

SCHEDULES

SCHEDULE 2

Article 28.

AMENDMENTS OF THE HEALTH AND SAFETY AT WORK (NORTHERN IRELAND) ORDER 1978(1)

1. In Article 2(1) (interpretation)—
 - (a) after the definition of “article for use at work” there shall be inserted the following definition—

““article of fairground equipment” means any fairground equipment or any article designed for use as a component in any such equipment;”;
 - (b) after the definition of “credit sale agreement” there shall be inserted the following definition—

““customs officer” means an officer within the meaning of the Customs and Excise Management Act 1979(2);”;
 - (c) before the definition of “the general purposes of this Part” there shall be inserted the following definition—

““fairground equipment” means any fairground ride, any similar plant which is designed to be in motion for entertainment purposes with members of the public on or inside it or any plant which is designed to be used by members of the public for entertainment purposes either as a slide or for bouncing upon, and in this definition the reference to plant which is designed to be in motion with members of the public on or inside it includes a reference to swings, dodgems and other plant which is designed to be in motion wholly or partly under the control of, or to be put in motion by, a member of the public;”;
 - (d) after the definition of “inspector” there shall be inserted the following definition—

““micro-organism” includes any microscopic biological entity which is capable of replication”;;
 - (e) in the definition of “substance”, after the words “natural or artificial substance” there shall be inserted the words “(including micro-organisms)”.
- 2.—(1) Article 7 (general duties of manufacturers etc. as regard articles and substances for use at work) shall be amended as follows.
 - (2) For paragraph (1) there shall be substituted the following paragraphs—
 - “(1) It shall be the duty of any person who designs, manufactures, imports or supplies any article for use at work or any article of fairground equipment—
 - (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being set, used, cleaned or maintained by a person at work;

(1)
(2) 1979 c. 2

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- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by sub-paragraph (a);
- (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all such times as are mentioned in sub-paragraph (a) and when it is being dismantled or disposed of; and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of sub-paragraph (c) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

(1A) It shall be the duty of any person who designs, manufactures, imports or supplies any article of fairground equipment—

- (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public;
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by sub-paragraph (a);
- (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public; and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of sub-paragraph (c) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.”.

(3) In paragraph (2) (duty of person who undertakes the design or manufacture of an article for use at work to carry out research), after the word “work” there shall be inserted the words “or of any article of fairground equipment”.

(4) In paragraph (3) (duty of persons who erect or install articles for use at work)—

- (a) after the words “persons at work” there shall be inserted the words “or who erects or installs any article of fairground equipment”; and
- (b) for the words from “it is” onwards there shall be substituted the words “the article is erected or installed makes it unsafe or a risk to health at any such time as is mentioned in paragraph (1)(a) or, as the case may be, (1A)(a).”.

(5) For paragraph (4) there shall be substituted the following paragraph—

“(4) It shall be the duty of any person who manufactures, imports or supplies any substance—

- (a) to ensure, so far as is reasonably practicable, that the substance will be safe and without risks to health at all times when it is being used, handled, processed, stored or transported by a person at work or in premises to which Article 6 applies;
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by sub-paragraph (a);

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- (c) to take such steps as are necessary to secure that persons supplied by that person with the substance are provided with adequate information about any risks to health or safety to which the inherent properties of the substance may give rise, about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health at all such times as are mentioned in sub-paragraph (a) and when the substance is being disposed of; and
 - (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of sub-paragraph (c) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.”.
- (6) In paragraph (5) (duty of person who undertakes the manufacture of a substance for use at work to carry out research)—
 - (a) for the words “substance for use at work” there shall be substituted the word “substance”; and
 - (b) at the end there shall be inserted the words “at all such times as are mentioned in paragraph (4)(a)”.
- (7) In paragraph (8) (relief from duties for persons relying on undertakings by others)—
 - (a) for the words “for or to another” there shall be substituted the words “for use at work or an article of fairground equipment and does so for or to another”;
 - (b) for the words “when properly used” there shall be substituted the words “at all such times as are mentioned in sub-paragraph (a) of paragraph (1) or, as the case may be, in sub-paragraph (a) of paragraph (1A)”;
 - (c) for the words “by paragraph (1)(a)” there shall be substituted the words “by virtue of that sub-paragraph”.
- (8) After that paragraph there shall be inserted the following paragraph—

“(8A) Nothing in paragraph (7) or (8) shall relieve any person who imports any article or substance from any duty in respect of anything which—

 - (a) in the case of an article designed outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who designed the article; or
 - (b) in the case of an article or substance manufactured outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who manufactured the article or substance.”.
- (9) In paragraph (9) (definition of supplier in certain cases of supply under a hire-purchase agreement), for the words “article for use at work or substance for use at work” there shall be substituted the words “article or substance”.
- (10) For paragraph (10) there shall be substituted the following paragraph—

“(10) For the purposes of this Article an absence of safety or a risk to health shall be disregarded in so far as the case in or in relation to which it would arise is shown to be one the occurrence of which could not reasonably be foreseen; and in determining whether any duty imposed by virtue of sub-paragraph (a) of paragraph (1), (1A) or (4) has been performed regard shall be had to any relevant information or advice which has been provided to any person by the person by whom the article has been designed, manufactured, imported or supplied or, as the case may be, by the person by whom the substance has been manufactured, imported or supplied.”.

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3. In Article 24 (prohibition notices)—
 - (a) in paragraphs (1) and (2) (notices in respect of activities which are or are about to be carried on and involve a risk of serious personal injury), for the word “about”, in each place where it occurs, there shall be substituted the word “likely”;
 - (b) for paragraph (3) there shall be substituted the following paragraph—

“(3) A direction contained in a prohibition notice in pursuance of paragraph (2)(d) shall take effect—

 - (a) at the end of the period specified in the notice; or
 - (b) if the notice so declares, immediately.”.

4. After Article 27 there shall be inserted the following Article—

“Power of customs officer to detain articles and substances

27A.—(1) A customs officer may, for the purpose of facilitating the exercise or performance by any enforcing authority or inspector of any of the powers or duties of the authority or inspector under any of the relevant statutory provisions, seize any imported article or imported substance and detain it for not more than two working days.

(2) Anything seized and detained under this Article shall be dealt with during the period of its detention in such manner as the Commissioners of Customs and Excise may direct.

(3) In paragraph (1) the reference to two working days is a reference to a period of forty-eight hours calculated from the time when the goods in question are seized but disregarding so much of any period as falls on a Saturday or Sunday or on Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(3) in Northern Ireland.”.

5. After Article 29 there shall be inserted the following Article—

“Information communicated by the Commissioners of Customs and Excise

29A.—(1) If they think it appropriate to do so for the purpose of facilitating the exercise or performance by any person to whom paragraph (2) applies of any of that person’s powers or duties under any of the relevant statutory provisions, the Commissioners of Customs and Excise may authorise the disclosure to that person of any information obtained for the purposes of the exercise by the Commissioners of their functions in relation to imports.

(2) This paragraph applies to an enforcing authority and to an inspector.

(3) A disclosure of information made to any person under paragraph (1) shall be made in such manner as may be directed by the Commissioners of Customs and Excise and may be made through such persons acting on behalf of that person as may be so directed.

(4) Information may be disclosed to a person under paragraph (1) whether or not the disclosure of the information has been requested by or on behalf of that person.”.

6. In Article 30 (restrictions on disclosure of information), in paragraph (1)(a), after the words “furnished to any person” there shall be inserted the words “under Article 29A or”.

7. In Article 31(1)(h) (offence of obstructing an inspector), after the word “duties” there shall be inserted the words “or obstructs a customs officer in the exercise of his powers under Article 27A”.

(3) 1971 c. 80