

## SCHEDULE 1 U.K.

Regulation 5

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

#### Enforcement powers under the 1987 Act U.K.

1. For the purposes of enforcing EU Regulation 2016/426 and these Regulations, the following sections of the 1987 Act apply subject to the modifications in paragraph 2—

- (a) section 13 (prohibition notices and notices to warn);
- (b) section 14 (suspension notices);
- (c) section 16 (forfeiture: England and Wales and Northern Ireland);
- (d) section 17 (forfeiture Scotland);
- (e) section 18 (power to obtain information);
- (f) section 19 (interpretation of Part 2);
- (g) section 29 (powers of search etc);
- (h) section 30 (provisions supplemental to section 29);
- (i) section 31 (powers of customs officer to detain goods);
- (j) section 33 (appeals against detention of goods);
- (k) section 34 (compensation for seizure and detention);
- (l) section 35 (recovery of expenses of enforcement);
- (m) section 37 (power of Commissioners for Revenue and Customs);
- (n) section 45 (interpretation);
- (o) section 46(1) (meaning of “supply”);
- (p) Schedule 2 (prohibition notices and notices to warn).

#### Modifications to the 1987 Act U.K.

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—

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- (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).”;
- (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;” and
  - (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 ”.

SCHEDULE 2 **U.K.**

Regulation 5

Enforcement Powers of the Health and Safety Executive  
and the Office for Nuclear Regulation under the 1974 Act**Enforcement powers under the 1974 Act** **U.K.**

1. For the purposes of enforcing EU Regulation 2016/426 and these Regulations, the following sections of the 1974 Act apply subject to the modifications in paragraph 2—

- (a) section 19 (appointment of inspectors);
- (b) section 20 (powers of inspectors);
- (c) section 21 (improvement notices);
- (d) section 22 (prohibition notices);
- (e) section 23 (provisions supplementary to sections 21 and 22);
- (f) section 24 (appeal against improvement or prohibition notice);
- (g) section 25 (power to deal with cause of imminent danger);
- (h) section 25A (power of customs office to detain articles and substances);
- (i) section 26 (power of enforcing authorities to indemnify inspectors);
- (j) section 27 (obtaining of information by the Executive, enforcing authorities etc);
- (k) section 27A (information communicated by Commissioners for Revenue and Customs);
- (l) section 28 (restrictions on disclosure of information);
- (m) section 33 (offences);
- (n) section 34 (extension of time for bringing summary proceedings);
- (o) section 35 (venue);
- (p) section 39 (prosecution by inspectors);
- (q) section 41 (evidence); and
- (r) section 42 (power of court to order cause of offence to be remedied, or in certain cases, forfeiture).

**Modifications to the 1974 Act** **U.K.**

2. The sections of the 1974 Act referred to in paragraph 1 apply as if—
- (a) references to “relevant statutory provisions” were references to—
    - (i) the provisions of the 1974 Act set out in paragraph 1, as modified by this paragraph; and
    - (ii) these Regulations;
  - (b) references to “risk” were references to “risk” as defined in regulation 1(2) of these Regulations;
  - (c) in section 19—
    - (i) in subsection (1)—
      - (aa) for “Every enforcing authority” there were substituted “ The Health and Safety Executive and the Office for Nuclear Regulation ”;
      - (bb) for references to “it” there were substituted “ they ”;
      - (cc) for “thinks” there were substituted “ think ”;

- (dd) “within its field of responsibility” were omitted;
- (ii) in subsection (2), paragraph (b) were omitted;
- (iii) in subsection (3), for “enforcing authority which appointed him” there were substituted “ Health and Safety Executive or the Office for Nuclear Regulation as the case may be ”;
- (d) in section 20—
  - (i) in subsection (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
  - (ii) in subsection (2)(c)(i), for “his (the inspector's) enforcing authority” there were substituted “ the Health and Safety Executive or the Office for Nuclear Regulation as the case may be ”;
  - (iii) in subsection (2)(h), for “him to have caused or to be likely to cause danger to health and safety”, there were substituted “ contravene the relevant statutory provisions or present a risk ”; and
  - (iv) subsection (3) were omitted;
- (e) in section 21—
  - (i) before paragraph (a), there were inserted—
    - “(za) is making available on the market appliances or fittings which present a risk;”;
  - (ii) after “specifying the”, there were inserted “ risk, or ”; and
  - (iii) after “requiring that person to”, there were inserted “ address the risk or ”;
- (f) for section 22(2) there were substituted—
  - “(2) An inspector may serve a notice (in this Part referred to as “a prohibition notice”) on a person if, as regards any activities to which this section applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—
    - (a) a risk; or
    - (b) a contravention of a relevant statutory provision.”;
- (g) in section 23, subsections (3), (4) and (6) were omitted;
- (h) for section 25A(1) there were substituted—
  - “(1) A customs officer may, for the purposes of facilitating the exercise or performance by the Health and Safety Executive, the Office for Nuclear Regulation or an inspector (as the case may be), of any of their powers and duties under any of the relevant statutory provisions, seize any imported article or imported substance and retain it for not more than two working days.”;
- (i) for the heading to section 26, there were substituted “ Power to indemnify inspectors ”;
- (j) in section 26, there were substituted “ the body ” for each of the following references—
  - (i) “the enforcing authority”;
  - (ii) “that authority”; and
  - (iii) “the authority”;
- (k) in section 27—
  - (i) for “Executive”, on each occasion it appears, there were substituted “ Health and Safety Executive or the Office for Nuclear Regulation as the case may be ”;

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- (ii) in subsection (1), paragraph (b) were omitted; and
- (iii) in subsection (1), “or, as the case may be to the enforcing authority in question” were omitted;
- (l) for section 27A(2) there were substituted—
  - “(2) This subsection applies to the Health and Safety Executive, the Office for Nuclear Regulation and to an inspector.”;
- (m) in section 28—
  - (i) for “Executive”, on each occasion that it appears, there were substituted “ Health and Safety Executive ”;
  - (ii) in subsection (1)(a), “, other than the Office for Nuclear Regulation (or an inspector appointed by it,” and “, by virtue of section 43A(6) below” were omitted;
  - (iii) in subsection (3)(a), “or any enforcing authority” were omitted;
  - (iv) in subsection (4), “or an enforcing authority” and “or authority (including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;
  - (v) in subsection (5)(a), “or the purposes of the enforcing authority in question in connection with the relevant statutory provisions” were omitted;
  - (vi) in subsection (7), “14(4)(a) or” were omitted;
  - (vii) for subsection (7)(b), there were substituted—
    - “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings,”; and
  - (viii) subsection (9B) were omitted;
- (n) in section 33—
  - (i) in subsection (1), paragraphs (a) to (i) and (k) to (m) were omitted;
  - (ii) for subsection (2), there were substituted—
    - “(2) A person guilty of an offence under this section is liable—
      - (a) on summary conviction—
        - (i) in England and Wales, to a fine or imprisonment for a term not exceeding three months, or to both;
        - (ii) in Scotland, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding three months, or to both;
      - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years , or to both.”; and
- (o) section 33(3) were omitted;
- (p) in section 34—
  - (i) in subsection (1), paragraphs (a) and (b) were omitted; and
  - (ii) in subsection (1), for the words from “and it appears” to the end, there were substituted—
    - “and it appears from the investigation or, in a case falling within paragraph (d), from the proceedings at the inquiry, that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the investigation or inquiry, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the conclusion of the investigation or inquiry.”; and

- (iii) subsections (3) to (6) were omitted;
- (q) in section 35, for “any enforcing authority”, there were substituted “ the Health and Safety Executive or the Office for Nuclear Regulation as the case may be ”;
- (r) in section 39(1), for enforcing authority” there were substituted “ Health and Safety Executive or the Office for Nuclear Regulation as the case may be ”; and
- (s) in section 42 , subsections (3A), (4) and (5) were omitted.

### SCHEDULE 3 **U.K.**

Regulation 5

#### Enforcement Powers of the Health and Safety Executive for Northern Ireland under the 1978 Order

#### **Enforcement Powers under the 1978 Order **U.K.****

1. For the purposes of enforcing EU regulation 2016/426, these Regulations and RAMs (in its application to appliances and fittings) the following Articles of the 1978 Order apply subject to the modifications in paragraph 2—

- (a) Article 21 (appointment of inspectors);
- (b) Article 22 (powers of inspectors);
- (c) Article 23 (improvement notices);
- (d) Article 24 (prohibition notices);
- (e) Article 25 (provisions supplementary to Articles 23 and 24);
- (f) Article 26 (appeal against improvement or prohibition notice);
- (g) Article 27 (power to deal with cause of imminent danger);
- (h) Article 27A (power of customs officer to detain articles and substances);
- (i) Article 28 (power of enforcing authorities to indemnify inspectors);
- (j) Article 29 (obtaining of information by the Executive, enforcing authorities etc);
- (k) Article 29A (information communicated by Commissioners for Revenue and Customs);
- (l) Article 30 (restrictions on disclosure of information);
- (m) Article 31 (offences);
- (n) Article 32 (extension of time for bringing summary proceedings);
- (o) Article 33 (venue);
- (p) Article 36 (prosecution by inspectors);
- (q) Article 38 (evidence);
- (r) Article 39 (power of court to order cause of offence to be remedied or, in certain cases, forfeiture).

#### **Modifications to the 1978 Order **U.K.****

2. The Articles of the 1978 Order referred to in paragraph 1 apply as if—
- (a) references to “relevant statutory provisions” were references to—
    - (i) the provisions of the 1978 Order set out in paragraph 1, as modified by this paragraph; and

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- (ii) these Regulations;
- (b) references to “risk” were references to “risk” within the meaning of regulation 1(2) of these Regulations;
- (c) in Article 21—
  - (i) in paragraph (1), for “Every enforcing authority” there were substituted “ The Health and Safety Executive for Northern Ireland ”;
  - (ii) in paragraph (1) “within its field of responsibility” were omitted;
  - (iii) in paragraph (2), sub-paragraph (b) were omitted;
  - (iv) in paragraph (3), for “enforcing authority which appointed him” there were substituted “ Health and Safety Executive for Northern Ireland ”;
- (d) in Article 22—
  - (i) in paragraph (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
  - (ii) in paragraph 2(c)(i), for “his (the inspector's) enforcing authority” there were substituted “ the Health and Safety Executive for Northern Ireland ”;
  - (iii) in paragraph 2(2)(h), for “him to have caused or to be likely to cause danger to health and safety”, there were substituted “ contravene the relevant statutory provisions or present a risk ”; and
  - (iv) paragraph (3) were omitted;
- (e) in Article 23—
  - (i) before paragraph (a), there were inserted—

“(za) is making available on the market appliances or fittings which present a risk;”;
  - (ii) after “specifying the”, there were inserted “ risk or ”; and
  - (iii) after “requiring that person to”, there were inserted “ address the risk or ”;
- (f) for Article 24(2) and (3) there were substituted—

“(2) An inspector may serve a notice (in this Part referred to as a prohibition notice”) on a person if, as regards any activities to which this paragraph applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—

  - (a) a risk; or
  - (b) the contravention of a relevant statutory provision.

(3) A prohibition notice must—

  - (a) state that the inspector is of the said opinion;
  - (b) specify the matters which in his opinion give, or as they case may be, will give rise to the said risk;
  - (c) where in his opinion any of those matters involves or, as the case may be, will involve a contravention of any of the relevant statutory provisions, state that he is of the opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and
  - (d) direct that the activities to which the notice relates must not be carried on by or under the control of the person on whom the notice is served unless the matters specified in pursuance of sub-paragraph (b) and any associated contraventions of provisions so specified in pursuance of sub-paragraph (c) have been remedied.”;

- (g) in Article 25, paragraphs (3), (4) and (5) were omitted;
- (h) in Articles 27A(1), for “any enforcing authority” and “the authority” there were substituted “ the Health and Safety Executive for Northern Ireland ”;
- (i) for the heading to Article 28, there were substituted “ Power to indemnify inspectors ”;
- (j) in Article 28, for “the enforcing authority which appointed him”, “that authority” and “the authority” there were, in each case, substituted “ the Health and Safety Executive for Northern Ireland ”;
- (k) in Article 29—
  - (i) in paragraph (1)(b), for “an enforcing authority” there were substituted “ the Health and Safety Executive for Northern Ireland ” and for “the Authority’s functions” there were substituted “ its functions ”;
  - (ii) “the department concerned, or” were omitted;
  - (iii) for “the Executive”, in each case it appears, there were substituted “ the Health and Safety Executive for Northern Ireland ”;
  - (iv) “or, as the case may be, to the enforcing authority in question” were omitted;
- (l) in Article 29A(2) for “an enforcing authority” there were substituted “ the Health and Safety Executive for Northern Ireland ”;
- (m) in Article 30 —
  - (i) for “Executive”, on each occasion that it appears, there were substituted “ Health and Safety Executive for Northern Ireland ”;
  - (ii) in paragraph (3), “or any enforcing authority” were omitted;
  - (iii) in paragraph (4), “or an enforcing authority” and “or authority (including in the case of an enforcing authority, any inspector appointed by it)” were omitted;
  - (iv) in paragraph (5), “or the purposes of the enforcing authority in question in connection with the relevant statutory provisions” were omitted;
  - (v) in paragraph (6), “16(4)(a) or” were omitted;
  - (vi) for paragraph (6)(b), there were substituted—
    - “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”;
- (n) in Article 31—
  - (i) in paragraph (1), sub-paragraphs (a) to (i) and (k) to (m) were omitted;
  - (ii) for paragraph (2), there were substituted—
    - “(2) A person guilty of an offence under this Article is liable—
      - (a) on summary conviction, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding three months, or to both;
      - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or to both.”;
  - (iii) Article 31(3) were omitted;
- (o) in Article 32—
  - (i) in paragraph (1), sub-paragraphs (a) and (b) were omitted;
  - (ii) in paragraph (1), for the words from “and it appears” to the end, there were substituted “ and it appears from the proceedings at the inquest that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the inquest, summary proceedings against any person liable

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to be proceeded against in respect of the contravention may be commenced at any time within three months of the conclusion of the inquest.”; and

- (iii) paragraphs (3) and (4) were omitted;
- (p) in Article 33, for “any enforcing authority” there were substituted “ Health and Safety Executive for Northern Ireland ”;
- (q) in Article 36, for “ enforcing authority” there were substituted “ Health and Safety Executive for Northern Ireland ”; and
- (r) in Article 39, paragraphs (3A), (4) and (5) were omitted.

## SCHEDULE 4 U.K.

Regulation 5

### Compliance, Withdrawal and Recall Notices

#### Compliance notice U.K.

1.—(1) An enforcement authority may serve a compliance notice on a relevant economic operator in respect of an appliance or fitting if the authority has reasonable grounds for believing that there is non-compliance with the requirements or obligations in EU Regulation 2016/426.

(2) A compliance notice must—

- (a) require the relevant economic operator on which it is served to—
  - (i) end the non-compliance within such period as may be specified in the notice; or
  - (ii) provide evidence, within such period as may be specified in the notice, demonstrating to the satisfaction of the enforcement authority that the non-compliance has not in fact occurred;
- (b) warn the relevant economic operator that, if the non-compliance persists or if satisfactory evidence has not been produced under paragraph (a) within the period specified in the notice, further action may be taken in respect of the appliance or fitting or any appliance or fitting of the same type made available on the market by that relevant economic operator.

(3) A compliance notice may include directions as to the measures to be taken by the relevant economic operator to secure compliance, including different ways of securing compliance.

(4) Subject to sub-paragraph (5), an enforcement authority may revoke or vary a compliance notice by serving a notification on the economic operator.

(5) An enforcement authority may not vary a compliance notice so as to make it more restrictive for the relevant economic operator or more onerous for the economic operator to comply.

#### Withdrawal notice U.K.

2.—(1) An enforcement authority may serve a withdrawal notice on a relevant economic operator in respect of an appliance or fitting if the authority has reasonable grounds for believing that—

- (a) the appliance or fitting has been made available on the market; and
- (b) either of the following conditions are met—
  - (i) the appliance or fitting presents a risk; or
  - (ii) the appliance or fitting is not in conformity with the requirements of EU Regulation 2016/426 or RAMS (in its application to appliances or fittings).

(2) A withdrawal notice must prohibit the relevant economic operator from making the appliance or fitting available on the market without the consent of the enforcement authority.

(3) A withdrawal notice may require the relevant economic operator to take action to alert end-users to any risk presented by the appliance or fitting.

(4) A withdrawal notice may require the relevant economic operator to keep the enforcement authority informed of the whereabouts of any appliance or fitting referred to in the notice.

(5) A consent given by the enforcement authority pursuant to a withdrawal notice may impose such conditions on the making available on the market as the authority considers appropriate.

### Recall notice **U.K.**

**3.—**(1) The enforcement authority may serve a recall notice on a relevant economic operator in respect of an appliance or fitting if the authority has reasonable grounds for believing that—

- (a) the appliance or fitting has been made available to end-users; and
- (b) either of the following conditions is met—
  - (i) the appliance or fitting presents a risk;
  - (ii) the appliance or fitting is not in conformity with the requirements of EU Regulation 2016/426 or RAMS (in its application to appliances or fittings).

(2) A recall notice must require the relevant economic operator to use reasonable endeavours to organise the return of the appliance or fitting from end-users to the relevant economic operator or another person specified in the notice.

(3) A recall notice may—

- (a) require the recall to be effected in accordance with a code of practice;
- (b) require the relevant economic operator to—
  - (i) contact end-users in order to inform them of the recall, to the extent that it is practicable to do so;
  - (ii) publish a notice in such form and such manner as is likely to bring to attention of end-users any risk the appliance or fitting poses and the fact of recall;
  - (iii) make arrangements for the collection or return of the appliance or fitting from end-users or its disposal;
  - (iv) impose such additional requirements on the relevant economic operator as are reasonable and practicable with a view to achieving the return of the appliance or fitting.

(4) In determining what requirements to include in a recall notice, the enforcement authority must take into consideration the need to encourage distributors and end-users to contribute to its implementation.

(5) A recall notice may only be issued by the enforcement authority where—

- (a) other action which it may require under these Regulations would not suffice to address the non-compliance;
- (b) the action being undertaken by the relevant economic operator in fulfilment of the requirements of EU Regulation 2016/426 is unsatisfactory or insufficient to address the non-compliance;
- (c) the enforcement authority has given not less than ten days' notice to the relevant economic operator of its intention to serve such a notice; and
- (d) the enforcement authority has taken account of any advice obtained under subparagraph (6).

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(6) A relevant economic operator which has received notice from the enforcement authority of an intention to serve a recall notice may at any time prior to the service of the recall notice require the authority to seek the advice of such person as the Institute determines on questions of—

- (a) whether there is non-compliance; and
- (b) whether the issue of a recall notice would be proportionate.

(7) Sub-paragraph (5)(b), (c) and (d) do not apply in the case of an appliance or fitting presenting a serious risk requiring, in the view of the enforcement authority, urgent action.

(8) Where a relevant economic operator requires the enforcement authority to seek advice under sub-paragraph (6), that relevant economic operator is to be responsible for the fees, costs and expenses of the Institute and of the person appointed by the Institute to advise the enforcement authority.

(9) A recall notice served by the enforcement authority may require the relevant economic operator to keep the authority informed of the whereabouts of an appliance or fitting to which the recall notice relates, so far as the relevant economic operator is able to do so.

(10) In this paragraph, “Institute” means the charitable organisation with registered number 803725 and known as the Chartered Institute of Arbitrators.

#### **Interpretation** **U.K.**

4. In this Schedule “non-compliance” means that an appliance or fitting—
- (a) presents a risk; or
  - (b) is not in conformity with the requirements of EU Regulation 2016/426 or RAMS (in its application to appliances or fittings).

#### SCHEDULE 5 **U.K.**

Regulation 19

#### Consequential Amendments

#### **Amendment of the Legislative and Regulatory Reform (Regulatory Functions) Order 2007** **U.K.**

1. The Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007<sup>M1</sup> is amended as follows—

- (a) in Part 3, under the heading “Public health and safety”, omit “Gas Appliances (Safety) Regulations 1995” and in the appropriate place insert “ Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018 ”;
- (b) in Part 8, omit “Gas Appliances (Safety) Regulations 1995” and in the appropriate place insert “ Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018 ”; and
- (c) in Part 13, omit “Gas Appliances (Safety) Regulations 1995” and in the appropriate place insert “ Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018 ”.

#### **Marginal Citations**

**M1** [S.I. 2007/3544](#) to which there are amendments not relevant to these Regulations.

## **Amendment of the Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009** **U.K.**

2. The Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009 <sup>M2</sup> is amended as follows—

- (a) in Part 4 of Schedule 1, omit “Gas Appliances (Safety) Regulations 1995” and in the appropriate place insert “ Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018 ”; and
- (b) in Part 2 of Schedule 2, omit “Gas Appliances (Safety) Regulations 1995” and in the appropriate place insert “ Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018 ”.

### **Marginal Citations**

**M2** [S.I. 2009/669](#) to which there are amendments not relevant to these Regulations.

## SCHEDULE 6 **U.K.**

Regulation 20

### Miscellaneous Amendments

## **Amendment of the Lifts Regulations 2016** **U.K.**

1. The Lifts Regulations 2016 <sup>M3</sup> are amended in accordance with paragraphs 2 to 10.

### **Marginal Citations**

**M3** [S.I. 2016/1093](#) as amended by [S.I.2016/1186](#).

## **Amendment of regulation 2 (interpretation)** **U.K.**

2. In regulation 2, in paragraph (1) for the definition of “relevant conformity assessment procedure” substitute—

““relevant conformity assessment procedure” means—

- (a) in relation to lifts, a conformity assessment procedure referred to in regulation 47 (conformity assessment procedures for lifts); and
- (b) in relation to safety components for lifts, a conformity assessment procedure referred to in regulation 48 (conformity assessment procedures for safety components for lifts);”.

## **Amendment of regulation 10 (labelling and instructions)** **U.K.**

3. In regulation 10, in paragraph (1)(b) for “point 6.2 of Annex 1 to the Directive (as amended from time to time)” substitute “ paragraph 7(2) of Schedule 1 ”.

## **Amendment of regulation 19 (labelling and instructions)** **U.K.**

4. In regulation 19, in paragraph (1)(b) for “point 6.1 of Annex 1 to the Directive (as amended from time to time)” substitute “ paragraph 7(1) of Schedule 1 ”.

**Amendment of regulation 29 (instructions) U.K.**

5. In regulation 29, in paragraph (1) for “point 6.1 of Annex 1 to the Directive (as amended from time to time)” substitute “ paragraph 7 (1) of Schedule 1 ”.

**Amendment of regulation 37 (requirements which must be satisfied before a distributor makes safety component for lifts available on the market) U.K.**

6. In regulation 37, in paragraph (1)(a)(iii) for “point 6.1 of Annex 1 to the Directive (as amended from time to time)” substitute “ paragraph 7(1) of Schedule 1 ”.

**Amendment of regulation 47 (conformity assessment procedure for lifts) U.K.**

7. In regulation 47, in paragraph (4) for “procedure in paragraph 9(1)(a)” substitute “ any of the procedures in paragraph (1) ”.

**Amendment of Schedule 1 (essential health and safety requirements) U.K.**

8. In Schedule 1—

(a) in paragraph 2 (general)—

(i) in sub-paragraph (2) (application of Directive 2006/42/EC) for “this Annex” substitute “ this Schedule ”;

(ii) in sub-paragraph (9) for “These requirements” substitute “ The requirement of sub-paragraph (8) ”;

(b) in paragraph 4 (risks for persons in the car)—

(i) in sub-paragraph (1) for “the third sub-paragraph of point 2.3” substitute “ paragraph 3 (7) ”;

(ii) in sub-paragraph (7) for “point 2.2” substitute “ paragraph 3(3) ”;

(iii) in sub-paragraph (8) for “point 2.2” substitute “ paragraph 3(3) ”;

(iv) in sub-paragraph (9) for “point 3.2” substitute “ sub-paragraphs (3) to (5) ”;

(c) in paragraph 5 (other risks), in sub-paragraph (9)—

(i) for “point 4.5” substitute “ sub-paragraph (5) ”;

(ii) for point “4.8” substitute “ sub-paragraph (8) ”;

(d) in paragraph 7 (instructions), in sub-paragraph (2)(a) for “point 4.4” substitute “ paragraph 5 (4) ”.

**Amendment of Schedule 3 (list of safety components referred to in Article 1(1) of the Directive) U.K.**

9. In Schedule 3, in paragraph 2 for “point 3.2” substitute “ paragraph 4, sub-paragraphs (3) to (5) ”.

**Amendment of Schedule 5 (EU declaration of conformity) U.K.**

10. In Part 1 of Schedule 5 (EU declaration of conformity for lifts)—

(a) in paragraph 1 for “point 6.2 ” substitute “ paragraph 7(2) ”;

(b) in paragraph 1(f) for “the Directive” substitute “ the relevant Union harmonisation legislation ”.

**Amendment of the Recreational Craft Regulations 2017** **U.K.**

**11.**—(1) The Recreational Craft Regulations 2017<sup>M4</sup> are amended as follows.

(2) In regulation 14 (duty to provide information), for paragraph (2) substitute—

“(2) Where it is not possible to provide the information referred to in paragraph (1) on the product, the manufacturer must ensure that the information is provided—

(a) on the packaging; or

(b) in a document accompanying the product.”.

(3) In regulation 29 (duty not to place a product on the market where a distributor suspects that it is not in conformity)—

(a) in the heading for “place” substitute “ make available ”; and

(b) in paragraph (1) for “place the product” substitute “ make the product available ”.

(4) In regulation 32, in paragraph (3) omit “placed”.

(5) In regulation 73, for sub-paragraph (1)(d) substitute—

“(d) regulations 18 to 25;”.

**Marginal Citations**

**M4** [S.I. 2017/737](#).

**Amendment of the Radio Equipment Regulations 2017** **U.K.**

**12.**—(1) The Radio Equipment Regulations 2017<sup>M5</sup> are amended as follows.

(2) In regulation 66 (penalties), in paragraph (2) for “regulations 11, 16, 28 and 35” substitute “ regulations 11, 16, 28, 29 and 35 ”.

**Marginal Citations**

**M5** [S.I. 2017/1206](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018.