

## SCHEDULES

### SCHEDULE 2

#### PROHIBITION NOTICES AND NOTICES TO WARN

##### PART I

###### PROHIBITION NOTICES

- 1 A prohibition notice in respect of any goods shall—
  - (a) state that the Secretary of State considers that the goods are unsafe;
  - (b) set out the reasons why the Secretary of State considers that the goods are unsafe;
  - (c) specify the day on which the notice is to come into force: and
  - (d) state that the trader may at any time make representations in writing to the Secretary of State for the purpose of establishing that the goods are safe.
- 2 (1) If representations in writing about a prohibition notice are made by the trader to the Secretary of State, it shall be the duty of the Secretary of State to consider whether to revoke the notice and—
  - (a) if he decides to revoke it, to do so:
  - (b) in any other case, to appoint a person to consider those representations, any further representations made (whether in writing or orally) by the trader about the notice and the statements of any witnesses examined under this Part of this Schedule.
- (2) Where the Secretary of State has appointed a person to consider representations about a prohibition notice, he shall serve a notification on the trader which—
  - (a) states that the trader may make oral representations to the appointed person for the purpose of establishing that the goods to which the notice relates are safe: and
  - (b) specifies the place and time at which the oral representations may be made.
- (3) The time specified in a notification served under sub-paragraph (2) above shall not be before the end of the period of twenty-one days beginning with the day on which the notification is served, unless the trader otherwise agrees.
- (4) A person on whom a notification has been served under sub-paragraph (2) above or his representative may, at the place and time specified in the notification—
  - (a) make oral representations to the appointed person for the purpose of establishing that the goods in question are safe; and
  - (b) call and examine witnesses in connection with the representations.
- 3 (1) Where representations in writing about a prohibition notice are made by the trader to the Secretary of State at any time after a person has been appointed to consider representations about that notice, then, whether or not the appointed person has made

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*Status: This is the original version (as it was originally enacted).*

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a report to the Secretary of State, the following provisions of this paragraph shall apply instead of paragraph 2 above.

- (2) The Secretary of State shall, before the end of the period of one month beginning with the day on which he receives the representations, serve a notification on the trader which states—
    - (a) that the Secretary of State has decided to revoke the notice, has decided to vary it or, as the case may be, has decided neither to revoke nor to vary it; or
    - (b) that, a person having been appointed to consider representations about the notice, the trader may, at a place and time specified in the notification, make oral representations to the appointed person for the purpose of establishing that the goods to which the notice relates are safe.
  - (3) The time specified in a notification served for the purposes of sub-paragraph (2)(b) above shall not be before the end of the period of twenty-one days beginning with the day on which the notification is served, unless the trader otherwise agrees or the time is the time already specified for the purposes of paragraph 2(2)(b) above.
  - (4) A person on whom a notification has been served for the purposes of sub-paragraph (2)(b) above or his representative may, at the place and time specified in the notification—
    - (a) make oral representations to the appointed person for the purpose of establishing that the goods in question are safe; and
    - (b) call and examine witnesses in connection with the representations.
- 4 (1) Where a person is appointed to consider representations about a prohibition notice, it shall be his duty to consider—
- (a) any written representations made by the trader about the notice, other than those in respect of which a notification is served under paragraph 3(2)(a) above;
  - (b) any oral representations made under paragraph 2(4) or 3(4) above; and
  - (c) any statements made by witnesses in connection with the oral representations,
- and, after considering any matters under this paragraph, to make a report (including recommendations) to the Secretary of State about the matters considered by him and the notice.
- (2) It shall be the duty of the Secretary of State to consider any report made to him under sub-paragraph (1) above and, after considering the report, to inform the trader of his decision with respect to the prohibition notice to which the report relates.
- 5 (1) The Secretary of State may revoke or vary a prohibition notice by serving on the trader a notification stating that the notice is revoked or, as the case may be is varied as specified in the notification.
- (2) The Secretary of State shall not vary a prohibition notice so as to make the effect of the notice more restrictive for the trader.
- (3) Without prejudice to the power conferred by section 13(2) of this Act, the service of a notification under sub-paragraph (1) above shall be sufficient to satisfy the requirement of paragraph 4(2) above that the trader shall be informed of the Secretary of State's decision.