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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations re-enact with amendments the Health and Safety (Enforcing Authority) Regulations 1989 (“the 1989 Regulations”) as amended. The 1989 Regulations made provision with respect to enforcement by local authorities of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”) and the other relevant statutory provisions within the meaning of that Act. In addition to minor and drafting amendments, these Regulations make the following changes of substance.

2. In regulation 2(1)—

- (a) activities at a garden centre or other shop are excluded from the definition of “agricultural activities”;
- (b) in the definition of “fairground” the reference to fairground equipment no longer includes a go-kart or bouncy castle.

3. The Regulations re-enact the main provisions of the 1989 Regulations which provided that where the main activity carried on in any premises was specified in Schedule 1 to these Regulations then, subject to specified exceptions, the local authority was the enforcing authority in respect of all activities carried on in those premises (*regulation 3(1)*). Schedule 1—

- (a) in specifying the sale of goods or storage of goods for retail or wholesale distribution as a main activity does not now specify its being in part of the businesses of a transport undertaking as an exception;
- (b) in specifying the practice or presentation of the arts, sports, games, entertainment or other cultural or recreational activities as a main activity, does not now specify its being carried on in a museum, art gallery or theatre as an exception;
- (c) now specifies the provision of car parking facilities within the perimeter of an airport, and the provision of child care, or playgroup or nursery facilities as main activities.

4. The Regulations now identify common parts of domestic premises as a case in which the Health and Safety Executive (“the Executive”) is the enforcing authority (*regulation 3(1)*).

5. The Regulations introduce a new provision for a vehicle parked in connection with the sale from it of food, drink or other articles. The vehicle together with its pitch are to be regarded as separate premises for the purposes of regulation 3(1) (*regulation 3(2)*).

6. The Regulations re-enact provision (as regulation 3(2) and (4)) that, where the Executive is the enforcing authority, subject to exceptions specified in paragraph (5) each part separately occupied is to be regarded as separate premises for the purpose of enforcement allocation; and that the local authority is the enforcing authority subject to exceptions specified in paragraph (4); but

- (a) the exceptions specified in paragraph (4) now include certain common parts in the case of land within the perimeter of an airport; and
- (b) the exceptions in paragraph (5) do not now include land within the perimeter of an airport.

7. Regulation 4 is re-enacted save that the provision in the 1989 Regulations which made the Executive the enforcing authority for premises where the main activity is indoor sport if specified conditions are met has not been re-enacted.

**Status:** This is the original version (as it was originally made).

**8.** The activities set out in Schedule 2 are allocated for enforcement by the Executive even though the main activity carried on in the premises is listed in Schedule 1 (*regulation 4(4)(b)*). Schedule 2 now includes any activity in relation to a pipeline, and the operation of a railway.

**9.** The regulations revoke the 1989 Regulations and amending provisions (*regulation 7 and Schedule 3*).

**10.** A cost benefit assessment prepared in respect of these Regulations is available from the Health and Safety Executive, Local Authority Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS.