

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Consumer Protection Act 1987, Part II. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

#### PROHIBITION NOTICES AND NOTICES TO WARN

##### Modifications etc. (not altering text)

- C1 Sch. 2 applied (with modifications) (7.6.2000) by S.I. 2000/1315, **reg. 18(6)**
- C1 Sch. 2 applied (with modifications) (17.8.2015) by The Pyrotechnic Articles (Safety) Regulations 2015 (S.I. 2015/1553), **reg. 1, Sch. 7 paras. 1(p), 2**
- C1 Sch. 2 applied (with modifications) (8.12.2016) by The Pressure Equipment (Safety) Regulations 2016 (S.I. 2016/1105), **reg. 1, Sch. 7 paras. 1(p), 2** (with **reg. 88**)
- C1 Sch. 2 applied (with modifications) (8.12.2016) by The Simple Pressure Vessels (Safety) Regulations 2016 (S.I. 2016/1092), **reg. 1, Sch. 5 paras. 1(p), 2** (with **reg. 3**)
- C1 Sch. 2 applied (with modifications) (8.12.2016) by The Lifts Regulations 2016 (S.I. 2016/1093), **reg. 1, Sch. 7 paras. 1(o), 2** (with **regs. 3-5**)
- C1 Sch. 2 applied (with modifications) (8.12.2016) by The Electrical Equipment (Safety) Regulations 2016 (S.I. 2016/1101), **reg. 1, Sch. 3 paras. 1, 2** (with **reg. 3**)
- C1 Sch. 2 applied (with modifications) (8.12.2016) by The Electromagnetic Compatibility Regulations 2016 (S.I. 2016/1091), **reg. 1, Sch. 7 paras. 1, 2** (with **regs. 74, 75(5)**)
- C1 Sch. 2 applied (with modifications) (3.8.2017) by The Recreational Craft Regulations 2017 (S.I. 2017/737), **reg. 1, Sch. 13 paras. 1(q), 2** (with **reg. 89**)
- C1 Sch. 2 applied (with modifications) (26.12.2017) by The Radio Equipment Regulations 2017 (S.I. 2017/1206), **reg. 1, Sch. 10 paras. 1, 2** (with **regs. 3-5, 77**)
- C1 Sch. 2 applied (with modifications) (21.4.2018) by The Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018 (S.I. 2018/389), **reg. 1(1), Sch. 1** (with **reg. 2**)
- C1 Sch. 2 applied (with modifications) (21.4.2018) by The Personal Protective Equipment (Enforcement) Regulations 2018 (S.I. 2018/390), **reg. 1(1), Sch. 1** (with **reg. 2(1)-(3)**)

## PART II

### NOTICES TO WARN

- 6 (1) If the Secretary of State proposes to serve a notice to warn on any person in respect of any goods, the Secretary of State, before he serves the notice, shall serve on that person a notification which—
- (a) contains a draft of the proposed notice;
  - (b) states that the Secretary of State proposes to serve a notice in the form of the draft on that person;
  - (c) states that the Secretary of State considers that the goods described in the draft are unsafe;
  - (d) sets out the reasons why the Secretary of State considers that those goods are unsafe; and
  - (e) states that that person may make representations to the Secretary of State for the purpose of establishing that the goods are safe if, before the end of the

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period of fourteen days beginning with the day on which the notification is served, he informs the Secretary of State—

- (i) of his intention to make representations; and
- (ii) whether the representations will be made only in writing or both in writing and orally.

- (2) Where the Secretary of State has served a notification containing a draft of a proposed notice to warn on any person, he shall not serve a notice to warn on that person in respect of the goods to which the proposed notice relates unless—
- (a) the period of fourteen days beginning with the day on which the notification was served expires without the Secretary of State being informed as mentioned in sub-paragraph (1)(e) above;
  - (b) the period of twenty-eight days beginning with that day expires without any written representations being made by that person to the Secretary of State about the proposed notice; or
  - (c) the Secretary of State has considered a report about the proposed notice by a person appointed under paragraph 7(1) below.

- 7 (1) Where a person on whom a notification containing a draft of a proposed notice to warn has been served—
- (a) informs the Secretary of State as mentioned in paragraph 6 (1)(e) above before the end of the period of fourteen days beginning with the day on which the notification was served; and
  - (b) makes written representations to the Secretary of State about the proposed notice before the end of the period of twenty-eight days beginning with that day,

the Secretary of State shall appoint a person to consider those representations, any further representations made by that person about the draft notice and the statements of any witnesses examined under this Part of this Schedule.

- (2) Where—
- (a) the Secretary of State has appointed a person to consider representations about a proposed notice to warn; and
  - (b) the person whose representations are to be considered has informed the Secretary of State for the purposes of paragraph 6(1)(e) above that the representations he intends to make will include oral representations,

the Secretary of State shall inform the person intending to make the representations of the place and time at which oral representations may be made to the appointed person.

- (3) Where a person on whom a notification containing a draft of a proposed notice to warn has been served is informed of a time for the purposes of sub-paragraph (2) above, that time shall not be—
- (a) before the end of the period of twenty-eight days beginning with the day on which the notification was served; or
  - (b) before the end of the period of seven days beginning with the day on which that person is informed of the time.
- (4) A person who has been informed of a place and time for the purposes of sub-paragraph (2) above or his representative may, at that place and time—
- (a) make oral representations to the appointed person for the purpose of establishing that the goods to which the proposed notice relates are safe; and

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- (b) call and examine witnesses in connection with the representations.
- 8 (1) Where a person is appointed to consider representations about a proposed notice to warn, it shall be his duty to consider—
- (a) any written representations made by the person on whom it is proposed to serve the notice; and
  - (b) in a case where a place and time has been appointed under paragraph 7(2) above for oral representations to be made by that person or his representative, any representations so made and any statements made by witnesses in connection with those representations,
- and, after considering those matters, to make a report (including recommendations) to the Secretary of State about the matters considered by him and the proposal to serve the notice.
- (2) It shall be the duty of the Secretary of State to consider any report made to him under sub-paragraph (1) above and, after considering the report, to inform the person on whom it was proposed that a notice to warn should be served of his decision with respect to the proposal.
- (3) If at any time after serving a notification on a person under paragraph 6 above the Secretary of State decides not to serve on that person either the proposed notice to warn or that notice with modifications, the Secretary of State shall inform that person of the decision; and nothing done for the purposes of any of the preceding provisions of this Part of this Schedule before that person was so informed shall—
- (a) entitle the Secretary of State subsequently to serve the proposed notice or that notice with modifications; or
  - (b) require the Secretary of State, or any person appointed to consider representations about the proposed notice, subsequently to do anything in respect of, or in consequence of, any such representations.
- (4) Where a notification containing a draft of a proposed notice to warn is served on a person in respect of any goods, a notice to warn served on him in consequence of a decision made under sub-paragraph (2) above shall either be in the form of the draft or shall be less onerous than the draft.
- 9 The Secretary of State may revoke a notice to warn by serving on the person on whom the notice was served a notification stating that the notice is revoked.

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