

SCHEDULE 8

Regulation 54(2)

Enforcement powers of the Health and Safety Executive under the 1974 Act

Enforcement powers under the 1974 Act

1. For the purposes of enforcing these Regulations, the following sections of the 1974 Act apply subject to the modifications in paragraph 2—

- (a) section 10(1) (establishment of the Executive);
- (b) section 19 (appointment of inspectors);
- (c) section 20 (powers of inspectors);
- (d) section 21 (improvement notices);
- (e) section 22 (prohibition notices);
- (f) section 23 (provisions supplementary to ss 21 and 22);
- (g) section 24 (appeal against improvement or prohibition notice);
- (h) section 25 (power to deal with cause of imminent danger);
- (i) section 25A (power of customs officer to detain articles and substances);
- (j) section 26 (power of enforcing authorities to indemnify inspectors);
- (k) section 27 (obtaining of information by the Executive, enforcing authorities etc);
- (l) section 27A (information communicated by Commissioners for Revenue and Customs);
- (m) section 28 (restrictions on disclosure of information);
- (n) section 33 (offences);
- (o) section 34 (extension of time for bringing summary proceedings);
- (p) section 35 (venue);
- (q) section 39 (prosecution by inspectors);
- (r) section 41 (evidence); and
- (s) section 42 (power of court to order cause of offence to be remedied or, in certain cases, forfeiture).

Modifications to the 1974 Act

2. The sections of the 1974 Act referred to in paragraph 1 are to apply as if—
- (a) references to “relevant statutory provisions” were references to—
 - (i) the provisions of the 1974 Act set out in paragraph 1, as modified by this paragraph; and
 - (ii) these Regulations;
 - (b) references to “risk” were references to “risk” within the meaning of regulation 2(5) of these Regulations;
 - (c) in section 19—
 - (i) in subsection (1), for “Every enforcing authority” there were substituted “ The Executive ”;
 - (ii) in subsection (1), “within its field of responsibility” were omitted;
 - (iii) in subsection (2), paragraph (b) were omitted; and

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- (iv) in subsection (3), for “enforcing authority which appointed him” there were substituted “ Executive ”;
- (d) in section 20—
 - (i) in subsection (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
 - (ii) in subsection (2)(c)(i), for “his (the inspector's) enforcing authority” there were substituted “ the Executive ”;
 - (iii) in subsection 2(h), for “him to have caused or to be likely to cause danger to health or safety”, there were substituted “ contravene the relevant statutory provisions or present a risk ”; and
 - (iv) subsection (3) were omitted;
- (e) in section 21—
 - (i) before paragraph (a), there were inserted—
 - “(za) is making available on the market a pyrotechnic article which presents a risk;”;
 - (ii) after “specifying the”, there were inserted “ risk, or ”; and
 - (iii) after “requiring that person to”, there were inserted “ address the risk or ”;
- (f) for section 22(2) there were substituted—
 - “(2) An inspector may serve a notice (in this Part referred to as “a prohibition notice”) on a person if, as regards any activities to which this section applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—
 - (a) a risk; or
 - (b) a contravention of a relevant statutory provision.”;
- (g) in section 23, subsections (3), (4) and (6) were omitted;
- (h) in section 25A(1)—
 - (i) for “an enforcing authority or inspector”, there were substituted “ the Executive or an inspector ”; and
 - (ii) for “the authority”, there were substituted “ the Executive ”;
- (i) for the title to section 26, there were substituted “ Power of the Executive to indemnify its inspectors ”
- (j) in section 26, for each of the following references there were substituted “ the Executive ”
 - (i) “the enforcing authority which appointed him”;
 - (ii) “that authority”; and
 - (iii) “the authority”;
- (k) in section 27—
 - (i) in subsection (1), paragraph (b) were omitted; and
 - (ii) in subsection (1), “or, as the case may be, to the enforcing authority in question” were omitted;
- (l) in section 27A(2)—
 - (i) for “an enforcing authority” there were substituted “ the Executive ”; and
 - (ii) the words from “, other than the Office for Nuclear Regulation” to the end were omitted;

- (m) in section 28—
 - (i) in subsection (1)(a), “, other than the Officer for Nuclear Regulation (or an inspector appointed by it),” were omitted;
 - (ii) in subsection (1)(a), “, by virtue of section 43A(6) below” were omitted;
 - (iii) in subsection (3)(a), “or any enforcing authority” were omitted;
 - (iv) in subsection (4), “or an enforcing authority” were omitted;
 - (v) in subsection (4), “(including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;
 - (vi) in subsection (5)(a), “or the purposes of the enforcing authority in question in connection with the relevant statutory provisions,” were omitted;
 - (vii) in subsection (7), “14(4)(a) or” were omitted;
 - (viii) in subsection (7), for paragraph (b), there were substituted—
 - “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”;
 - (ix) subsection (9B) were omitted;
- (n) in section 33—
 - (i) in subsection (1), paragraphs (a) to (i) and (k) to (m) were omitted;
 - (ii) for subsection (2), there were substituted—
 - “(2) A person guilty of an offence under this section is liable—
 - (a) on summary conviction—
 - (i) in England and Wales, to a fine or imprisonment for a term not exceeding three months, or to both;
 - (ii) in Scotland, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding three months, or to both;
 - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years, or to both.”;
 - (iii) section 33(3) were omitted;
- (o) in section 34—
 - (i) in subsection (1), paragraphs (a) and (b) were omitted;
 - (ii) in subsection (1), for the words from “and it appears” to the end, there were substituted—
 - “and it appears from the investigation or, in a case falling within paragraph (d), from the proceedings at the inquiry, that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the investigation or inquiry, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the conclusion of the investigation or inquiry.”;
 - (iii) subsections (3) to (6) were omitted;
- (p) in section 35, for “any enforcing authority”, there were substituted “ the Executive ”;
- (q) in section 39(1), for “enforcing authority which appointed him” there were substituted “ Executive ”; and
- (r) in section 42, subsections (3A), (4) and (5) were omitted.

Changes to legislation:

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