

SCHEDULE 5

ENFORCEMENT

*Powers of the Health and Safety Executive and the
Office of Rail Regulation as enforcement authorities*

8. For the purposes of the enforcement of these Regulations by the Health and Safety Executive or the Office of Rail Regulation, and in respect of any related proceedings for contravention of these Regulations, the provisions specified in paragraph 7 shall apply as if—

- (a) references to relevant statutory provisions were references to those provisions as modified by this paragraph and to these Regulations;
- (b) references to articles, substances, articles and substances, or plant, were references to machinery or partly completed machinery, or a machine or partly completed machine, as the context may require;
- (c) references to an “enforcing authority” were references to the Health and Safety Executive or the Office of Rail Regulation, as appropriate;
- (d) references to the field of responsibility of an enforcing authority, however expressed, were omitted;
- (e) in section 20, subsection (3) were omitted;
- (f) section 22, as well as permitting an inspector to serve a prohibition notice in the circumstances specified in section 22(2), permitted an inspector to serve a prohibition notice in any case where—
 - (i) a responsible person has failed to comply with the requirements of these Regulations in relation to CE marking; and
 - (ii) the responsible person—
 - (aa) has been served with a notice under regulation 21(3), or an improvement notice under section 21, in respect of that failure; and
 - (bb) has continued to fail to comply with those requirements after the period for remedying the contravention specified in the improvement notice;
- (g) in section 23, subsections (3), (4) and (6) were omitted;
- (h) in section 33—
 - (i) in subsection (1) the whole of paragraphs (a) to (d) were omitted;
 - (ii) subsection (1A) were omitted;
 - (iii) in subsection (2), the reference to paragraph (d) of subsection (1) were omitted;
 - (iv) subsection (2A) were omitted;
 - (v) for subsection (3) there were substituted the following—

“(3) A person guilty of an offence under any paragraph of subsection (1) not mentioned in subsection (2), or of an offence under subsection (1)(e) not falling within subsection (2), shall be liable—

 - (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
 - (b) on conviction on indictment—
 - (i) in the case of an offence under subsection (1)(g) or of an offence under subsection (1)(j), to imprisonment for a term not exceeding two years, or a fine, or both; or

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

- (ii) in all other cases, to a fine.”; and
- (vi) subsection (4) were omitted;
- (i) in section 34—
 - (i) paragraphs (a) and (b) of subsection (1) were omitted; and
 - (ii) in subsection (3) for “six months” there were substituted “twelve months”; and
- (j) in section 42, subsections (4) and (5) were omitted.