

SCHEDULE 34

Amendment of Regulation (EC) No 1223/2009 and related amendments

Amendment of Article 2

3. In Article 2 (definitions), in paragraph 1—
- (a) in point (d) (manufacturer)—
 - (i) omit “natural or legal”;
 - (ii) for “his” substitute “their”;
 - (b) in point (e) (distributor)—
 - (i) omit “natural or legal”;
 - (ii) omit “Community”;
 - (c) in point (g) (making available on the market)—
 - (i) for “Community” substitute “United Kingdom”;
 - (ii) at the end insert “and related expressions are to be construed accordingly”;
 - (d) for point (h) (placing on the market) substitute—
 - “(h) placing on the market’ means the first making available of a cosmetic product on the United Kingdom market on or after exit day and related expressions are to be construed accordingly;”;
 - (e) for point (i) (importer) substitute—
 - “(i) ‘importer’ means any person established in the United Kingdom who places a cosmetic product from a country outside the United Kingdom on the market;”;
 - (f) omit point (j) (harmonised standard);
 - (g) in point (s) omit the last sentence;
 - (h) after point (s) insert—
 - “(t) ‘Regulation (EC) No 1272/2008’ means Regulation (EC) 1272/2008 of the European Parliament and of the Council of 16th December 2008 on classifications, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) 1907/2006;
 - (u) ‘EU Regulation (pre-exit)’ means Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November on cosmetic products (recast)(1), as it has effect immediately before exit day;
 - (v) ‘Enforcement Regulations’ means the Cosmetic Products Enforcement Regulations 2013(2);
 - (w) ‘competent authority’ has the meaning given to it in regulation 4 of the Enforcement Regulations;
 - (x) ‘enforcement authority’ has the meaning given to it in regulation 2(1) of the Enforcement Regulations;
 - (y) ‘finished cosmetic product’ means the cosmetic product in its final formulation, as placed on the market and made available to the end user, or its prototype;

(1) OJ L 342, 22.12.2009, p.59.

(2) S.I. 2013/1478; regulation 7(1)(a) was amended and Schedule 2 was revoked by S.I. 2015/1630.

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- (z) ‘prototype’ means a first model or design that has not been produced in batches, and from which the finished cosmetic product is copied or finally developed;
 - (za) “the transitory period” means the period of 90 days beginning on the day after the day on which exit day falls.”;
- (i) for paragraph (3) substitute—

“3.—(1) Subject to subparagraphs (6) and (7), in this Regulation a “designated standard” means a technical specification which is—

- (a) adopted by a recognised standardisation body, for repeated or continuous application, with which compliance is not compulsory; and
- (b) designated by the Secretary of State by publishing the reference to the standard and maintaining that publication in a manner the Secretary of State considers appropriate.

(2) For the purposes of subparagraph (1), a “technical specification” means a document that prescribes technical requirements to be fulfilled by a product, process, service or system and which lays down one or more of the following—

- (a) the characteristics required of a cosmetic product, including—
 - (i) levels of quality, performance, interoperability, environmental protection, health, safety or dimensions, and
 - (ii) the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures; and
- (b) production methods and processes relating to the product, where these have an effect on the characteristics of the product.

(3) For the purposes of this regulation a “recognised standardisation body” means any one of the following organisations—

- (a) the European Committee for Standardisation (CEN);
- (b) the European Committee for Electrotechnical Standardisation (Cenelec);
- (c) the European Telecommunications Standards Institute (ETSI);
- (d) the British Standards Institution (BSI).

(4) When considering whether the manner of publication of a reference is appropriate in accordance with subparagraph (1)(b), the Secretary of State must have regard to whether the publication will draw the standard to the attention of any person who may have an interest in the standard.

(5) Before publishing the reference to a technical specification adopted by the British Standards Institution, the Secretary of State must have regard to whether the technical specification is consistent with technical specifications adopted by the other recognised standardisation bodies.

(6) The Secretary of State may remove from publication the reference to a standard which has been published in accordance with subparagraph (1)(b).

(7) Where the Secretary of State removes the reference to a standard from publication, that standard is no longer a designated standard.”.