

SCHEDULES

SCHEDULE 5

INVESTIGATORY POWERS ETC.

PART 6

EXERCISE OF ENFORCEMENT FUNCTIONS BY AREA ENFORCERS

Interpretation of this Part

- 43 In this Part, “area enforcer” means—
- (a) a local weights and measures authority in Great Britain,
 - (b) a district council in England, or
 - (c) a district council in Northern Ireland.

Investigatory powers

- 44 (1) Sub-paragraphs (3) to (6) apply in relation to an area enforcer’s exercise, in accordance with this Schedule, of a power in Part 3 or 4 of this Schedule.
- (2) Sub-paragraphs (3) to (6) also apply in relation to an area enforcer’s exercise of an investigatory power—
- (a) conferred by legislation which, by virtue of a provision listed in paragraph 10 of this Schedule, the area enforcer has a duty or power to enforce, or conferred by legislation under which such legislation is made, or
 - (b) conferred by legislation listed in the second column of the table in paragraph 11 of this Schedule,
- for the purpose of ascertaining whether there has been a breach of that legislation or of any notice issued by the area enforcer under that legislation.
- (3) A local weights and measures authority in England or Wales may exercise the power in a part of England or Wales which is outside that authority’s area.
- (4) A local weights and measures authority in Scotland may exercise the power in a part of Scotland which is outside that authority’s area.
- (5) A district council in England may exercise the power in a part of England which is outside that council’s district.
- (6) A district council in Northern Ireland may exercise the power in a part of Northern Ireland which is outside that council’s district.

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Civil proceedings

- 45 (1) Sub-paragraphs (4) to (7) apply in relation to civil proceedings which may be brought by an area enforcer under—
- (a) Part 8 of the Enterprise Act 2002,
 - (b) Schedule 3 to this Act,
 - (c) legislation which, by virtue of a provision listed in paragraph 10 of this Schedule, the area enforcer has a duty or power to enforce,
 - (d) legislation under which legislation mentioned in paragraph (c) is made, or
 - (e) legislation listed in the second column of the table in paragraph 11 of this Schedule.
- (2) Sub-paragraphs (4) to (7) also apply in relation to an application for forfeiture which may be made by an area enforcer, in circumstances where there are no related criminal proceedings,—
- (a) under section 35ZC of the Registered Designs Act 1949,
 - (b) under section 16 of the Consumer Protection Act 1987,
 - (c) under section 97 of the Trade Marks Act 1994 (including as applied by section 11 of the Olympic Symbol etc (Protection) Act 1995), or
 - (d) under legislation which, by virtue of a provision listed in paragraph 10 of this Schedule, the area enforcer has a duty or power to enforce.
- (3) In sub-paragraphs (4), (5), (6) and (7), the reference to civil proceedings includes a reference to an application mentioned in sub-paragraph (2).
- (4) A local weights and measures authority in England or Wales may bring civil proceedings in respect of conduct in a part of England or Wales which is outside that authority's area.
- (5) A local weights and measures authority in Scotland may bring civil proceedings in respect of conduct in a part of Scotland which is outside that authority's area.
- (6) A district council in England may bring civil proceedings in respect of conduct in a part of England which is outside that council's district.
- (7) A district council in Northern Ireland may bring civil proceedings in respect of conduct in a part of Northern Ireland which is outside that council's district.

Criminal proceedings

- 46 (1) A local weights and measures authority in England or Wales may bring proceedings for a consumer offence allegedly committed in a part of England or Wales which is outside that authority's area.
- (2) In sub-paragraph (1) "a consumer offence" means—
- (a) an offence under legislation which, by virtue of a provision listed in paragraph 10 of this Schedule, a local weights and measures authority in England or Wales has a duty or power to enforce,
 - (b) an offence under legislation under which legislation within paragraph (a) is made,
 - (c) an offence under legislation listed in the second column of the table in paragraph 11 of this Schedule in relation to which a local weights and measures authority is listed in the corresponding entry in the first column of the table as an enforcer,

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- (d) an offence originating from an investigation into a breach of legislation mentioned in paragraph (a), (b) or (c), or
 - (e) an offence described in paragraph 36 or 37 of this Schedule.
- (3) A district council in England may bring proceedings for a consumer offence allegedly committed in a part of England which is outside that council’s district.
- (4) In sub-paragraph (3) “a consumer offence” means—
- (a) an offence under legislation which, by virtue of a provision listed in paragraph 10 of this Schedule, a district council in England has a duty or power to enforce,
 - (b) an offence under legislation under which legislation within paragraph (a) is made,
 - (c) an offence originating from an investigation into a breach of legislation mentioned in paragraph (a) or (b), or
 - (d) an offence described in paragraph 36 or 37 of this Schedule.
- (5) A district council in Northern Ireland may bring proceedings for a consumer offence allegedly committed in a part of Northern Ireland which is outside that council’s district.
- (6) In sub-paragraph (5) “a consumer offence” means—
- (a) an offence under legislation which, by virtue of a provision listed in paragraph 10 of this Schedule, a district council in Northern Ireland has a duty or power to enforce,
 - (b) an offence under legislation under which legislation within paragraph (a) is made,
 - (c) an offence originating from an investigation into a breach of legislation mentioned in paragraph (a) or (b), or
 - (d) an offence described in paragraph 36 or 37 of this Schedule.