

## SCHEDULE 2

### Enforcement

## PART 1

### Investigatory powers

#### Information notice

1.—(1) The enforcement authority may serve a notice (an “information notice”) on a person requesting such information or documents as the enforcement authority considers necessary to enable it to monitor that person’s, or another person’s, compliance with these Regulations.

(2) An information notice must—

- (a) be in writing,
- (b) set out the information or documents required,
- (c) specify the date by which the information or documents must be provided,
- (d) specify the person, and the address, to which the information or documents must be provided.

(3) A person served with an information notice must comply with its requirements by the date referred to in paragraph (2)(c).

#### Enforcement of information notice

2.—(1) If a person fails to comply with a notice served under paragraph 1, the enforcement authority may make an application under this paragraph to the court.

(2) If it appears to the court that the person has failed to comply with the notice, it may make an order under this paragraph.

(3) An order under this paragraph is an order requiring the person to do anything that the court thinks it is reasonable for the person to do, for any of the purposes for which the notice was given, to ensure that the notice is complied with.

(4) An order under this paragraph may require the person to meet the costs or expenses of the application.

(5) If the person is a company, partnership or unincorporated association, the court in acting under sub-paragraph (4) may require an official who is responsible for the failure to meet the costs or expenses.

(6) In this paragraph—

- (a) “official” means—
  - (i) in the case of a company, a director, manager, secretary or other similar officer;
  - (ii) in the case of a limited liability partnership, a member;
  - (iii) in the case of a partnership other than a limited liability partnership, a partner; and
  - (iv) in the case of an unincorporated association, a person who is concerned in the management or control of its affairs;
- (b) “the court” means—
  - (i) in relation to England and Wales, the High Court or the county court;
  - (ii) in relation to Scotland, the Court of Session or the sheriff.

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### **Power of entry without warrant**

3.—(1) The enforcement authority may enter premises (other than premises used wholly or mainly as a private dwelling) or land, at reasonable hours for the purposes of ascertaining whether there has been a breach of these Regulations.

(2) Before the enforcement authority exercises the power of entry in sub-paragraph (1) the enforcement authority must serve on the occupier of the premises or land a notice (an “inspection notice”).

(3) An inspection notice must—

- (a) be in writing;
- (b) be served on the occupier of the premises or land at least two working days before the proposed date of entry;
- (c) specify the proposed date of entry;
- (d) set out the reason for which entry is required;
- (e) summarise the enforcement authority’s powers of seizure and detention of any relevant products or records or other information under paragraph 5; and
- (f) explain that compensation may be payable for damage caused in seizing and removing any relevant products or records or other information and must give the address to which an application for compensation should be directed.

(4) The requirement in sub-paragraph (2) does not apply where—

- (a) the enforcement authority reasonably suspects a breach of these Regulations; and
- (b) reasonably considers that to give notice in accordance with sub-paragraph (2) would defeat the purpose of the entry.

(5) If the enforcement authority enters premises in the circumstances referred to in sub-paragraph (4) and finds one or more occupiers on the premises, the enforcement authority must provide to the occupier, or (if there is more than one) to at least one of them, a document that—

- (a) is in writing;
- (b) meets the requirements of sub-paragraphs (3)(d) to (3)(f); and
- (c) where applicable, indicates the nature of the alleged breach of these Regulations.

(6) The enforcement authority must produce suitable identification to the occupier of the premises or land, or (if there is more than one) to at least one of them, when requested to do so by them.

(7) The enforcement authority, when entering any premises by virtue of this paragraph, may be accompanied by such persons and take such equipment as appear to the enforcement authority to be necessary.

### **Power of entry with warrant**

4.—(1) If a justice is satisfied by any written information on oath—

- (a) that there are reasonable grounds for believing—
  - (i) that any relevant products or records or other information, which the enforcement authority has power under paragraph 5 to inspect, copy, seize or require to be produced, is or are on any premises and that the inspection, copying, seizure or production of that item is likely to disclose evidence of a breach of regulation 4; or
  - (ii) that there has been, or is about to be, a breach of regulation 4; and
- (b) either—

- (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this paragraph has been given to the occupier; or
- (ii) that an application for admission or the giving of such a notice as is referred to in paragraph 4(b)(i) would defeat the object of the entry, or that the premises are unoccupied, or that the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return,

the justice may by warrant under the justice's hand, which continues in force for a period of one month, authorise the enforcement authority to enter the premises, if need be by force.

(2) On entering any premises by authority of a warrant under sub-paragraph (1), the enforcement authority must give to the occupier or (if there is more than one) to at least one of them, or, if the occupier is temporarily absent, leave in a prominent place on the premises, or an appropriate part of the premises, a notice in writing—

- (a) summarising the enforcement authority's powers of seizure and detention of any relevant products or records or other information under paragraph 5;
- (b) explaining that compensation may be payable for damage caused in entering premises and seizing and removing any relevant products or records or other information and giving the address to which an application for compensation should be directed.

(3) The enforcement authority, when entering any premises by virtue of this paragraph, may be accompanied by such persons and take such equipment as appear to the enforcement authority to be necessary.

(4) The enforcement authority, when leaving any premises which the enforcement authority entered by virtue of a warrant, must, if the premises are unoccupied or the occupier is temporarily absent, leave them in as secure a state as that in which they were found.

(5) In this paragraph, "justice" means—

- (a) in England and Wales, a justice of the peace; and
- (b) in Scotland, a sheriff or summary sheriff.

### **Powers of inspection etc**

5.—(1) The enforcement authority exercising the power of entry under paragraph 3 or paragraph 4 may—

- (a) inspect the premises and land;
  - (b) require any occupier of the premises or land to produce relevant products or records or any other information, in whatever form it is held, together with an explanation of such records or information within such period as the enforcement authority considers reasonable;
  - (c) inspect any relevant products or records or any other information, in whatever form it is held;
  - (d) if the enforcement authority has reasonable grounds for believing that there has been a breach of these Regulations, seize and detain relevant products or records or any other information, in whatever form it is held, for the purposes of ascertaining whether there has been such a breach;
  - (e) take photographs, copies or measurements;
  - (f) require any person on the premises to provide such other assistance as the enforcement authority reasonably considers necessary.
- (2) The enforcement authority must—

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- (a) provide the occupier, or (if there is more than one) to at least one of them, of the premises or land with a written record of any items which are seized and removed; and
  - (b) retain seized items for no longer than absolutely necessary.
- (3) Any object or document which is inspected or seized should, so far as possible, be retained in its original condition.

6. The enforcement authority may, for the purposes of ascertaining compliance with these Regulations—

- (a) make a purchase of a charge point;
- (b) enter into an agreement to secure the provision of a charge point;
- (c) require a person to provide access to embedded software in a charge point insofar as the enforcement authority considers that such access is necessary for the purpose of assessing such compliance.

#### **Compensation for seizure and detention**

7.—(1) Where the enforcement authority exercises any power under paragraph 5(1)(d) to seize and detain any relevant products or records or other information, the enforcement authority is liable to pay compensation to any person having an interest in the item seized and detained in respect of any loss or damage caused by the exercise of the power if—

- (a) there has been no breach of any provision of these Regulations; and
- (b) the exercise of the power is not attributable to any neglect or default by that person.

(2) Any disputed question as to the right to, or the amount of, any compensation payable under this paragraph must be determined by arbitration—

- (a) in England and Wales, in accordance with the Arbitration Act 1996(1);
- (b) in Scotland, in accordance with the Arbitration (Scotland) Act 2010(2).

#### **Obstruction of the enforcement authority and false statements**

8.—(1) A person must not—

- (a) intentionally obstruct the enforcement authority when it is acting in pursuance of any provision of these Regulations;
- (b) intentionally fail to comply with any requirement properly made by the enforcement authority under any provision of these Regulations; or
- (c) without reasonable cause, fail to give the enforcement authority any other assistance or information which the enforcement authority may reasonably require of that person for the purposes of the exercise of the enforcement authority's functions under any provision of these Regulations.

(2) A person must not, in giving any information which is required of that person by virtue of paragraph (1)(c)—

- (a) make any statement which the person knows is false in a material particular; or
- (b) recklessly make a statement which is false in a material particular.

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(1) 1996 c. 23.  
(2) 2010 asp 1.