CHAPTER 40

Consumer Protection Act, 1961

ARRANGEMENT OF SECTIONS

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SCHEDULE—Provisions as to Inspection, Testing and Enforcement by Local Authorities.

An Act to make provision for the protection of consumers. [19th July, 1961]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Safety requirements and instructions.

1.—(1) The Secretary of State may by regulations impose as respects any prescribed class of goods—

(*a*) any such requirements, whether as to the composition or contents, design, construction, finish or packing of, or otherwise relating to, goods of that class or any component part thereof, as are in his opinion expedient to prevent or reduce risk of death or personal injury;

(*b*) any such requirements for securing that goods of that class or any component part thereof are in the prescribed manner marked with or accompanied by any prescribed warning or instructions, or any prescribed form of warning or instructions, which in the opinion of the Secretary of State is or are expedient as aforesaid.

(2) Requirements may be imposed under this section either as respects all goods of a prescribed class or as respects any prescribed description of such goods, and either generally or in prescribed circumstances, and regulations under this section may make different provision for different cases.

(3) Regulations under this section may provide that the Schedule to this Act shall have effect in relation to goods of any class prescribed under this section, or to such goods and to goods of which such goods are a component part.

(4) A class or description of goods may be prescribed under this section notwithstanding that the goods are for use only as component parts of other goods (whether or not those other goods are goods of a prescribed class or description).

(5) It shall be the duty of the Secretary of State, before making any regulations under this section, to consult with such persons or bodies of persons as appear to him requisite.

(6) The power to make regulations conferred by this section shall be exerciseable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Prohibition on sale, etc. of goods not complying with regulations under s. 1.

2.—(1) Subject to the provisions of this section, no person shall sell, or have in his possession for the purpose of selling, any goods as respects which or a component part of which any requirements of regulations under the foregoing section are in force unless all requirements of the regulations relating to the goods or component part are complied with.

(2) Subject to the provisions of this section, no person shall sell, or have in his possession for the purpose of selling, a component part intended for, but not embodied in, any goods as respects which any requirements of regulations under the foregoing section are in force, being a component part such that if it were embodied in the goods any requirement of the regulations applicable to the goods would be contravened or not complied with.

(3) The foregoing provisions of this section shall not apply to a person—

(*a*) where he is selling, or as the case may be is in possession, otherwise than in the course of a business, or is acting as agent, or as the servant of the agent, of a person who was not acting in the course of a business in entrusting the goods to an agent; or

(*b*) where he reasonably believes that the goods or component parts will not be used in Great Britain; or

(*c*) in the case of a sale under a credit-sale agreement, if he has at no time had possession of the goods or component parts and only became the owner thereof at the time of entering into the agreement; or

(*d*) where he is selling, or as the case may be is in possession for the purpose of selling, the goods or component parts as scrap, that is to say for the value of the materials of which the goods or parts are composed and not for use as finished articles; or

(*e*) in the case of goods or component parts which have been damaged by, or in consequence of, fire or flooding, where he is selling, or as the case may be is

in possession for the purpose of selling, the goods or component parts to a person who carries on a business of buying damaged goods and repairing or reconditioning them for resale, or to a person by whom the goods or parts were insured against damage.

(4) As respects any requirement relating to the manufacture of goods or a component part of goods, unless regulations under the foregoing section otherwise provide, subsections (1) and (2) of this section shall not apply in relation to goods or component parts manufactured before the imposition of the requirement, or if it is so provided by such regulations shall not apply in relation to such goods or component parts until a prescribed date.

(5) Regulations under the foregoing section may contain such other exemptions from the operation of subsections (1) and (2) of this section, applicable in such cases as may be prescribed, as appear to the Secretary of State necessary or expedient.

(6) If as respects goods of any class or description regulations under the foregoing section so provide, subsections (1) to (3) of this section (other than paragraphs (*d*) and (*e*) of subsection (3)) shall apply in relation to goods of that class or description as if references to selling or to a sale included references to letting under a hire-purchase agreement or on hire, and the reference to a sale under a credit-sale agreement were a reference to letting under a hire-purchase agreement:

Provided that subsections (1) and (2) of this section shall not apply—

(*a*) in a case of letting on hire, where the letting is incidental to the letting of premises;

(*b*) in a case of possession for the purpose of letting on hire, where possession is for the purpose of a letting which is to be incidental to the letting of premises;

(*c*) in any case of letting, where the letting was lawful at the time when it began.

Enforcement of s. 2.

3.—(1) Any obligation imposed by or by virtue of the foregoing section on any person not to sell, let or have possession of any goods or component part is a duty which is owed by him to any other person who may be affected by the contravention of or non-compliance with the requirement in question, and a breach of that duty is actionable (subject to the defences and other incidents applying to actions for breach of statutory duty).

(2) Any person who contravenes the foregoing section shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds, or in the case of a second or subsequent offence to a fine not exceeding two hundred and fifty pounds or to imprisonment for a term not exceeding three months or to both:

Provided that a person shall not be convicted of an offence under this section by reason of a contravention of or failure to comply with any requirement imposed under section one of this Act in relation to the goods or component part in question if he proves that he had reasonable cause to believe that all such requirements were satisfied.

(3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of the offence.

In this subsection the expression " director ", in relation to any body corporate which is established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking and whose affairs are managed by its members, means a member of that body.

Expenses.

4. There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided by way of Rate-deficiency Grant or Exchequer Equalisation Grant under the enactments relating to local government in England and Wales or in Scotland.

Interpretation.

5. In this Act the following expressions have the following meanings:—

" Act of 1932 " means the Hire Purchase and Small Debt (Scotland) Act, 1932, as amended by the Hire-Purchase Act, 1954;

" component part " includes an accessory;

" credit-sale agreement " means an agreement for the sale of goods under which the whole or part of the purchase price is payable by instalments, except that, as respects Scotland, it does not include an agreement to sell under a contract to which the Act of 1932 applies;

" hire-purchase agreement ", as respects England and Wales, has the same meaning as in the Hire-Purchase Act, 1938, and, as respects Scotland, means a contract to which the Act of 1932 applies; and, as respects Scotland, references to letting under a hire-purchase agreement and to a hirer under such a letting shall include references to an agreement to sell under such a contract as aforesaid and to a purchaser under such an agreement respectively;

" personal injury " includes disease or disability;

" prescribed " means prescribed by regulations under section one of this Act.

Repeals and transitional provisions.

6.—(1) Subject to the following provisions of this section, the Heating Appliances (Fireguards) Act, 1952, and the Oil Burners (Standards) Act, 1960, shall cease to have effect.

(2) In relation to goods of the following classes, that is to say gas fires, electric fires, oil heaters and component parts of oil heaters, this Act shall apply as if—

(*a*) any regulations made under the said Act of 1952 or the said Act of 1960 and in force at the commencement of this Act had been made under section one of this Act, and

(*b*) references in any such regulations to either of those Acts or any provision of those Acts were references to this Act or the corresponding provision thereof,

and any such regulations may be varied or revoked accordingly.

(3) Unless, and except in so far as, regulations under section one of this Act otherwise provide,—

(*a*) subsections (1) to (3) of section two of this Act shall apply in relation to goods of the said classes subject to the extensions specified in subsection (6) of that section, but without prejudice to the proviso to the said subsection (6);

(*b*) the Schedule to this Act shall have effect in relation to goods of those classes, but as if paragraph 7 provided that " local authority " should mean as respects England and Wales the council of a county borough, county district or metropolitan borough, or the Common Council of the City of London, and as respects Scotland a county or town council.

Short title, commencement and extent.

7.—(1) This Act may be cited as the Consumer Protection Act, 1961.

(2) This Act shall come into operation on the expiration of the period of one month beginning with the day on which it is passed.

(3) This Act shall not extend to Northern Ireland.

SCHEDULE

Sections 1 and 6.

PROVISIONS AS TO INSPECTION, TESTING AND ENFORCEMENT BY LOCAL AUTHORITIES

1.—(1) Subject to the provisions of this Schedule, an officer of a local authority authorised by them in writing in that behalf may, on producing if so required his authority, inspect any goods in relation to which this Schedule has effect for the purpose of determining—

(*a*) whether the goods or any component part thereof are goods to which any prescribed requirements apply, and

(*b*) if so, whether those requirements are complied with.

(2) Subject to the provisions of this Schedule, an officer of a local authority authorised by them in writing in that behalf may, on producing if so required his authority, inspect a component part intended for but not embodied in any goods in relation to which this Schedule has effect, for the purpose of determining—

(*a*) whether it is one to which any prescribed requirements apply and if so whether those requirements are complied with, or

(*b*) whether it is one which it is requisite to inspect in order to determine whether any prescribed requirements applying to goods comprising it would be complied with when it was embodied in the goods, and if so whether those requirements would then be complied with.

2. A local authority may, subject to the provisions of this Schedule, purchase any goods for the purpose of carrying out a test to determine whether any prescribed requirements applicable to the goods or a component part thereof are complied with, or in the case of goods being a component part whether any prescribed requirements applicable to goods comprising it would be complied with when the part was embodied in the goods.

3. Regulations under section one of this Act may provide that in such cases as may be prescribed any test such as is referred to in the foregoing paragraph shall be carried out, at the expense of the local authority, by such person or body as may be authorised by or under the regulations to carry out the test, and may prescribe the manner in which any such test as is referred to in the foregoing paragraph is to be carried out.

4. An officer of a local authority shall not by virtue of paragraph 1 of this Schedule inspect any goods or component part, and a local authority shall not by virtue of paragraph 2 of this Schedule purchase any goods or component part, unless the goods or component part are kept in the area of the authority for the purpose of being sold or let in the course of a business.

5.—(1) Any person who wilfully obstructs any person in the exercise of his powers under paragraph 1 of this Schedule shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

(2) Subsection (3) of section three of this Act shall apply in relation to an offence under this paragraph as it applies in relation to an offence under that section.

6. A local authority in England or Wales may institute proceedings for an offence under this Act committed in the area of the authority.

7. In this Schedule "local authority" as respects England and Wales means such of the following authorities, that is to say the councils of counties, county boroughs, county districts and metropolitan boroughs and the Common Council of the City of London as may be provided (either generally or for specified descriptions of areas) by regulations under section one of this Act relating to the goods in question, and as respects Scotland means a county or town council as may be so provided.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Hire Purchase and Small Debt (Scotland) Act, 1932.	22 & 23 Geo. 5. c. 38.
Hire Purchase Act, 1938	1 & 2 Geo. 6. c. 53.
Heating Appliances (Fireguards) Act, 1952 ...	15 & 16 Geo. 6. & 1 Eliz. 2. c. 42.
Hire Purchase Act, 1954	2 & 3 Eliz. 2. c. 51.
Oil Burners (Standards) Act, 1960	8 & 9 Eliz. 2. c. 53.

CHAPTER 41

Flood Prevention (Scotland) Act, 1961

ARRANGEMENT OF SECTIONS

Flood Prevention Operations

Section
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6. Byelaws.

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7. Acquisition of land.
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