

## Standards & Related Documents Committee

### TECHNICAL BULLETIN - MARCH 2002

#### 212. Conditions of Supply of Imported Rides

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Some NAFLIC members tell us that they are sometimes asked to advise prospective purchasers of the steps they should take to satisfy British requirements when importing or purchasing imported amusement rides.. It is NAFLIC's belief that there is still some confusion on this matter. This committee has been asked to update Technical Bulletin number TB072 (1994) bearing in mind that industry guidance has since been revised.

The main relevant legislation is section 6 of the Health and Safety at Work etc. Act 1974 (as amended, particularly by the Consumer Protection Act 1987). Guidance is also included in *Fairgrounds and Amusement Parks - Guidance on Safe Practice* (HSG 175; HSE Books; ISBN 0 7176 1174 4 - henceforth referred to as the Guidance), its Technical Annex (no longer published by HSE, but still a current NAFLIC "Agreed Code of Practice"), HSE's Entertainment Sheet No. 8 (ETIS8), and other documents, standards etc.

It is the duty, under British law, of any person who designs, manufactures, imports or supplies any ***article of fairground equipment***<sup>1</sup> to ensure that it is so designed and constructed that it will be safe and without risks to health at all times when it is being used to entertain the public or being maintained etc. [HSW Act Section 6 - paragraph (a) of subsection (1A) and paragraph (a) of subsection (1)].

In the case of equipment designed outside Great Britain the importer, who in the absence of an intermediary may well be a showman or amusement park proprietor, inherits most of the legal duties of the designer and manufacturer [HSW Act Section 6 - subsection (8A)]. The same subsection stipulates that an importer cannot, in general, pass on these duties down the chain of supply even on the basis of a written disclaimer. He may, however, seek professional help to fulfil these duties [HSW Act Section 6 - paragraphs (b) of subsections (1) and (1A)].

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<sup>1</sup> ***Article of fairground equipment*** means any fairground equipment, or any article designed for use as a component in any such equipment.

***Fairground equipment*** covers any fairground ride or similar plant to entertain customers on or inside it, including equipment for sliding or bouncing on and equipment such as swings and dodgems which is controlled to some extent by the customer. It excludes equipment such as pinball and video machines and side-stalls.

**212.2 Duties with Respect to Design**

An importer must ensure that the *design*<sup>2</sup> will be safe and without risks to health and, to achieve this, he must carry out or arrange for the carrying out of appropriate reviews of the design work carried out by the foreign designer [HSW Act Section 6 - paragraphs (b) of subsections (1) and (1A)]. The design needs to be assessed against British criteria since the HSW Act implies that importers should provide the same standards of safety and information as British suppliers, while the Guidance expects imported equipment to follow more specific requirements [Guidance paragraph 56 - 58].

For amusement devices the Guidance, in conjunction with ETIS8, requires the complete design specification and, where necessary, associated calculations to be submitted to an ADIPS registered inspection body to establish that the design concept is sound and that the calculations are correct [Guidance pages 15 & 23 - 26]. This is the process referred to as "Design Review". Although the Guidance is nominally *voluntary*<sup>3</sup> it is adopted by virtually all of the British industry.

One often confused fact is that the HSW Act does not permit an importer to assume that the design safety of an article of fairground equipment is satisfactory just because it has been the subject of a Design Review by a non-British body, such as a TÜV for instance. He may, though, consider how far it is reasonable to rely on the reported results of the earlier Design Review so as to avoid unnecessary repetition [HSW Act Section 6 - subsection (6)]. See also 212.6 below.

**212.3 Duties with Respect to Construction**

As well as the safety of the design an importer has to ensure that the construction of the device is satisfactory [HSW Act Section 6 - paragraphs (a) of subsections (1) and (1A)]. If it is also wished to comply with the Guidance an amusement device must be manufactured in conformity with a specification that has been the subject of Design Review. When the importer has checked such conformity, the Guidance and ETIS8 require confirmation, known as "Assessment of Conformity to Design", to be provided by an ADIPS registered Inspection Body [Guidance paragraphs 56 - 58, & 52].

It is clear then that, for equipment manufactured elsewhere, the importer "carries the can" for the quality of manufacture conforming to a design specification acceptable in Great Britain.

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<sup>2</sup> The Guidance includes many paragraphs which help to clarify the industry's interpretation of the meaning of the word *Design*, which covers all aspects of the device's specification and associated calculations and implies all safety related disciplines.

<sup>3</sup> "This guidance sets out what the Joint Advisory Committee on Fairgrounds and Amusement Parks considers are appropriate measures for those involved and others in the industry to work safely and comply with the law." - Foreword to the Guidance.

**212.4 Duties with Respect to Initial Test**

It is a generally accepted fact that some aspects of the safety of an amusement device's design and construction are best demonstrated by functional test runs. Braking (and other safety related) systems, for instance, immediately leap to mind.

The HSW Act does not prescribe what testing should be carried out before first use of an article of fairground equipment - the designer, manufacturer, importer or supplier has the responsibility of deciding what is called for [HSW Act Section 6 - paragraphs (b) of subsections (1) and (1A)]. For imported equipment the responsibility for ensuring that the tests are suitable and the results are satisfactory rests upon the importer even if the manufacturer comes to Great Britain to carry them out [HSW Act Section 6 - subsection (8A)]. The Guidance requires an "Initial Test" to be carried out by or on behalf of the designer, manufacturer or supplier (we believe it to be an error that "importer" has been omitted from this list in paragraph 89). There is an additional requirement that the test should be witnessed and verified by an ADIPS registered inspection body [Guidance pages 26 - 28 and ETIS8].

An importer therefore has the responsibility for deciding (or arranging for help in deciding) what testing and examination is necessary to ensure safety so far as is reasonably practicable. It is not sufficient for an importer to assume that the testing of an article of fairground equipment has been satisfactory just because it has been the subject of an Initial Test by a non-British manufacturer or other body, such as a TÜV for instance. He may, though, consider how far it is reasonable to rely on the reported results of such an Initial Test so as to avoid unnecessary repetition [HSW Act Section 6 - subsection (6)]. See also 212.6 below.

**212.5 Requirements**

The preceding discussion indicates that compliance with British law and guidance for the importation of articles of fairground equipment will involve the importer in confirming the safety of their design, construction, etc. To check such confirmation he would need to obtain reports of :-

- ◆ Design Review;
- ◆ Assessment of Conformity to Design; and
- ◆ Initial Test

from one or more ADIPS registered inspection body.

To carry out these tasks the importer will need to seek a great deal of information from the overseas designer and manufacturer. We also believe that if it is known that previous reports (e.g. TÜV) on the device are in existence, every effort should be made to obtain copies.

We are aware that some importers issue "Conditions of Supply" which specify the documentation which is insisted on as part of an agreement to purchase an article of fairground equipment. This may also specify that English translations be provided. (If they are not provided then, clearly, the importer will have to seek translation in Great Britain). We

note that, without this, it is usual to be supplied with data which is incomplete and insufficient to demonstrate the required level of safety without a considerable amount of extra work.

**212.6 Notes on the Acceptability of non-British Reports**

In the case of imported equipment which has been the subject of previous independent design review or inspection or test to non-British legislation, standards, etc., the design documents should ideally be accompanied by the reports (together with English translations) issued by the bodies which carried out this earlier work.

If they are, the HSW Act sensibly permits some use to be made of these reported results so as to avoid unnecessary repetition. However, it is a requirement that the importer (or his agent) must consider how far it is reasonable to rely upon the reported results to satisfy British criteria. He need then only carry out the additional work to fulfil the unsatisfied criteria. [HSW Act Section 6 - subsection (6)]. The appropriate ADIPS registered inspection body will clearly need to agree the extent of reliance on previous reported results.

The committee are aware that there are significant differences between the standards and methods of design and manufacture of fairground equipment throughout the world. There are also national differences in the procedures expected in review, testing and examination. We consider that it is very much a matter of knowledge and experience to decide what additional work should be carried out. We do not consider it appropriate to discuss such detail in this Technical Bulletin.

**212.7 Conclusion**

The NAFLIC Standards & Related Documents Committee have prepared this Technical Bulletin with the intention of providing an informed interpretation of requirements regarding imported articles of fairground equipment. We do not claim that this interpretation is the complete picture and we are aware that there may be other ways of complying with the law - the courts, after all, will ultimately decide. We are not willing for this Technical Bulletin to be relied upon or quoted as proof of compliance with the HSW Act and point out that persons reading this viewpoint should seek their own independent advice as to whether they comply.