



Consumer Protection Act 1987

1987 CHAPTER 43

PART II

CONSUMER SAFETY

10 The general safety requirement

- (1) A person shall be guilty of an offence if he—
 - (a) supplies any consumer goods which fail to comply with the general safety requirement;
 - (b) offers or agrees to supply any such goods; or
 - (c) exposes or possesses any such goods for supply.
- (2) For the purposes of this section consumer goods fail to comply with the general safety requirement if they are not reasonably safe having regard to all the circumstances, including—
 - (a) the manner in which, and purposes for which, the goods are being or would be marketed, the get-up of the goods, the use of any mark in relation to the goods and any instructions or warnings which are given or would be given with respect to the keeping, use or consumption of the goods;
 - (b) any standards of safety published by any person either for goods of a description which applies to the goods in question or for matters relating to goods of that description; and
 - (c) the existence of any means by which it would have been reasonable (taking into account the cost, likelihood and extent of any improvement) for the goods to have been made safer.
- (3) For the purposes of this section consumer goods shall not be regarded as failing to comply with the general safety requirement in respect of—
 - (a) anything which is shown to be attributable to compliance with any requirement imposed by or under any enactment or with any Community obligation;
 - (b) any failure to do more in relation to any matter than is required by—

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- (i) any safety regulations imposing requirements with respect to that matter;
 - (ii) any standards of safety approved for the purposes of this subsection by or under any such regulations and imposing requirements with respect to that matter;
 - (iii) any provision of any enactment or subordinate legislation imposing such requirements with respect to that matter as are designated for the purposes of this subsection by any such regulations.
- (4) In any proceedings against any person for an offence under this section in respect of any goods it shall be a defence for that person to show—
 - (a) that he reasonably believed that the goods would not be used or consumed in the United Kingdom; or
 - (b) that the following conditions are satisfied, that is to say—
 - (i) that he supplied the goods, offered or agreed to supply them or, as the case may be, exposed or possessed them for supply in the course of carrying on a retail business; and
 - (ii) that, at the time he supplied the goods or offered or agreed to supply them or exposed or possessed them for supply, he neither knew nor had reasonable grounds for believing that the goods failed to comply with the general safety requirement; or
 - (c) that the terms on which he supplied the goods or agreed or offered to supply them or, in the case of goods which he exposed or possessed for supply, the terms on which he intended to supply them—
 - (i) indicated that the goods were not supplied or to be supplied as new goods; and
 - (ii) provided for, or contemplated, the acquisition of an interest in the goods by the persons supplied or to be supplied.
- (5) For the purposes of subsection (4)(b) above goods are supplied in the course of carrying on a retail business if—
 - (a) whether or not they are themselves acquired for a person's private use or consumption, they are supplied in the course of carrying on a business of making a supply of consumer goods available to persons who generally acquire them for private use or consumption; and
 - (b) the descriptions of goods the supply of which is made available in the course of that business do not, to a significant extent, include manufactured or imported goods which have not previously been supplied in the United Kingdom.
- (6) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (7) In this section "consumer goods" means any goods which are ordinarily intended for private use or consumption, not being—
 - (a) growing crops or things comprised in land by virtue of being attached to it;
 - (b) water, food, feeding stuff or fertiliser;
 - (c) gas which is, is to be or has been supplied by a person authorised to supply it by or under section 6, 7 or 8 of the Gas Act 1986 (authorisation of supply of gas through pipes);
 - (d) aircraft (other than hang-gliders) or motor vehicles;

- (e) controlled drugs or licensed medicinal products;
- (f) tobacco.

11 Safety regulations

- (1) The Secretary of State may by regulations under this section ("safety regulations") make such provision as he considers appropriate for the purposes of section 10(3) above and for the purpose of securing—
 - (a) that goods to which this section applies are safe;
 - (b) that goods to which this section applies which are unsafe, or would be unsafe in the hands of persons of a particular description, are not made available to persons generally or, as the case may be, to persons of that description; and
 - (c) that appropriate information is, and inappropriate information is not, provided in relation to goods to which this section applies.
- (2) Without prejudice to the generality of subsection (1) above, safety regulations may contain provision—
 - (a) with respect to the composition or contents, design, construction, finish or packing of goods to which this section applies, with respect to standards for such goods and with respect to other matters relating to such goods;
 - (b) with respect to the giving, refusal, alteration or cancellation of approvals of such goods, of descriptions of such goods or of standards for such goods;
 - (c) with respect to the conditions that may be attached to any approval given under the regulations;
 - (d) for requiring such fees as may be determined by or under the regulations to be paid on the giving or alteration of any approval under the regulations and on the making of an application for such an approval or alteration;
 - (e) with respect to appeals against refusals, alterations and cancellations of approvals given under the regulations and against the conditions contained in such approvals;
 - (f) for requiring goods to which this section applies to be approved under the regulations or to conform to the requirements of the regulations or to descriptions or standards specified in or approved by or under the regulations;
 - (g) with respect to the testing or inspection of goods to which this section applies (including provision for determining the standards to be applied in carrying out any test or inspection);
 - (h) with respect to the ways of dealing with goods of which some or all do not satisfy a test required by or under the regulations or a standard connected with a procedure so required;
 - (i) for requiring a mark, warning or instruction or any other information relating to goods to be put on or to accompany the goods or to be used or provided in some, other manner in relation to the goods, and for securing that inappropriate information is not given in relation to goods either by means of misleading marks or otherwise;
 - (j) for prohibiting persons from supplying, or from offering to supply, agreeing to supply, exposing for supply or possessing for supply, goods to which this section applies and component parts and raw materials for such goods;
 - (k) for requiring information to be given to any such person as may be determined by or under the regulations for the purpose of enabling that person to exercise any function conferred on him by the regulations.

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- (3) Without prejudice as aforesaid, safety regulations may contain provision—
- (a) for requiring persons on whom functions are conferred by or under section 27 below to have regard, in exercising their functions so far as relating to any provision of safety regulations, to matters specified in a direction issued by the Secretary of State with respect to that provision;
 - (b) for securing that a person shall not be guilty of an offence under section 12 below unless it is shown that the goods in question do not conform to a particular standard;
 - (c) for securing that proceedings for such an offence are not brought in England and Wales except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
 - (d) for securing that proceedings for such an offence are not brought in Northern Ireland except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland;
 - (e) for enabling a magistrates' court in England and Wales or Northern Ireland to try an information or, in Northern Ireland, a complaint in respect of such an offence if the information was laid or the complaint made within twelve months from the time when the offence was committed;
 - (f) for enabling summary proceedings for such an offence to be brought in Scotland at any time within twelve months from the time when the offence was committed; and
 - (g) for determining the persons by whom, and the manner in which, anything required to be done by or under the regulations is to be done.
- (4) Safety regulations shall not provide for any contravention of the regulations to be an offence.
- (5) Where the Secretary of State proposes to make safety regulations it shall be his duty before he makes them—
- (a) to consult such organisations as appear to him to be representative of interests substantially affected by the proposal;
 - (b) to consult such other persons as he considers appropriate; and
 - (c) in the case of proposed regulations relating to goods suitable for use at work, to consult the Health and Safety Commission in relation to the application of the proposed regulations to Great Britain;
- but the preceding provisions of this subsection shall not apply in the case of regulations which provide for the regulations to cease to have effect at the end of a period of not more than twelve months beginning with the day on which they come into force and which contain a statement that it appears to the Secretary of State that the need to protect the public requires that the regulations should be made without delay.
- (6) The power to make safety regulations shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—
- (a) to make different provision for different cases; and
 - (b) to make such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (7) This section applies to any goods other than—
- (a) growing crops and things comprised in land by virtue of being attached to it;
 - (b) water, food, feeding stuff and fertiliser;

- (c) gas which is, is to be or has been supplied by a person authorised to supply it by or under section 6, 7 or 8 of the Gas Act 1986 (authorisation of supply of gas through pipes);
- (d) controlled drugs and licensed medicinal products.

12 Offences against the safety regulations

- (1) Where safety regulations prohibit a person from supplying or offering or agreeing to supply any goods or from exposing or possessing any goods for supply, that person shall be guilty of an offence if he contravenes the prohibition.
- (2) Where safety regulations require a person who makes or processes any goods in the course of carrying on a business—
 - (a) to carry out a particular test or use a particular procedure in connection with the making or processing of the goods with a view to ascertaining whether the goods satisfy any requirements of such regulations; or
 - (b) to deal or not to deal in a particular way with a quantity of the goods of which the whole or part does not satisfy such a test or does not satisfy standards connected with such a procedure,that person shall be guilty of an offence if he does not comply with the requirement.
- (3) If a person contravenes a provision of safety regulations which prohibits or requires the provision, by means of a mark or otherwise, of information of a particular kind in relation to goods, he shall be guilty of an offence.
- (4) Where safety regulations require any person to give information to another for the purpose of enabling that other to exercise any function, that person shall be guilty of an offence if—
 - (a) he fails without reasonable cause to comply with the requirement; or
 - (b) in giving the information which is required of him—
 - (i) he makes any statement which he knows is false in a material particular; or
 - (ii) he recklessly makes any statement which is false in a material particular.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

13 Prohibition notices and notices to warn

- (1) The Secretary of State may—
 - (a) serve on any person a notice ("a prohibition notice") prohibiting that person, except with the consent of the Secretary of State, from supplying, or from offering to supply, agreeing to supply, exposing for supply or possessing for supply, any relevant goods which the Secretary of State considers are unsafe and which are described in the notice;
 - (b) serve on any person a notice ("a notice to warn") requiring that person at his own expense to publish, in a form and manner and on occasions specified in the notice, a warning about any relevant goods which the Secretary of State considers are unsafe, which that person supplies or has supplied and which are described in the notice.

- (2) Schedule 2 to this Act shall have effect with respect to prohibition notices and notices to warn; and the Secretary of State may by regulations make provision specifying the manner in which information is to be given to any person under that Schedule.
- (3) A consent given by the Secretary of State for the purposes of a prohibition notice may impose such conditions on the doing of anything for which the consent is required as the Secretary of State considers appropriate.
- (4) A person who contravenes a prohibition notice or a notice to warn shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level S on the standard scale or to both.
- (5) The power to make regulations under subsection (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—
 - (a) to make different provision for different cases; and
 - (b) to make such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (6) In this section "relevant goods" means—
 - (a) in relation to a prohibition notice, any goods to which section 11 above applies; and
 - (b) in relation to a notice to warn, any goods to which that section applies or any growing crops or things comprised in land by virtue of being attached to it.

14 Suspension notices

- (1) Where an enforcement authority has reasonable grounds for suspecting that any safety provision has been contravened in relation to any goods, the authority may serve a notice ("a suspension notice") prohibiting the person on whom it is served, for such period ending not more than six months after the date of the notice as is specified therein, from doing any of the following things without the consent of the authority, that is to say, supplying the goods, offering to supply them, agreeing to supply them or exposing them for supply.
- (2) A suspension notice served by an enforcement authority in respect of any goods shall—
 - (a) describe the goods in a manner sufficient to identify them;
 - (b) set out the grounds on which the authority suspects that a safety provision has been contravened in relation to the goods; and
 - (c) state that, and the manner in which, the person on whom the notice is served may appeal against the notice under section 1S below.
- (3) A suspension notice served by an enforcement authority for the purpose of prohibiting a person for any period from doing the things mentioned in subsection (1) above in relation to any goods may also require that person to keep the authority informed of the whereabouts throughout that period of any of those goods in which he has an interest.
- (4) Where a suspension notice has been served on any person in respect of any goods, no further such notice shall be served on that person in respect of the same goods unless—
 - (a) proceedings against that person for an offence in respect of a contravention in relation to the goods of a safety provision (not being an offence under this section); or

- (b) proceedings for the forfeiture of the goods under section 16 or 17 below, are pending at the end of the period specified in the first-mentioned notice.
- (5) A consent given by an enforcement authority for the purposes of subsection (1) above may impose such conditions on the doing of anything for which the consent is required as the authority considers appropriate.
- (6) Any person who contravenes a suspension notice shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (7) Where an enforcement authority serves a suspension notice in respect of any goods, 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 service of the notice if—
 - (a) there has been no contravention in relation to the goods of any safety provision; and
 - (b) the exercise of the power is not attributable to any neglect or default by that person.
- (8) 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.

15 Appeals against suspension notices

- (1) Any person having an interest in any goods in respect of which a suspension notice is for the time being in force may apply for an order setting aside the notice.
- (2) An application under this section may be made—
 - (a) to any magistrates' court in which proceedings have been brought in England and Wales or Northern Ireland—
 - (i) for an offence in respect of a contravention in relation to the goods of any safety provision; or
 - (ii) for the forfeiture of the goods under section 16 below;
 - (b) where no such proceedings have been so brought, by way of complaint to a magistrates' court; or
 - (c) in Scotland, by summary application to the sheriff.
- (3) On an application under this section to a magistrates' court in England and Wales or Northern Ireland the court shall make an order setting aside the suspension notice only if the court is satisfied that there has been no contravention in relation to the goods of any safety provision.
- (4) On an application under this section to the sheriff he shall make an order setting aside the suspension notice only if he is satisfied that at the date of making the order—
 - (a) proceedings for an offence in respect of a contravention in relation to the goods of any safety provision; or
 - (b) proceedings for the forfeiture of the goods under section 17 below, have not been brought or, having been brought, have been concluded.

- (5) Any person aggrieved by an order made under this section by a magistrates' court in England and Wales or Northern Ireland, 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.;
- and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the 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)).

16 Forfeiture: England and Wales and Northern Ireland

- (1) An enforcement authority in England and Wales or Northern Ireland may apply under this section for an order for the forfeiture of any goods on the grounds that there has been a contravention in relation to the goods of a safety provision.
- (2) An application under this section may be made—
- (a) where proceedings have been brought in a magistrates' court for an offence in respect of a contravention in relation to some or all of the goods of any safety provision, to that court;
 - (b) where an application with respect to some or all of the goods has been made to a magistrates' court under section 15 above or section 33 below, to that court; and
 - (c) where no application for the forfeiture of the goods has been made under paragraph (a) or (b) above, by way of complaint to a magistrates' court.
- (3) On an application under this section the court shall make an order for the forfeiture of any goods only if it is satisfied that there has been a contravention in relation to the goods of a safety provision.
- (4) For the avoidance of doubt it is declared that a court may infer for the purposes of this section that there has been a contravention in relation to any goods of a safety provision if it is satisfied that any such provision has been contravened in relation to goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).
- (5) Any person aggrieved by an order made under this section by a magistrates' court, 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;
- and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the 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) Subject to subsection (7) below, where any goods are forfeited under this section they shall be destroyed in accordance with such directions as the court may give.

- (7) On making an order under this section a magistrates' court may, if it considers it appropriate to do so, direct that the goods to which the order relates shall (instead of being destroyed) be released, to such person as the court may specify, on condition that that person—
- (a) does not supply those goods to any person otherwise than as mentioned in section 46(7)(a) or (b) below; and
 - (b) complies with any order to pay costs or expenses (including any order under section 35 below) which has been made against that person in the proceedings for the order for forfeiture.

17 Forfeiture: Scotland

- (1) In Scotland a sheriff may make an order for forfeiture of any goods in relation to which there has been a contravention of a safety provision—
- (a) on an application by the procurator-fiscal made in the manner specified in section 310 of the Criminal Procedure (Scotland) Act 1975; 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.
- (2) The procurator-fiscal making an application under subsection (1)(a) above shall serve on any person appearing to him to be the owner of, or otherwise to have an interest in, the goods to which the application relates a copy of the application, together with a notice giving him the opportunity to appear at the hearing of the application to show cause why the goods should not be forfeited.
- (3) Service under subsection (2) above shall be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings under the Criminal Procedure (Scotland) Act 1975.
- (4) Any person upon whom notice is served under subsection (2) above and any other person claiming to be the owner of, or otherwise to have an interest in, goods to which an application under this section relates shall be entitled to appear at the hearing of the application to show cause why the goods should not be forfeited.
- (5) The sheriff shall not make an order following an application under subsection (1)(a) above—
- (a) if any person on whom notice is served under subsection (2) above does not appear, unless service of the notice on that person is proved; or
 - (b) if no notice under subsection (2) above 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 shall make an order under this section only if he is satisfied that there has been a contravention in relation to those goods of a safety provision.
- (7) For the avoidance of doubt it is declared that the sheriff may infer for the purposes of this section that there has been a contravention in relation to any goods of a safety provision if he is satisfied that any such provision has been contravened in relation to any goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).
- (8) Where an order for the forfeiture of any goods is made following an application by the procurator-fiscal under subsection (1)(a) above, any person who appeared, or was

entitled to appear, to show cause why goods 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 452(4)(a) to (e) of the Criminal Procedure (Scotland) Act 1975 shall apply to an appeal under this subsection as it applies to a stated case under Part II of that Act.

- (9) An order following an application under subsection (1)(a) above 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 subsection (8) above within that period, until the appeal is determined or abandoned.
- (10) An order under subsection (1)(b) above shall not take effect—
- (a) until the end of the period within which an appeal against the order could be brought under the Criminal Procedure (Scotland) Act 1975; or
 - (b) if an appeal is made within that period, until the appeal is determined or abandoned.
- (11) Subject to subsection (12) below, goods forfeited under this section shall be destroyed in accordance with such directions as the sheriff may give.
- (12) If he thinks fit, the sheriff may direct that the goods be released, to such person as he may specify, on condition that that person does not supply those goods to any other person otherwise than as mentioned in section 46(7)(a) or (b) below.

18 Power to obtain information

- (1) If the Secretary of State considers that, for the purpose of deciding whether—
- (a) to make, vary or revoke any safety regulations; or
 - (b) to serve, vary or revoke a prohibition notice; or
 - (c) to serve or revoke a notice to warn,
- he requires information which another person is likely to be able to furnish, the Secretary of State may serve on the other person a notice under this section.
- (2) A notice served on any person under this section may require that person—
- (a) to furnish to the Secretary of State, within a period specified in the notice, such information as is so specified;
 - (b) to produce such records as are specified in the notice at a time and place so specified and to permit a person appointed by the Secretary of State for the purpose to take copies of the records at that time and place.
- (3) A person shall be guilty of an offence if he—
- (a) fails, without reasonable cause, to comply with a notice served on him under this section; or
 - (b) in purporting to comply with a requirement which by virtue of paragraph (a) of subsection (2) above is contained in such a notice—
 - (i) furnishes information which he knows is false in a material particular; or
 - (ii) recklessly furnishes information which is false in a material particular.
- (4) A person guilty of an offence under subsection (3) above shall—

- (a) in the case of an offence under paragraph (a) of that subsection, be liable on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) in the case of an offence under paragraph (b) of that subsection be liable—
 - (i) on conviction on indictment, to a fine;
 - (ii) on summary conviction, to a fine not exceeding the statutory maximum.

19 Interpretation of Part II

(1) In this Part—

"controlled drug" means a controlled drug within the meaning of the Misuse of Drugs Act 1971;

"feeding stuff" and "fertiliser" have the same meanings as in Part IV of the Agriculture Act 1970;

"food" does not include anything containing tobacco but, subject to that, has the same meaning as in the Food Act 1984 or, in relation to Northern Ireland, the same meaning as in the Food and Drugs Act (Northern Ireland) 1958;

"licensed medicinal product" means—

- (a) any medicinal product within the meaning of the Medicines Act 1968 in respect of which a product licence within the meaning of that Act is for the time being in force; or
- (b) any other article or substance in respect of which any such licence is for the time being in force in pursuance of an order under section 104 or 105 of that Act (application of Act to other articles and substances);

"safe", in relation to any goods, means such that there is no risk, or no risk apart from one reduced to a minimum, that any of the following will (whether immediately or after a definite or indefinite period) cause the death of, or any personal injury to, any person whatsoever, that is to say—

- (a) the goods;
- (b) the keeping, use or consumption of the goods;
- (c) the assembly of any of the goods which are, or are to be, supplied unassembled;
- (d) any emission or leakage from the goods or, as a result of the keeping, use or consumption of the goods, from anything else; or
- (e) reliance on the accuracy of any measurement, calculation or other reading made by or by means of the goods, and "safer" and "unsafe" shall be construed accordingly;

"tobacco" includes any tobacco product within the meaning of the Tobacco Products Duty Act 1979 and any article or substance containing tobacco and intended for oral or nasal use.

(2) In the definition of "safe" in subsection (1) above, references to the keeping, use or consumption of any goods are references to—

- (a) the keeping, use or consumption of the goods by the persons by whom, and in all or any of the ways or circumstances in which, they might reasonably be expected to be kept, used or consumed; and
- (b) the keeping, use or consumption of the goods either alone or in conjunction with other goods in conjunction with which they might reasonably be expected to be kept, used or consumed.