

## SCHEDULES

### SCHEDULE 17

#### USE OF FOREST RISK COMMODITIES IN COMMERCIAL ACTIVITY

##### PART 2

##### ENFORCEMENT

###### *General power*

- 8 The Secretary of State may by regulations (“Part 2 regulations”) make provision about the enforcement of requirements imposed by or under Part 1 of this Schedule (“Part 1 requirements”).

###### *Powers to confer functions*

- 9 (1) Part 2 regulations may include provision conferring functions on one or more persons specified in the regulations (each of whom is an “enforcement authority” for the purposes of this Schedule).
- (2) Part 2 regulations may include provision—
- (a) conferring functions involving the exercise of discretion;
  - (b) for the functions of an enforcement authority to be exercised on its behalf by persons authorised in accordance with the regulations.
- (3) Part 2 regulations may include provision requiring an enforcement authority—
- (a) to issue guidance about the exercise of its functions;
  - (b) to consult with specified persons before issuing such guidance.

###### *Monitoring compliance*

- 10 Part 2 regulations may include provision conferring on an enforcement authority the function of monitoring compliance with Part 1 requirements.

###### *Records and information*

- 11 Part 2 regulations may include provision—
- (a) requiring persons on whom Part 1 requirements are imposed to keep records;
  - (b) requiring persons on whom Part 1 requirements are imposed to provide records or other information to an enforcement authority;
  - (c) requiring an enforcement authority to make reports or provide information to the Secretary of State.

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*Status: This is the original version (as it was originally enacted).*

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### *Powers of entry etc*

- 12 (1) Part 2 regulations may include provision conferring on an enforcement authority powers of entry, inspection, examination, search and seizure.
- (2) Part 2 regulations may include provision—
- (a) for powers to be exercisable only under the authority of a warrant issued by a justice of the peace, sheriff, summary sheriff or lay magistrate;
  - (b) about applications for, and the execution of, warrants.
- (3) Part 2 regulations must secure that the authority of a warrant is required for the exercise of any powers conferred by the regulations to—
- (a) enter premises by force;
  - (b) enter a private dwelling without the consent of the occupier;
  - (c) search and seize material.

### *Sanctions*

- 13 (1) Part 2 regulations may include provision—
- (a) for, about or connected with the imposition of civil sanctions in respect of—
    - (i) failures to comply with Part 1 requirements or Part 2 regulations, or
    - (ii) the obstruction of or failure to assist an enforcement authority;
  - (b) for appeals against such sanctions.
- (2) Part 2 regulations must include provision to ensure that in a case where—
- (a) a regulated person fails to comply with a requirement in paragraph 2(1) or (2) in relation to their use of a forest risk commodity or a product derived from a forest risk commodity, but
  - (b) an enforcement authority is satisfied that the regulated person took all reasonable steps to implement a due diligence system in relation to the commodity used by the person in that particular case,
- a civil sanction may not be imposed on the regulated person in respect of the failure to comply.
- (3) Part 2 regulations may include provision—
- (a) creating criminal offences punishable with a fine in respect of—
    - (i) failures to comply with civil sanctions imposed under Part 2 regulations, or
    - (ii) the obstruction of or failure to assist an enforcement authority;
  - (b) about such offences.
- (4) In this paragraph “civil sanction” means a sanction of a kind for which provision may be made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (fixed monetary penalties, discretionary requirements, stop notices and enforcement undertakings).
- 14 Part 2 regulations may include provision for the imposition of sanctions of that kind whether or not—
- (a) the conduct in respect of which the sanction is imposed constitutes an offence, or
  - (b) the enforcement authority is a regulator for the purposes of Part 3 of the Regulatory Enforcement and Sanctions Act 2008.

### *Charges*

- 15 Part 2 regulations may include provision—
- (a) requiring persons on whom Part 1 requirements are imposed to pay to an enforcement authority charges, as a means of recovering costs incurred by that enforcement authority in performing its functions;
  - (b) authorising a court or tribunal dealing with any matter relating to Part 1 requirements or Part 2 regulations to award to an enforcement authority costs incurred by it in performing its functions in relation to that matter.

### *Consultation requirement*

- 16 (1) Before making Part 2 regulations the Secretary of State must consult any persons the Secretary of State considers appropriate.
- (2) The requirement to consult in sub-paragraph (1) may be met by consultation carried out before this paragraph comes into force.