
STATUTORY INSTRUMENTS

1992 No.1524

HEALTH AND SAFETY

The Health and Safety (Leasing Arrangements) Regulations 1992

<i>Made</i>	- - - -	<i>24th June 1992</i>
<i>Laid before Parliament</i>		<i>9th July 1992</i>
<i>Coming into force</i>	- -	<i>3rd August 1992</i>

The Secretary of State, in exercise of the powers conferred on her by section 15(1) and (3)(b) of the Health and Safety at Work etc. Act 1974(1) (“the 1974 Act”) and of all other powers enabling her in that behalf and for the purpose of giving effect without modifications to proposals submitted to her by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Health and Safety (Leasing Arrangements) Regulations 1992 and shall come into force on 3rd August 1992.

Interpretation

2. In these Regulations, unless the context otherwise requires—
“the 1974 Act” means the Health and Safety at Work etc. Act 1974;
“lease” means any kind of agreement or arrangement under which payments are, or are to be, made for the supply of an article for use at work or an article of fairground equipment except a conditional sale agreement, a credit-sale agreement, a hire-purchase agreement or a contract of sale.

Modification of section 6 of the 1974 Act in the case of a first lease

3. Where a person (“the ostensible supplier”) supplies an article for use at work or an article of fairground equipment to another (“the customer”) under a lease, and the ostensible supplier—
(a) has not previously granted any lease to the customer in respect of that article, and

(1) 1974 c. 37; section 6 was amended by the Consumer Protection Act 1987 (c. 43), Schedule 3, paragraph 1; sections 15 and 50 were amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraphs 6 and 16 respectively.

- (b) carries on the business of financing by means of leases the use of goods by others, and
- (c) in the course of that business acquired his interest in the article for the purpose of financing its provision to the customer by a third person (“the effective supplier”), and
- (d) he or his agent either—
 - (i) has not had physical possession of the article, or
 - (ii) has had physical possession of the article only for the purpose of passing it to the customer, and
- (e) he or his agent has not modified, overhauled, repaired or restored the article,

then section 6 of the 1974 Act shall be modified in relation to that class of case so that the effective supplier and not the ostensible supplier shall be treated for the purposes of that section as supplying the article to the customer; and accordingly the duties imposed by subsections (1) and (1A) of that section in respect of the supply of the article shall fall on the effective supplier and not on the ostensible supplier.

Modification of section 6 of the 1974 Act where a further lease is granted in continuation of a lease to which regulation 3 applies

4. Where—
- (a) regulation 3 of these Regulations has applied in respect of a lease, and
 - (b) the ostensible supplier grants a further lease of the article to the same customer, and
 - (c) the article has remained in the physical possession of the customer since he took possession of it under the first lease, and
 - (d) the article has not at any time been modified, overhauled, repaired or restored by or on behalf of the ostensible supplier,

then section 6(1) and (1A) of the 1974 Act shall be modified in relation to that class of case so that no duty is imposed on the ostensible supplier in relation to the supply by way of that further lease.

Revocation

5. The Health and Safety (Leasing Arrangements) Regulations 1980(2) are hereby revoked.

Signed by order of the Secretary of State.

24th June 1992

Patrick McLoughlin
Parliamentary Under Secretary of State,
Department of Employment

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations modify section 6 of the Health and Safety at Work etc. Act 1974 (the 1974 Act) where any article for use at work or any article of fairground equipment is supplied under a lease. Section 6 of the 1974 Act was amended by paragraph 1 of Schedule 3 to the Consumer Protection Act 1987 (c. 43).

2. Regulation 3 of these Regulations applies to the first lease of any article for use at work or any article of fairground equipment and makes provision corresponding to that in section 6(9) of the 1974 Act (as amended). Section 6(9) applies where the finance is provided under a hire-purchase agreement, conditional sale agreement or credit-sale agreement. By virtue of regulation 3 of these Regulations, the duties imposed on the supplier of the article by subsections (1) and (1A) of section 6 of the 1974 Act (as amended) will be imposed on the person who actually supplies the article and not on the person who supplies the article under the first lease. The circumstances in which the modified provision will apply are set out in that regulation.

3. Regulation 4 of these Regulations applies where a further lease is granted to the same customer in continuation of the first lease mentioned in paragraph 2 above. It applies where the article (the subject of the said first lease) remains in the possession of the customer and other conditions set out in the said regulation 4 are satisfied. The duties under section 6(1) and (1A) of the 1974 Act (as amended) will have arisen on the transaction under the first lease and regulation 4 of these Regulations provides therefore that no duty will arise on the transaction under the further lease.

4. Regulation 5 of these Regulations revokes the Health and Safety (Leasing Arrangements) Regulations 1980 (the 1980 Regulations) and they are replaced by these Regulations. The 1980 Regulations applied only where an article for use at work was supplied under a lease or a further lease and they did not apply where an article of fairground equipment was supplied under a lease or a further lease.