
STATUTORY INSTRUMENTS

1995 No. 1629

The Gas Appliances (Safety) Regulations 1995

Enforcement

Compliance notices

27.—(1) Except in the case of an appliance or fitting which in the opinion of the enforcement authority is likely to jeopardise the safety or health of any person, where an enforcement authority has reasonable grounds for suspecting that the affixing of the CE Marking to an appliance to which these Regulations apply or in the case of a fitting to which these Regulations apply, the issue of a fitting certificate, involves a contravention of these Regulations or any part of them, it may serve a notice (a “compliance notice”) on the manufacturer of that appliance or fitting or his authorised representative established in the Community and in such a case sections 13, 14, 16 or 17 of the 1987 Act or sections 21 or 22 of the 1974 Act shall not be applied until such a notice has been so served and the person upon whom it has been served has failed to comply with its requirements.

(2) Schedule 4 shall have effect in respect of a compliance notice.

Duties of enforcement authorities

28. Every authority and council on whom a duty is imposed by virtue of section 27 of the 1987 Act shall give immediate notice to the Secretary of State of—

- (a) any compliance notice served by it in respect of any appliance or fitting to which these Regulations apply;
- (b) any suspension notice served by it in respect of any appliance or fitting to which these Regulations apply;
- (c) any application made by it for an order for forfeiture of such an appliance or fitting; and
- (d) any other thing done in respect of any appliance or fitting for the purposes of, or in connection with, sections 14 to 17 of that Act.

Offences relating to domestic animals and to property

29.—(1) Any person who without reasonable excuse contravenes or fails to comply with regulation 7(1) or (2) in so far as it applies to injury or impairment to the health or safety of any domestic animal or damage to any property shall be guilty of an offence under this paragraph and punishable on summary conviction with imprisonment for not more than three months or with a fine of not more than level 5 on the standard scale.

(2) Where the commission by any person of an offence under paragraph (1) above is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

(3) Where an offence under this regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any

director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed guilty of the offence.

(4) Where the affairs of a body corporate are managed by its members, paragraph (3) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Proceedings

30.—(1) A magistrates' court,—

- (a) in England and Wales, may try an information, and
- (b) in Northern Ireland, may try a complaint,

in respect of an offence committed under—

- (i) section 12 of the 1987 Act in relation to a contravention of these Regulations, or
- (ii) regulation 29,

if the information is laid or the complaint is made, as the case may require, within twelve months from the time when the offence is committed.

(2) In Scotland, summary proceedings for such an offence may be begun at any time within twelve months from the time when the offence is committed.

(3) Without prejudice to the provisions of paragraphs (1) and (2) above, regulation 31 and the provisions of Part IV of the 1987 Act, in so far as these Regulations apply in relation to such appliances as are mentioned in paragraph (4) below—

- (a) the Executive (or, for Northern Ireland, the Department) may make arrangements for the enforcement of these Regulations; and
- (b) the provisions of the 1974 Act or the 1978 Order mentioned in paragraph (5) below shall apply as if—
 - (i) subject to paragraph (6) below, these Regulations were health and safety regulations and, accordingly, relevant statutory provisions within the meaning of the 1974 Act (or the 1978 Order),
 - (ii) any reference therein to an enforcing authority were a reference to the Executive (or the Department),
 - (iii) any reference therein to any provision of the 1974 Act (or the 1978 Order) were a reference to that provision as, and so far as, it is applied by this paragraph, and section 34(3) of the 1974 Act and Article 32(3) of the 1978 Order shall have effect with the substitution for the words “six months” of the words “twelve months”.

(4) The appliances referred to in paragraph (3) above are—

- (a) appliances or fittings designed for use or operation, whether exclusively or not, by persons at work; and
- (b) appliances or fittings designed for use, otherwise than at work, in non-domestic premises made available to persons as a place where they may use the appliances or fittings provided for their use there.

(5) The provisions referred to in paragraph (3) above are section 18(6) and (7)(b), sections 19 to 26 (save for subsections (3), (4) and (6) of section 23), subsections (1)(e) to (h) and (o), (2), (2A), (3) (save for the words “Subject to any provision made by virtue of section 15(6)(d) or (e) or by virtue of paragraph 2(2) of Schedule 3”) and 4(e) of section 33, section 34(3), (4) and (5), sections 35 to 39 (save for subsection (3) of section 36) and section 42 of the 1974 Act and articles 2(3), 21 to 28, paragraphs (1)(e) to (l), (2), (4), (5)(d) and (e) and (6) of article 31, paragraphs (3) and (4) of article 32 and articles 33 to 36 of the Order.

(6) Any criminal proceedings for a contravention of these Regulations brought by virtue of paragraphs (3) to (5) above shall be brought under section 12 of the 1987 Act or, where appropriate, under that section taken with regulation 29(1).

(7) The Executive or the Department shall, where action has been taken by it to prohibit or restrict the supply of any appliance which bears the CE Marking or of any fitting in respect of which a fitting certificate has been issued, forthwith inform the Secretary of State of the action taken, and the reason for it, with a view to this information being passed by him to the Commission.