland) Act 1973.	Section 23.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In Part II of Schedule 27, paragraph 50.
1974 c. 37.	The Health and Safety at Work etc. Act 1974.	In section 53(1), the definition of “substance for use at work”.
1976 c. 26.	The Explosives (Age of Purchase etc.) Act 1976.	In section 1, in subsection (1), the words from “and for the word” onwards and subsection (2).
1978 c. 38.	The Consumer Safety Act 1978.	The whole Act.
1980 c. 43.	The Magistrates’ Courts Act 1980.	In Schedule 7, paragraphs 172 and 173.

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1984 c. 12.	The Telecommunications Act 1984.	In section 101(3)(f), the word “and”.
1984 c. 30.	The Food Act 1984.	In Schedule 10, paragraph 32.
1986 c. 29.	The Consumer Safety (Amendment) Act 1986.	The whole Act.
1986 c. 31.	The Airports Act 1986.	In section 74(3)(g), the word “and”.
1986 c. 44.	The Gas Act 1986.	In section 42(3), paragraphs (a) and (g) and, in paragraph (h), the word “and”.

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**Changes and effects yet to be applied to :**

- Pt. 2 applied by S.I. 2002/618, reg. 197(3) (as inserted) by [S.I. 2019/791 reg. 11](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 11 omitted immediately before IP completion day by virtue of S.I. 2020/1478, regs. 1(3), Sch. 2 para. 55)
- Pt. 2 applied by S.I. 2002/618, reg. 198(2) (as inserted) by [S.I. 2019/791 reg. 11](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 11 omitted immediately before IP completion day by virtue of S.I. 2020/1478, regs. 1(3), Sch. 2 para. 55)
- s. 10(7)(c) words repealed by [2000 c. 27 Sch. 8](#) (This amendment not applied to [legislation.gov.uk](#). S. 10 already omitted (1.10.2005) by virtue of S.I. 2005/1803, reg. 46(2) (with regs. 42, 43))
- s. 11(7)(c) words repealed by [2000 c. 27 Sch. 8](#)
- Sch. 4 para. 1 repealed by [2003 c. 22 Sch.](#)