
STATUTORY INSTRUMENTS

1987 No. 2049 (N.I. 20)

The Consumer Protection (Northern Ireland) Order 1987

- - - - - 26th November 1987

PART I
INTRODUCTORY

Title, commencement and transitional provision

1.—(1) This Order may be cited as the Consumer Protection (Northern Ireland) Order 1987.

(2) The following provisions, namely—

- (a) Part I;
- (b) Part II and Schedule 1;
- (c) Article 28 and Schedule 2;
- (d) paragraphs 3 and 7 of Schedule 3, and Article 35(1) in so far as it relates to those paragraphs of that Schedule; and
- (e) Article 35(2) and Schedule 4;

shall come into operation on 1st March 1988.

(3) The remaining provisions of this Order shall come into operation on such day or days as the Head of the Department may by order appoint^{F1}.

(4) An order under paragraph (3) may contain such transitional provisions as the Head of the Department considers appropriate.

(5) Nothing in this Order shall make any person liable by virtue of Part II for any damage caused wholly or partly by a defect in a product which was supplied to any person by its producer before the coming into operation of Part II.

(6) Expressions used in paragraph (5) and in Part II have the same meanings in that paragraph as in that Part.

<p>F1 fully exercised by SR 1989/30</p>

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954^{F2} shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

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(2) In this Order—

“aircraft” includes gliders, balloons and hovercraft;

“business” includes a trade or profession and the activities of a professional or trade association or of a district council or other public authority;

“conditional sale agreement”, “credit sale agreement” and “hire#purchase agreement” have the same meanings as in the Consumer Credit Act 1974^{F3} but as if in the definitions in that Act “goods” had the same meaning as in this Order;

“the Department” means the Department of Economic Development;

“gas” means—

(a) any substance in a gaseous state which consists wholly or mainly of—

(i) methane, ethane, propane, butane, hydrogen or carbon monoxide;

(ii) a mixture of two or more of those gases; or

(iii) a combustible mixture of one or more of those gases and air; and

(b) any other substance in a gaseous state which is gaseous at a temperature of 15°C and a pressure of 1013.25 millibars and is specified in an order made by the Department subject to negative resolution;

“goods” includes substances, growing crops and things comprised in land by virtue of being attached to it and any ship, aircraft or vehicle;

“information” includes accounts, estimates and returns;

Definition rep. by 1994 c. 26

“modifications” includes additions, alterations and omissions;

“motor vehicle” has the same meaning as in the Road Traffic (Northern Ireland) Order 1981^{F4};

“notice” means a notice in writing;

“officer”, in relation to the Department, means a person authorised in writing to assist the Department in carrying out its functions under or for the purposes of the enforcement of any of the provisions made by or under Part III;

“personal injury” includes any disease and any other impairment of a person's physical or mental condition;

“premises” includes any place and any ship, aircraft or vehicle;

“records” includes any books or documents and any records in non#documentary form;

“ship” includes any boat and any other description of vessel used in navigation;

“subordinate legislation” means a statutory instrument as defined in section 1(*d*) of the Interpretation Act (Northern Ireland) 1954^{F5};

“substance” means any natural or artificial substance, whether in solid, liquid or gaseous form or in the form of a vapour, and includes substances that are comprised in or mixed with other goods;

“supply” shall be construed in accordance with Article 3.

Para. (3) rep. by 1994 c. 26

F2 1954 c. 33 (N.I.)

F3 1974 c. 39

F4 1981 NI 1

F5 1954 c. 33 (N.I.)

Meaning of “supply”

3.—(1) Subject to the following provisions of this Article, references in this Order to supplying goods shall be construed as references to doing any of the following, whether as principal or agent, that is to say—

- (a) selling, hiring out or lending the goods;
- (b) entering into a hire#purchase agreement to furnish the goods;
- (c) the performance of any contract for work and materials to furnish the goods;
- (d) providing the goods in exchange for any consideration (including trading stamps) other than money;
- (e) providing the goods in or in connection with the performance of any statutory function; or
- (f) giving the goods as a prize or otherwise making a gift of the goods;

and, in relation to gas or water, those references shall be construed as including references to providing the service by which the gas or water is made available for use.

(2) For the purposes of any reference in this Order to supplying goods, where a person (“the ostensible supplier”) supplies goods to another person (“the customer”) under a hire#purchase agreement, conditional sale agreement or credit#sale agreement or under an agreement for the hiring of goods (other than a hire#purchase agreement) and the ostensible supplier—

- (a) carries on the business of financing the provision of goods for others by means of such agreements; and
- (b) in the course of that business acquired his interest in the goods supplied to the customer as a means of financing the provision of them for the customer by a further person (“the effective supplier”),

the effective supplier and not the ostensible supplier shall be treated as supplying the goods to the customer.

(3) Subject to paragraph (4), the performance of any contract by the erection of any building or structure on any land or by the carrying out of any other building works shall be treated for the purposes of this Order as a supply of goods in so far as, but only in so far as, it involves the provision of any goods to any person by means of their incorporation into the building, structure or works.

(4) Except for the purposes of, and in relation to, any provision made by or under Part III, references in this Order to supplying goods shall not include references to supplying goods comprised in land where the supply is effected by the creation or disposal of an interest in the land.

(5) Except in Part II, references in this Order to a person's supplying goods shall be confined to references to that person's supplying goods in the course of a business of his, but for the purposes of this paragraph it shall be immaterial whether the business is a business of dealing in the goods.

(6) For the purposes of paragraph (5) goods shall not be treated as supplied in the course of a business if they are supplied, in pursuance of an obligation arising under or in connection with the insurance of the goods, to the person with whom they were insured.

(7) References in Parts III and IV to supplying goods shall not include—

- (a) references to supplying goods where the person supplied carries on a business of buying goods of the same description as those goods and repairing or reconditioning them;
- (b) references to supplying goods by a sale of articles as scrap (that is to say, for the value of materials included in the articles rather than for the value of the articles themselves).

(8) Where any goods have at any time been supplied by being hired out or lent to any person, neither a continuation or renewal of the hire or loan (whether on the same or different terms) nor any transaction for the transfer after that time of any interest in the goods to the person to whom

they were hired or lent shall be treated for the purposes of this Order as a further supply of the goods to that person.

(9) A ship, aircraft or motor vehicle shall not be treated for the purposes of this Order as supplied to any person by reason only that services consisting in the carriage of goods or passengers in that ship, aircraft or vehicle, or in its use for any other purpose, are provided to that person in pursuance of an agreement relating to the use of the ship, aircraft or vehicle for a particular period or for particular voyages, flights or journeys.

PART II

PRODUCT LIABILITY

Purpose and construction of Part II

4.—(1) This Part [^{F6}was enacted] for the purpose of making such provision as [^{F7}was] necessary in order to comply with the product liability Directive and shall be construed accordingly.

(2) In this Part—

Definition rep. by 2001 c. 13 (NI)

“dependant” and “relative” have the same meaning as they have in the Fatal Accidents (Northern Ireland) Order 1977^{F8};

“producer”, in relation to a product, means—

- (a) the person who manufactured it;
- (b) in the case of a substance which has not been manufactured but has been won or abstracted, the person who won or abstracted it;
- (c) in the case of a product which has not been manufactured, won or abstracted but essential characteristics of which are attributable to an industrial or other process having been carried out (for example, in relation to agricultural produce), the person who carried out that process;

“product” means any goods or electricity and (subject to paragraph (3)) includes a product which is comprised in another product, whether by virtue of being a component part or raw material or otherwise; and

“the product liability Directive” means the Directive of the Council of the European Communities, dated 25th July 1985 (No.85/374/EEC) on the approximation of the laws, regulations and administrative provisions of the member States concerning liability for defective products.

(3) For the purposes of this Part a person who supplies any product in which products are comprised, whether by virtue of being component parts or raw materials or otherwise, shall not be treated by reason only of his supply of that product as supplying any of the products so comprised.

F6 Words in art. 4(1) substituted (31.12.2020) by The Metrology, Health and Safety and Product Safety (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/202), reg. 1(2), **Sch. 1 para. 1(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F7 Word in art. 4(1) substituted (31.12.2020) by The Metrology, Health and Safety and Product Safety (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/202), reg. 1(2), **Sch. 1 para. 1(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F8 1977 NI 18

Liability for defective products

5.—(1) Subject to this Part, where any damage is caused wholly or partly by a defect in a product, every person to whom paragraph (2) applies shall be liable for the damage.

(2) This paragraph applies to—

- (a) the producer of the product;
- ^{F9}(b) any person who, by putting his name on the product or using a trade mark or other distinguishing mark in relation to the product, has held himself out to be the producer of the product;
- (c) any person who has imported the product into [^{F10}the United Kingdom] in order, in the course of any business of his, to supply it to another.

(3) Subject to this Part, where any damage is caused wholly or partly by a defect in a product, any person who supplied the product (whether to the person who suffered the damage, to the producer of any product in which the product in question is comprised or to any other person) shall be liable for the damage if—

- (a) the person who suffered the damage requests the supplier to identify one or more of the persons (whether still in existence or not) to whom paragraph (2) applies in relation to the product;
- (b) that request is made within a reasonable period after the damage occurs and at a time when it is not reasonably practicable for the person making the request to identify all those persons; and
- (c) the supplier fails, within a reasonable period after receiving the request, either to comply with the request or to identify the person who supplied the product to him.

Para. (4) rep. by 2001 c. 13 (NI)

(5) Where two or more persons are liable by virtue of this Part for the same damage, their liability shall be joint and several.

(6) This Article shall be without prejudice to any liability arising otherwise than by virtue of this Part.

F9 mod. by 1994 c. 26

F10 Words in art. 5(2)(c) substituted (31.12.2020) by [The Metrology, Health and Safety and Product Safety \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/202\)](#), reg. 1(2), [Sch. 1 para. 1\(3\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Meaning of “defect”

6.—(1) Subject to the following provisions of this Article, there is a defect in a product for the purposes of this Part if the safety of the product is not such as persons generally are entitled to expect; and for those purposes “safety”, in relation to a product, shall include safety with respect to products comprised in that product and safety in the context of risks of damage to property, as well as in the context of risks of death or personal injury.

(2) In determining for the purposes of paragraph (1) what persons generally are entitled to expect in relation to a product all the circumstances shall be taken into account, including—

- (a) the manner in which, and purposes for which, the product has been marketed, its get#up, the use of any mark in relation to the product and any instructions for, or warnings with respect to, doing or refraining from doing anything with or in relation to the product;
- (b) what might reasonably be expected to be done with or in relation to the product; and
- (c) the time when the product was supplied by its producer to another;

and nothing in this Article shall require a defect to be inferred from the fact alone that the safety of a product which is supplied after that time is greater than the safety of the product in question.

Defences

7.—(1) In any civil proceedings by virtue of this Part against any person (“the person proceeded against”) in respect of a defect in a product it shall be a defence for him to show—

- (a) that the defect is attributable to compliance with any requirement imposed by or under any enactment or with any [F11retained] Community obligation; or
- (b) that the person proceeded against did not at any time supply the product to another; or
- (c) that the following conditions are satisfied, that is to say—
 - (i) that the only supply of the product to another by the person proceeded against was otherwise than in the course of a business of that person's; and
 - (ii) that Article 5(2) does not apply to that person or applies to him by virtue only of things done otherwise than with a view to profit; or
- (d) that the defect did not exist in the product at the relevant time; or
- (e) that the state of scientific and technical knowledge at the relevant time was not such that a producer of products of the same description as the product in question might be expected to have discovered the defect if it had existed in his products while they were under his control; or
- (f) that the defect—
 - (i) constituted a defect in a product (“the subsequent product”) in which the product in question had been comprised; and
 - (ii) was wholly attributable to the design of the subsequent product or to compliance by the producer of the product in question with instructions given by the producer of the subsequent product.

(2) In this Article “the relevant time”, in relation to electricity, means the time at which it was generated, being a time before it was transmitted or distributed, and in relation to any other product, means—

- (a) if the person proceeded against is a person to whom paragraph (2) of Article 5 applies in relation to the product, the time when he supplied the product to another;
- (b) if that paragraph does not apply to that person in relation to the product, the time when the product was last supplied by a person to whom that paragraph does apply in relation to the product.

<p>F11 Word in art. 7(1)(a) inserted (31.12.2020) by The Metrology, Health and Safety and Product Safety (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/202), reg. 1(2), Sch. 1 para. 1(4); 2020 c. 1, Sch. 5 para. 1(1)</p>

Damage giving rise to liability

8.—(1) Subject to this Article, in this Part “damage” means death or personal injury or any loss of or damage to any property (including land).

(2) A person shall not be liable under Article 5 in respect of any defect in a product for the loss of or any damage to the product itself or for the loss of or any damage to the whole or any part of any product which has been supplied with the product in question comprised in it.

(3) A person shall not be liable under Article 5 for any loss of or damage to any property which, at the time it is lost or damaged, is not—

- (a) of a description of property ordinarily intended for private use, occupation or consumption; and
- (b) intended by the person suffering the loss or damage mainly for his own private use, occupation or consumption.

(4) No damages shall be awarded to any person by virtue of this Part in respect of any loss of or damage to any property if the amount which would fall to be so awarded to that person, apart from this paragraph and any liability for interest, does not exceed £275.

(5) In determining for the purposes of this Part who has suffered any loss of or damage to property and when any such loss or damage occurred, the loss or damage shall be regarded as having occurred at the earliest time at which a person with an interest in the property had knowledge of the material facts about the loss or damage.

(6) For the purposes of paragraph (5) the material facts about any loss of or damage to any property are such facts about the loss or damage as would lead a reasonable person with an interest in the property to consider the loss or damage sufficiently serious to justify his instituting proceedings for damages against a defendant who did not dispute liability and was able to satisfy a judgment.

(7) For the purposes of paragraph (5) a person's knowledge includes knowledge which he might reasonably have been expected to acquire—

- (a) from facts observable or ascertainable by him; or
- (b) from facts ascertainable by him with the help of appropriate expert advice which it is reasonable for him to seek;

but a person shall not be taken by virtue of this paragraph to have knowledge of a fact ascertainable by him only with the help of expert advice unless he has failed to take all reasonable steps to obtain (and, where appropriate, to act on) that advice.

Application of certain enactments etc.

9.—(1) Any damage for which a person is liable under Article 5 shall be deemed to have been caused for the purposes of the Fatal Accidents (Northern Ireland) Order 1977^{F12}, by that person's wrongful act, neglect or default.

(2) Where—

- (a) a person's death is caused wholly or partly by a defect in a product, or a person dies after suffering damage which has been so caused;
- (b) a request such as mentioned in sub#paragraph (a) of paragraph (3) of Article 5 is made to a supplier of the product by that person's personal representatives or, in the case of a person whose death is caused wholly or partly by the defect, by any dependant or relative of that person; and
- (c) the conditions specified in sub#paragraphs (b) and (c) of that paragraph are satisfied in relation to that request,

this Part shall have effect for the purposes of Part III of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937^{F13} and the Fatal Accidents (Northern Ireland) Order 1977^{F14} as if liability of the supplier to that person under that paragraph did not depend on that person having requested the supplier to identify certain persons or on the said conditions having been satisfied in relation to a request made by that person.

(3) Section 1 of the Congenital Disabilities (Civil Liability) Act 1976^{F15} shall have effect for the purposes of this Part as if—

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- (a) a person were answerable to a child in respect of an occurrence caused wholly or partly by a defect in a product if he is or has been liable under Article 5 in respect of any effect of the occurrence on a parent of the child, or would be so liable if the occurrence caused a parent of the child to suffer damage;
- (b) the provisions of this Part relating to liability under Article 5 applied in relation to liability by virtue of sub#paragraph (a) under the said section 1; and
- (c) subsection (6) of the said section 1 (exclusion of liability) were omitted.

(4) Where any damage is caused partly by a defect in a product and partly by the fault of the person suffering the damage, the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948^{F16} and Article 7 of the Fatal Accidents (Northern Ireland) Order 1977 (contributory negligence) shall have effect as if the defect were the fault of every person liable by virtue of this Part for the damage caused by the defect.

(5) In paragraph (4) “fault” has the same meaning as in the said Act of 1948.

Para. (6) rep. by 1989 NI 11

(7) It is hereby declared that liability by virtue of this Part is to be treated as liability in tort for the purposes of any enactment conferring jurisdiction on any court with respect to any matter.

(8) Nothing in this Part shall prejudice the operation of section 12 of the Nuclear Installations Act 1965^{F17} (rights to compensation for certain breaches of duties confined to rights under that Act).

F12	1977 NI 18
F13	1937 c. 9 (N.I.)
F14	1977 NI 18
F15	1976 c. 28
F16	1948 c. 23 (N.I.)
F17	1965 c. 57

Prohibition on exclusions from liability

10. The liability of a person by virtue of this Part to a person who has suffered damage caused wholly or partly by a defect in a product, or to a dependant or relative of such a person, shall not be limited or excluded by any contract term, by any notice or by any other provision.

Power to modify enactments

^{F18}**11.**

F18	Art. 11 omitted (31.12.2020) by virtue of The Metrology, Health and Safety and Product Safety (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/202), reg. 1(2), Sch. 1 para. 1(5) (with art. 6); 2020 c. 1, Sch. 5 para. 1(1)
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Application of Part II to Crown

12.—(1) Subject to paragraph (2), this Part shall bind the Crown; including the Crown in right of Her Majesty's Government in the United Kingdom.

(2) The Crown shall not, as regards the Crown's liability by virtue of this Part, be bound by this Part further than the Crown is made liable in tort under the Crown Proceedings Act 1947^{F19}.

F19	1947 c. 44
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PART III

MISLEADING PRICE INDICATIONS

Offence of giving misleading indication

13. ^{F20}

F20 Art. 13 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3))

Meaning of “misleading”

14. ^{F21}

F21 Art. 14 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3))

Application to provision of services and facilities

15. ^{F22}

F22 Art. 15 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3))

Application to provision of accommodation etc.

16. ^{F23}

F23 Art. 16 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3))

Defences

17. ^{F24}

F24 Art. 17 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provision in Sch. 3 para. 7(2))

Code of practice

18. ^{F25}

F25 Art. 18 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3))

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Power to make regulations

19. ^{F26}

F26 Art. 19 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 para. 7(1))

PART IV

ENFORCEMENT OF PART III

Enforcement

20. ^{F27}

F27 Art. 20 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 para. 8)

Test purchases

21. ^{F28}

F28 Art. 21 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 para. 8)

Powers of search etc.

22. ^{F29}

F29 Art. 22 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 para. 8)

Provisions supplemental to Article 22

23. ^{F30}

F30 Art. 23 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 para. 8)

Obstruction of authorised officer

24. ^{F31}

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F31 Art. 24 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 para. 8)

Appeals against detention of goods

25. ^{F32}

F32 Art. 25 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 para. 8)

Compensation for seizure and detention

26. ^{F33}

F33 Art. 26 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 para. 8)

Recovery of expenses of enforcement

27. ^{F34}

F34 Art. 27 revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 para. 8)

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Amendments of the Health and Safety at Work (Northern Ireland) Order 1978

28. The Health and Safety at Work (Northern Ireland) Order 1978^{F35} (which includes provision with respect to the safety of certain articles and substances) shall have effect with the amendments specified in Schedule 2; and, accordingly, the general purposes of Part II of that Order shall include the purpose of protecting persons from the risks protection from which would not be afforded by virtue of that Part but for those amendments.

F35 1978 NI 9

Art. 29 rep. by SI 2003/1400

Defence of due diligence

30. ^{F36}

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F36 Art. 30 revoked (26.5.2008) by Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 paras. 7(2), 8)

Liability of persons other than principal offender

31. Where the commission by any person of an offence to which Article 30(1) applies is due to an act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this Article whether or not proceedings are taken against the first#mentioned person.

Civil proceedings

32.—(1) This Order shall not be construed as conferring any other right of action in civil proceedings, apart from the right conferred by virtue of Part II, in respect of any loss or damage suffered in consequence of a provision made by or under Part III.

(2) Subject to any provision to the contrary in the agreement itself, an agreement shall not be void or unenforceable by reason only of a contravention of a provision made by or under Part III.

(3) In this Article “damage” includes personal injury and death.

Regulations as to giving information to certain persons, etc.

33. ^{F37}

F37 Art. 33 revoked (26.5.2008) by Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30, Sch. 2 para. 80, **Sch. 4 Pt. 2** (with saving in reg. 28(2)(3) and transitional and saving provisions in Sch. 3 para. 8)

Savings for certain privileges

34.—(1) Nothing in this Order shall be taken—

(a) as requiring any person to produce any records if he would be entitled to refuse to produce those records in any proceedings in any court on the grounds that they are the subject of legal professional privilege; or

(b) as authorising any person to take possession of any records which are in the possession of a person who would be so entitled.

(2) Nothing in this Order shall be construed as requiring a person to answer any question or give any information if to do so would incriminate that person or that person's spouse.

Article 35—Amendments and repeals

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Schedule 1 rep. by 1989 NI 11 Schedule 1 rep. by 1989 NI 11

Schedules 2, 3—Amendments

Schedule 4—Repeals

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Changes and effects yet to be applied to :

- Instrument amended by [1994 c. 26 s. 106\(1\)Sch.4 para 1\(2\)](#)
- [art.2\(2\)](#) (defns of mark and trade mark) rep in pt by [1994 c. 26 s. 106\(2\)Sch.5](#)
- [art.2\(3\)](#) revoked by [1994 c. 26 s. 106\(2\)Sch.5](#)
- [art.15](#) extended by [S.I. 1995/3275 reg.57Sch.10 Pt.I para.13](#)
- [art.29](#) amended by [S.I. 2000/2031 art.22](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [art. 29\(6\)\(b\)](#) words substituted by [S.I. 2000/2031 art. 22\(2\)](#)