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STATUTORY INSTRUMENTS

2013 No. V7

CONSUMER PROTECTION

The Cosmetic Products Enforcement Regulations 2013

Made - - - -	***
Laid before Parliament	***
Coming into force - -	****2013*

The Secretary of State is a Minister designated(**a**) in relation to consumer protection, protection of animals used for experimental and other scientific purposes, market surveillance and marking indicating a package is in conformity with the requirements of EU legislation and in relation to indication of origin on imported goods for the purposes of section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**b**). The Secretary of State makes these Regulations in exercise of the powers conferred by that section (as read with paragraph 1A of Schedule 2 to that Act).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of Community instruments to be construed as references to those provisions as amended from time to time.

Part 1

Introduction

Citation and Commencement

1.—(1) These Regulations may be cited as the Cosmetic Products Enforcement Regulations 2013.

(2) They come into force on 11 July 2013.

Revocation and savings

2.—(1) The Regulations listed in Schedule 1 are revoked.

(**a**) S.I. 1993/2661, S.I. 1975/1707, S.I. 1993/595, S.I. 2009/3214

(**b**) 1972 c. 68; Section 2(2) was amended by section 27 Legislative and Regulatory Reform Act 2006 (c. 51) and Schedule 1, Part 1 of the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51) and amended by Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007/1388 Schedule 1 paragraph 1 (May 25, 2007 immediately after the end of the initial period as specified in 2006 c. 32 section 161(5)) and Schedule 1, Part 1 of the European Union (Amendment) Act 2008 (c. 7)

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(2) Where the 2008 Regulations(**a**) applied to any cosmetic product placed on the market before 11 July 2013—

(a) the 2008 Regulations shall continue to apply in relation to the enforcement of obligations that arose under the 2008 Regulations;

(b) obligations under these Regulations which arise after the placing on the market of the Cosmetic Product apply.

Interpretation

3.—(1) In these Regulations—

"2008 Regulations" means the Cosmetic Products (Safety) Regulations 2008.

"the EU Cosmetic Regulation" means Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast)(**b**), as amended from time to time.

"enforcement authority" means—

(i) in England and Wales and Scotland, the Secretary of State or a local weights and measures authority within the meaning of section 69 of the Weights and Measures Act 1985(**c**); and

(ii) in Northern Ireland, any district council .

"officer", in relation to an enforcement authority, means a person authorised in writing to assist the authority in carrying out its functions under or for the purposes of the enforcement of the EU Cosmetic Regulation and these Regulations.

"RAMS" means Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.

(2) References to a notification made or information received under Directive 76/768/EEC(**d**) in the EU Cosmetic Regulation shall be understood to include notifications under regulation 17 and information collected or received under regulations 16 and 19 of the 2008 Regulations.

(3) Other expressions used in these Regulations which are used in the EU Cosmetic Regulation have the same meaning as in the EU Cosmetic Regulation.

Competent authority

4.—(1) Subject to paragraph 2, the Secretary of State and the enforcement authority are the competent authorities for the purposes of the EU Cosmetic Regulation, provided that the Secretary of State may from time to time authorise such person as the Secretary of State thinks fit to be a United Kingdom competent authority, or to perform certain functions of a competent authority, in addition to or in substitution for the Secretary of State.

(2) The enforcement authority is not a competent authority for the purposes of Articles 23(2), 23(3) and 23(4) (Communication of serious undesirable effects), 25(4) subparagraph 2, and 25(6) (non-compliance by the responsible person), 27(2) (safeguard clause) and 38 (repeal and retention of information) of the EU Cosmetic Regulation.

(**a**) S.I. 2008/1284
(**b**) OJ No L342, 22.12.2009, p.59
(**c**) 1985 c. 72, section 69 was amended by Schedule 1, Part IV, section 1(1) of the Statute Law (Repeals) Act 1989 (c. 43), Schedule 16 paragraph 75 of the Local Government (Wales) Act 1994 (c. 19), and Schedule 13 paragraph 144 of the Local Government etc (Scotland) Act 1994 (c. 39)
(**d**) OJ No L262, 27.09.1976, p.169

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Labelling

5.—(1) Where cosmetic products are not pre-packaged, or are packaged at the point of sale at the purchaser's request, information required to be provided in accordance with Article 19(1) (which provides for labelling) of the EU Cosmetic Regulation must appear on the container in which the product is exposed for supply or a notice in immediate proximity to that container;

(2) Where cosmetic products are pre-packaged for immediate sale, the information required to be provided in accordance with Article 19(1) of the EU Cosmetic Regulation must appear on an attached label, tag, tape or card, or in an enclosed leaflet. Where this is impossible for practical reasons this information must appear on a notice in immediate proximity to the container in which the cosmetic product is exposed for sale.

(3) A responsible person must not make a cosmetic product available on the market unless the information required by Article 19 of the EU Cosmetic Regulation is provided in English, whether or not it is also in another language.

Part 2

Offences, Penalties and Enforcement

Enforcement authorities

6.—(1) It is the duty of the enforcement authority to enforce the EU Cosmetic Regulation and these Regulations, and carry out market surveillance activities under Article 22 (in-market control) of the EU Cosmetic Regulation.

(2) An enforcement authority in England or Wales shall have the power to investigate and prosecute for an alleged contravention of any obligations imposed by the EU Cosmetic Regulation and these Regulations which was committed outside its area in any part of England and Wales.

(3) An enforcement authority in Northern Ireland shall have the power to investigate and prosecute for an alleged contravention of any obligations imposed by the EU Cosmetic Regulation and these Regulations which was committed outside its area in any part of Northern Ireland.

(4) Nothing in these Regulations authorises an enforcement authority or competent authority to bring proceedings in Scotland for an offence.

Market surveillance and Enforcement powers

7.—(1) In order to fulfil its market surveillance obligations, or where it considers that there may be a breach of the EU Cosmetic Regulation or these Regulations, the enforcement authority may—

(a) exercise its powers as a competent authority under the EU Cosmetic Regulation and Schedule 2 (test purchases, powers of entry etc and warrants) of these Regulations;

(b) exercise the powers set out in RAMS to the extent they apply to cosmetic products.

Notice of measures required and requests

8.—(1) An enforcement authority must provide written notice when requiring measures to be taken under Articles 25 (non-compliance by the responsible person), 26 (non-compliance by distributors) and 27 (safeguard clause) of the EU Cosmetic Regulation.

(2) The notice referred to in paragraph 1 must meet the requirements set out in Article 28 of the EU Cosmetic Regulation.

(3) A request made by an enforcement authority under Article 5(3) (obligations of responsible persons) or Article 6(5) (obligations of distributors) of the EU Cosmetic Regulation must be in writing.

(4) Any notice may be served by:

(a) delivering it to the person in person;

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(b) leaving it at the person's proper address or;

(c) sending it by post or electronic means to that person's proper address.

(5) In the case of a body corporate, a document may be served on a director of that body.

(6) In the case of a partnership, a document may be served on a partner or a person having control or management of the partnership business.

(7) For the purposes of this regulations, "proper address" means—

(a) in the case of a body corporate or its director—

(i) the registered or principles office of that body; or

(ii) the email address of the secretary or clerk of that body;

(b) in the case of a partnership, including a Scottish partnership, a partner or person having control or management of the partnership business—

(i) the principal office of the partnership; or

(ii) the email address of a partner or a person having that control or management;

(c) in any other case, a person's last known address, which includes an email address.

(8) If a person has specified an address in the United Kingdom (other than that person's proper address) at which that person or someone on that person's behalf will accept service, that address must also be treated as that person's proper address.

Authorisation of provisional measures

9. Where an enforcement authority ascertains, or has reasonable grounds for concern, that a cosmetic product presents or could present a serious risk to human health in accordance with Article 27 (safeguard clause) of the EU Cosmetic Regulation, it must obtain authorisation from the Secretary of State prior to taking provisional measures under Article 27.

Notification of enforcement action etc

10. An enforcement authority must give immediate notice to the Secretary of State of any action taken by it, finding made or other opinion formed by it, or other matter within its knowledge, which is required to be notified to the Commission or the other member States.

Contents of authorisation request or notification

11. An authorisation request or notification under regulations 9 and 10 must be in writing and must provide all available details and at least the following information—

(a) information enabling the cosmetic product to be identified;

(b) a description of the risk involved, including a summary of the results of any test or analysis and of their conclusions which are relevant to assessing the level of risk;

(c) the nature and the duration of the measures or action taken or decided on, or proposed, if applicable;

(d) information on supply chains and distribution of the product, in particular on destination countries.

Offences

12.—(1) It is an offence for a person to contravene a provision of the EU Cosmetic Regulation set out in Schedule 3.

(2) It is an offence—

(a) intentionally to obstruct any person acting in the execution or enforcement of the EU Cosmetic Regulation;

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(b) without reasonable cause, to fail to give to any such person any assistance or information which that person may reasonably require for those purposes;

(c) to knowingly or recklessly furnish to any such person any information knowing it to be false or misleading in a material particular; or

(d) to fail to produce a document or record to any such person when required to do so.

(3) It is an offence to fail to comply with any of the requirements made by the enforcement authority acting under Articles 25 (non-compliance by the responsible person), 26 (non-compliance by distributors) or 27 (safeguard clause) of the EU Cosmetic Regulation.

(4) Proceedings must not be commenced against a responsible person or a distributor under paragraph (1) where—

(a) an enforcement authority has required the responsible person or the distributor to take measures under Articles 25(1) or 26 of the EU Cosmetic Regulation in terms of the non-compliance; and

(b) the time period for compliance specified by the enforcement authority when notifying the responsible person or distributor has not expired.

Penalties

13.—(1) A person guilty of committing an offence under regulation 12(1) by breaching Articles 3, 5, 6, 7, 10, 14, 15, 18, 19, 20, or 23 of the EU Cosmetic Regulation shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment not exceeding three months, or to both;

(b) on conviction on indictment, to a fine not exceeding £20,000 or to imprisonment not exceeding twelve months, or to both.

(2) A person guilty of an offence under regulation 12(1) by breaching a requirement of Articles 11, 13, 16, 21 or 24 of the EU Cosmetic Regulation, shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment not exceeding three months, or to both.

(3) A person guilty of an offence under regulation 12(2) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A person guilty of committing an offence under regulation 12(3) shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment not exceeding three months, or to both;

(b) on conviction on indictment, to a fine not exceeding £20,000 or to imprisonment not exceeding twelve months, or to both.

Appeal rights

14.—(1) An application for an order to vary or set aside the notice issued by an enforcement authority under Articles 25 (non-compliance by the responsible person), 26 (non-compliance by distributors) or 27 (safeguard clause) of the EU Cosmetic Regulation, or RAMS, may be made by a responsible person, distributor, or other person having an interest in the product in respect of which the notice is issued.

(2) An application must be made before the end of the period of 21 days beginning with the day on which the enforcement authority's decision was notified to the responsible person or distributor.

(3) The appropriate court (as determined in accordance with regulation 15) may only make an order setting aside the required measures if satisfied—

(a) that no contravention of the EU Cosmetic Regulation has occurred; or

(b) that the serving of the notice was not proportionate.

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(4) On an application to vary the terms of the notice, the appropriate court may vary the terms of the notice as it considers appropriate.

Appropriate court for appeals against notices etc and further appeals

15.—(1) In England and Wales or Northern Ireland the appropriate court for the purposes of regulation 14 (appeal rights) is—

(a) the court in which proceedings have been brought for an offence under regulation 12(1) or 12(3); or

(b) in any other case a magistrates' court in England and Wales or Northern Ireland.

(2) In Scotland—

(a) an application under regulation 14 may be made by summary application to the sheriff;

(b) the sheriff referred to in sub-paragraph (a) is the appropriate court for the purposes of regulation 14..

(3) A person aggrieved by an order made by a magistrates' court in England, Wales or Northern Ireland(**a**) pursuant to an application under regulation 14(1), or by a decision of such a court not to make such an order, may appeal against that order or decision—

(a) in England and Wales, to the Crown Court;

(b) in Northern Ireland, to the county court.

Compensation Orders

16.—(1) Where an enforcement authority takes, or requires a responsible person or distributor to take, certain measures in accordance with Articles 25 (Non-compliance by the responsible person), 26 (Non-compliance by distributors) or 27 (Safeguard clause) of the EU Cosmetic Regulation, or RAMS, the authority shall be liable to pay compensation to any person having an interest in the goods in respect of any loss or damage caused by reason of the taking of those measures if—

(a) No contravention of the EU Cosmetic Regulation has occurred or is likely to occur; and

(b) The exercise of the power is not attributable to any neglect or default by that person.

(2) Any disputed question as to the right to or the amount of any compensation payable under this section shall be determined by arbitration or, in Scotland, by a single arbiter appointed, failing agreement between the parties, by the sheriff.

Remediation orders

17.—(1) This regulation applies where a person commits an offence under these Regulations in respect of a matter which appears to the court to be a matter which it is in the person's power to remedy.

(2) The court may specify in an order ("a remediation order")—

(a) the steps that the person must take to remedy any of the matters for which that person has been convicted; and

(b) the period within which those steps must be taken.

(3) A period specified in a remediation order may be extended if an application is made to the court within that period.

(4) If a person is ordered to remedy a matter, that person is not liable under regulation 12 (Offences) in respect of that matter during the period or the extended period.

(5) A remediation order may be made in addition to, or instead of, any penalty.

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a) In Scotland the making of, or refusal to make, an order by a sheriff is subject to appeal in accordance with sections 27 and 28 of the Sheriff Courts (Scotland) Act 1907 (c.51), as amended.

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Recovery of expenses of enforcement

18. —(1) This regulation applies where a person commits an offence under regulation 12 (Offences).

(2) The court may (in addition to any other order it may make as to costs or expenses) order the person to reimburse the enforcement authority for any expenditure which the authority has reasonably incurred in connection with—

(a) investigating the offence, including in purchasing or in testing or examining any cosmetic products in respect of which the offence was committed; or

(b) taking action in accordance with Articles 25(5) and 27 of the EU Cosmetic Regulations, or RAMS.

Forfeiture: England, Wales and Northern Ireland

19.—(1) An enforcement authority in England and Wales or Northern Ireland may apply under this paragraph for an order for the forfeiture of any cosmetic product on the grounds that a breach of Article 3 (Safety) of the EU Cosmetic Regulation has occurred.

(2) An application under this paragraph may be made to a magistrates' court—

(a) where proceedings have been brought in that court in respect of an offence in relation to the cosmetic product under regulation 12;

(b) where an application with respect to the cosmetic products has been made to that court under regulation 14; and

(c) by way of complaint, where no application for the forfeiture of the cosmetic product has been made under sub-paragraph (a) or (b).

(3) On an application under this paragraph the court may make an order for the forfeiture of the cosmetic product only if satisfied that a breach of Article 3 (Safety) has occurred.

(4) A court may infer for the purposes of this paragraph that a cosmetic product is in breach of Article 3 (Safety) in relation to any cosmetic product if satisfied that a breach of Article 3 (Safety) has occurred in relation to a cosmetic product which is representative of that cosmetic product (whether by reason of its being part of the same batch or otherwise).

(5) Any person aggrieved by an order made under this paragraph by a magistrates' court, or by a decision of such court not to make such an order, may appeal against that order or decision—

(a) in England and Wales, to the Crown Court;

(b) in Northern Ireland, to the county court,

and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of an order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980, or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (statement of case)).

(6) Where any cosmetic product is forfeited under this paragraph it shall be destroyed in accordance with such directions as the court may give.

Forfeiture: Scotland

20.—(1) In Scotland a sheriff may make an order for the forfeiture of any cosmetic product on the grounds that a breach of Article 3 (Safety) of the EU Cosmetic Regulation has occurred.

(a) on an application by the procurator-fiscal made in the manner specified in section 134 of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act"); or

(b) where a person is convicted of any offence in respect of any such contravention, in addition to any other penalty which the sheriff may impose.

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(2) The procurator-fiscal making an application under sub-paragraph (1)(a) shall serve on any person appearing to the procurator-fiscal to be the owner of, or otherwise to have an interest in, cosmetic products to which the application relates a copy of the application, together with a notice giving that person the opportunity to appear at the hearing of the application to show cause why the cosmetic product should not be forfeited.

(3) Service under sub-paragraph (2) shall be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings under the 1995 Act.

(4) Any person upon whom a notice is served under sub-paragraph (2) and any other person claiming to be the owner of, or otherwise to have an interest in, the cosmetic product to which an application under this paragraph relates shall be entitled to appear at the hearing of the application to show cause why the cosmetic product should not be forfeited.

(5) The sheriff shall not make an order following an application under sub-paragraph (1)(a)—

(a) if any person on whom notice is served under sub-paragraph (2) does not appear, unless service of the notice on that person is proved; or

(b) if no notice under sub-paragraph (2) has been served, unless the court is satisfied that in the circumstances it was reasonable not to serve notice on any person.

(6) The sheriff may make an order under this paragraph only if satisfied that a breach of Article 3 (Safety) has occurred in relation to the cosmetic product.

(7) The sheriff may infer for the purposes of this paragraph that a breach of Article 3(Safety) has occurred in relation to any cosmetic product if satisfied that a breach of Article 3 (Safety) has occurred in relation to a cosmetic product which is representative of that cosmetic product (whether by reason of being of the same batch or otherwise).

(8) Where an order for the forfeiture of any cosmetic product is made following an application by the procurator-fiscal under sub-paragraph (1)(a), any person who appeared, or was entitled to appear, to show cause why it should not be forfeited may, within twenty-one days of the making of the order, appeal to the High Court by Bill of Suspension on the ground of an alleged miscarriage of justice; and section 182(5)(a) to (e) of the 1995 Act shall apply to an appeal under this sub-paragraph as it applies to a stated case under Part 10 of that Act.

(9) An order following an application under sub-paragraph (1)(a) shall not take effect—

(a) until the end of the period of twenty-one days beginning with the day after the day on which the order is made; or

(b) if an appeal is made under sub-paragraph (8) within that period, until the appeal is determined or abandoned.

(10) An order under sub-paragraph (1)(b) shall not take effect—

(a) until the end of the period within which an appeal against the order could be brought under the 1995 Act; or

(b) if an appeal is made within that period, until the appeal is determined or abandoned.

(11) A cosmetic product forfeited under this paragraph shall be destroyed in accordance with such directions as the sheriff may give.

Time Limit for prosecution of offences

21.—(1) In England and Wales an information relating to an offence that is triable by a magistrates' court may be so tried if it is laid within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(2) In Scotland

(a) summary proceedings for an offence may only be commenced before the end of twelve months from the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to the Lord Advocate's knowledge, and

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(b) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (time limit for certain offences)(**a**) applies for the purpose of this paragraph as it applies for the purpose of that section.

(3) In Northern Ireland summary proceedings for an offence may be instituted within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to the knowledge of the prosecutor.

(4) No proceedings are to be brought more than three years after the commission of the offence.

(5) For the purposes of this regulation a certificate of the prosecutor (or in Scotland, the Lord Advocate) as to the date on which such evidence as is referred to above came to their notice is conclusive evidence.

Defence of due diligence

22. —(1) In proceedings for an offence under these Regulations, it is a defence for a person to show that they took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) A person is not, without the leave of the court, entitled to rely on the defence if it involves an allegation that the commission of the offence was due—

(a) to the act or default of another; or

(b) to reliance on information supplied by another;

unless, not less than seven clear days before the hearing of the proceedings (in England, Wales and Northern Ireland), or the trial diet (in Scotland), the person has served a notice on the person bringing the proceedings.

(3) The notice must give the information in the possession of the person ("A") serving the notice which identifies or assists in identifying the person ("B") who—

(a) committed the act or default; or

(b) supplied the information which was relied on.

(4) A may not rely on the defence by reason of reliance on information supplied by B, unless A shows that it was reasonable in all the circumstances to have relied on the information, having regard in particular—

(a) to the steps that A took and those which might reasonably have been taken for the purpose of verifying the information; and

(b) to whether A had any reason to disbelieve the information.

Liability of persons other than the principal offender

23.—(1) Where the commission by a person of an offence under these Regulations is due to anything which another person did or failed to do in the course of a business, that other person is guilty of the offence and may be proceeded against and punished, whether or not proceedings are taken against the first person.

(2) Where an offence under these Regulations is committed by a body corporate and it is proved that the offence was committed—

(a) with the consent or connivance of a relevant person; or

(b) as a result of the negligence of a relevant person,

that person, as well as the body corporate, is guilty of the offence.

(3) A "relevant person" means—

(a) a director, manager, secretary or other similar officer of the body corporate;

(**a**) 1995 c. 46.

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(b) in relation to a body corporate managed by its members, a member of that body performing managerial functions;

(c) in relation to a partnership, a partner;

(d) a person purporting to act as a person described in (a), (b) or (c).

Part 3

Miscellaneous

Consequential Amendments

24. The Regulations listed in Schedule 4 are amended as indicated.

Review

25.—(1) The Secretary of State must from time to time—

(a) carry out a review of these Regulations,

(b) set out the conclusions of the review in a report, and

(c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the EU Cosmetic Regulation (which is enforced and supplemented by means of these Regulations) is executed and enforced in other member States.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,

(b) assess the extent to which those objectives are achieved, and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Signatory text

Name
Address — Parliamentary Under Secretary of State
Date — Department

SCHEDULE 1

Regulation 2(1)

Regulations Revoked

Regulation revoked	Reference:
Cosmetic Products (Safety) Regulations 2008	S.I. 2008/1284
Cosmetic Products (Safety) (Amendment) Regulations 2008	S.I. 2008/2173

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Cosmetic Products (Safety) (Amendment No. 2) Regulations 2008	S.I. 2008/2566
Cosmetic Products (Safety) (Amendment) Regulations 2009	S.I. 2009/796
Cosmetic Products (Safety) (Amendment No. 2) Regulations 2009	S.I. 2009/1346
Cosmetic Products (Safety) (Amendment No. 3) Regulations 2009	S.I. 2009/2562
Cosmetic Products (Safety) (Amendment No. 4) Regulations 2009	S.I. 2009/3367
Cosmetic Products (Safety) (Amendment) Regulations 2010	S.I. 2010/1150
Cosmetic Products (Safety) (Amendment No. 2) Regulations 2010	S.I. 2010/1927
Cosmetic Products (Safety) (Amendment) Regulations 2011	S.I. 2011/3037
The Cosmetic Products (Safety) (Amendment) Regulations 2012	S.I. 2012/2263

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SCHEDULE 2 Regulation 7(1)

Testing, powers of entry etc and warrants

Testing of cosmetic products

1.—(1) The enforcement authority may purchase a cosmetic product for the purpose of ascertaining whether the requirements of the EU Cosmetic Regulation [or these Regulations] have been complied with in respect of it.

(2) If—

(a) a cosmetic product which has been purchased under subparagraph 1 or seized under paragraph 4 of Schedule 2 is submitted to a test;

(b) the test leads to the bringing of proceedings for an offence under regulation 12 or the serving of an enforcement or recall notice; and

(c) a person—

(i) from whom the cosmetic product was purchased or seized;

(ii) who is a party to the proceedings; or

(iii) who has an interest in the cosmetic product which is identified as an infringing cosmetic product in an enforcement or recall notice,

requests the enforcement authority to allow that person to have the cosmetic product tested,

the authority must, if it is practicable for such a test to be carried out, allow that person to have the cosmetic product tested.

2. Any test of goods purchased under subparagraph 1 or seized under paragraph 4 of Schedule 2 by or on behalf of an enforcement authority for the purposes of ascertaining whether the provisions of these Regulations have been contravened must in all cases be carried out in accordance with the provisions of paragraphs 2 to 5 of Schedule 5.

Power to enter premises

3.—(1) An officer of an enforcement authority may enter premises, except any premises used wholly or mainly as a private dwelling, at any reasonable hour, for the purpose of ascertaining whether there has been compliance with the provisions of the EU Cosmetic Regulation [or these Regulations].

(2) Before entering the premises, an officer must give reasonable notice, unless giving such notice would reasonably be supposed to defeat the purpose of the entry.

(3) An officer must, if requested to do so, produce the officer's credentials.

(4) An officer may be accompanied by such other persons as the officer considers necessary

(5) An officer may bring on to the premises such equipment as the officer considers necessary.

Power to inspect, seize and detain cosmetic products etc

4.—(1) An officer of an enforcement authority may, in order to ascertain if any provision of the EU Cosmetic Regulations or these Regulations has not been complied with—

(a) examine any procedure (including any arrangements for carrying out a test) connected with the production of a product;

(b) make such examination or investigation as is necessary on entering any premises under a power of entry under paragraph 3 or a warrant under paragraph 5;

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(c) require any person carrying on or employed in connection with a business to produce any cosmetic products, products, goods, substances, records, documents or information and take copies of—

(i) any document or record; or

(ii) any entry in any document or record.

(2) An officer who reasonably suspects non-compliance with any provision of the EU Cosmetic Regulations or these Regulations may seize and detain any cosmetic products, products, goods, substances, records, documents or information in order to ascertain, by testing or otherwise, such non-compliance.

(3) An officer may seize and detain any cosmetic products, products, goods, substances, records, documents or information which may be required as evidence in any proceedings under these Regulations;

(4) An officer may, for the purposes of exercising any powers or duties under the EU Cosmetic Regulations, these Regulations or RAMS, but only if and to the extent reasonably necessary in order to secure that the provisions of the EU Cosmetic Regulations or these Regulations are complied with—

(a) require any person having authority to do so to break open any container; and

(b) break open the container, using reasonable force, if that person does not comply or if there is no person present having authority to open it.

(5) An officer may require information stored electronically to be made available in printed form.

(6) An officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

(7) An officer exercising any power of seizure and detention must—

(a) give to the person against whom the power has been exercised a written notice stating what has been seized and detained;

(b) detain those things only for as long as is necessary for the enforcement authority to ascertain whether any provision of the EU Cosmetic Regulations or these Regulations has not been complied with and if required to present the evidence at court.

(8) Nothing in this regulation compels the production by any person of a document which that person would be entitled to withhold production of in any proceedings in any court on the grounds that it is the subject of legal professional privilege or, in Scotland, that it contains a confidential communication made by or to an advocate or solicitor in that capacity.

Warrants

5.—(1) A justice of the peace may by signed warrant permit an officer or any other person to enter any premises in the exercise of the powers and duties under the EU Cosmetic Regulations, RAMS or these Regulations, if necessary by reasonable force, if the justice in England and Wales on sworn information in writing, in Northern Ireland on a complaint on oath, or in Scotland by evidence on oath is satisfied—

(a) that there are reasonable grounds for believing either—

(i) entry to the premises in order to exercise powers under paragraph 4 is likely to disclose evidence that there has been a contravention of any requirement imposed by or under the EU Cosmetic Regulation or these Regulations; or

(ii) a contravention of the EU Cosmetic Regulation or these Regulations has taken place, is taking place or is about to take place on any premises; and

(b) that any of the conditions in sub-paragraph (3) is met.

(2) Reference to a justice of the peace—

(a) in Scotland includes a sheriff;

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(b) in Northern Ireland is a reference to a lay magistrate.

(3) The conditions are—

(a) entry to the premises has been, or is likely to be, refused and notice of the intention to apply for a warrant has been given to the occupier;

(b) asking for admission to the premises, or giving such a notice, would defeat the object of the entry;

(c) the premises are unoccupied or the occupier is temporarily absent and it might defeat the object of the entry to await his return.

(4) A warrant under sub-paragraph (1) is valid for one month.

SCHEDULE 3

Regulation12(1)

Offences for Breach for the EU Cosmetic Regulation

Provision of the EU Cosmetic Regulation	Subject Matter
Article 3	Safety
Article 5	Obligations of responsible persons
Article 6	Obligations of distributors
Article 7	Identification within the supply chain
Article 10	Safety assessment
Article 11	Requirements for the product information file
Article 13	Notification requirements
Article 14	Restrictions for substances listed in the Annexes
Article 15	Substances classified as CMR substances
Article 16	Notification requirements in relation to nanomaterials
Article 18	Animal testing requirements
Article 19	Labelling requirements
Article 20	Requirements relating to product claims
Article 21	Access to information for the public
Article 23	Communication of serious undesirable effects
Article 24	Information requirements on substances

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SCHEDULE 4

Regulation 24

Consequential Amendments

Control of Pesticides Regulations 1986

1. Sub-paragraph 3(2)(b)(iv) of the Control of Pesticides Regulations 1986(**a**) is amended to omit "the Cosmetic Products (Safety) Regulations 1984) and substitute "Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast), as amended from time to time."

Dangerous Substances in Harbour Areas Regulations 1987

2. Sub-paragraph 3(3)(c) of the Dangerous Substances in Harbour Areas Regulations 1987(**b**) is amended to omit "regulation 4(1) of the Cosmetic Products (Safety) Regulations 1984" and substitute "Article 2(1)(a) of Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast), as amended from time to time".

Patents (Licences of Right) (Exception of Pesticidal Use) Order 1989

3. Sub-paragraph 2(2)(bb) of the Patents (Licences of Right) (Exception of Pesticidal Use) Order 1989(**c**) is amended to omit "the Cosmetics Products (Safety) Regulations 1984" and substitute "Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast), as amended from time to time".

Water Protection Zone (River Dee Catchment) Designation Order 1999

4. Paragraph 2(1) of the Water Protection Zone (River Dee Catchment) Designation Order 1999(**d**) is amended to omit "Cosmetic Products (Safety) Regulations 1996 from sub-paragraph (g) of the definition of "controlled substance" and substitute "Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast), as amended from time to time".

Biocidal Products Regulations (Northern Ireland) 2001

5. Schedule 2 of the Biocidal Products Regulations (Northern Ireland) 2001(**e**) is amended to omit paragraph (n) and insert "Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast), as amended from time to time" in the appropriate place.

Biocidal Products Regulations 2001

6. Schedule 2 of the Biocidal Products Regulations 2001(**f**) is amended to omit "the Cosmetic Products (Safety) Regulations 1996" and insert "Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast), as amended from time to time" in the appropriate place.

(**a**) SI 1986/1510, to which the only relevant amendment is SI 1997/188
(**b**) SI 1987/37, to which there are amendments not relevant to these Regulations
(**c**) SI 1989/1202, as amended by SI 1990/2487
(**d**) SI 1999/915, to which there are amendments not relevant to these Regulations
(**e**) SI 2001/422
(**f**) SI 2001/880, to which there are amendments not relevant to these Regulations

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Control of Substances Hazardous to Health Regulations 2002

7. The definition of "cosmetic product" in Schedule 2 of the Control of Substances Hazardous to Health Regulations 2002(**a**) is amended to omit "regulation 2(1) of the Cosmetic Products (Safety) Regulations 1996" and substitute "Article 2 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast) as amended from time to time".

Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003

8. The definition of "cosmetic product" in Schedule 2 of the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003(**b**) is amended to omit "regulation 2(1) of the Cosmetic Products (Safety) Regulations 1996 and substitute "Article 2 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast) as amended from time to time".

[Good Laboratory Practice (Codification Amendments Etc.) Regulations 2004

9.Omit regulation 4 of the Good Laboratory Practice (Codification Amendments Etc.) Regulations 2004(**c**).]

Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004

10. At the end of Schedule 1 to the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004(**d**) insert "The Cosmetic Products Enforcement Regulations 2013".

Weights and Measures (Packaged Goods) Regulations 2006

11. The Weights and Measures (Packaged Goods) Regulations 2006(**e**) is amended as follows—

(a) In the definition of "cosmetic product" in regulation 2, omit "regulation 3 of the Cosmetic Products (Safety) Regulations 2004 and substitute "Article 2 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast) as amended from time to time";

(b) In paragraph 5(7) omit the words "regulation 7(2)(a) of the Cosmetic Products (Safety) Regulations 2004 requires a package to be marked with information about the manufacturer or supplier established in a member State" and replace them with "Article 19 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast), as amended from time to time, requires a package to bear information about the responsible person, as defined in Article 4 of that Regulation";

(c) In paragraph 6(6) omit the words "regulation 7(2)(a) of the Cosmetic Products (Safety) Regulations 2004 requires an outer container to be marked with information about the manufacturer or supplier established in a member State" and replace them with "Article 19 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast) as amended from time to time, requires an outer container to bear information about the responsible person, as defined in Article 4 of that Regulation".

Legislative and Regulatory Reform (Regulatory Functions) Order 2007

12. The Legislative and Regulatory Reform (Regulatory Functions) Order 2007(**a**),is amended as follows—

(**a**) SI 2002/2677, to which there are amendments not relevant to these Regulations
(**b**) SI 2003/34, to which there are amendments not relevant to these Regulations
(**c**) SI 2004/994
(**d**) S.I. 2004/693, to which there are amendments not relevant to these Regulations
(**e**) SI 2006/659

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(a) In Part 3 of Schedule 1, under the heading "Consumer and business protection" omit "Cosmetic Products (Safety) Regulations 2008" and insert "the Cosmetic Products Enforcement Regulations 2012" in the appropriate place;

(b) In Part 8 of Schedule 1 omit "Cosmetic Products (Safety) Regulations 2008" and insert "the Cosmetic Products Enforcement Regulations 2012" in the appropriate place;

(c) In Part 13 of Schedule 1 omit "Cosmetic Products (Safety) Regulations 2008" and insert "the Cosmetic Products Enforcement Regulations 2012" in the appropriate place.

Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009,

13. Sub-paragraph 3(2)(f) of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009(**b**) is amended to omit "the Cosmetic Products (Safety) Regulations 2008 and substitute "Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast), as amended from time to time".

Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009

14. Sub-paragraph 3(2)(f) (application) of the Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009(**c**) is amended to omit "the Cosmetic Products (Safety) Regulations 2008 and substitute "Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast), as amended from time to time".

Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009

15. The Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009(**d**) is amended as follows—

(a) In Part 4 of Schedule 1, paragraph 1, omit "Cosmetic Products (Safety) Regulations 2008 and insert "Cosmetic Products Enforcement Regulations 2012" in the appropriate place;

(b) In Part 2 of Schedule 2, paragraph 1, omit "Cosmetic Products (Safety) Regulations 2008 and insert "Cosmetic Products Enforcement Regulations 2012" in the appropriate place.

Chemicals (Hazard Information and Packaging for Supply) Regulations 2009

16. Sub-paragraph 3(2)(f) of the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009(**e**) is amended to omit "the Cosmetic Products (Safety) Regulations 2008 and substitute "Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast), as amended from time to time".

Pharmacy Order 2010

17. In Schedule 4, Part 2, of the Pharmacy Order 2010(**f**) omit paragraph 65.

Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011

18. the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011(**g**) is amended as follows—

(**a**) SI 2007/3544 , to which the only relevant amendment is SI 2009/2981
(**b**) SI 2009/238, to which there are amendments not relevant to these Regulations
(**c**) SI 2009/273
(**d**) SI 2009/669
(**e**) SI 2009/716 as amended by SI 2011/228
(**f**) SI 2010/231
(**g**) SI 2011/331

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(a) In Paragraph 2 omit "regulation 3 of the Cosmetic Products (Safety) Regulations 2008 and substitute "Article 2 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast) as amended from time to time";

(b) In Paragraph 5(7) omit "Where regulation 12(1)(a) of the Cosmetic Products (Safety) Regulations 2008 requires a package to be marked with information about the manufacturer or supplier established in a member State" and replace it with "Where Article 19 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast)(**a**) requires a package to bear information about the responsible person, as defined in Article 4 of that Regulation";

(c) In Paragraph 6(6) omit "Where regulation 12(1)(a) of the Cosmetic Products (Safety) Regulations 2008 requires an outer container to be marked with information about the manufacturer or supplier established in a member State" and replace it with "Where Article 19 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products (recast)(**b**) requires a container to bear information about the responsible person, as defined in Article 4 of that Regulation".

Animal By-Products (Enforcement) (England) Regulations 2011

19. In Schedule 2 of Animal By-Products (Enforcement) (England) Regulations 2011(**c**) omit paragraph 16.

Animal By-Products (Enforcement) (No. 2) (Wales) Regulations 2011

20. In Schedule 2 of Animal By-Products (Enforcement) (No. 2) (Wales) Regulations 2011(**d**)omit paragraph 15.

SCHEDULE 5

Schedule 2 paragraph 2

Sampling and Testing

1. In this Schedule—

"Annex A" means the Annex to Commission Directive No 80/1335/EEC(**e**) 1 as amended by Commission Directive No 87/143/EEC 2(**f**);

"Annex B" means the Annex to Commission Directive No 82/434/EEC(**g**) as amended by Commission Directive No 90/207/EEC(**h**);

"Annex C" means the Annex to Commission Directive No 83/514/EEC(**i**);

"Annex D" means the Annex to Commission Directive No 85/490/EEC(**j**);

"Annex E" means the Annex to Commission Directive No 93/73/EEC(**k**);

"Annex F" means the Annex to Commission Directive No 95/32/EC(**l**);

"Annex G" means the Annex to Commission Directive No 96/45/EC(**m**);

(**a**) OJ No L342, 22.12.2009, p.59
(**b**) OJ No L342, 22.12.2009, p.59
(**c**) SI 2011/881
(**d**) SI 2011/2377
(**e**) 80/1335/EEC (O.J. No. L383, 31.12.1980 p.27–46.
(**f**) 87/143/EEC (O.J. No. L57,27.2.1987,p.56).
(**g**) 82/434/EEC (O.J. No. L185,30.6.1982,p.27–46.
(**h**) 90/207/EEC (O.J. L108,28.4.1990, p.1–28).
(**i**) 83/514/EEC (O.J. No. L291,24.10.1983, p.9–46).
(**j**) 85/490/EEC (O.J. No. L295,7.11.1985, p.30–45).
(**k**) 93/73/EEC (O.J. No. L231, 14.9.1993).
(**l**) 95/32/EC (O.J. No. L178, 28.71995).
(**m**) 96/45/EC (O.J. No. L213,22.8.1996 p.8).

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

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 EU Cosmetic 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 EU Cosmetic 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 EU Cosmetic 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.

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.—(2) 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.—(3) 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.

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(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(**a**), 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

(**a**) 87/143/EEC (O.J. No. L057,27.02/1987 p.56)

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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”.

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(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”.

(41) 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.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the enforcement of Regulation (EC) No 1223/2009 of the European Parliament of the Council of 20 November 2009 on cosmetic products (recast) (OJ No L342, 22.12.2009 p59).

Regulation 1223/2009 repeals and replaces Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products (OJ No L262, 27.09.1976 p169) (as amended), which was implemented in the United Kingdom by the Cosmetic Products (Safety) Regulations 2008 (S.I. 2008/1284) (as amended). These Regulations revoke S.I. 2008/1284 (regulation 2, Schedule 1).

Regulation 4 identifies the Secretary of State and the enforcement authority (as defined in regulation 2) as the competent authorities for the purposes of Regulation 1223/2009.

Regulation 5 contains additional requirements for labelling goods that are required to be created under Article 19 of Regulation 1223/2009.

Part 2 sets out offences, penalties and enforcement. Regulations 6 and 7 impose duties on the enforcement authorities to enforce the regulations, and give them the necessary powers. Regulation 8 provides for how notices of requirements and requests should be given. Regulation 9 requires enforcement authorities to get authorisation from the Secretary of State before taking provisional measures in relation to cosmetic products that comply with Regulation 1223/2009. Regulation 10 requires enforcement authorities to notify the Secretary of State of information which is required to be notified to the Commission or to other member States. Regulation 11 sets out what information must be provided to the Secretary of State when requesting authorisation of provisional measures or providing notification under regulations 9 and 10.

Regulation 12 sets out offences under these Regulations, and regulation 13 contains penalties. Regulations 14 to 16 relate to appeals and compensation. Regulations 17 and 18 enable the court to order someone to remedy a matter or reimburse the enforcement authority for expenses of enforcement. Regulations 19 and 20 enable orders for the forfeiture of goods to be made. Regulations 21 to 23 set out time limits for prosecution, defences and liability of persons other than the principal offender.

Part 3 contains consequential amendments and review provisions. Regulation 25 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

Schedule 1 lists the Regulations revoked by this regulation.

Schedule 2 contains provisions relating to testing cosmetic products, powers to enter premises, powers to inspect, seize and detain cosmetic products etc, and warrants.

Schedule 3 identifies which provisions of Regulation 1223/2009 will result in a criminal offence if breached.

Schedule 4 contains consequential amendments to other secondary legislation.

Schedule 5 contains a detailed sampling and testing regime for use by enforcement authorities and implements Commission Directive No 80/1335/EEC, as amended by Commission Directive No 87/143/EEC; Commission Directive No 82/434/EEC as amended by Commission Directive No 90/207/EEC; Commission Directive No 83/514/EEC; Commission Directive No 85/490/EEC; Commission Directive No 93/73/EEC; Commission Directive No 95/32/EC; and Commission Directive No 96/45/EC.

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A full regulatory impact assessment has not been produced for this instrument as it has neglible impact on the costs of business.