

**ACT 514
OCCUPATIONAL SAFETY AND HEALTH ACT 1994**

PART V - GENERAL DUTIES OF DESIGNERS, MANUFACTURERS AND SUPPLIERS

Section 22. Explanations to sections 20 and 21.

(1) Nothing in section 20 or 21 shall be taken to require a person to repeat any testing, examination or research which has been carried out otherwise than by him or at his instance, in so far as it is reasonable for him to rely on the results thereof for the purposes of the section.

(2) Any duty imposed on a person by any of the preceding provisions of this Part shall extend only to things done in the course of a trade, business or other undertaking carried on by him, whether for profit or not, and to matters within his control.

(3) Where a person designs, formulates, manufactures, imports or supplies any plant or substance for or to another on the basis of a written undertaking by that other to take specified steps sufficient to ensure, so far as is practicable, that the plant or substance will be safe and without risks to health when properly used, the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed by paragraphs 20 (1)(a) and 21 (1)(a) to such extent as is reasonable having regard to the terms of the undertaking.

(4) Where a person (hereinafter referred to as the "ostensible supplier") supplies any plant or substance for use at work to another (hereinafter referred to as the "customer") under a hire-purchase agreement, conditional sale agreement or credit-sale agreement, and the ostensible supplier-

(a) carries on the business of financing the acquisition of goods by others by means of such agreements; and

(b) in the course of that business acquired his interest in the plant or substance supplied to the customer as a means of financing its acquisition by the customer from a third person (hereinafter referred to as the "effective supplier"),

the effective supplier and not the ostensible supplier shall be treated for the purposes of this Part as supplying the plant or substance to the customer, and any duty imposed by sections 20 and 21 on suppliers shall accordingly fall on the effective supplier and not on the ostensible supplier.

(5) For the purposes of this Part a plant or substance is not to be regarded as properly used where it is used without regard to any relevant information or advice relating to its use which has been made available by a person by whom it was designed, manufactured, imported or supplied.