

SCHEDULES

SCHEDULE 5

INVESTIGATORY POWERS ETC.

PART 4

FURTHER POWERS EXERCISABLE BY DOMESTIC ENFORCERS AND EU ENFORCERS

Power to enter premises without warrant

- 23 (1) An officer of an enforcer may enter premises at any reasonable time.
- (2) Sub-paragraph (1) does not authorise the entry into premises used wholly or mainly as a dwelling.
- (3) In the case of a routine inspection, the power of entry in sub-paragraph (1) may only be exercised if a notice has been given to the occupier of the premises in accordance with the requirements in sub-paragraph (4), unless sub-paragraph (5) applies.
- (4) Those requirements are that—
- (a) the notice is in writing and is given by an officer of the enforcer,
 - (b) the notice sets out why the entry is necessary and indicates the nature of the offence under paragraph 36 (obstruction), and
 - (c) there are at least two working days between the date of receipt of the notice and the date of entry.
- (5) A notice need not be given if the occupier has waived the requirement to give notice.
- (6) In this paragraph “routine inspection” means an exercise of the power in sub-paragraph (1) other than where—
- (a) the power is exercised by an officer of a domestic enforcer who reasonably suspects a breach of the enforcer’s legislation,
 - (b) the officer reasonably considers that to give notice in accordance with sub-paragraph (3) would defeat the purpose of the entry,
 - (c) it is not reasonably practicable in all the circumstances to give notice in accordance with that sub-paragraph, in particular because the officer reasonably suspects that there is an imminent risk to public health or safety, or
 - (d) the enforcer is a market surveillance authority within the meaning of Article 2(18) of the Regulation on Accreditation and Market Surveillance and the entry is for the purpose of market surveillance within the meaning of Article 2(17) of that Regulation.
- (7) If an officer of an enforcer enters premises under sub-paragraph (1) otherwise than in the course of a routine inspection, and finds one or more occupiers on the premises,

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the officer must provide to that occupier or (if there is more than one) to at least one of them a document that—

- (a) sets out why the entry is necessary, and
- (b) indicates the nature of the offence under paragraph 36 (obstruction).

- (8) If an officer of an enforcer enters premises under sub-paragraph (1) and finds one or more occupiers on the premises, the officer must produce evidence of the officer's identity and authority to that occupier or (if there is more than one) to at least one of them.
- (9) An officer need not comply with sub-paragraph (7) or (8) if it is not reasonably practicable to do so.
- (10) Proceedings resulting from the exercise of the power under sub-paragraph (1) are not invalid merely because of a failure to comply with sub-paragraph (7) or (8).
- (11) An officer entering premises under sub-paragraph (1) may be accompanied by such persons, and may take onto the premises such equipment, as the officer thinks necessary.
- (12) In this paragraph—
 - “give”, in relation to the giving of a notice to the occupier of premises, includes delivering or leaving it at the premises or sending it there by post;
 - “working day” means a day other than—
 - (a) Saturday or Sunday,
 - (b) Christmas Day or Good Friday, or
 - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the premises are situated.