

SCHEDULE 33

Amendment of Regulation (EC) No 765/2008

Amendment to Chapter 3

18. In Article 18—

- (a) in the heading, omit “of the Member States”;
- (b) omit paragraph 1;
- (c) in paragraph 2—
 - (i) for “Member States shall” substitute “The Secretary of State must”;
 - (ii) in sub-paragraph (a) for “Community harmonisation legislation” substitute “any relevant enactment”;
- (d) for paragraph 3, substitute—

“**3.** The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate to ensure that market surveillance authorities have the powers necessary for the proper performance of their duties.

The Secretary of State must entrust market surveillance authorities with the resources and knowledge necessary for the proper performance of their duties.

Regulations made under this paragraph must be made by statutory instrument.

A statutory instrument containing regulations under this paragraph may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”;

- (e) for paragraph 4, substitute—

“**4.** Market surveillance authorities must exercise their powers proportionately.”;
- (f) for paragraph 5, substitute—

“**5.** The Secretary of State must establish, implement and periodically update the United Kingdom’s market surveillance programme setting out the principles as to how market surveillance is to be organised and covering the sectors in which market surveillance is conducted in the United Kingdom. The Secretary of State must make this programme available to the public by way of electronic communication and, where appropriate, by other means.”;

- (g) in paragraph 6—
 - (i) for “Member States” substitute “The Secretary of State”;
 - (ii) for “shall” substitute “must” in each place it occurs;
 - (iii) omit “their”;
 - (iv) after “activities” insert “by market surveillance authorities”; and
 - (v) omit “be communicated to the other Member States and the Commission and”.