

SCHEDULE 5

OFFENCES, ENFORCEMENT AND OTHER MATTERS

PART III

MISCELLANEOUS AND SUPPLEMENTAL

Restrictions on disclosure of information

15.—(1) Subject to the following provisions of this paragraph, a person shall not disclose any information—

- (a) which was obtained by him in consequence of its being given to any person in compliance with any requirement imposed by these Regulations; or
- (b) which consists in a secret manufacturing process or trade secret and was obtained by him in consequence of the exercise by any person of any power or duty conferred by these Regulations.

(2) Sub-paragraph (1) shall not apply to a disclosure of information if the information is publicised information or the disclosure is made—

- (a) for the purpose of facilitating the exercise of a relevant person's functions under these Regulations or any enactment or subordinate legislation mentioned in sub-paragraph (3);
- (b) in pursuance of a Community obligation;
- (c) in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings; or
- (d) in pursuance of regulation 3 of the Environmental Information Regulations 1992⁽¹⁾.

(3) The enactments and subordinate legislation referred to in sub-paragraph (2)(a) are—

- (a) the Trade Descriptions Act 1968⁽²⁾;
- (b) Parts II and III and section 125 of the Fair Trading Act 1973⁽³⁾;
- (c) the relevant statutory provisions within the meaning of Part I of the Health and Safety at Work etc Act 1974⁽⁴⁾ or within the meaning of the Health and Safety at Work (Northern Ireland) Order 1978⁽⁵⁾;
- (d) the Weights and Measures Act 1985⁽⁶⁾;
- (e) the Weights and Measures (Northern Ireland) Order 1981⁽⁷⁾;
- (f) the Consumer Protection Act 1987⁽⁸⁾;
- (g) the Consumer Protection (Northern Ireland) Order 1987⁽⁹⁾;
- (h) the Electrical Equipment (Safety) Regulations 1994⁽¹⁰⁾;

(1) S.I.1992/3240.

(2) 1968 c. 29.

(3) 1973 c. 41.

(4) 1974 c. 37.

(5) S.I. 1978.1039 (N.I. 9); to which there are amendments not relevant to these Regulations.

(6) 1985 c. 72.

(7) S.I. 1981/231 (N.I. 10); to which there are amendments not relevant to these Regulations.

(8) 1987 c. 43.

(9) S.I. 1987/2049 (N.I. 12); to which there are amendments not relevant to these Regulations.

(10) S.I. 1994/3260.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (i) any subordinate legislation made for the purpose of securing compliance with the Directive of the Council of the European Communities, dated 10th September 1984 (No.84/450/EEC) on the approximation of laws, regulations and administrative provisions of the member States concerning misleading advertising⁽¹¹⁾; and
 - (j) the United Kingdom Ecolabelling Board Regulations 1992⁽¹²⁾.
- (4) In sub-paragraph (2)(a) the reference to a person’s functions shall include a reference to any function of making, amending or revoking any regulations or order.
- (5) In this paragraph—
- “publicised information” means any information which has been disclosed in any civil or criminal proceedings; and
- “relevant person” means any of the following, that is to say—
- (a) a Minister of the Crown, Government department or Northern Ireland department;
 - (b) the Director General of Fair Trading;
 - (c) the Health and Safety Executive;
 - (d) an enforcement authority;
 - (e) any person who is charged with enforcing any of the enactments and subordinate legislation referred to in sub-paragraph (3);
 - (f) the United Kingdom Ecolabelling Board.

Savings for certain privileges

16. Save for paragraph 9 (power of enforcement authority to require technical documentation), nothing in these Regulations shall be taken as requiring any person—

- (a) to produce any records if he would be entitled to refuse to produce those records in any proceedings in any court on the grounds that they are the subject of legal professional privilege or, in Scotland, that they contain a confidential communication made by or to an advocate or solicitor in that capacity, or as authorising any person to take possession of any records which are in the possession of a person who would be so entitled; or
- (b) to answer any question or give any information if to do so would incriminate that person or that person’s spouse.

Saving for civil rights

17. A contract for the supply of an appliance shall not be void or unenforceable by reason only of a contravention of any provision of these Regulations.

Service of documents etc.

18.—(1) Any document required or authorised by virtue of these Regulations to be served on a person may be so served—

- (a) by delivering it to him or leaving it at his proper address or by sending it by post to him at that address; or
- (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary or clerk of that body; or

⁽¹¹⁾ OJ No. L250, 19.9.84, p.17.

⁽¹²⁾ S.I. 1992/2383.

- (c) if the person is a partnership, by serving it in accordance with that paragraph on a partner or on a person having control or management of the partnership business.

(2) For the purposes of sub-paragraph (1), and for the purposes of section 7 of the Interpretation Act 1978(13) (which relates to the service of documents by post) in its application to that paragraph, the proper address of any person on whom a document is to be served by virtue of these Regulations shall be his last known address except that—

- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body corporate;
- (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership;

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

Reports etc.

19.—(1) It shall be the duty of the Secretary of State at least once in every five years to lay before each House of Parliament a report on the exercise during the period to which the report relates of the functions which under these Regulations are exercisable by enforcement authorities.

(2) The Secretary of State may from time to time prepare and lay before each House of Parliament such other reports on the exercise of those functions as he considers appropriate.

(3) Every enforcement authority shall, whenever the Secretary of State so directs, make a report to the Secretary of State on the exercise of the functions exercisable by that authority under these Regulations.

(4) A report under sub-paragraph (3) shall be in such form and shall contain such particulars as are specified in the direction of the Secretary of State.