

## SCHEDULES

### SCHEDULE 2

Section 70

#### APPLICATIONS AND MINOR AND CONSEQUENTIAL AMENDMENTS

##### PART 1

##### APPLICATION OF ENACTMENTS

###### *Notice of tests*

- 1 Section 30 of the Trade Descriptions Act 1968 (c. 29) (notice of test) shall apply in relation to items seized under section 50 of this Act in reliance on the power of seizure conferred by section 28(1) of that Act as it applies in relation to items seized in pursuance of that Act.
- 2 Section 31 of the Fair Trading Act 1973 (c. 41) (notice of test) shall apply in relation to items seized under section 50 of this Act in reliance on the power of seizure conferred by section 29(1) of that Act as it applies in relation to items seized in pursuance of Part 2 of that Act.
- 3 Section 30(6) and (7) of the Consumer Protection Act 1987 (c. 43) (provision about the testing of seized goods) shall apply in relation to items seized under section 50 of this Act in reliance on the power of seizure conferred by section 29 of that Act as it applies in relation to items seized under section 29 of that Act.
- 4 Article 23(6) and (7) of the Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987 2049 (N.I. 20)) (provision about the testing of seized goods) shall apply in relation to items seized under section 50 of this Act in reliance on the power of seizure conferred by Article 22 of that Order as it applies in relation to items seized under that Article.

###### *Access to seized items*

- 5 Subject to section 61 of this Act, section 11(3) of the Estate Agents Act 1979 (c. 38) (access to items seized under that section) shall apply in relation to items seized under section 50 of this Act in reliance on the power of seizure conferred by section 11 of that Act as it applies in relation to items seized under section 11 of that Act.

###### *Compensation for seizure and detention*

- 6 Section 32 of the Fair Trading Act 1973 (c. 41) (compensation for seizure and detention) shall apply in relation to the seizure of items under section 50 of this Act in reliance on the power of seizure conferred by section 29(1) of that Act, and the retention of those items, as it applies in relation to the seizure and detention of goods under section 29 of that Act.

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- 7 Section 163 of the Consumer Credit Act 1974 (c. 39) (compensation for seizure and detention) shall apply in relation to the seizure of items under section 50 of this Act in reliance on the power of seizure conferred by section 162(1) of that Act, and the retention of those items, as it applies in relation to the seizure and detention of goods under section 162 of that Act.
- 8 Section 34 of the Consumer Protection Act 1987 (compensation for seizure and detention) shall apply in relation to the seizure of items under section 50 of this Act in reliance on the power of seizure conferred by section 29 of that Act, and the retention of those items, as it applies in relation to the seizure and detention of goods under section 29 of that Act.
- 9 Article 26 of the Consumer Protection (Northern Ireland) Order 1987 (compensation for seizure and detention) shall apply in relation to the seizure of items under section 50 of this Act in reliance on the power of seizure conferred by Article 22 of that Order, and the retention of those items, as it applies in relation to the seizure and detention of goods under that Article.

*Forfeiture of seized items*

- 10 (1) The provisions mentioned in sub-paragraph (2) (which are about the forfeiture etc. of items which have been seized) shall apply in relation to an item seized under section 50 as if the item had been seized under the power of seizure in reliance on which it was seized.
- (2) Those provisions are—
- (a) section 3(3) of the Obscene Publications Act 1959 (c. 66);
  - (b) sections 4(3) and 5 of the Protection of Children Act 1978 (c. 37);
  - (c) Article 5 of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978 1047 (N.I. 17));
  - (d) sections 7(2) and 24(2) of the Forgery and Counterfeiting Act 1981 (c. 45).

*Disclosure of information*

- 11 Any provision which—
- (a) restricts the disclosure, or permits the disclosure only for limited purposes or in limited circumstances, of information obtained through the exercise of a power of seizure specified in Part 1 or 2 of Schedule 1, or
  - (b) confers power to make provision which does either or both of those things,
- shall apply in relation to information obtained under section 50 or 51 in reliance on the power in question as it applies in relation to information obtained through the exercise of that power.

*Interpretation*

- 12 For the purposes of this Part of this Schedule, an item is seized, or information is obtained, under section 50 or 51 in reliance on a power of seizure if the item is seized, or the information obtained, in exercise of so much of any power conferred by that section as is exercisable by reference to that power of seizure.

## PART 2

### MINOR AND CONSEQUENTIAL AMENDMENTS

- 13 (1) In each of the provisions mentioned in sub-paragraph (2) (which confer powers to require the production of information contained in a computer in a visible and legible form)—
- (a) for “contained in a computer” there shall be substituted “stored in any electronic form”; and
  - (b) after “in which it is visible and legible” there shall be inserted “or from which it can readily be produced in a visible and legible form”.
- (2) Those provisions are—
- (a) sections 19(4) and 20(1) of the 1984 Act;
  - (b) Articles 21(4) and 22(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12));
  - (c) section 43(5)(aa) of the Gaming Act 1968 (c. 65);
  - (d) section 20C(3A) of the Taxes Management Act 1970 (c. 9);
  - (e) section 118D(4) of the Customs and Excise Management Act 1979 (c. 2);
  - (f) paragraph 11(4) of Schedule 11 to the Value Added Tax Act 1994 (c. 23);
  - (g) paragraph 4A(4) of Schedule 7 to the Finance Act 1994 (c. 9);
  - (h) paragraph 7(4) of Schedule 5 to the Finance Act 1996 (c. 8);
  - (i) paragraph 131(4) of Schedule 6 to the Finance Act 2000 (c. 17).
- 14 In paragraph 5 of Schedule 1 to each of the 1984 Act and the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (power to require the production of information contained in a computer in a visible and legible form)—
- (a) for “contained in a computer” there shall be substituted “stored in any electronic form”; and
  - (b) in paragraph (a), after “in which it is visible and legible” there shall be inserted “or from which it can readily be produced in a visible and legible form”.
- 15 In section 46(3) of the Firearms Act 1968 (c. 27) (power to require the production of information kept by means of a computer in a visible and legible form)—
- (a) for “kept by means of a computer” there shall be substituted “stored in any electronic form”; and
  - (b) after “in which it is visible and legible” there shall be inserted “or from which it can readily be produced in a visible and legible form”.
- 16 (1) In each of the provisions mentioned in sub-paragraph (2) (which confer power to require the production in legible form of information recorded otherwise than in legible form), after “information in legible form” there shall be inserted “, or in a form from which it can readily be produced in visible and legible form”.
- (2) Those provisions are—
- (a) section 44(6) of the Insurance Companies Act 1982 (c. 50);
  - (b) the definition of “documents” in section 105(9) of the Financial Services Act 1986 (c. 60);
  - (c) section 177(10) of that Act;

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- (d) the definition of “documents” in section 106(1) of the Banking Act 1987 (c. 22);
  - (e) section 40(5)(b) of the Human Fertilisation and Embryology Act 1990 (c. 37);
  - (f) the definition of “documents” in section 417(1) of the Financial Services and Markets Act 2000 (c. 8).
- 17 In sections 434(6) and 447(9) of the Companies Act 1985 (c. 6) and Articles 427(6) and 440(9) of the Companies (Northern Ireland) Order 1986 (S.I. 1986 1032 (N.I. 6)) (power to require the production in legible form of information recorded otherwise than in legible form), at the end there shall be inserted “, or in a form from which it can readily be produced in visible and legible form”.
- 18 In section 32 of the Food Safety Act 1990 (c. 16) (powers of entry), in subsections (5) and (6)(b), for “kept by means of a computer” there shall be substituted “stored in any electronic form”.
- 19 In Article 33 of the Food Safety (Northern Ireland) Order 1991 (S.I. 1991 762 (N.I. 7)) (powers of entry), in paragraphs (6) and (7)(b), for “kept by means of a computer” there shall be substituted “stored in any electronic form”.
- 20 In paragraph 3(1)(b) of the Schedule to the Property Misdescriptions Act 1991 (c. 29) and paragraph 3(1)(b) of Schedule 2 to the Timeshare Act 1992 (c. 35) (powers to require the production of information contained in a computer in a visible and legible documentary form)—
- (a) after “form” there shall be inserted “or from which it can readily be produced in a visible and legible form”; and
  - (b) for “contained in a computer” there shall be substituted “stored in any electronic form”.
- 21 In sections 27(5)(e) and 28(2)(f) of the Competition Act 1998 (c. 41) (power to require the production of information held in a computer in a visible and legible form)—
- (a) for “held in a computer” there shall be substituted “stored in any electronic form”; and
  - (b) after “in which it is visible and legible” there shall be inserted “or from which it can readily be produced in a visible and legible form”.
- 22 In section 8(2)(c) of the Nuclear Safeguards Act 2000 (c. 5) (power to require the production of information which is held in electronic form in a form in which it can be read and copied), after “copy it” there shall be inserted “, or from which it can readily be produced in a form in which he can read and copy it”.
- 23 In section 2 of the Criminal Justice Act 1987 (c. 38) (investigation powers of the Director of the Serious Fraud Office), after subsection (8C) there shall be inserted—
- “(8D) The references in subsections (8A) to (8C) above to evidence obtained by the Director include references to evidence obtained by him by virtue of the exercise by a constable, in the course of a search authorised by a warrant issued under subsection (4) above, of powers conferred by section 50 of the Criminal Justice and Police Act 2001.”
- 24 In section 7 of the Criminal Justice (International Co-operation) Act 1990 (c. 5) (search etc. for material relevant to overseas investigation), after subsection (8) there shall be inserted—

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“(8A) Subject to subsection (8B) below, the reference in subsection (4) above to evidence seized by a constable by virtue of this section shall be taken to include a reference to evidence seized by a constable by virtue of the exercise, in the course of a search authorised by a warrant issued by virtue of this section, of powers conferred by section 50 of the Criminal Justice and Police Act 2001.

(8B) Nothing in subsection (8A) above requires any evidence to be furnished to the Secretary of State—

- (a) before it has been found, on the completion of any examination required to be made by arrangements under subsection (2) of section 53 of the Criminal Justice and Police Act 2001, to be property which falls within subsection (3) of that section (property which may be retained after examination); or
- (b) at a time when it constitutes property in respect of which a person is required to ensure that arrangements such as are mentioned in section 61(1) of that Act (duty to secure) are in force.”

25 In section 8 of the Criminal Justice (International Co-operation) Act 1990 (which makes similar provision for Scotland) after subsection (6) there shall be added—

“(7) Subject to subsection (8) below, the reference in subsection (2) above to evidence seized by a constable by virtue of this section shall be taken to include a reference to evidence seized by a constable by virtue of the exercise, in the course of a search authorised by a warrant issued by virtue of this section, of powers conferred by section 50 of the Criminal Justice and Police Act 2001.

(8) Nothing in subsection (7) above requires any evidence to be furnished to the Lord Advocate—

- (a) before it has been found, on the completion of any examination required to be made by arrangements under subsection (2) of section 53 of the Criminal Justice and Police Act 2001, to be property which falls within subsection (3) of that section (property which may be retained after examination); or
- (b) at a time when it constitutes property in respect of which a person is required to ensure that arrangements such as are mentioned in section 61(1) of that Act (duty to secure) are in force.”

26 Section 426 of the Financial Services and Markets Act 2000 (c. 8) (consequential and supplementary provision) shall have effect as if the provisions referred to in subsection (2)(b) of that section included the provisions of this Part of this Act.

27 In paragraph 29(1)(a) of Schedule 5 to the Terrorism Act 2000 (c. 11) (conditions for grant of warrant), for “28” there shall be substituted “22”.