

# FIRE AND RESCUE SERVICES (NORTHERN IRELAND) ORDER 2006

S.I. 2006 No. 1254 (N.I. 9)

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## EXPLANATORY MEMORANDUM

### COMMENTARY ON ARTICLES

**Article 1** cites the title of the Order and empowers the Department to bring the provisions into operation by commencement order.

**Article 2** applies the Interpretation Act (Northern Ireland) 1954 to the Order and defines other terms.

**Article 3** provides for the establishment of NIFRSB and the dissolution of its predecessor, FANI.

**Articles 4 to 7** set out the core functions of NIFRSB in relation to promoting fire safety and responding to fires, road traffic accidents and other emergencies. Although these have been part of the routine functions of the fire service for some time, the Order codifies them as core functions in one comprehensive statute for the first time. **Article 7** allows the Department to confer on NIFRSB specified functions relating to emergencies other than fires or RTAs. These would include emergencies relating to chemical spills, flooding and other search and rescue incidents.

**Article 8** gives NIFRSB discretion to equip for, and respond to, other eventualities, beyond its core functions as defined elsewhere in the Order, where there is a risk to life or to the environment.

**Article 9** empowers NIFRSB to cooperate and make arrangements with persons outside Northern Ireland who carry out functions that correspond to those of the Board or of the Department.

**Article 10** provides for general powers of NIFRSB, including the power to use fire and rescue officers, appliances or equipment for any other purpose that the Board considers appropriate.

**Article 11** provides for acquisition and disposal of land by NIFRSB.

**Article 12** empowers NIFRSB to make arrangements for others to assist with the functions covered in **Articles 4 to 8** and **33**, save for the caveat that arrangements for assisting with fighting fires can be made only with organisations that employ their own fire-fighters.

**Article 13** empowers NIFRSB to delegate any of its functions conferred in **Articles 4 to 8** and **33** to others, save for the caveat that its fire-fighting functions can be delegated only to organisations that employ their own fire-fighters.

**Article 14** allows the Department to set out by order, following consultation, the services for which NIFRSB may charge and the persons who may be subject to the charge. However, the Board will not be able to charge for extinguishing fires or protecting life and protecting life and property in the event of fires, unless the incidents are outside Northern Ireland or at sea.

**Articles 15 & 16** deal with the supply of water and the specified purposes for which it can be used by NIFRSB.

**Article 17** provides that NIFRSB shall make arrangements for the provision and maintenance of fire hydrants, and includes offences relating to their misuse.

**Article 18** provides fire and rescue officers with powers, including the power to enter premises and to close roads or regulate traffic, necessary for the purposes of fighting fires, rescuing people from road traffic accidents, carrying out functions in relation to other emergencies and for preventing or limiting damage to property in any of these circumstances.

**Articles 19 to 22** provide authorised fire and rescue officers with powers, including the power to enter premises, for the purpose of obtaining information needed for the discharging the core functions under **Articles 5 to 7** and for the purposes of investigating the cause of fires. **Article 22**

*This Explanatory Memorandum refers to the Fire and Rescue Services (Northern Ireland) Order 2006 No. 1254 (N.I. 9)*

establishes an offence and related penalty where persons present on the premises fail to comply with requirements to provide facilities, information or other assistance.

**Article 23** provides for an offence of knowingly giving NIFRSB a false alarm, and details the related penalties.

**Article 24** defines terms in Part II, including the term “emergency”.

Articles 25 to 28 provide for the duties of employers, persons responsible for relevant premises and employees under the new fire safety regime.

**Articles 29 to 31** provide for the Department to make regulations in relation to risk assessments and fire safety.

**Article 32** disapplies fire safety duties when necessary to ensure certain persons can carry out their duties.

**Article 33** confers functions on NIFRSB in relation to enforcing the fire safety duties of the new fire safety regime.

**Articles 34 & 35** set out the powers afforded to fire and rescue officers who are authorised to carry out the enforcement duties in relation to the new fire safety regime.

**Articles 36 to 38** provide for NIFRSB to issue prohibition, enforcement and alterations notices relating to the new fire safety regime.

**Article 39** provides for a right of appeal to the county court within 21 days of a prohibition, enforcement or alterations notice being served.

**Article 40** provides for the determination of disputes.

**Articles 41 to 44** set out the offences and penalties relating to circumstances where persons fail to comply with the requirements of the new fire safety regime.

**Articles 45 to 49** cover miscellaneous and general provisions, including a prohibition on charging employees, the restriction of the application of the Health and Safety at Work (NI) Order 1978, licensing matters and application of the Order to the Crown.

**Articles 50 & 51** define the meaning of “relevant premises” and “fire safety measures”.

Article 52 defines terms included in Part III.

Article 53 requires the Department to prepare a document setting out priorities and objectives, guidance and other matters for NIFRSB in connection with the carrying out of its functions.

Articles 54 to 56 provide the Department with various powers, including the power to appoint inspectors and the power to give directions to the Board as to the carrying out by the Board of any of its functions.

Article 57 provides for an offence of assaulting or obstructing a fire and rescue officer or a person assisting a fire and rescue officer or a person assisting NIFRSB under Article 12 or undertaking functions of NIFRSB under Article 13. This offence, and the related penalties, corresponds to the offence in Section 66 of the Police (Northern Ireland) Act 1998 dealing with assaults on police constables.

Article 58 provides for a prohibition on the employment of a member of a police force as a fire and rescue officer, which is in line with the new legislation in GB.

Article 59 provides for the preservation of existing pension schemes.

Articles 60 to 62 make general provision in relation to orders and regulations, and introduce Schedules 3 (amendments) and 4 (repeals).

Schedule 1 sets out detailed arrangements for the operation of NIFRSB, such as its status, constitution, remuneration, staffing, procedures, finance, and annual reports.

Schedule 2 provides for the transfer of functions, assets, liabilities and staff from FANI to NIFRSB.

Schedules 3 & 4 list amendments and repeals of other primary legislation.