SCHEDULE 3

Regulation 7(2)

Sampling and Testing

1. In this Schedule—

"Annex A" means the Annex to Commission Directive No 80/1335/EEC[M1] as amended by Commission Directive No 87/143/EEC[M2];

"Annex B" means the Annex to Commission Directive No 82/434/EEC[M3] as amended by Commission Directive No 90/207/EEC[M4];

"Annex C" means the Annex to Commission Directive No 83/514/EEC[M5];

"Annex D" means the Annex to Commission Directive No 85/490/EEC[M6];

"Annex E" means the Annex to Commission Directive No 93/73/EEC[M7];

"Annex F" means the Annex to Commission Directive No 95/32/EC[M8];

"Annex G" means the Annex to Commission Directive No 96/45/EC[M9];

"purchase" means purchase for the purpose of carrying out a test.

Marginal Citations

M1 OJ No L 383, 31.12.80, p 27–46.
M2 OJ No L 57, 27.2.87, p 56.
M3 O.J. No L 185, 30.6.82, p 27–46.
M4 OJ L 108, 28.4.90, p 1–28.
M5 OJ No L 291, 24.10.83, p 9–46.
M6 OJ No L 295, 7.11.85, p 30–45.
M7 OJ No L 231, 14.9.93.
M8 OJ No L 178, 28.7.95.
M9 OJ No L 213, 22.8.96, p 8.

2. An enforcement authority intending to purchase a cosmetic product must purchase a sufficient laboratory sample, as defined in paragraph 2.3 of Part 1 of Annex A, for the purpose of Annex A; and, for the purposes of the definition of "total sample" in paragraph 2.2 of Part 1 of Annex A; samples shall be regarded as having the sample batch number if—

(a) the means of identifying the batch referred to in Article 19(1)(e) of the **[**[F1]EU**]** Cosmetics Regulation shows that they were manufactured in the same batch;

(b) in the case of a product not manufactured in a batch, the reference referred to in Article 19(1)(e) of the **[**[F1]EU**]** Cosmetics Regulation shows that they are derived from the same unit of production; or

(c) in the case of a product which does not comply with the requirements of Article 19(1)(e) of the **[**[F1]EU**]** Cosmetics Regulation, the officer effecting the purchase has reasonable cause to believe that they were manufactured in the same batch or are derived from the same unit of production, as the case may be.

Textual Amendments

F1 Word in Sch. 3 omitted (E.W.S.) (31.12.2020) by virtue of The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 34 para. 40** (with regs. 2, 3) (as amended by S.I. 2020/676, regs. 1(1), 2, 3); 2020 c. 1, Sch. 5 para. 1(1)

3. The immediate container, if any, of a cosmetic product purchased by an enforcement authority must not be opened by, on behalf of or at the request of the enforcement authority before the purchase takes place and the container must not thereafter be opened except in accordance with paragraph 5.3 of Part I of Annex A and paragraph 1.2 of Part II of Annex A.

4. As soon as an enforcement authority has purchased a cosmetic product, the officer effecting the purchase must—

(a) either—

(i) place a seal on the product's container or outer packaging; or

(ii) place the product in a container and immediately place a seal on that container, in such a way that the product's immediate container cannot be opened or (in the case of a product which was not in a container when it was purchased) the product cannot be touched without (in either case) the seal being broken in such a manner that it would be apparent thereafter that it had been broken, and

(b) attach to the product a label indicating—

(i) the name of the product,

(ii) the date, time and place at which the product was purchased,

(iii) the name of the officer, and

(iv) the name of the enforcement authority making the purchase.

5.—(1) Subject to sub-paragraph (2), the provisions of Part 1 of Annex A, other than paragraphs 3.1, 3.2 and 4, and of Part II of Annex A, other than paragraph 1.4, must be complied with in the sampling of cosmetic products and the laboratory preparation of test portions.

(2) Where, because of the way in which a cosmetic product is put up for sale, it is not practicable for Part II of Annex A to be complied with, it must be prepared for testing in accordance with good analytical practice, and the person so preparing it must record in writing the method of preparation which has been used.

6.—(1) Any test to determine whether a cosmetic product contains a significant amount of free sodium hydroxide or free potassium hydroxide must be carried out in accordance with paragraphs 1 to 4 of Part III of Annex A.

(2) Any test to determine the amount of free sodium hydroxide or free potassium hydroxide in a hair straightener product or a nail cuticle solvent product must be carried out in accordance with paragraphs 1, 2, 3 and 5 of Part III of Annex A.

(3) Any test to determine whether a hair-care product contains oxalic acid or any alkaline salt of oxalic acid or to determine the amount of such a substance in a hair-care product must, subject to the limitation specified in the second sentence of paragraph 1 of Part IV of Annex A, be carried out in accordance with the said Part IV.

(4) Any test to determine the amount of chloroform in toothpaste must, subject to the limitation specified in the second sentence of paragraph 1 of Part V of Annex A, be carried out in accordance with the said Part V.

(5) Any test to determine the amount of zinc chloride, zinc sulphate or zinc 4-hydroxybenzene-sulphonate by virtue of their zinc contents in a cosmetic product must be carried out in accordance with Part VI of Annex A and Commission Directive 87/143/EEC[M10], and must take into account paragraph 11 of Part VII of Annex A.

(6) Any test to determine whether a cosmetic product contained in an aerosol dispenser or a cream, emulsion, lotion, gel or oil intended to be applied to the skin contains 4-hydroxybenzene-sulphonic acid, or to determine the amount of that acid in such a product, must be carried out in accordance with Part VII of Annex A.

(7) Any test to determine whether a hair-care product contains persulphate, bromate or hydrogen peroxide must be carried out in accordance with Part A of Part I of Annex B.

(8) Any test to determine whether a hair-care product contains barium peroxide must be carried out in accordance with Part B of Part 1 of Annex B.

(9) Any test to determine the amount of hydrogen peroxide in a hair-care product must be carried out in accordance with Part C of Part I of Annex B.

(10) Any test to determine whether a hair dye contains any of the oxidation colourants specified in paragraph 1 of Part II of Annex B, or to determine the amount of such a substance in a hair-dye, must be carried out in accordance with the said Part II.

(11) Any test to determine whether a cosmetic product contains nitrite, or to determine the amount of that substance in a cosmetic product, must be carried out in accordance with Part III of Annex B.

(12) Any test to determine whether a cosmetic product contains free formaldehyde, or to determine the amount of that substance in a cosmetic product, must be carried out in accordance with Part IV of Annex B.

(13) Any test to determine the amount of resorcinol in a shampoo or hair lotion must, subject to the limitation specified in the second sentence of paragraph 1 of Part V of Annex B, be carried out in accordance with the said Part V.

(14) Any test to determine the amount of methanol in relation to ethanol or propan-2-ol in a cosmetic product must be carried out in accordance with Part VI of Annex B.

(15) Any test to determine the amount of dichloromethane or 1,1,1-trichloroethane in a cosmetic product must be carried out in accordance with paragraphs 1 to 10 of that part of Annex C which is headed "Determination of dichloromethane and 1,1,1-trichloroethane".

(16) Any test to determine whether a cosmetic product contains quinolin-8-ol or bis(8-hydroxyquinolinium) sulphate, or to determine the amount of such a substance in a cosmetic product, must be carried out in accordance with paragraphs 1 to 9 of that part of Annex C which is headed "Identification and determination of quinolin-8-ol-and bis(8-hydroxyquinolinium) sulphate".

(17) Any test to determine the amount of ammonia in a cosmetic product must be carried out in accordance with paragraphs 1 to 8 of that part of Annex C which is headed "Determination of ammonia".

(18) Any test to determine whether a cosmetic product contains nitromethane, or to determine the amount of that substance in a cosmetic product, must be carried out in accordance with paragraphs 1 to 7 of that part of Annex C which is headed "Identification and determination of nitromethane".

(19) Any test to determine whether a hair waving, hair straightening or depilatory product contains mercaptoacetic acid (thioglycolic acid), or to determine the amount of that substance in such a product, must be carried out in accordance with paragraphs 1 to 6 of that part of Annex C which is headed "Identification and determination of mercaptoacetic acid in hair waving, hair straightening and depilatory products".

(20) Any test to determine whether a cosmetic product contains hexachlorophene (INN) must be carried out in accordance with paragraphs 1 to 7 of Part A of that part of Annex C which is headed "Identification and determination of hexachlorophene".

(21) Any test to determine the amount of hexachlorophene (INN) in a cosmetic product must be carried out in accordance with paragraphs 1 to 9 of Part B of that part of Annex C which is headed "Identification and determination of hexachlorophene".

(22) Any test to determine the amount of tosylchloramide sodium (INN) in a cosmetic product must be carried out in accordance with paragraphs 1 to 9 of that part of Annex C which is headed "Quantitative determination of tosylchloramide sodium (INN) (chloramine-T)".

(23) Any test to determine the total amount of fluorine in dental creams must be carried out in accordance with paragraphs 1 to 8 of that part of Annex C which is headed "Determination of total fluorine in dental creams".

(24) Any test to determine whether a cosmetic product contains organomercury compounds must be carried out in accordance with paragraphs 1 to 4 of Part A of that part of Annex C which is headed "Identification and determination of organomercury compounds".

(25) Any test to determine the amount of organomercury compounds in a cosmetic product must be carried out in accordance with paragraphs 1 to 7 of Part B of that part of Annex C which is headed "Identification and determination of organomercury compounds".

(26) Any test to determine the amount of alkali sulphides or alkaline earth sulphides in a cosmetic product must be carried out in accordance with paragraphs 1 to 8 of that part of Annex C which is headed "Determination of alkali and alkaline earth sulphides".

(27) Any test for the identification and determination of the amount of glycerol 1-(4-aminobenzoate) in a cosmetic product must be carried out in accordance with that part of Annex D which is headed "Identification and determination of glycerol 1-(4-aminobenzoate)".

(28) Any test to determine the amount of chlorobutanol (INN) in a cosmetic product must be carried out in accordance with that part of Annex D which is headed "Determination of chlorobutanol".

(29) Any test for the identification and determination of the amount of quinine in a cosmetic product must be carried out in accordance with that part of Annex D which is headed "Identification and determination of quinine".

(30) Any test for the identification and determination of inorganic sulphites and hydrogen sulphites in a cosmetic product must be carried out in accordance with that part of Annex D which is headed "Identification and determination of inorganic sulphites and hydrogen sulphites".

(31) Any test for the identification and determination of chlorates of the alkali metals in a cosmetic product must be carried out in accordance with that part of Annex D which is headed "Identification and determination of chlorates of the alkali metals".

(32) Any test for the identification and determination of sodium iodate in a cosmetic product must be carried out in accordance with that part of Annex D which is headed "Identification and determination of sodium iodate".

(33) Any test for the identification and determination of silver nitrate in a cosmetic product must be carried out in accordance with that part of Annex E which is headed "Identification and determination of silver nitrate in cosmetic products".

(34) Any test for the identification and determination of selenium disulphide in anti-dandruff shampoos must be carried out in accordance with that part of Annex E which is headed "Identification and determination of selenium disulphide in anti-dandruff shampoos".

(35) Any test for the determination of soluble barium and soluble strontium in pigments in the form of salts or lakes must be carried out in accordance with that part of Annex E which is headed "Determination of soluble barium and strontium in pigments in the form of salts or lakes".

(36) Any test for the identification and determination of benzyl alcohol in a cosmetic product must be carried out in accordance with that part of Annex E which is headed "Identification and determination of benzyl alcohol in cosmetic products".

(37) Any test for the identification of zirconium and the determination of zirconium, aluminium and chlorine in non-aerosol anti-perspirants must be carried out in accordance with that part of Annex E which is headed "identification of zirconium, and determination of zirconium, aluminium and chlorine in non-aerosol anti-perspirants".

(38) Any test for the identification and determination of hexamidine, dibromohexamidine, dibromopropamidine and chlorhexidine in a cosmetic product must be carried out in accordance

with that part of Annex E which is headed "Identification and determination of hexamidine, dibromohexamidine, dibromopropamidine and chlorhexidine".

(39) Any test for the identification and determination of benzoic acid, 4-hydroxybenzoic acid, sorbic acid, salicylic acid and propionic acid in a cosmetic product must be carried out in accordance with that part of Annex F which is headed "Identification and determination of benzoic acid, 4-hydroxybenzoic acid, sorbic acid, salicylic acid and propionic acid in cosmetic products".

(40) Any test for the identification and determination of hydroquinone, hydroquinone monomethyl ether, hydroquinone monoethyl ether and hydroquinone monobenzyl ether (monobenzone) in a cosmetic product must be carried out in accordance with that part of Annex F which is headed "Identification and determination of hydroquinone, hydroquinone monomethyl ether, hydroquinone monoethyl ether and hydroquinone monobenzyl ether in cosmetic products".

Any test for the identification and determination of 2-phenoxyethanol, 1-phenoxypropan-2-ol, and methyl, ethyl, propyl, butyl and benzyl 4-hydroxybenzoate in a cosmetic product must be carried out in accordance with Annex G.

Marginal Citations

M10 OJ No L 057, 27.02.87, p 56.

Changes to legislation:
There are currently no known outstanding effects for the The Cosmetic Products Enforcement Regulations 2013, SCHEDULE 3.