EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the enforcement of Regulation (EC) No 1223/2009 of the European Parliament of the Council of 20 November 2009 on cosmetic products (recast) (OJ No L 342, 22.12.2009 p 59) (the "EU Cosmetics Regulation").

The EU Cosmetics Regulation repeals and replaces Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products (OJ No L 262, 27.09.1976 p 169) (as amended), which was implemented in the United Kingdom by the Cosmetic Products (Safety) Regulations 2008 (S.I. 2008/1284) (as amended). These Regulations revoke S.I. 2008/1284 (regulation 3, Schedule 1).

Regulation 4 identifies the Secretary of State and the enforcement authority (as defined in regulation 2) as the competent authorities for the purposes of the EU Cosmetics Regulation.

Regulation 5 contains additional requirements for labelling goods that are required to be created under Article 19 of the EU Cosmetics Regulation.

Part 2 sets out offences, penalties and enforcement. Regulations 6 and 7 impose duties on the enforcement authorities to enforce the regulations, and give them the necessary powers. Regulation 8 provides for how notices of requirements and requests should be given. Regulation 9 requires enforcement authorities to get authorisation from the Secretary of State before taking provisional measures under Article 27 (Safeguard clause) of the EU Cosmetics Regulation. Article 27 applies in relation to cosmetic products that comply with the Articles listed in Article 25(1) of the EU Cosmetics Regulation 1223/2009, but the competent authority has reasonable grounds for concern that a product could present a serious risk to human health. Regulation 10 requires enforcement authorities to notify the Secretary of State of information which is required to be notified to the Commission or to other member States. Regulation 11 sets out what information must be provided to the Secretary of State when requesting authorisation of provisional measures or providing notification under regulations 9 and 10.

Regulation 12 sets out offences under these Regulations, and regulation 13 contains penalties. Regulations 14 to 17 relate to appeals and compensation. Regulations 18 and 19 enable the court to order someone to remedy a matter or reimburse the enforcement authority for expenses of enforcement. Regulations 20 and 21 enable orders for the forfeiture of goods to be made. Regulations 22 to 24 set out time limits for prosecution, defences and liability of persons other than the principal offender.

Part 3 deals with consequential amendments (which are set out in Schedule 5) and review provisions. Regulation 26 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

Schedule 1 lists the Regulations revoked by this regulation.

Schedule 2 contains provisions relating to testing cosmetic products, powers to enter premises, powers to inspect, seize and detain cosmetic products etc, and warrants.

Schedule 3 re-enacts Schedule 10 of S.I. 2008/1284. It continues the implementation of Commission Directive No 80/1335/EEC, as amended by Commission Directive No 87/143/EEC; Commission Directive No 82/434/EEC as amended by Commission Directive No 90/207/EEC;

Commission Directive No 83/514/EEC; Commission Directive No 85/490/EEC; Commission Directive No 93/73/EEC; Commission Directive No 95/32/EC; and Commission Directive No 96/45/EC.

Schedule 4 identifies which provisions of Regulation 1223/2009 will result in a criminal offence if breached.

Schedule 5 contains consequential amendments to other legislation.

A full regulatory impact assessment has not been produced for this instrument as it has a negligible impact on the costs of business.