
STATUTORY INSTRUMENTS

1998 No. 1069 (N.I. 5)

NORTHERN IRELAND

**The Activity Centres (Young Persons'
Safety) (Northern Ireland) Order 1998**

Made - - - - - *22nd April 1998*

Coming into operation *23rd June 1998*

At the Court at Windsor Castle, the 22nd day of April 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Activity Centres (Young Persons' Safety) (Northern Ireland) Order 1998.

(2) This Order shall come into operation on the expiration of two months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Agency” means the Health and Safety Agency for Northern Ireland;

“the Department” means the Department of Education.

Adventure activities: licensing

3.—(1) The Department, after consultation with the Department of Economic Development, shall by order designate a person (“the licensing authority”) to exercise such functions as may

be prescribed by regulations relating to the licensing of persons providing facilities for adventure activities.

(2) In this Article “facilities for adventure activities” means such facilities, for such sporting, recreational or outdoor activities, as may be prescribed by regulations; but the expression does not include—

- (a) facilities which are provided exclusively for persons who have attained the age of 18; or
- (b) facilities which do not consist of, or include some element of, instruction or leadership.

(3) Regulations may make provision as to—

- (a) the cases or circumstances in which persons providing facilities for adventure activities are, or are not, required to hold a licence;
- (b) any requirements relating to safety (whether applying to facilities for adventure activities or to other facilities) which must be satisfied by an applicant for a licence;
- (c) the conditions subject to which licences are granted (which may include conditions relating to inspection by the licensing authority and conditions imposing requirements of the kind referred to in sub-paragraph (b));
- (d) the variation of such conditions;
- (e) the renewal, variation, transfer and revocation of licences by the licensing authority;
- (f) the charging by the licensing authority of such fees in connection with licences as may be specified in the regulations;
- (g) the making of payments by the licensing authority into the Consolidated Fund;
- (h) the investigation by the licensing authority of complaints concerning licence-holders;
- (i) the exercise of functions of the licensing authority by persons authorised by it;
- (j) the keeping, and availability for inspection by the public, of a register of licences;
- (k) the bringing of appeals to the Department against such decisions of the licensing authority as may be specified in the regulations; and
- (l) the procedure to be followed on, and the orders which may be made on determination of, such appeals.

(4) In exercising its functions under regulations made under this Article the licensing authority shall have regard to any guidance given to it from time to time by the Agency; and before giving guidance under this paragraph the Agency shall consult such persons (if any) as the Agency considers it appropriate to consult.

Offences

4.—(1) Regulations may provide for it to be an offence—

- (a) to do anything for which a licence is required under the regulations, otherwise than in accordance with a licence; or
- (b) for the purposes of obtaining or holding a licence—
 - (i) to make a statement to the licensing authority (or someone acting on its behalf) knowing it to be false in a material particular; or
 - (ii) recklessly to make a statement to the licensing authority (or someone acting on its behalf) which is false in a material particular.

(2) A person convicted of an offence under regulations made under paragraph (1) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment—

- (i) for an offence under regulations made under paragraph (1)(a), to imprisonment for a term not exceeding two years, or a fine, or both;
 - (ii) for an offence under regulations made under paragraph (1)(b), to a fine.
- (3) Regulations under paragraph (1)—
- (a) may provide defences to be available in proceedings for an offence under the regulations;
 - (b) may make, in relation to provisions of the regulations, provision which applies (with or without modifications), or has a similar purpose to that of, any of the provisions of the Health and Safety at Work (Northern Ireland) Order 1978 set out in paragraph (4).
- (4) The provisions mentioned in paragraph (3)(b) are—
- (a) Articles 17(7) and 33 (venue);
 - (b) Articles 20 to 22 and 28 (enforcement authorities and inspectors);
 - (c) Articles 23 to 26 (improvement and prohibition notices);
 - (d) Article 27 (power to deal with cause of imminent danger);
 - (e) Articles 29 and 30 (obtaining and disclosure of information);
 - (f) Article 31(1)(e) to (j), (n) and (o), (2), (2A), (4) and (5) (ancillary offences);
 - (g) Article 32(2) to (4) (extension of time for bringing summary proceedings);
 - (h) Article 34(1) (offences due to the fault of other persons);
 - (i) Articles 35 and 36 (restriction on institution of proceedings and prosecutions by inspectors);
 - (j) Articles 37 and 38 (onus of proving limits of what is practicable etc., and evidence); and
 - (k) Article 39 (power of court to order cause of offence to be remedied and, in certain cases, forfeiture).

Supplementary provisions

5.—(1) An order under Article 3(1) revoking a previous order may include transitional or incidental provision (including provision for the transfer of property, rights and liabilities from the old licensing authority to the new).

(2) Regulations under Article 3 or 4 shall be made by the Department and may include transitional provisions.

(3) Before making regulations under Article 3 or 4 the Department shall consult the Agency and such other bodies (if any) as the Department considers it appropriate to consult.

(4) The Agency may from time to time submit to the Department such proposals as the Agency considers appropriate for the making of regulations under Article 3 or 4; and where the Department proposes to make regulations in the form submitted under this paragraph, the requirement under paragraph (3) to consult the Agency shall not apply.

(5) Nothing in, or done by virtue of, this Order or regulations under it shall prejudice any of the relevant statutory provisions (whenever made) as defined in Article 2(2) of the Health and Safety at Work (Northern Ireland) Order 1978 or anything done by virtue of any of those provisions.

(6) An order or regulations under Article 3 or 4 shall be subject to negative resolution.

(7) The Department may make grants to the licensing authority in respect of such of that authority's expenses under this Order as are not met by fees; and grants under this paragraph may be made subject to such conditions, including conditions as to repayment, as the Department may determine.

N. H. Nicholls
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the regulation of centres and providers of facilities where persons under the age of 18 engage in adventure activities, including provision for the imposition of requirements relating to safety.