

## SCHEDULES

### SCHEDULE 5

#### INVESTIGATORY POWERS ETC.

#### PART 4

##### FURTHER POWERS EXERCISABLE BY DOMESTIC ENFORCERS AND EU ENFORCERS

###### *Exercise of powers in this Part: domestic enforcers*

- 19 (1) A domestic enforcer may exercise a power in this Part of this Schedule only for the purposes and in the circumstances mentioned in this paragraph in relation to that power.
- (2) A domestic enforcer may exercise any power in paragraphs 21 to 26 and 31 to 34 for the purpose of ascertaining compliance with the enforcer's legislation.
- (3) A domestic enforcer may exercise the power in paragraph 27 (power to require the production of documents) for either of the following purposes—
- (a) subject to sub-paragraph (4), to ascertain compliance with the enforcer's legislation;
  - (b) to ascertain whether the documents may be required as evidence in proceedings for a breach of, or under, the enforcer's legislation.
- (4) A domestic enforcer may exercise the power in paragraph 27 for the purpose mentioned in sub-paragraph (3)(a) only if an officer of the enforcer reasonably suspects a breach of the enforcer's legislation, unless—
- (a) the power is being exercised in relation to a document that the trader is required to keep by virtue of a provision of the enforcer's legislation, or
  - (b) the enforcer is a market surveillance authority within the meaning of Article 2(18) of the Regulation on Accreditation and Market Surveillance and the power is exercised for the purpose of market surveillance within the meaning of Article 2(17) of that Regulation.
- (5) A domestic enforcer may exercise the power in paragraph 28 (power to seize and detain goods) in relation to—
- (a) goods which an officer of the enforcer reasonably suspects may disclose (by means of testing or otherwise) a breach of the enforcer's legislation,
  - (b) goods which an officer of the enforcer reasonably suspects are liable to forfeiture under that legislation, and
  - (c) goods which an officer of the enforcer reasonably suspects may be required as evidence in proceedings for a breach of, or under, that legislation.

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*Status: This is the original version (as it was originally enacted).*

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- (6) A domestic enforcer may exercise the power in paragraph 29 (power to seize documents required as evidence) in relation to documents which an officer of the enforcer reasonably suspects may be required as evidence—
- (a) in proceedings for a breach of the enforcer’s legislation, or
  - (b) in proceedings under the enforcer’s legislation.
- (7) A domestic enforcer may exercise the power in paragraph 30 (power to decommission or switch off fixed installations)—
- (a) if an officer of the enforcer reasonably suspects a breach of the Electromagnetic Compatibility Regulations 2006 (SI 2006/3418), and
  - (b) for the purpose of ascertaining (by means of testing or otherwise) whether there has been such a breach.
- (8) For the purposes of the enforcement of the Estate Agents Act 1979—
- (a) the references in sub-paragraphs (2) and (3)(a) to ascertaining compliance with the enforcer’s legislation include ascertaining whether a person has engaged in a practice mentioned in section 3(1)(d) of that Act (practice in relation to estate agency work declared undesirable by the Secretary of State), and
  - (b) the references in sub-paragraph (4) and paragraphs 23(6)(a) and 32(3)(a) to a breach of the enforcer’s legislation include references to a person’s engaging in such a practice.