

SCHEDULE 1

Enforcement Powers of Weights and Measures Authorities, District Councils and the Secretary of State under the 1987 Act

Modifications to the 1987 Act

2. The sections of the 1987 Act referred to in paragraph 1 apply as if—
 - (a) in section 13—
 - (i) in subsection (1), for “unsafe” on each occasion that it appears, there were substituted “non-compliant”;
 - (ii) in subsection (1), “relevant” were omitted each time it appears;
 - (iii) in subsection (2), the words from “; and the Secretary of State may” to the end were omitted;
 - (iv) subsections (4) to (7) were omitted;
 - (b) in section 14—
 - (i) in subsection (1), after “any safety provision has been contravened in relation to the goods”, there were inserted “or that such goods present a risk”;
 - (ii) in subsection (2)(b), after “any safety provision has been contravened in relation to the goods”, there were inserted “or that such goods present a risk”;
 - (iii) in subsection (2)(c), “under section 15 below” were omitted;
 - (iv) subsections (6) to (8) were omitted;
 - (c) in section 16—
 - (i) in subsection (1), after “a contravention in relation to the goods of a safety provision” there were inserted “or that such goods present a risk”;
 - (ii) for subsection (2)(b) there were substituted—
 - “(b) where an application with respect to some or all of the goods has been made to a magistrates court under regulation 13 (appeals against notices) of the 2018 Gas Regulations, or section 33, to that court; and”;
 - (iii) in subsection (3) after “a contravention in relation to the goods of a safety provision” there were inserted “or that such goods present a risk”;
 - (iv) after subsection (4) there were inserted—
 - “(4A) A court may infer for the purposes of this section that any goods present a risk, if it is satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;
 - (d) in section 17—
 - (i) in subsection (1), after “a contravention of a safety provision”, there were inserted “or where the goods present a risk”;
 - (ii) in subsection (6), after “a contravention in relation to the goods of a safety provision”, there were inserted “or that those goods present a risk”;
 - (iii) after subsection (7), there were inserted—
 - “(7A) The sheriff may infer for the purposes of this section that any goods present a risk, if satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;

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

- (e) in section 18, subsections (3) and (4) were omitted;
- (f) in section 29—
 - (i) in subsection (4)(a), after “any contravention of any safety provision in relation to the goods” there were inserted “or whether the goods present a risk”;
 - (ii) in subsection (4)(b), after “any such contravention” there were inserted “or whether the goods present a risk”;
- (g) in section 30—
 - (i) at the end of subsection (2)(a)(ii), for “and” there were substituted “or”;
 - (ii) after subsection (2)(a)(ii), there were inserted—
 - “(iii) that any goods which any officer has power to inspect under section 29(4) are on any premises and their inspection is likely to demonstrate that they present a risk; and”;
 - (iii) subsections (5), (7) and (8) were omitted;
- (h) in section 31(1), for “Part II of this Act”, there were substituted “the 2018 Gas Regulations”;
- (i) in section 34—
 - (i) the word “and” at the end of subsection (1)(a) were omitted; and
 - (ii) after that subsection, there were inserted—
 - “(aa) the goods do not present a risk; and”;
- (j) in section 37(1), for “Part II of this Act”, there were substituted “the 2018 Gas Regulations”;
- (k) in section 45(1)—
 - (i) the definitions of “conditional sale agreement”, “gas”, “motor vehicle”, “personal injury”, “subordinate legislation” and “substance” were omitted;
 - (ii) before the definition of “aircraft”, there were inserted—
 - ““the 2018 Gas Regulations” means the Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018;”;
 - (iii) before the definition of enforcement authority there were inserted—
 - ““economic operator” has the same meaning as in EU Regulation 2016/426;”;
 - (iv) for the definition of “enforcement authority” there were substituted—
 - ““enforcement authority” means an enforcement authority as defined in regulation 4 of the 2018 Gas Regulations;”;
 - (v) after the definition of enforcement authority there were inserted—
 - ““EU Regulation 2016/426” means Regulation (EU) No 2016/426 of the European Parliament and of the Council on appliances burning gaseous fuels, repealing Council Directive 2009/142/EC, as amended from time to time;”;
 - (vi) for the definition of “goods” there were substituted—
 - ““goods” means appliances or fittings within the scope of EU Regulation 2016/426;”;
 - (vii) after the definition of “modifications” there were inserted—
 - ““non-compliant” in relation to any goods means that—
 - (a) a safety provision has been contravened in relation to the goods, or
 - (b) the goods present a risk,

- and “compliant” shall be construed accordingly;”;
- (viii) after the definition of “premises”, there were inserted—
 - ““present a risk” means a risk within the meaning set out in regulation 1(2) of the 2018 Gas Regulations;”;
- (ix) for the definition of “safety provision” there were substituted—
 - ““safety provision” means any provision imposing an obligation on an economic operator in EU Regulation 2016/426;”;
- (x) for the definition of “safety regulations” there were substituted—
 - ““safety regulations” means EU Regulation 2016/426 and the 2018 Gas Regulations;”;
- (l) in section 46(1), the words “and, in relation to gas or water, those references shall be construed as including references to providing the service by which the gas or water is made available for use” were omitted and
- (m) in Schedule 2—
 - (i) for “unsafe”, on each occasion that it appears, there were substituted “non-compliant”; and
 - (ii) for “safe” on each occasion that it appears, there were substituted “compliant”.