STATUTORY INSTRUMENTS

1983 No. 1477

CONSUMER PROTECTION

The Cosmetic Products (Amendment) Regulations 1983

Made - - - -	*7th October* 1983
Laid before Parliament	*11th October* 1983
Coming into Operation	*1st November* 1983

Whereas the Secretary of State has in accordance with the provisions of section 1(5) of the Consumer Protection Act 1961(**a**) consulted with such persons and bodies of persons as appear to him to be requisite:

And whereas the Secretary of State is a Minister designated(**b**) for the purposes of section 2 of the European Communities Act 1972(**c**) in relation to measures for safety and consumer protection as respects cosmetic products and any provisions concerning the composition, labelling, marketing, classification or description of cosmetic products and in relation to the indication of origin on imported goods:

Now, therefore, the Secretary of State, in exercise of powers conferred on him by sections 1 and 2 of the said Act of 1961 and by section 2(2) of the said Act of 1972 and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

1. These Regulations may be cited as the Cosmetic Products (Amendment) Regulations 1983 and shall come into operation on 1st November 1983.

2. The Cosmetic Products Regulations 1978(**d**) shall have effect subject to the amendments set out in the following Regulations.

3.—(1) Regulation 8 of the said Regulations shall be omitted and the following Regulation shall be inserted in its place:

"**8.**—(1) The Schedule to the Act of 1961 (which relates to enforcement by local authorities) shall have effect in relation to cosmetic products.

(2) Where a local authority, in accordance with the provisions of the said Schedule, purchases a cosmetic product for the purpose of carrying out a test

(**a**) 1961 c.40.
(**b**) S.I. 1972/1811, 1975/1707.
(**c**) 1972 c.68.
(**d**) S.I. 1978/1354.

to determine whether the requirements of these Regulations are complied with in relation to it, no such test shall be carried out unless the provisions of paragraphs 2 to 5 of Schedule 5 are complied with, and any test for which a method is specified in paragraph 6 of that Schedule shall be carried out in accordance with that method."

(2) The Schedule set out in the Schedule hereto shall be inserted after Schedule 4 to the said Regulations of 1978.

4. In Schedule 1 to the said Regulations of 1978, there shall be inserted, at the appropriate place in numerical order, the following entries—

"8A	Acetylethyltetramethyltetralin (AETT)	300A	362
300A	3'-Ethyl-5',6',7',8'-tetrahydro-5',5',8',8'-tetramethyl-2'-acetonaphthone	8A	362 "

5. In subparagraph (ii) of the first paragraph of the introduction to Schedule 3 to the said Regulations of 1978 the words from "or zirconium" to the end shall be omitted.

Alexander Fletcher,
Parliamentary Under Secretary of State,
Department of Trade and Industry.

7th October 1983.

Regulation 3(2)

SCHEDULE

NEW SCHEDULE 5 TO THE COSMETIC PRODUCTS REGULATIONS 1978

"Regulation 8(2)

SCHEDULE 5

SAMPLING AND TESTING

1. In this Schedule—

"Annex A" means the Annex to Commission Directive No 80/1335/EEC(**a**);

"Annex B" means the Annex to Commission Directive No 82/434/EEC(**b**);

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

2. A local authority intending to purchase a cosmetic product shall purchase a sufficient quantity for there to be an adequate total sample for the purposes of Annex A; and, for the purposes of the definition of "total sample" in paragraph 2.2 of Part I of Annex A, samples shall be regarded as having the same batch number if:

(a) the means of identifying the batch referred to in Regulation 5(1)*(f)* above shows that they were manufactured in the same batch; or

(b) in the case of a product not manufactured in a batch, the reference referred to in Regulation 5(1)*(f)* above 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 Regulation 5(1)*(f)* above, 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 a local authority shall not have been opened by, on behalf of or at the request of the local authority before the purchase takes place and the container shall 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 a local authority has purchased a cosmetic product, the officer effecting the purchase shall—

(a) either—

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

(ii) place the product in a container and forthwith place a seal on that container,

in such a way that the product's immediate container cannot be

(**a**) OJ No L383, 31.12.1980, p.27.
(**b**) OJ No L185, 30.6.1982, p.1.

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 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) his own name, and

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

5.—(1) Subject to sub-paragraph (2) below, the provisions of Part I of Annex A, other than paragraphs 3.1, 3.2 and 4, and of Part II of Annex A, other than paragraph 1.4, shall 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 in relation to it, it shall be prepared for testing in accordance with good analytical practice, and the person so preparing it shall record in writing the method of preparation which he has used.

6.—(1) Any test to determine whether a cosmetic product contains a significant amount of free sodium hydroxide or free potassium hydroxide shall 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 shall 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 shall, subject to the limitations specified in the second sentence of paragraph 1 of Part IV of Annex A, be carried out in accordance with the said Part IV.

(4) Any test to determine the amount of chloroform in toothpaste shall, 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-hydroxybenzenesulphonate by virtue of their zinc contents in a cosmetic product shall be carried out in accordance with Part VI of Annex A, and shall 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-hydroxybenzenesulphonic acid, or to determine the amount of that acid in such a product, shall 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 shall be carried out in accordance with Part A of Part 1 of Annex B.

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

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

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations implement Commission Directives No. 80/1335/EEC and No. 82/434/EEC by making provision for the procedure to be followed in obtaining samples of cosmetic products in order to test them, for the preparation of such samples for testing and for certain test methods. A new Regulation 8 is substituted and a new Schedule 5 is inserted in the Cosmetic Products Regulations 1978 ("the principal Regulations").

The Regulations also implement Commission Directive No. 82/147/EEC (OJ No L63, 6.3.1982, p.26) by adding acetyl ethyl tetramethyltetralin (AETT) to the substances, listed in Schedule I to the principal Regulations, which may not be contained in a cosmetic product.

The Regulations also remove the prohibition placed upon the use, in cosmetic products intended to come into contact with the mucous membranes, of colouring agents which include zirconium or its derivatives or strontium or its salts.

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