SCHEDULE 13

Enforcement and investigatory powers conferred on the market surveillance authority

Modifications to the 1987 Act

2. The sections of the 1987 Act referred to in paragraph 1 are to apply as if—

(a) in section 13—

(i) in subsection (1), for "unsafe" on each occasion that it appears, there were substituted "non-compliant";

(ii) in subsection (1), "relevant" were omitted on each occasion that it appears;

(iii) in subsection (2), the words from "; and the Secretary of State may" to the end were omitted;

(iv) in subsection (4), the words "three months" were substituted for the words "six months;"

(v) subsections (5) to (7) were omitted;

(b) in section 14—

(i) in subsection (1), after "any safety provision has been contravened in relation to the goods", there were inserted "or that such goods present a risk";

(ii) in subsection (2)(b), after "a safety provision has been contravened in relation to the goods", there were inserted "or that such goods present a risk";

(iii) in subsection (2)(c), "under section 15 below" was omitted;

(iv) subsections (6) to (8) were omitted;

(c) in section 16—

(i) in subsection (1), after "a contravention in relation to the goods of a safety provision" there were inserted "or that such goods present a risk";

(ii) in subsection (3), after "a contravention in relation to the goods of a safety provision" there were inserted "or that such goods present a risk";

(iii) after subsection (4), there were inserted—

"(4A) A court may infer for the purposes of this section that any goods present a risk, if it is satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).";

(d) in section 17—

(i) in subsection (1), after "a contravention of a safety provision", there were inserted "or where the goods present a risk";

(ii) in subsection (6), after "a contravention in relation to those goods of a safety provision" there were inserted "or that those goods present a risk";

(iii) after subsection (7), there were inserted—

"(7A) The Sheriff may infer for the purposes of this section that any goods present a risk, if satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).";

(e) in section 18, subsections (3) and (4) were omitted;

(f) in section 29—

(i) in subsection (4)(a), after "any contravention of any safety provision in relation to the goods" there were inserted "or whether the goods present a risk";

(ii) in subsection (4)(b), after "any such contravention" there were inserted "or whether the goods present a risk";

(g) in section 30—

(i) at the end of subsection (2)(a)(ii), for "and" there were substituted "or";

(ii) after subsection (2)(a)(ii), there were inserted—

"(iii) that any goods which any officer has power to inspect under section 29 are on any premises and their inspection is likely to demonstrate that they present a risk; and"; and

(iii) subsections (5), (7) and (8) were omitted;

(h) in section 31(1), for "Part II of this Act", there were substituted "the 2017 Regulations";

(i) in section 34—

(i) omit the word "and" at the end of subsection (1)(a); and

(ii) after that subsection, insert—

"(aa) the goods do not present a risk; and";

(j) in section 37(1), for "Part II of this Act", there were substituted "the 2017 Regulations";

(k) in section 42—

(i) subsections (1), (2) and (5) were omitted;

(ii) in subsection (3)—

(aa) the words from "and every person" to "section 27 above" were omitted; and

(bb) the words "under that section or by that person by virtue of any such regulations" were substituted by "under the 2017 Regulations";

(l) in section 45(1)—

(i) the definitions of "conditional sale agreement", "gas", "motor vehicle", "personal injury", "subordinate legislation" and "substance" were omitted;

(ii) before the definition of "aircraft", there were inserted—

""2017 Regulations" means the Recreational Craft Regulations 2017";

(iii) for the definition of "enforcing authority" there were substituted—

""enforcing authority" has the same meaning as in regulation 2(1) of the 2017 Regulations;";

(iv) for the definition of "goods" there were substituted—

""goods" means products or within the scope of the 2017 Regulations;";

(v) after the definition of "modifications" there were inserted—

""non-compliant" in relation to any goods means that—

(a) a safety provision has been contravened in relation to the goods; or

(b) the goods present a risk;";

(vi) after the definition of "premises", there were inserted—

""present a risk" means present a risk within the meaning of "risk" set out in regulation 2(3) of the 2017 Regulations;";

(vii) for the definition of "safety provision" there were substituted—

""safety provision" means any provision of the 2017 Regulations"; and

(viii) for the definition of "safety regulations" there were substituted—

""safety regulations" means the 2017 Regulations;";

(m) in section 46(1), omit "and, in relation to gas or water, those references shall be construed as including references to providing the service by which the gas or water is made available for use"; and

(n) in Schedule 2—

(i) for "unsafe", on each occasion that it appears, there were substituted "non-compliant"; and

(ii) for "safe", on each occasion that it appears, there were substituted "not non-compliant".