

SCHEDULES

SCHEDULE 4

Offences, penalties, enforcement and other matters

PART 3

Enforcement and other matters

Powers of search, etc.

10.—(1) Officers may exercise any of the powers set out in sub-paragraph (2) at all reasonable hours provided the officers—

- (a) identify themselves and produce authority in writing from the enforcement authority for the exercise by the officers of powers conferred on the authority by these Regulations, and
- (b) state the purpose of the officers' actions and the grounds for undertaking them.

(2) The powers referred to in sub-paragraph (1) are as follows—

- (a) an officer may for the purpose of ascertaining whether an offence under these Regulations has been committed—
 - (i) inspect any relevant products, and
 - (ii) enter any premises other than premises used wholly or mainly as a dwelling;
- (b) if an officer has reasonable cause to suspect that an offence under these Regulations has been committed, the officer may, for the purpose of ascertaining whether it has been committed, require any person carrying on, or employed in connection with, a business to produce any records relating to the relevant products and the officer may take copies of those records or any part of them;
- (c) if an officer has reasonable cause to suspect that an offence under these Regulations has been committed, the officer may seize and detain any relevant products for the purpose of ascertaining whether the offence has been committed;
- (d) an officer may seize and detain any relevant products or records which the officer has reason to believe may be required as evidence in proceedings for an offence under these Regulations;
- (e) an officer may, for the purpose of exercising the officer's powers of seizure under this sub-paragraph, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of these Regulations are duly observed, require any person having authority to do so to open any container and, if that person does not comply with the requirement or if there is no person present having authority to open it, the officer may break open the container.

(3) For the purposes of sub-paragraph (2), the officer may require information stored electronically to be made available in printed form.

(4) An officer may, for the purpose of ascertaining whether an offence has been committed under these Regulations, make a purchase of relevant products.

Status: This is the original version (as it was originally made).

- (5) If a justice is satisfied by any written information on oath—
- (a) that there are reasonable grounds for believing either—
 - (i) that any relevant products or records, which an officer has power under this paragraph to inspect, copy, seize or require to be produced, is or are on any premises and that the inspection, copying, seizure or production of that item is likely to disclose evidence of the commission of an offence under these Regulations, or
 - (ii) that any offence under these Regulations has been, is being, or is about to be committed on any premises, and
 - (b) either—
 - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this sub-paragraph has been given to the occupier, or
 - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return,

the justice may by warrant under the justice's hand, which continues in force for a period of one month, authorise an officer to enter the premises, if need be by force.

(6) On entering any premises by authority of a warrant granted under sub-paragraph (5), an officer must, if the occupier is present, give to the occupier or, if the occupier is temporarily absent, leave in a prominent place on the premises, or an appropriate part of the premises, a notice in writing—

- (a) summarising an officer's powers of seizure and detention of any relevant products or records under this paragraph,
- (b) explaining that compensation may be payable for damage caused in entering premises and seizing and removing any relevant products or records and giving the address to which an application for compensation should be directed, and
- (c) indicating at which office of the enforcement authority and within which hours a copy of these Regulations is available to be consulted.

(7) An officer, when entering any premises by virtue of this paragraph, may be accompanied by such persons and take such equipment as appear to the officer to be necessary.

(8) An officer, when leaving any premises which the officer entered by virtue of a warrant, must, if the premises are unoccupied or the occupier is temporarily absent, leave them in as secure a state as that in which they were found.

(9) When exercising any power of seizure and detention under this paragraph, an officer must, as soon as practicable, give to the person against whom the power has been exercised, a written notice stating—

- (a) precisely what has been so seized and detained,
- (b) that an application for the release of a detained item may be made in accordance with paragraph 12 of this Schedule, and
- (c) the procedure for making such an application.

(10) A person who is not an officer of the enforcement authority must not purport to act as such under this paragraph.

(11) In sub-paragraph (5), the reference to "any written information on oath" is to be construed, in the application of this paragraph to—

- (a) Scotland, as a reference to any evidence on oath;
- (b) Northern Ireland, as a reference to any complaint on oath.

- (12) In this paragraph, “justice” means—
- (a) in England and Wales, a justice of the peace,
 - (b) in Scotland, a sheriff or summary sheriff, and
 - (c) in Northern Ireland, a lay magistrate.