
STATUTORY INSTRUMENTS

1992 No. 3073

The Supply of Machinery (Safety) Regulations 1992

PART IV

ENFORCEMENT

Application of Schedule 6

28. Schedule 6 shall have effect for the purposes of providing for the enforcement of these Regulations and for matters incidental thereto.

Offences

29. Any person who—

- (a) contravenes or fails to comply with regulation 11 above;
- (b) affixes the EC mark to any relevant machinery in contravention of regulation 25(2) above;
- (c) affixes a mark or inscription to relevant machinery in contravention of regulation 25(3) above;
- (d) contravenes the requirements of regulation 24 above; or
- (e) fails or refuses to give information or an explanation as required by regulation 25(4) above,

shall be guilty of an offence.

Penalties

30.—(1) A person guilty of an offence under regulation 29(a) or (b) above shall be liable on summary conviction—

- (a) to imprisonment for a term not exceeding 3 months; or
- (b) to a fine not exceeding—
 - (i) in Great Britain, level 5 on the standard scale; or
 - (ii) in Northern Ireland, £2,000,or to both.

(2) A person guilty of an offence under regulation 29(c), (d) or (e) above shall be liable on summary conviction to a fine not exceeding—

- (i) in Great Britain, level 5 on the standard scale; or
- (ii) in Northern Ireland, £2,000.

Defence of due diligence

31.—(1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 29 above it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) above involves an allegation that the commission of the offence was due—

- (a) to the act or default of another; or
- (b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice under paragraph (3) below on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) It is hereby declared that a person shall not be entitled to rely on the defence provided by paragraph (1) above by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

Liability of persons other than the principal offender

32.—(1) Where the commission by any person of an offence under regulation 29 above is due to the act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of paragraph (1) above) in respect of any act or default which is shown 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 who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) 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.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

Consequential disapplication of United Kingdom law

33.—(1) Subject to paragraph (3) below, any requirement which—

- (a) is imposed by or under any of the enactments (relating in various respects to the safety of machinery) specified in paragraph (2) below; and
- (b) but for the provisions of this paragraph, would have to be satisfied by or in respect of relevant machinery if it is to be lawfully supplied,

is hereby disappplied.

- (2) The enactments referred to in paragraph (1) above are—
- (a) in the Factories Act 1961⁽¹⁾—
 - (i) subsection (1) of section 26 but only to the extent that it imposes requirements in respect of the supply of chains, ropes and lifting tackle to be put into service for raising or lowering goods or materials; and
 - (ii) subsections (1) and (6) of section 27;
 - (b) in the Factories Act (Northern Ireland) 1965⁽²⁾—
 - (i) subsection (1) of section 27 but only to the extent that it imposes requirements in respect of the supply of chains, ropes and lifting tackle to be put into service for raising or lowering goods or materials; and
 - (ii) subsections (1) and (6) of section 28;
 - (c) in the Construction (General Provisions) Regulations 1961⁽³⁾ (having effect as if made under the Factories Act 1961) and in the Construction (General Provisions) Regulations (Northern Ireland) 1963⁽⁴⁾ (having effect as if made under the Factories Act (Northern Ireland) 1965) respectively, regulation 26, paragraphs (1) and (2) of regulation 29 and regulation 31(1);
 - (d) in the Construction (Lifting Operations) Regulations 1961⁽⁵⁾ (having effect as if made under the Factories Act 1961), and in the Construction (Lifting Operations) Regulations (Northern Ireland) 1963⁽⁶⁾ (having effect as if made under the Factories Act (Northern Ireland) 1965) respectively, regulations 10(1)(a), 11(3), 13(1), 13(2), 14(1), 14(4), 15, 16, 20(2), 21, 22, 24, 30(1), the first sentence of 30(2) and 34(1);
 - (e) in the Shipbuilding & Ship-repairing Regulations 1960⁽⁷⁾ (having effect as if made under the Factories Act 1961), regulations 33, 34(1), 35 and 36(1);
 - (f) in the Shipbuilding & Ship-repairing Regulations (Northern Ireland) 1971⁽⁸⁾ (made under the Factories Act (Northern Ireland) 1965), regulations 32, 33(1), 34 and 35(1);
 - (g) in the Mines and Quarries Act 1954⁽⁹⁾ and the Mines Act (Northern Ireland) 1969⁽¹⁰⁾ respectively, sections 83 and 85(1);
 - (h) in the Coal and Other Mines (Locomotives) Regulations 1956⁽¹¹⁾ (having effect as if made under the Mines and Quarries Act 1954), paragraphs (1), (2)(a) to (c) and (3) of regulation 3, regulation 4 and paragraphs (1)(a) to (g), (2) and (3) of regulation 5;
 - (i) in the Coal and Other Mines (Support) Regulations 1966⁽¹²⁾ (made under the Mines and Quarries Act 1954), regulation 16(2);
 - (j) in the Miscellaneous Mines (General) Regulations 1956⁽¹³⁾ (having effect as if made under the Mines and Quarries Act 1954), regulation 52;

(1) 1961 c. 34.

(2) 1965 c. 20 (N.I.).

(3) S.I. 1961/1580, to which there are amendments not relevant to these Regulations.

(4) S.R. & O. (N.I.) 1963 No. 87.

(5) S.I. 1961/1581, amended by S.I. 1984/1593.

(6) S.R. & O. (N.I.) 1963 No. 86.

(7) S.I. 1960/1932.

(8) S.R. & O. (N.I.) 1971 No. 372.

(9) 1954 c. 70.

(10) 1969 c. 6 (N.I.).

(11) S.I. 1956/1771.

(12) S.I. 1966/881.

(13) S.I. 1956/1778.

- (k) in the Quarries (General) Regulations 1956⁽¹⁴⁾ (having effect as if made under the Mines and Quarries Act 1954), regulation 14;
 - (l) in the Quarry Vehicles Regulations 1970⁽¹⁵⁾ (made under the Mines and Quarries Act 1954), regulations 3(1) and 4(1);
 - (m) in the Agriculture (Threshers and Balers) Regulations 1960⁽¹⁶⁾ (made under the Agriculture (Safety, Health and Welfare Provisions) Act 1956⁽¹⁷⁾) paragraph 7 of Part II of the Schedule thereto;
 - (n) in the Coal Mines (Firedamp Drainage) Regulations 1960⁽¹⁸⁾ (made under the Mines and Quarries Act 1954), regulation 11.
 - (o) in the Docks Regulations 1988⁽¹⁹⁾ (made under the Health and Safety at Work etc. Act 1974⁽²⁰⁾) and in the Docks Regulations (Northern Ireland) 1989⁽²¹⁾ (made under the Health and Safety at Work (Northern Ireland) Order 1978⁽²²⁾) respectively, regulation 13(1)(a), (b), and (c), the words “or assembled” in regulation 13(1)(d), regulations 13(2)(b), (c) and (d), 14(1)(a) and 16(7);
 - (p) in the Electricity at Work Regulations 1989⁽²³⁾ (made under the Health and Safety at Work etc. Act 1974) and in the Electricity at Work Regulations (Northern Ireland) 1991⁽²⁴⁾ (made under the Health and Safety at Work (Northern Ireland) Order 1978) respectively, regulation 26; and
 - (q) in the Regulations specified in the first column of Schedule 7 hereto, the regulations respectively specified in the third column of that Schedule.
- (3) For the avoidance of doubt, it is hereby declared that nothing in paragraph (2) above affects the application of the enactments so listed to the use in service of relevant machinery.

Relevant machinery which is electrical equipment

34.—(1) The Low Voltage Electrical Equipment (Safety) Regulations 1989⁽²⁵⁾ are hereby disapplied in respect of relevant machinery which is electrical equipment in so far as the risks as to the safety of such equipment are not mainly of electrical origin.

(2) In this regulation, “electrical equipment” has the meaning given by Article 1 of Council Directive 73/23 EEC on the harmonization of the laws of member States relating to electrical equipment designed for use within certain voltage limits⁽²⁶⁾.

(3) For the avoidance of doubt, it is hereby declared that paragraph (1) above does not affect the applicability of the above-mentioned Regulations to machinery which is electrical equipment for the purposes of regulation 8(1)(a) above.

⁽¹⁴⁾ S.I. 1956/1780.

⁽¹⁵⁾ S.I. 1970/168.

⁽¹⁶⁾ S.I. 1960/1199; relevant amending instrument is S.I. 1981/1414.

⁽¹⁷⁾ 1956 c. 49.

⁽¹⁸⁾ S.I. 1960/1015.

⁽¹⁹⁾ S.I. 1988/1655.

⁽²⁰⁾ 1974 c. 37.

⁽²¹⁾ S.R. 1989 No. 320.

⁽²²⁾ S.I. 1978/1039 (N.I. 9).

⁽²³⁾ S.I. 1989/635.

⁽²⁴⁾ S.R. 1991 No. 13.

⁽²⁵⁾ S.I. 1989/728.

⁽²⁶⁾ OJ No. L77, 26.3.73, p.29.