

SCHEDULES

SCHEDULE 1

Article 9.

POWERS TO IMPROVE ENFORCEMENT PROCEDURES

Explanation of suggested remedial action

1.—(1) This paragraph confers power to provide that, where an enforcement officer expresses to any person any opinion as to what remedial action should be taken by that person, then, if that person so requests, the officer—

- (a) shall as soon as practicable give to him a written notice which satisfies the requirements of sub-paragraph (2); and
 - (b) shall not take any enforcement action against him until after the end of such period beginning with the giving of the notice as may be determined by or under the order.
- (2) A notice satisfies the requirements of this sub-paragraph if it—
- (a) states the nature of the remedial action which in the officer's opinion should be taken, and explains why and within what period;
 - (b) explains what constitutes the failure to observe the restriction or to comply with the requirement or condition; and
 - (c) states the nature of the enforcement action which could be taken and states whether there is a right to make representations before, or a right of appeal against, the taking of such action.

Explanation of immediate enforcement action, etc.

2.—(1) This paragraph confers power to provide that, where an enforcement officer—

- (a) takes immediate enforcement action against any person; or
- (b) requires any person to take immediate remedial action,

the officer shall as soon as practicable give to that person a written notice explaining why it appeared to him to be necessary to take such action or impose such a requirement.

(2) The power conferred by this paragraph is not exercisable unless the restriction, requirement or condition is such that observance of or compliance with it would be likely to involve expenditure of a significant amount.

Right to make representations

3. This paragraph confers power to provide that, before an enforcement officer takes any enforcement action against any person, the officer—

- (a) shall give to that person a written notice stating—
 - (i) that he is considering taking the action and the reasons why he is considering it; and

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- (ii) that the person may, within a period specified in the notice, make written representations to him or, if the person so requests, make oral representations to him in the presence of a person determined by or under the order; and
- (b) shall consider any representations which are duly made and not withdrawn.

Explanation of right of appeal

- 4. This paragraph confers power to provide that, where—
 - (a) an enforcement officer has taken enforcement action against any person; and
 - (b) the relevant enactment contains any provision conferring a right of appeal against such action,

the officer shall as soon as practicable give to that person a written notice explaining how, where, within what period, and on what grounds, an appeal may be brought, and whether the enforcement action would be stayed while an appeal were pending.

Application of provisions to other interested persons

- 5.—(1) This paragraph confers power to provide that, where—
 - (a) a third person will or may be required to meet or make a significant contribution towards the cost of observing the restriction or complying with the requirement or condition; or
 - (b) the enforcement action which may be or has been taken specifically relates to goods or services which are to be or have been supplied by a third person,

any relevant provision shall, with any modifications specified in the order, apply in relation to that person.

- (2) In this paragraph—
 - “relevant provision” means any provision made by virtue of paragraphs 1 to 4 or any provision of the relevant enactment which is to the like effect;
 - “third person” means any person other than the one against whom enforcement action may be or has been taken.

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