

SCHEDULE 2

Testing, powers of entry etc and warrants

Power to inspect, seize and detain cosmetic products etc

4.—(1) An officer of an enforcement authority may, in order to ascertain if any provision of the EU Cosmetics Regulations or these Regulations has not been complied with—

- (a) examine any procedure (including any arrangements for carrying out a test) connected with the production of a product;
- (b) make such examination or investigation as is necessary on entering any premises under paragraph 3 or a warrant under paragraph 5;
- (c) require any person carrying on or employed in connection with a business to produce any cosmetic products, products, goods, substances, records, documents or information and take copies of—
 - (i) any document or record; or
 - (ii) any entry in any document or record.

(2) An officer who reasonably suspects non-compliance with any provision of the EU Cosmetics Regulation or these Regulations may seize and detain any cosmetic products, products, goods, substances, records, documents or information in order to ascertain, by testing or otherwise, such non-compliance.

(3) An officer may—

- (a) seize and detain any cosmetic products, products, goods, substances, records, documents or information which may be required as evidence in any proceedings under these Regulations;
- (b) seize and detain any cosmetic products which he has reasonable grounds for suspecting may be liable to be forfeited under regulations 20 or 21 above.

(4) An officer may, for the purposes of exercising powers under sub-paragraphs (1), (2) or (3), or RAMS, but only to the extent reasonably necessary to prevent a contravention of the provisions of the EU Cosmetics Regulations or these Regulations—

- (a) require any person having authority to do so to break open any container or to open any vending machine; and
- (b) break open the container or machine, using reasonable force, if that person does not comply or if there is no person present having authority to open it.

(5) An officer may require information stored electronically to be made available in printed form.

(6) An officer entering any premises which are unoccupied or any premises from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

(7) An officer exercising any power of seizure and detention must—

- (a) give to the person against whom the power has been exercised a written notice stating what has been seized and detained;
- (b) detain those things only for as long as is necessary for—
 - (i) the enforcement authority to ascertain whether any provision of the EU Cosmetics Regulations or these Regulations has not been complied with and if required to present the evidence at court; or
 - (ii) the forfeiture proceedings to be concluded, where the goods are detained under sub-paragraph (3)(b).

Status: *This is the original version (as it was originally made).*

(8) Nothing in this regulation compels the production by any person of a document which that person would be entitled to withhold production of in any proceedings in any court on the grounds that it is the subject of legal professional privilege or, in Scotland, that it contains a confidential communication made by or to an advocate or solicitor in that capacity.