
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Fire and Rescue Services (Northern Ireland) Order 2006

PART III

FIRE SAFETY

CHAPTER I

FIRE SAFETY DUTIES

Duties

Duties of employers to employees

25.—(1) Each employer shall ensure, so far as is reasonably practicable, the safety of his employees in respect of harm caused by fire in the workplace.

(2) Each employer shall—

- (a) carry out an assessment of the workplace for the purpose of identifying any risks to the safety of his employees in respect of harm caused by fire in the workplace; and
- (b) take in relation to the workplace such of the fire safety measures as are necessary to enable him to comply with the duty imposed by paragraph (1).

(3) Where under paragraph (2)(a) an employer carries out an assessment, he shall—

- (a) in accordance with regulations under Article 29, review the assessment; and
- (b) take in relation to the workplace such of the fire safety measures as are necessary to enable him to comply with the duty imposed by paragraph (1).

Duties in relation to relevant premises

26.—(1) Where a person has control to any extent of relevant premises he shall, to that extent, comply with paragraph (2).

(2) The person shall—

- (a) carry out an assessment of the relevant premises for the purpose of identifying any risks to the safety of relevant persons in respect of harm caused by fire in the relevant premises; and
- (b) take in relation to the relevant premises such of the fire safety measures as in all the circumstances it is reasonable for a person in his position to take to ensure the safety of relevant persons in respect of harm caused by fire in the relevant premises.

(3) If a person falls within paragraph (1) other than by virtue of—

- (a) having control to any extent of relevant premises in connection with the carrying on by the person (whether for profit or not) of an undertaking; or
- (b) owning relevant premises,

the owner of the relevant premises shall also comply with paragraph (2).

(4) A person who has, by virtue of a contract or tenancy, an obligation of any extent in relation to—

- (a) the maintenance or repair of—
 - (i) relevant premises; or
 - (ii) anything in or on relevant premises; or
- (b) safety in respect of harm caused by fire in relevant premises,

shall also comply, to the extent of the obligation, with paragraph (2).

(5) Where under paragraph (2)(a) a person carries out an assessment, he shall—

- (a) in accordance with regulations under Article 29, review the assessment; and
- (b) take in relation to the relevant premises such of the fire safety measures as in all the circumstances it is reasonable for a person in his position to take to ensure the safety of relevant persons in respect of harm caused by fire in the relevant premises.

Taking of measures under Article 25 or 26: considerations

27.—(1) Paragraph (2) applies where under Article 25(2)(b) or (3)(b) or 26(2)(b) or (5)(b) a person is required to take any fire safety measures.

(2) The person shall implement the fire safety measures on the basis of the considerations specified in paragraph (3).

(3) The considerations referred to in paragraph (2) are—

- (a) avoiding risks;
- (b) evaluating risks which cannot be avoided;
- (c) combating risks at source;
- (d) adapting to technical progress;
- (e) replacing the dangerous with the non-dangerous or the less dangerous;
- (f) developing a coherent overall fire prevention policy which covers technology, organisation of work and the influence of factors relating to the working environment;
- (g) giving collective fire safety protective measures priority over individual measures; and
- (h) giving appropriate instructions to employees.

Duties of employees

28. Each employee shall while at work—

- (a) take reasonable care for the safety in respect of harm caused by fire of himself and any other relevant person who may be affected by his acts or omissions; and
- (b) in relation to any requirement imposed by virtue of this Part on his employer, co-operate with his employer in so far as is necessary for the purpose of enabling the employer to comply with the requirement.

Regulations

Risk assessments: power to make regulations

29.—(1) The Department may by regulations make provision about the carrying out of assessments and reviews under Articles 25 and 26.

(2) Regulations under paragraph (1) may in particular make provision for or in connection with—

- (a) specifying matters which persons shall take into account when carrying out assessments and reviews in relation to substances specified in the regulations;
- (b) specifying other matters which persons shall take into account when carrying out assessments and reviews;
- (c) requiring persons to carry out assessments and reviews before employing persons of a description so specified;
- (d) requiring persons in such circumstances as may be so specified to keep records of such information as may be so specified; and
- (e) specifying circumstances in which reviews shall be carried out.

Fire safety: power to make regulations

30.—(1) The Department may by regulations make provision about fire safety in relevant premises.

(2) Regulations under paragraph (1) may in particular make provision for or in connection with—

- (a) precautions which shall be taken or observed;
- (b) imposing requirements on persons (including requirements about the enforcement of any provision included in the regulations);
- (c) the provision, maintenance and keeping free from obstruction of any means of escape in case of fire;
- (d) the provision and maintenance of means for securing that any means of escape can be safely and effectively used at all material times;
- (e) the provision and maintenance of means for extinguishing fire and means for giving warning in the event of fire;
- (f) the internal construction of premises and the materials used in that construction;
- (g) prohibiting the presence or use in relevant premises of equipment of a description specified in the regulations, or prohibiting its presence or use unless standards, or conditions, so specified are complied with;
- (h) where relevant premises form part of a building, enabling arrangements to be entered into with owners or occupiers of other parts of the building for the purpose of enabling persons who are subject to duties imposed by virtue of this Part to comply with them;
- (i) securing that employees receive appropriate instruction or training in what to do in the event of fire;
- (j) securing that, in circumstances so specified, numbers of attendants so specified are stationed in parts of the relevant premises so specified;
- (k) the keeping of records of instruction or training given, or other things done, in pursuance of the regulations; and
- (l) the giving of assistance or information by any person concerned in the enforcement of requirements imposed by virtue of this Part to any other person so concerned for the purposes of any such requirement.

Power to make further provision for protection of fire and rescue officers, etc.

31.—(1) This Article applies where regulations under Article 30(1) make provision for or in connection with the maintenance of premises, facilities or equipment with a view to securing the safety of fire and rescue officers or other fire-fighters in the event of a fire in relevant premises (“safeguarding provision”).

(2) The Department may by regulations apply, subject to any modifications (specified in the regulations) that it considers necessary, the safeguarding provision to common areas of private dwellings.

(3) In paragraph (2), “common area” includes, where a stair, passage, garden, yard, garage, outhouse or other appurtenance of a private dwelling is used in common by the occupants of more than one private dwelling, that stair, passage, garden, yard, garage, outhouse or other appurtenance.

Special case

Special case: temporary suspension of fire safety duties

32.—(1) If in relation to any relevant premises the application of any of the fire safety duties would prevent a person who falls within paragraph (2) from carrying out his operational duties, the fire safety duties in question shall be deemed not to apply in relation to those relevant premises during the period when he is carrying out his operational duties.

(2) A person falls within this paragraph if he is—

- (a) a member of the armed forces of the Crown or of a visiting force;
- (b) a constable;
- (c) a member of any emergency service; or
- (d) of such other description as may be prescribed.

(3) A person subject to the fire safety duties which, by virtue of paragraph (1) are deemed not to apply in relation to relevant premises shall, during the period mentioned in that paragraph, ensure so far as is possible the safety of relevant persons in the event of fire in those premises.

(4) For the purposes of this Article, “operational duties”, in relation to a person falling within paragraph (2), means anything done—

- (a) while the person is at work in the capacity in which he falls within that paragraph; and
- (b) which the person is required to do by virtue of being at work in that capacity.