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STATUTORY INSTRUMENTS

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**2006 No. 1254**

The Fire and Rescue Services (Northern Ireland) Order 2006

**PART III**

**FIRE SAFETY**

**CHAPTER I**

**FIRE SAFETY DUTIES**

*Duties*

**Duties of employers to employees**

**25.**—(1) Each employer shall ensure, so far as is reasonably practicable, the safety of his employees in respect of harm caused by fire in the workplace.

(2) Each employer shall—

- (a) carry out an assessment of the workplace for the purpose of identifying any risks to the safety of his employees in respect of harm caused by fire in the workplace; and
- (b) take in relation to the workplace such of the fire safety measures as are necessary to enable him to comply with the duty imposed by paragraph (1).

(3) Where under paragraph (2)(a) an employer carries out an assessment, he shall—

- (a) in accordance with regulations under Article 29, review the assessment; and
- (b) take in relation to the workplace such of the fire safety measures as are necessary to enable him to comply with the duty imposed by paragraph (1).

**Duties in relation to relevant premises**

**26.**—(1) Where a person has control to any extent of relevant premises he shall, to that extent, comply with paragraph (2).

(2) The person shall—

- (a) carry out an assessment of the relevant premises for the purpose of identifying any risks to the safety of relevant persons in respect of harm caused by fire in the relevant premises; and
- (b) take in relation to the relevant premises such of the fire safety measures as in all the circumstances it is reasonable for a person in his position to take to ensure the safety of relevant persons in respect of harm caused by fire in the relevant premises.

(3) If a person falls within paragraph (1) other than by virtue of—

- (a) having control to any extent of relevant premises in connection with the carrying on by the person (whether for profit or not) of an undertaking; or
- (b) owning relevant premises,

the owner of the relevant premises shall also comply with paragraph (2).

- (4) A person who has, by virtue of a contract or tenancy, an obligation of any extent in relation to—
- (a) the maintenance or repair of—
    - (i) relevant premises; or
    - (ii) anything in or on relevant premises; or
  - (b) safety in respect of harm caused by fire in relevant premises,
- shall also comply, to the extent of the obligation, with paragraph (2).
- (5) Where under paragraph (2)(a) a person carries out an assessment, he shall—
- (a) in accordance with regulations under Article 29, review the assessment; and
  - (b) take in relation to the relevant premises such of the fire safety measures as in all the circumstances it is reasonable for a person in his position to take to ensure the safety of relevant persons in respect of harm caused by fire in the relevant premises.

#### **Taking of measures under Article 25 or 26: considerations**

27.—(1) Paragraph (2) applies where under Article 25(2)(b) or (3)(b) or 26(2)(b) or (5)(b) a person is required to take any fire safety measures.

(2) The person shall implement the fire safety measures on the basis of the considerations specified in paragraph (3).

- (3) The considerations referred to in paragraph (2) are—
- (a) avoiding risks;
  - (b) evaluating risks which cannot be avoided;
  - (c) combating risks at source;
  - (d) adapting to technical progress;
  - (e) replacing the dangerous with the non-dangerous or the less dangerous;
  - (f) developing a coherent overall fire prevention policy which covers technology, organisation of work and the influence of factors relating to the working environment;
  - (g) giving collective fire safety protective measures priority over individual measures; and
  - (h) giving appropriate instructions to employees.

#### **Duties of employees**

28. Each employee shall while at work—

- (a) take reasonable care for the safety in respect of harm caused by fire of himself and any other relevant person who may be affected by his acts or omissions; and
- (b) in relation to any requirement imposed by virtue of this Part on his employer, co-operate with his employer in so far as is necessary for the purpose of enabling the employer to comply with the requirement.

#### *Regulations*

#### **Risk assessments: power to make regulations**

29.—(1) The Department may by regulations make provision about the carrying out of assessments and reviews under Articles 25 and 26.

(2) Regulations under paragraph (1) may in particular make provision for or in connection with—

- (a) specifying matters which persons shall take into account when carrying out assessments and reviews in relation to substances specified in the regulations;
- (b) specifying other matters which persons shall take into account when carrying out assessments and reviews;
- (c) requiring persons to carry out assessments and reviews before employing persons of a description so specified;
- (d) requiring persons in such circumstances as may be so specified to keep records of such information as may be so specified; and
- (e) specifying circumstances in which reviews shall be carried out.

**Fire safety: power to make regulations**

**30.**—(1) The Department may by regulations make provision about fire safety in relevant premises.

- (2) Regulations under paragraph (1) may in particular make provision for or in connection with—
  - (a) precautions which shall be taken or observed;
  - (b) imposing requirements on persons (including requirements about the enforcement of any provision included in the regulations);
  - (c) the provision, maintenance and keeping free from obstruction of any means of escape in case of fire;
  - (d) the provision and maintenance of means for securing that any means of escape can be safely and effectively used at all material times;
  - (e) the provision and maintenance of means for extinguishing fire and means for giving warning in the event of fire;
  - (f) the internal construction of premises and the materials used in that construction;
  - (g) prohibiting the presence or use in relevant premises of equipment of a description specified in the regulations, or prohibiting its presence or use unless standards, or conditions, so specified are complied with;
  - (h) where relevant premises form part of a building, enabling arrangements to be entered into with owners or occupiers of other parts of the building for the purpose of enabling persons who are subject to duties imposed by virtue of this Part to comply with them;
  - (i) securing that employees receive appropriate instruction or training in what to do in the event of fire;
  - (j) securing that, in circumstances so specified, numbers of attendants so specified are stationed in parts of the relevant premises so specified;
  - (k) the keeping of records of instruction or training given, or other things done, in pursuance of the regulations; and
  - (l) the giving of assistance or information by any person concerned in the enforcement of requirements imposed by virtue of this Part to any other person so concerned for the purposes of any such requirement.

**Power to make further provision for protection of fire and rescue officers, etc.**

**31.**—(1) This Article applies where regulations under Article 30(1) make provision for or in connection with the maintenance of premises, facilities or equipment with a view to securing the safety of fire and rescue officers or other fire-fighters in the event of a fire in relevant premises (“safeguarding provision”).

(2) The Department may by regulations apply, subject to any modifications (specified in the regulations) that it considers necessary, the safeguarding provision to common areas of private dwellings.

(3) In paragraph (2), “common area” includes, where a stair, passage, garden, yard, garage, outhouse or other appurtenance of a private dwelling is used in common by the occupants of more than one private dwelling, that stair, passage, garden, yard, garage, outhouse or other appurtenance.

### *Special case*

#### **Special case: temporary suspension of fire safety duties**

**32.**—(1) If in relation to any relevant premises the application of any of the fire safety duties would prevent a person who falls within paragraph (2) from carrying out his operational duties, the fire safety duties in question shall be deemed not to apply in relation to those relevant premises during the period when he is carrying out his operational duties.

(2) A person falls within this paragraph if he is—

- (a) a member of the armed forces of the Crown or of a visiting force;
- (b) a constable;
- (c) a member of any emergency service; or
- (d) of such other description as may be prescribed.

(3) A person subject to the fire safety duties which, by virtue of paragraph (1) are deemed not to apply in relation to relevant premises shall, during the period mentioned in that paragraph, ensure so far as is possible the safety of relevant persons in the event of fire in those premises.

(4) For the purposes of this Article, “operational duties”, in relation to a person falling within paragraph (2), means anything done—

- (a) while the person is at work in the capacity in which he falls within that paragraph; and
- (b) which the person is required to do by virtue of being at work in that capacity.

#### **Modifications etc. (not altering text)**

- C1** [Art. 32\(1\)](#) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)
- C2** [Art. 32\(3\)](#) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)

## CHAPTER II

### ENFORCEMENT

#### **Functions of the Board**

**33.**—(1) The Board shall enforce the fire safety duties.

(2) In carrying out the duty imposed by paragraph (1), the Board shall have regard to any guidance given by the Department.

(3) The Chief Fire and Rescue Officer may authorise in writing fire and rescue officers to act for the purpose of carrying out the duty imposed by paragraph (1).

(4) The Board may make arrangements with the Health and Safety Executive for Northern Ireland for such of the functions conferred on the Board by virtue of this Part as may be specified in the

arrangements to be carried out (with or without payment) on its behalf by the Executive in relation to a workplace so specified.

(5) The Board may make arrangements with a prescribed person for such of the functions conferred on the Board by virtue of this Part as may be specified in the arrangements to be carried out (with or without payment) on its behalf by the person in relation to a workplace so specified.

**Modifications etc. (not altering text)**

C3 Art. 33(1) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)

**Powers of authorised officers**

**34.**—(1) An authorised officer may do anything necessary for the purpose mentioned in Article 33(3).

(2) An authorised officer may in particular under paragraph (1)—

- (a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time), enter relevant premises and inspect the whole or part of the relevant premises and anything in them;
- (b) take onto the relevant premises any other persons, and any equipment, that he considers necessary;
- (c) require a person on the relevant premises who is subject to any of the fire safety duties to provide him with any—
  - (i) facilities, information, documents or records; or
  - (ii) other assistance,which relate to those duties and which he may reasonably request;
- (d) inspect and copy any documents or records on the relevant premises or remove them from the relevant premises;
- (e) carry out any inspections, measurements and tests in relation to the relevant premises or an article or substance found on the relevant premises, that he considers necessary;
- (f) take samples of an article or substance found on the relevant premises for the purpose of ascertaining its fire resistance or flammability;
- (g) if an article found on the relevant premises appears to him to have caused or to be likely to cause danger to the safety of a relevant person in the event of fire, dismantle the article (but not so as to destroy it or damage it unless it is necessary to do so for the purpose of the inspection); and
- (h) take possession of an article or substance found in the relevant premises and retain it for as long as is necessary for the purpose of—
  - (i) examining it and doing anything he has power to do under sub-paragraph (e) or (g);
  - (ii) ensuring that it is not tampered with before his examination of it is completed; and
  - (iii) ensuring that it is available for use as evidence in proceedings for an offence relevant to the inspection.

(3) An authorised officer exercising the power in paragraph (2)(a) shall, if so required, produce evidence of his authorisation under Article 33(3)—

- (a) before entering the premises; or
- (b) at any time before leaving the premises.

- (4) If an authorised officer exercises the power in paragraph (2)(f), he shall—
- (a) leave a notice at the relevant premises with a person who is subject to any of the fire safety duties in relation to the relevant premises (or, if that is impracticable, fix the notice in a prominent position at the relevant premises) giving particulars of the article or substance and stating that he has taken a sample of it; and
  - (b) if it is practicable to do so, give such a person at the relevant premises a portion of the sample marked in a manner sufficient to identify it.

(5) Before exercising the power in paragraph (2)(g), an authorised officer shall consult such persons as appear to him to be appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

(6) If requested to do so by a person present in the relevant premises who is subject to any of the fire safety duties in relation to the relevant premises, an authorised officer shall cause—

- (a) anything which the officer proposes to do on the relevant premises under the power in sub-paragraph (d) or (e) of paragraph (2); or
- (b) anything which the officer proposes to do under the power in sub-paragraph (g) of that paragraph,

to be done in the presence of that person.

(7) If an authorised officer exercises the power in paragraph (2)(h), he shall leave a notice at the relevant premises with a person who is subject to any of the fire safety duties in relation to the relevant premises (or, if that is impracticable, fix the notice in a prominent position at the relevant premises) giving particulars of the article or substance and stating that he has taken possession of it.

#### **Modifications etc. (not altering text)**

- C4** Art. 34 modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(a\)](#)
- C5** Art. 34(2)(c) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)
- C6** Art. 34(4)(a) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)
- C7** Art. 34(6) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)
- C8** Art. 34(7) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)

#### **Exercise of powers under Article 34: securing of premises**

- 35.** An authorised officer who, by virtue of Article 34, enters relevant premises—
- (a) which are unoccupied; or
  - (b) from which the occupier is temporarily absent,

shall on departure ensure that all reasonable measures have been taken to leave the relevant premises as effectively secured against unauthorised entry as he found them.

#### **Prohibition notices**

**36.—**(1) Where paragraph (2) applies in relation to relevant premises, the Board may serve a prohibition notice on the occupier of the relevant premises.

(2) This paragraph applies where, having regard in particular to anything affecting relevant persons' escape from relevant premises in the event of fire, the Board considers that use of the relevant premises involves or will involve a risk to relevant persons so serious that use of those premises ought to be prohibited or restricted.

(3) A prohibition notice shall—

- (a) state that the Board considers that paragraph (2) applies;
- (b) specify the matters which the Board considers give rise or, as the case may be, will give rise to the risk;
- (c) direct that the use to which the prohibition notice relates is prohibited or restricted to such extent as may be specified in the notice until the matters specified under sub-paragraph (b) have been remedied; and
- (d) subject to paragraph (4), specify when the notice shall take effect.

(4) The Board may specify that a notice shall take effect on service of the notice only if the Board considers that, in consequence of the matters specified under paragraph (3)(b), there is or, as the case may be, will be an imminent risk of serious personal injury to relevant persons.

(5) A prohibition notice may include directions as to the steps which will have to be taken to remedy the matters specified in the notice.

(6) Before serving a prohibition notice in relation to a house in multiple occupation, the Board shall, where practicable, notify the Northern Ireland Housing Executive of—

- (a) the Board's intention to serve a prohibition notice; and
- (b) the use which it is intended to prohibit or, as the case may be, restrict.

(7) Where the Board has served a prohibition notice on the occupier of relevant premises, the Board may, by notice in writing to the occupier, withdraw the prohibition notice.

### **Enforcement notices**

**37.**—(1) Where the Board considers that a person has failed to comply with any of the fire safety duties, the Board may serve an enforcement notice on that person.

(2) An enforcement notice shall—

- (a) state that the Board considers that the person on whom the notice is served has failed to comply with the fire safety duty specified in the notice;
- (b) specify why the Board considers that the person has failed to comply with the duty in question; and
- (c) require the person, before the expiry of the period specified in the notice (being a period of at least 28 days), to take the action so specified.

(3) Before serving an enforcement notice including a requirement to make an alteration to relevant premises, the Board shall consult—

- (a) the district council for the area in which the premises are situated;
- (b) if the premises are used as a place of work, the enforcing authority within the meaning of Article 2(2) of the Health and Safety at Work (Northern Ireland) Order 1978 (NI 9); and
- (c) any other person whose consent to the alteration would be required by virtue of any statutory provision.

(4) Failure to comply with paragraph (3) shall not affect the validity of an enforcement notice.

(5) Where the Board has served an enforcement notice on a person, the Board may—

- (a) before the expiry of the period specified in the notice, by notice in writing to the person withdraw the enforcement notice; or

(b) if an appeal against the notice is not pending under Article 40, extend, or further extend, the period specified in the notice.

(6) For the purposes of this Article, “fire safety duties” does not include the duty imposed by Article 28.

**Modifications etc. (not altering text)**

- C9** Art. 37 modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(a\)](#)
- C10** Art. 37(1) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)
- C11** Art. 37(2)(a) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)
- C12** Art. 37(6) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)

**Alterations notices**

**38.**—(1) Where paragraph (2) or (3) applies in relation to relevant premises, the Board may serve an alterations notice on the appropriate person.

(2) This paragraph applies where there would be a serious risk to relevant persons in respect of harm caused by fire in the relevant premises.

(3) This paragraph applies where—

- (a) paragraph (2) does not apply; but
- (b) if any of the changes specified in paragraph (5) were made, it is likely that paragraph (2) would apply.

(4) An alterations notice is a notice requiring the appropriate person where—

- (a) it is proposed that a change specified in paragraph (5) be made to the relevant premises; and
- (b) if made, the change would constitute a serious risk to relevant persons in respect of harm caused by fire in the relevant premises,

to notify the Board of the change before it is made.

(5) The changes referred to in paragraphs (3) and (4) are—

- (a) a change to the relevant premises;
- (b) a change to the services, fittings or equipment on the relevant premises;
- (c) an increase in the quantities of dangerous substances which are present on the relevant premises; and
- (d) a change in any use to which the relevant premises are put.

(6) The Board may include in an alterations notice provision requiring the appropriate person—

- (a) to keep records of such information as, by virtue of sub-paragraph (d) of paragraph (2) of Article 29, is specified in regulations under paragraph (1) of that Article;
- (b) to keep records of arrangements made, in accordance with regulations under Article 30(1) for the planning, organisation, control, monitoring or review of the fire safety measures; and

(c) if notifying the Board of a proposed change, to give the Board—

- (i) a copy of the assessment under Article 25 or, as the case may be, 26; and



(ii) a summary of the changes the appropriate person proposes to make to the fire safety measures.

(7) Where the Board has served an alterations notice on an appropriate person, the Board may, by notice in writing to the appropriate person, withdraw the alterations notice.

(8) In this Article, “appropriate person”, in relation to relevant premises, means a person subject to a requirement under Article 25 or 26 in relation to the relevant premises.

### Determination of disputes

**39.**—(1) Where—

- (a) the Board considers that a person has failed to comply with any of the fire safety duties; and
- (b) in relation to the duty in question the person and the Board cannot agree on what (or whether any) action requires to be taken to comply with the duty,

the person and the Board may agree to refer the matter to the Department for determination in accordance with paragraph (2).

(2) On a reference under this Article, the matter shall be determined by the Department or, if the Department thinks fit and the person referred to in paragraph (1) agrees, by a person appointed by the Department.

(3) The Department may by regulations make provision about references and determinations under this Article.

(4) Subject to paragraph (5), where a determination is made by virtue of paragraph (2), the Board may not—

- (a) serve an enforcement notice; or
- (b) include in such a notice directions,

if the notice or, as the case may be, the directions would conflict with the determination.

(5) Paragraph (4) shall not apply if, after the date of the determination, the risk to relevant persons significantly increases because a change is made to—

- (a) the relevant premises; or
- (b) the use to which they are put.

#### Modifications etc. (not altering text)

**C13** Art. 39(1)(a) modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(b\)](#)

### Appeals

**40.**—(1) A person to whom paragraph (2) applies may, within 21 days from the date on which a relevant notice is served, appeal to the county court in accordance with county court rules.

(2) This paragraph applies to—

- (a) a person on whom a relevant notice is served; and
- (b) if the relevant notice is a prohibition notice, a person who in relation to the relevant premises to which the notice relates is subject to the duties imposed by Article 25 or 26.

(3) On an appeal under this Article, the county court may either cancel or affirm the notice, and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.

(4) Where an appeal is brought under this Article against an enforcement notice or an alterations notice, the operation of the notice shall be suspended until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.

(5) Where an appeal is brought under this Article against a prohibition notice, the operation of the notice shall not be suspended unless, on the application of the appellant, the court so directs (and then only from the giving of the direction).

(6) In this Article “relevant notice” means—

- (a) a prohibition notice;
- (b) an enforcement notice; or
- (c) an alterations notice.

### CHAPTER III OFFENCES

#### Offences

41.—(1) If—

- (a) a person fails to carry out a duty to which he is subject by virtue of—
  - (i) Article 25;
  - (ii) Article 26; or
  - (iii) Article 27; and
- (b) the failure to carry out the duty in question puts a relevant person at risk of death, or injury, in the event of fire,

the person shall be guilty of an offence.

(2) If—

- (a) an employee fails to carry out a duty to which he is subject by virtue of Article 28; and
- (b) the failure to carry out the duty in question puts a relevant person at risk of death, or injury, in the event of fire,

the employee shall be guilty of an offence.

(3) If—

- (a) a person fails to comply with a requirement or prohibition to which he is subject by virtue of regulations made under Article 29 or 30; and
- (b) the failure to comply with the requirement or prohibition in question puts a relevant person at risk of death, or injury, in the event of fire,

the person shall be guilty of an offence.

(4) It shall be an offence for a person—

- (a) to fail, without reasonable excuse, to comply with a requirement imposed by an authorised officer under Article 34(2)(c);
- (b) falsely to pretend to be an authorised officer;
- (c) to fail to comply with a restriction or prohibition imposed by a prohibition notice;
- (d) to fail to comply with a requirement imposed by an enforcement notice or an alterations notice;
- (e) to contravene Article 45;

- (f) to make in any register, book, notice or other document required by virtue of this Part to be kept, served or given an entry which he knows to be false in a material particular; or
  - (g) to give any information which he knows to be false in a material particular, or recklessly to give any information which is false in a material particular, where the information is given in purported compliance with a requirement to give information imposed by virtue of this Part.
- (5) A person guilty of an offence under paragraph (1), (3) or (4)(c) or (d) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.
- (6) A person guilty of an offence under paragraph (2) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine.
- (7) A person guilty of an offence under paragraph (4)(a) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) A person guilty of an offence under paragraph (4)(b) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) A person guilty of an offence under paragraph (4)(e), (f) or (g) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) Subject to paragraph (11), it shall be a defence for a person charged with an offence under this Article to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (11) Paragraph (10) shall not apply to—
- (a) an offence under paragraph (1) in respect of a failure to comply with the duty mentioned in sub-paragraph (a)(i) of that paragraph; or
  - (b) an offence under paragraph (3) in respect of a failure to comply so far as is reasonably practicable with a requirement or, as the case may be, a prohibition.
- (12) In any proceedings for an offence under paragraph (1) in respect of a failure to comply with the duty mentioned in sub-paragraph (a)(i) of that paragraph, the onus of showing that it was not reasonably practicable to do more than was done shall be on the accused.
- (13) In any proceedings for an offence under paragraph (3) in respect of a failure to comply with a requirement or prohibition so far as is practicable or so far as is reasonably practicable, the onus of showing that it was not practicable, or (as the case may be) was not reasonably practicable, to do more than was done shall be on the accused.

### **Offences by bodies corporate and partnerships**

**42.**—(1) For the purposes of this Part, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies with the omission of the words “the liability of whose members is limited” and, where the affairs of a body corporate are managed by its members, applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(2) Where a partnership is guilty of an offence under this Part, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, shall also be guilty of that offence and be liable to be proceeded against and punished accordingly.

### **Offence due to fault of other person**

43.—(1) Where the commission by any person (“A”) of an offence under this Part is due to the act or default of some other person (“B”), B shall be guilty of the offence.

(2) B may be charged with and convicted of an offence by virtue of paragraph (1) whether or not proceedings are taken against A.

### **Employee's act or omission not to afford employer defence**

44. Nothing in this Part shall be construed as affording an employer a defence in any proceedings in pursuance of Article 41 or 42 by reason only of any act or omission of—

- (a) an employee of his; or
- (b) a person of a prescribed description on whom duties are imposed by virtue of Article 30(1).

## CHAPTER IV

### MISCELLANEOUS AND GENERAL

### **Prohibition on charging employees**

45. No employer shall charge, or permit the charging of, any employee of his in respect of anything done or provided in pursuance of any of the fire safety duties.

### **Civil liability for breach of statutory duty**

46.—(1) Subject to paragraph (2), nothing in this Part shall be construed as conferring a right of action in any civil proceedings (other than proceedings for recovery of a fine).

(2) Breach of a duty imposed on an employer by virtue of this Part shall, in so far as it causes damage to an employee, confer a right of action on that employee in civil proceedings.

### **Consequential restriction of application of Part II of Health and Safety at Work (Northern Ireland) Order 1978**

47.—(1) Part II of the Health and Safety at Work (Northern Ireland) Order 1978 (NI 9) (“the 1978 Order”) and any regulations and orders made under it shall not apply to relevant premises, in so far as the 1978 Order or any regulations or orders made under it relate to any matter in relation to which requirements are or could be imposed by or under this Order.

(2) Nothing in paragraph (1) affects the operation of Part II of the 1978 Order or any such regulations or orders where an enforcing authority (as defined in Article 2(2) of the 1978 Order) is also enforcing the provisions of this Part.

### **Suspension of terms and conditions of licences dealing with same matters as this Part**

48.—(1) This Article applies where—

- (a) a statutory provision provides for the licensing of premises or a person in respect of premises;
- (b) the authority responsible for issuing licences under such a statutory provision is required or authorised to impose terms, conditions or restrictions in connection with the issue of such licences; and
- (c) such a licence is required in respect of relevant premises.

(2) A term, condition or restriction imposed in connection with the issue under such a statutory provision of the licence shall be of no effect in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by virtue of this Part.

(3) References in this Article to the issue of licences include references to their renewal, transfer or variation.

### **Crown application, etc.**

**49.**—(1) The provisions of this Part, and of regulations made under it, shall bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(2) No contravention by the Crown of any provision of this Part or of any regulations made under it shall make the Crown criminally liable; but the High Court may, on the application of the Health and Safety Executive for Northern Ireland, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), the provisions of this Part and of regulations made under it shall apply to persons in the public service of the Crown as they apply to other persons.

(4) In relation to relevant premises in respect of which the Crown is subject to any of the fire safety duties, this Part shall have effect with the substitution—

- (a) for any reference to an authorised officer, of a reference to a person authorised by the Health and Safety Executive for Northern Ireland; and
- (b) for any reference to the Board, of a reference to the Health and Safety Executive for Northern Ireland.

(5) Without prejudice to the generality of paragraph (4)(a), the Health and Safety Executive for Northern Ireland may authorise a fire and rescue officer to inspect and report in connection with the implementation of this Part as applied by this Article, and—

- (a) the Executive may enter into arrangements with the Board for that purpose; and
- (b) a fire and rescue officer authorised by the Executive under this paragraph shall report to the Executive as to the matters in respect of which he is authorised.

(6) If a person falsely pretends to be a person authorised by the Health and Safety Executive for Northern Ireland for the purposes of paragraph (5), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) In this Article any reference to the Crown includes the Crown in right of Her Majesty's Government in the United Kingdom.

#### **Modifications etc. (not altering text)**

**C14** Art. 49 modified (15.11.2010) by [Fire Safety Regulations \(Northern Ireland\) 2010 \(S.R. 2010/325\)](#), [reg. 24\(3\)\(a\)](#)

## CHAPTER V INTERPRETATION

### **Meaning of “relevant premises”**

**50.**—(1) In this Part, “relevant premises” means any premises other than—

- (a) domestic premises;
- (b) ships, in respect of the normal ship-board activities of a ship's crew which are carried out solely by the crew under the direction of the master;

- (c) mines and offshore installations;
  - (d) borehole sites to which the Borehole Sites and Operations Regulations (Northern Ireland) 1995 (SR 1995/491) apply;
  - (e) premises occupied solely for the purposes of the armed forces of the Crown;
  - (f) premises occupied solely by any visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964 (c. 5);
  - (g) premises which are situated within premises occupied solely for the purposes of the armed forces of the Crown but which are not themselves so occupied; or
  - (h) if the undertaking carried on in premises is agriculture or forestry, any land other than buildings which is situated away from the undertaking's buildings.
- (2) For the purposes of paragraph (1), “premises” includes any place, and, in particular–
- (a) any installation on land;
  - (b) any tent or movable structure; and
  - (c) vehicles other than–
    - (i) an aircraft, locomotive, rolling stock, trailer or semi-trailer used as a means of transport;
    - (ii) a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994 (c. 22); or
    - (iii) a vehicle which is exempt from duty under that Act.
- (3) References in this Part to relevant premises include references to a part of relevant premises.
- (4) The Department may by regulations modify paragraphs (1), (2) and (6).
- (5) Where the Department exercises the power in paragraph (4), it may by regulations make any modifications of this Part in its application, in consequence of the exercise of that power, to relevant premises specified in the regulations under that paragraph that the Department considers necessary or expedient.
- (6) For the purposes of paragraph (1)–
- “domestic premises” means premises occupied as a private dwelling (including a stair, passage, garden, yard, garage, outhouse or other appurtenance of such premises which is used in common by the occupants of more than one such dwelling), but does not include a house in multiple occupation;
- “mine” has the same meaning as in the Mines Act (Northern Ireland) 1969 (c. 6), but does not include any building on the surface at a mine;
- “normal ship-board activities” include the repair of a ship, save repair when carried out in dry dock;
- “ship” includes every description of vessel used in navigation.

### **Meaning of “fire safety measures”**

- 51.**—(1) Subject to paragraph (2), the fire safety measures are–
- (a) measures to reduce the risk of–
    - (i) fire in relevant premises; and
    - (ii) the risk of the spread of fire there;
  - (b) measures in relation to the means of escape from relevant premises;

- (c) measures for securing that, at all material times, the means of escape from relevant premises can be safely and effectively used;
  - (d) measures in relation to the means of extinguishing fires in relevant premises;
  - (e) measures in relation to the means of—
    - (i) detecting fires in relevant premises; and
    - (ii) giving warning in the event of fire, or suspected fire, in relevant premises;
  - (f) measures in relation to the arrangements for action to be taken in the event of fire in relevant premises (including, in particular, measures for the instruction and training of employees and for mitigation of the effects of fire); and
  - (g) such other measures in relation to relevant premises as may be prescribed.
- (2) The measures referred to in paragraph (1) do not include special, technical or organisational measures required to be taken or observed in any workplace in connection with the carrying on of any work process where those measures—
- (a) are designed to prevent or reduce the likelihood of fire arising from such a work process or reduce its intensity; and
  - (b) are required to be taken or observed to ensure compliance with any requirement of the relevant statutory provisions within the meaning given by Article 2(2) of the Health and Safety at Work (Northern Ireland) Order 1978 (NI 9).
- (3) In paragraph (2) “work process” means all aspects of work involving, or in connection with—
- (a) the use of plant or machinery; or
  - (b) the use or storage of any dangerous substance.

### Interpretation of Part III

52.—(1) In this Part—

“authorised officer” means a fire and rescue officer who is authorised in writing by the Chief Fire and Rescue Officer under Article 33;

“employee” has the meaning given by Article 2(2) of the Health and Safety at Work (Northern Ireland) Order 1978 (NI 9);

“fire safety duties” means—

- (a) the duties imposed by Articles 25, 26, 27 and 28; and
- (b) any duties imposed by regulations made under Article 29 or 30;

“fire safety measures” shall be construed in accordance with Article 51;

“house in multiple occupation” has the meaning given by [F1section 1 of the Houses in Multiple Occupation Act (Northern Ireland) 2016] ;

“operational task” means—

- (a) a function such as is mentioned in sub-paragraph (a) or (b) of paragraph (1) of Article 5;
- (b) a function such as is mentioned in sub-paragraph (a) or (b) of paragraph (1) of Article 6; or
- (c) a function such as is mentioned in an order under Article 7(1);

“owner”, in relation to premises, means any person who is for the time being receiving a rack rent of the premises, whether on his own account or as agent or trustee for any other person or who would so receive the same if the premises were let at a rack rent;

“public road” has the meaning given by Article 2(2) of the Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2);

“rack rent” has the meaning given by Article 2(2) of the Rates (Northern Ireland) Order 1977 (NI 28);

“relevant person”, in relation to premises, means–

- (a) any person who is, or may be, lawfully in the premises; or
- (b) any person–
  - (i) who is, or may be, in the immediate vicinity of the premises; and
  - (ii) whose safety would be at risk in the event of fire in the premises;

but does not include a fire and rescue officer who is engaged in the performance of an operational task and, in its application to Article 26, a person such as is mentioned in paragraph (2);

“relevant premises” shall be construed in accordance with Article 50;

“visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952 (c. 67);

“work” and “at work” shall be construed in accordance with Article 2 of the Health and Safety at Work (Northern Ireland) Order 1978 (NI 9);

“workplace”, in relation to an employer and his employees, means any relevant premises which are used for the purposes of an undertaking carried on by the employer and made available to an employee of the employer as a place of work; and includes–

- (a) any part of those premises to which an employee of the employer has access while at work; and
- (b) any relevant premises (other than a public road)–
  - (i) which are a means of access to or egress from the place of work; or
  - (ii) where facilities are provided for use in connection with the place of work.

(2) The person is, where the person (“the employer”) subject to the requirement to carry out an assessment or a review under Article 26 is also subject to the requirement to carry out an assessment or a review under Article 25, any employee of that employer.

(3) For the purposes of Article 28, references in the definition of “relevant person” in paragraph (1) to premises shall be construed as references to the workplace.

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#### **Textual Amendments**

- F1** Words in [art. 52\(1\)](#) substituted (1.4.2019) by [Houses in Multiple Occupation Act \(Northern Ireland\) 2016 \(c. 22\)](#), s. 90(2), [Sch. 7 para. 7](#); S.R. 2019/39, art. 2 (with art. 3)



**Changes to legislation:**

There are currently no known outstanding effects for the The Fire and Rescue Services (Northern Ireland) Order 2006, PART III.