

SCHEDULES

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS

The Health and Safety at Work (Northern Ireland) Order 1978 (NI 9)

8. In the Order for “Agency”, wherever it occurs, substitute “Executive”.
9. In Article 2(2) (interpretation), in the definition of “enforcing authority” after “concerned” insert “, the Executive”.
10. In Article 13 (functions of the Executive)—
 - (a) in paragraph (3) omit “, in accordance with proposals approved by the Department concerned,”;
 - (b) in paragraph (4)(a) omit “under paragraphs (2) and (3)”.
11. In Article 15(1) (additional functions of the Executive)—
 - (a) in sub-paragraph (a) after “Executive” in the first place where it occurs insert “(with or without payment)”;
 - (b) after sub-paragraph (b) insert—

“(bb) provide (with or without payment) services or facilities required otherwise than for the general purposes of this Part in so far as they are required by any government department or other public authority in connection with the exercise by that department or authority of any of its functions;”.
12. In Article 16 (investigations and inquiries)—
 - (a) in paragraph (1) after “concerned” insert “or the Executive”;
 - (b) in paragraph (2) after “concerned” insert “or the Executive”;
 - (c) in paragraph (5)—
 - (i) after “concerned” insert “or, as the case may be, the Executive”;
 - (ii) after “that Department” where it twice occurs insert “or the Executive”;
 - (d) in paragraph (6)—
 - (i) after “concerned” insert “or, as the case may be, the Executive”;
 - (ii) after “that Department” where it thrice occurs insert “or the Executive”.
13. In Article 20 (enforcement authorities)—
 - (a) in paragraph (1) after “concerned” insert “and the Executive”;
 - (b) for paragraph (2) substitute—

“(2) Regulations may—

 - (a) make a specified authority or authorities of any specified class responsible for the enforcement of the relevant statutory provisions to such extent as may be prescribed;

- (b) make provision for enabling responsibility for enforcing any of the relevant statutory provisions to be, to such extent as may be determined under the regulations—
 - (i) transferred from the Executive to a specified authority or from that authority to the Executive; or
 - (ii) assigned to the Executive or to a specified authority for the purpose of removing any uncertainty as to what are under this paragraph their respective responsibilities for the enforcement of those provisions;and any regulations made in pursuance of sub-paragraph (b) shall include provision for securing that any transfer or assignment effected under the regulations is brought to the notice of persons affected by it.”.
- (c) in paragraph (4)—
 - (i) after “concerned” insert “or the Executive”;
 - (ii) in sub-paragraph (b), for the words from “, and with respect” onwards substitute “in accordance with such guidance as the Executive may give to the authority.”.
- 14. In Article 29(1) (obtaining of information)—
 - (a) omit sub-paragraph (a);
 - (b) omit “with the consent of the Department concerned”.
- 15. In Article 31 (offences) omit paragraph (3).
- 16. After Article 34 insert—

“Offences by bodies corporate

- 34A.** For the purposes of this Part section 20(2) of the Interpretation Act (Northern Ireland) 1954 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 or defaults of a member in connection with his functions of management as if he were a director of the body corporate.”.
- 17. In Article 41(1) (representations in connection with licensing provisions) for “of Schedule 4” substitute “prescribed by order under Article 10 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (model provisions with respect to appeals).”.
 - 18. In Article 46 (regulations under the relevant statutory provisions)—
 - (a) in paragraph (1)—
 - (i) for “recommendations” where it thrice occurs substitute “proposals”;
 - (ii) for “(1)(d)” substitute “(1A)(c)”;
 - (b) in paragraph (2) for “recommendations” substitute “proposals”;
 - (c) in paragraph (3)—
 - (i) for “recommendations” where it twice occurs substitute “proposals”;
 - (ii) for “(1)(d)” substitute “(1A)(c)”.
 - 19. In Article 55(2) (regulations) after “Regulations” insert “and orders”.
 - 20. In Schedule 2 (the Health and Safety Executive)—
 - (1) paragraph 2 shall be omitted;

(2) in paragraphs 4, 5, 6(1), 7, 8 and 11 after “chairman”, wherever it occurs, insert “, deputy chairman”;

(3) in paragraph 6(2)—

(a) after “chairman” in the first place where it occurs insert “or deputy chairman”;

(b) after “chairman” in the second place where it occurs insert “or, as the case may be, deputy chairman”;

(4) in paragraph 12 after “chairman” insert “or deputy chairman”;

(5) for paragraph 15 substitute—

“15.—(1) Subject to sub-paragraph (2), the Executive with the approval of the Department and the Department of Finance and Personnel as to numbers and as to remuneration and other terms and conditions of employment—

(a) shall appoint a chief executive to carry on and manage and control generally the administration and business of the Executive and to perform such other functions as may be determined by the Executive;

(b) may employ such other officers and servants as the Executive considers necessary;

(c) may employ the services of such other persons as the Executive considers expedient for any particular purpose.

(2) The first chief executive shall be appointed, and may be removed from office at any time, by the Head of the Department and each subsequent chief executive may be removed from office at any time, by the Executive with the consent of the Head of the Department.

(3) The Executive shall, in the case of the chief executive, and may, in the case of such other persons employed by it as may be determined by the Executive with the approval of the Department and the Department of Finance and Personnel, pay to or in respect of them such allowances (including allowances for expenses), pensions or gratuities, or provide and maintain for them such pension schemes (whether contributory or not), or contributory or other pension arrangements, as may be so determined.”;

(6) before paragraph 18 insert—

“17A.—(1) The Executive shall prepare in respect of the period ending on 31st March 2000 and in respect of each subsequent financial year a report on the Executive’s activities during that period or year (“the annual report”).

(2) The annual report shall include a general survey of developments, during the period to which it relates, in respect of matters falling within the scope of the Executive’s functions.”;

(7) for paragraphs 18(3) to (5) and 19 substitute—

“19.—(1) The Executive shall, before 31st May in each year, transmit to the Department and the Comptroller and Auditor-General a document (referred to below as “the annual report and accounts of the Executive”) containing—

(a) a copy of the annual report prepared under paragraph 17A; and

(b) a copy, certified by the auditors, of the annual statement of accounts prepared under paragraph 18.

(2) The Comptroller and Auditor-General—

(a) shall examine the copy of the annual statement of accounts of the Executive;

(b) may, in connection with such examination, examine any accounts kept by the Executive and any records relating to the accounts; and

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: Health and Safety at Work (Amendment) (Northern Ireland) Order 1998 No. 2795

- (c) shall make a report on the copy of the annual statement of accounts and send the report to the Department.
- (3) Subject to paragraph (4), a copy of—
 - (a) the annual report and accounts of the Executive; and
 - (b) the report of the Comptroller and Auditor-General under sub-paragraph 2(c),shall be laid by the Department before the Assembly.
- (4) During the interim period (as defined in section 1(4) of the Northern Ireland Act 1974) the copies mentioned in sub-paragraph (3) shall, instead, be sent by the Department to the Secretary of State and laid by him before Parliament.
- (5) The Department or, where sub-paragraph (4) applies, the Secretary of State shall cause the annual report and accounts of the Executive to be published.”.