

## SCHEDULES

### SCHEDULE 5

#### INVESTIGATORY POWERS ETC.

#### PART 5

#### PROVISIONS SUPPLEMENTARY TO PARTS 3 AND 4

##### *Compensation*

- 41 (1) This paragraph applies where an officer of an enforcer has seized and detained goods under Part 4 of this Schedule for a purpose within paragraph 19(5)(a) or 20(5)(a).
- (2) The enforcer must pay compensation to any person with an interest in the goods in respect of any loss or damage caused by the seizure and detention, if the condition in sub-paragraph (3) or (4) that is relevant to the enforcer is met.
- (3) The condition that is relevant to a domestic enforcer is that—
- (a) the goods have not disclosed a breach of the enforcer’s legislation, and
  - (b) the power to seize and detain the goods was not exercised as a result of any neglect or default of the person seeking the compensation.
- (4) The condition that is relevant to an EU enforcer is that—
- (a) the goods have not disclosed a Community infringement or a failure to comply with a measure specified in paragraph 20(3)(b), (c) or (d), and
  - (b) the power to seize and detain the goods was not exercised as a result of any neglect or default of the person seeking the compensation.
- (5) Any dispute about the right to or amount of any compensation payable under this paragraph is to be determined—
- (a) in England and Wales or Northern Ireland, by arbitration, or
  - (b) in Scotland, by a single arbitrator appointed by the parties or, if there is no agreement between the parties as to that appointment, by the sheriff.