
STATUTORY INSTRUMENTS

1994 No. 3247

The Chemicals (Hazard Information and Packaging for Supply) Regulations 1994

Enforcement, civil liability and defence

16.—(1) Insofar as any provision of regulations 5 to 14 is made under section 2 of the European Communities Act 1972⁽¹⁾—

- (a) subject to paragraph (2), the provisions of the Health and Safety at Work etc. Act 1974⁽²⁾ which relate to the approval of codes of practice and their use in criminal proceedings, to enforcement and to offences shall apply to that provision as if that provision had been made under section 15 of that Act; and
- (b) a breach of a duty imposed by that provision shall confer a right of action in civil proceedings, insofar as that breach of duty causes damage.

(2) Notwithstanding regulation 3 of the Health and Safety (Enforcing Authority) Regulations 1989⁽³⁾, the enforcing authority for these Regulations shall be the Executive, except that—

- (a) where a substance or preparation dangerous for supply is supplied in or from premises which are registered under section 75 of the Medicines Act 1968⁽⁴⁾, the enforcing authority shall be the Royal Pharmaceutical Society;
- (b) where a substance or preparation dangerous for supply is supplied otherwise than as in sub-paragraph (a) above—
 - (i) in or from any shop, mobile vehicle, market stall or other retail outlet, or
 - (ii) otherwise to members of the public, including by way of free sample, prize or mail order,the enforcing authority shall be the local weights and measures authority; and
- (c) for regulations 7 and 12, the enforcing authority shall be the local weights and measures authority.

(3) In every case where by virtue of paragraph (2) these Regulations are enforced by the Royal Pharmaceutical Society or the local weights and measures authority, they shall be enforced as if they were safety regulations made under section 11 of the Consumer Protection Act 1987⁽⁵⁾ and the provisions of section 12 of that Act shall apply to these Regulations as if they were safety regulations and as if the maximum period of imprisonment on summary conviction specified in subsection (5) thereof were 3 months instead of 6 months.

(4) In any proceedings for an offence under these Regulations, it shall be a defence for any person to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

(1) 1972 c. 68.

(2) 1974 c. 37; section 15 was amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraph 6.

(3) S.I. 1989/1903.

(4) 1968 c. 67.

(5) 1987 c. 43.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
