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STATUTORY INSTRUMENTS

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**1995 No. 755**

**The Children (Northern Ireland) Order 1995**

**PART XII**

**EMPLOYMENT OF CHILDREN**

*Supplementary*

**Notice of refusal of licence, etc.**

**144.**—(1) This paragraph applies where an education and library board—

- (a) refuses an application for a licence under this Part; or
- (b) revokes such a licence; or
- (c) in the case of a licence under Article 138—
  - (i) varies it otherwise than on the application of the holder, or
  - (ii) in granting it or in giving approval under paragraph (5)(a) of that Article imposes any conditions otherwise than with the consent of the applicant or holder;
- (d) in the case of a licence under Article 143—
  - (i) varies it, or
  - (ii) in granting it, imposes any conditions otherwise than with the consent of the applicant.

(2) Where paragraph (1) applies, the education and library board shall serve a notice on the applicant or holder of the licence informing him of—

- (a) the board's reasons for acting as described in paragraph (1); and
- (b) his right of appeal under Article 145.

**Appeal against refusal of licence, etc.**

**145.**—(1) The applicant or holder of a licence may, where Article 144(1) applies, appeal to the court.

(2) An appeal shall not be brought under paragraph (1) by the applicant or holder of a licence more than 28 days after the service on him of the notice required by Article 144(2).

**Powers of entry**

**146.**—(1) Where, on an application made by any person for a warrant under this Article, it appears to the court that there is reasonable cause to believe that the provisions of this Part or of any regulations made or licences granted under this Part are being contravened with respect to any child, the court may issue a warrant authorising any officer of an education and library board or any constable to enter, at any reasonable time within 48 hours of the issue of the warrant, any place in

or in connection with which the child in question is, or is believed to be, employed or taking part in a performance, or being trained, and to make inquiries there with respect to that child.

- (2) Any authorised officer of an education and library board or any constable may—
- (a) at any time enter any place used—
    - (i) as a broadcasting studio or film studio; or
    - (ii) for the recording of a performance with a view to its use in a programme service or in a film intended for public exhibition,
 and make inquiries there as to any children taking part in performances to which Article 137 applies;
  - (b) at any time during the currency of a licence granted under Article 138 or 143 enter any place (whether or not it is such a place as is mentioned in sub-paragraph (a)) where the child to whom the licence relates is authorised by the licence to take part in a performance or to be trained, and make inquiries there with respect to that child.
- (3) A person (other than a constable in uniform) exercising any power of entry conferred by this Article shall, if so required, produce some duly authenticated document showing his authority to do so.
- (4) An application for a warrant under this Article shall be made in the manner and form prescribed by rules of court.

## Offences

**147.**—(1) Any person who employs a child in contravention of—

- (a) Article 135; or
- (b) regulations under Article 136,

and any person (other than the child) to whose act or default the contravention is attributable shall be guilty of an offence.

- (2) Any person who—
- (a) causes or procures a child; or
  - (b) being his parent, allows a child,

to take part in any performance in contravention of Article 137 or 141 or to be trained to take part in performances of a dangerous nature in contravention of Article 142 or 143 shall be guilty of an offence.

- (3) In paragraph (2)(b) “parent” includes—
- (a) any person who is not a parent of the child but who has parental responsibility for him; and
  - (b) any person who has care of the child.
- (4) Any person who—
- (a) fails to observe—
    - (i) any condition subject to which a licence under this Part is granted; or
    - (ii) any condition prescribed under Article 137(3); or
  - (b) in or in connection with an application for a licence under this Part or for the variation of a licence under Article 139, knowingly or recklessly makes any statement which is false in a material particular or in a material respect misleading;
  - (c) fraudulently alters or uses, or permits to be fraudulently altered or used—
    - (i) any licence under this Part; or

(ii) any record which he is required to keep under Article 140;

(d) fails to keep or produce any record which he is required to keep or produce under Article 140,

shall be guilty of an offence.

(5) Where the commission by any person of an offence under paragraph (1) is due to an act or default of some other person, that other person may be charged with and convicted of the offence whether or not proceedings are taken against the first-mentioned person.

(6) Any person who is guilty of an offence under paragraph (1), (2) or (4) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) The court by which the holder or one of the holders of a licence under this Part is sentenced for an offence under paragraph (2) or (4) may revoke the licence.

(8) Any child who engages in street trading in contravention of Article 135(4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(9) Any person who intentionally obstructs any officer of an education and library board or any constable in the exercise of any powers conferred on him by or under Article 146 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## **Defences**

**148.**—(1) Where a person is charged with the commission of an offence under Article 147(1) and it is proved—

- (a) that the commission of the offence was due to an act or default of some other person; and
- (b) that the person charged took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by him or any person under his control,

then, subject to paragraph (2), the person charged shall be acquitted of the offence.

(2) The person charged as described in paragraph (1) shall not be entitled to be acquitted under that paragraph unless not more than 14 days after the date of the service of the summons on him nor less than seven days before the date of the hearing he has given notice in writing to the complainant of his intention to rely on the provisions of that paragraph, specifying the name and address of the person to whose act or default he alleges the commission of the offence was due, and has sent a like notice to that person; and that person shall be entitled to appear at the hearing and to give evidence.

(3) In any proceedings for an offence under Article 147(2) alleged to have been committed by causing, procuring or allowing a child to take part in a performance without a licence in contravention of Article 137, it shall be a defence to prove that the person charged believed that the condition specified in Article 137(3)(a) was satisfied and that he had reasonable grounds for that belief.