

1985 No. 103

HEALTH AND SAFETY

Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1985

Made 1st May 1985

Coming into operation 1st October 1985

The Department of Agriculture, the Department of Economic Development, the Department of the Environment and the Department of Health and Social Services, acting jointly as the Department concerned(a) in exercise of the powers conferred by Articles 17(1) and (3)(a), 20(2) and 55(2) of the Health and Safety at Work (Northern Ireland) Order 1978(b) and of every other power enabling them in that behalf, after consultation with the Health and Safety Agency for Northern Ireland and such other bodies as appear to them to be appropriate, hereby make the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1985 and shall come into operation on 1st October 1985.

Interpretation

2. In these Regulations—

“the Department” means the Department of Economic Development;

“the Order of 1978” means the Health and Safety at Work (Northern Ireland) Order 1978;

“district council” has the meaning assigned by section 1 of the Local Government Act (Northern Ireland) 1972(c).

District councils to be enforcing authorities in certain cases

3. Where the main activity carried on in any premises is specified in Schedule 1, then subject to regulation 4, the district council for the district in which those premises are situated shall be the enforcing authority for the relevant statutory provisions in relation to those premises and to any activity carried on in them.

Exceptions

4.—(1) Regulation 3 shall not apply to any of the following premises or to any activities carried on in them that is to say premises which are occupied by—

(a) a district council;

(b) the Police Authority for Northern Ireland as defined in section 1(1) of the Police Act (Northern Ireland) 1970(d);

(c) the Fire Authority for Northern Ireland as defined in Article 3 of the Fire Services (Northern Ireland) Order 1984(e);

(a) See Article 2(2) of S.I. 1978/1039 (N.I. 9)

(b) S.I. 1978/1039 (N.I. 9)

(c) 1972 c. 9 (N.I.)

(d) 1970 c. 9 (N.I.)

(e) S.I. 1984/1821 (N.I. 11)

(d) the Crown.

(2) Notwithstanding Regulation 3, the Department shall be the enforcing authority in respect of any of the following activities carried on in any premises whether or not it is the main activity carried on in those premises:—

- (a) construction work carried out by a person whose main activity is one for which the Department is responsible for the enforcement of the relevant statutory provisions;
- (b) the installation, maintenance and repair of gas, water or electricity systems where this is carried out by a person whose main activity is one for which the Department is responsible for the enforcement of the relevant statutory provisions;
- (c) the construction, installation, maintenance and repair of telecommunication systems;

in this paragraph “construction work” means a “building operation” and a “work of engineering construction” within the meaning assigned to those expressions by section 176(1) of the Factories Act (Northern Ireland) 1965(a).

(3) Regulation 3 shall not apply to any licensing or enforcing responsibility which by virtue of the Petroleum (Regulation) Acts (Northern Ireland) 1929 and 1937(b) is exercised by a harbour authority or a district council.

(4) Regulation 3 shall not apply to any enforcing responsibility which, by virtue of the existing statutory provisions is exercised by the Fire Authority for Northern Ireland.

(5) Regulation 3 shall not apply to enforcement of the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985(c).

(6) Regulation 3 shall not apply to enforcement of the Explosives Acts (Northern Ireland) 1875 to 1970 or the Explosives (Northern Ireland) Order 1972(d) and of any Regulations, orders or other instruments of a legislative character made or having effect under any of those provisions.

Repeals

5.—(1) The provisions of the Factories Act (Northern Ireland) 1965 set out in column 1 of Schedule 2 are repealed to the extent set out opposite thereto in column 2 of that Schedule.

(2) The provisions of the Office and Shop Premises Act (Northern Ireland) 1966(e) set out in column 1 of Schedule 3 are repealed to the extent set out opposite thereto in column 2 of that Schedule.

Sealed with the Official Seal of the Department of Agriculture on 1st May 1985.

(L.S.)

R. E. Aiken

Assistant Secretary

Sealed with the Official Seal of the Department of Economic Development on 1st May 1985.

(L.S.)

R. Wilson

Assistant Secretary

(a) 1965 c. 20 (N.I.)

(b) 1937 c. 4 (N.I.),

(c) S.R. 1985 No. 81

(d) S.I. 1972/730 (N.I. 3)

(e) 1966 c. 26 (N.I.)

Sealed with the Official Seal of the Department of the Environment on 1st May 1985.

(L.S.)

John Irvine

Assistant Secretary

Sealed with the Official Seal of the Department of Health and Social Services on 1st May 1985.

(L.S.)

Zelma I. Davies

Under Secretary

SCHEDULE 1

Regulation 3

**Main Activities which Determine Whether District Councils
will be Enforcing Authorities**

PART I

1. The sale or storage of goods for retail or wholesale distribution other than:—
 - (a) on premises occupied by a railway undertaking;
 - (b) in warehouses or other premises occupied by the owners, trustees or commissioners of a dock, wharf or quay;
 - (c) at container depots;
 - (d) water or sewage or their by-products;
 - (e) natural gas or town gas;
 - (f) solid fuel or other minerals at any mine or quarry or at premises controlled from a mine or quarry;
 - (g) petroleum spirit in premises where motor vehicles are maintained or repaired by way of trade;
 - (h) wholesale distribution of flammable, toxic, oxidizing, corrosive or explosive substances or petroleum spirit.
2. Office activities.
3. Catering services.
4. The provision of residential accommodation.
5. Consumer services provided in shop premises except dry cleaning, radio and television repairs or the maintenance or repair of motor vehicles.
6. Dry cleaning in coin operated units in launderettes and similar premises.

PART II

7. In this Schedule—

“office activities” includes any activity for the purposes of administration, clerical work, handling money and telephone and telegraph and telegraph operating; and for this purpose “clerical work” includes writing, book-keeping, sorting papers, filing, typing, duplicating, machine calculating, drawing and the editorial preparation of matter for publication except where that preparation is on the premises where newspapers, magazines, periodicals or books are printed;

“shop premises” means—

- (a) a shop;
- (b) a building or part of a building, being a building or part which is not a shop but of which the sole or principal use is the carrying on there of retail trade or business;
- (c) a building occupied by a wholesale dealer or merchant where goods are kept for sale wholesale or a part of a building so occupied where goods are so kept, but not including a warehouse belonging to the owners, trustees or commissioners of a dock, wharf or quay;
- (d) a building to which members of the public are invited to resort for the purpose of delivering there goods for repair or other treatment or of themselves there carrying out repairs to, or other treatment of goods or a part of a building to which members of the public are invited to resort for that purpose;
- (e) any premises occupied for the purpose of a trade or business which consists of, or includes, the sale of solid fuel, being premises used for the storage of such fuel intended to be sold in the course of that trade or business, but not including dock storage premises or colliery storage premises.

SCHEDULE 2

Regulation 5(1)

FACTORIES ACT (NORTHERN IRELAND) 1965

Repeals

<i>Provision</i>	<i>Extent of Repeal</i>
Section 8	The whole section.
Section 153	The whole section.

OFFICE AND SHOP PREMISES ACT (NORTHERN IRELAND) 1966

Repeals

<i>Provision</i>	<i>Extent of Repeal</i>
Section 51	Subsection (1); In subsection (2), paragraph (a) and in paragraph (b) the words "subsection (4)"; Subsection (3) and (4).
Section 74	The whole section.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make changes in the responsibility for enforcing the Health and Safety at Work (Northern Ireland) Order 1978 and the other relevant statutory provisions within the meaning of that Order.

Where the main activity carried on in any premises is specified in Schedule 1 then, subject to specified exceptions, the district council will be the enforcing authority in respect of all activities carried on in those premises; in all other cases it will be the Department concerned.

The regulations repeal certain provisions of the Factories Act (Northern Ireland) 1965 and the Office and Shop Premises Act (Northern Ireland) 1966 relating to enforcement.

The regulations repeal the provision in the Office and Shop Premises Act (Northern Ireland) 1966 relating to the annual report to the Assembly by the Department of Economic Development.