

1972 No. 963 (N.I. 6)

NORTHERN IRELAND

**The Employer's Liability (Defective Equipment and
Compulsory Insurance) (Northern Ireland) Order 1972***Laid before Parliament in draft**Made* 28th June 1972*Coming into Operation—**Part I* 12th July 1972*Part II* 28th September 1972*Part III on days to be appointed under Article 1 (2)*

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At the Court at Buckingham Palace, the 28th day of June 1972

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 1 (3) of the Northern Ireland (Temporary Provisions) Act 1972 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I
GENERAL

Title and commencement

1.—(1) This Order may be cited as the Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972.

(2) Part I shall come into operation on the fourteenth day after the day on which this Order is made, Part II shall come into operation on the expiration of the three months immediately following the day on which this Order is made and Part III shall come into operation for any purpose on such day as the Minister may by order appoint.

(3) Different days may be appointed under paragraph (2) for different purposes of Part III and the purposes for which that Part is to come into operation at any time may be defined by reference to the nature of an employer's business, or to that of an employee's work, or in any other way.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b) shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Parliament of Northern Ireland.

(2) In this Order—

“business” includes a trade or profession and any activity carried on by a body of persons, whether corporate or unincorporate;

“employee” means an individual who has entered into or works under a contract of service or apprenticeship with another person for the purposes of a business carried on by that other person, whether such contract is express or implied, and “employer” shall be construed accordingly;

“the Minister” means the Minister of Health and Social Services and “Ministry” shall be construed accordingly;

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

“statutory provision” has the meaning assigned by section 1 of the Interpretation Act (Northern Ireland) 1954.

Temporary provision

3. So long as section 1 of the Northern Ireland (Temporary Provisions) Act 1972 has effect, subsection (1) (a) of that section applies to functions conferred by this Order on the Minister.

(a) 1972 c. 22.

(b) 1954 c. 33 (N.I.).

PART II
EMPLOYER'S LIABILITY (DEFECTIVE EQUIPMENT)

Extension of employer's liability for defective equipment

4.—(1) Where, after this Part comes into operation—

- (a) an employee suffers personal injury in the course of his employment in consequence of a defect in equipment provided by his employer for the purposes of the employer's business; and
- (b) the defect is attributable wholly or partly to the fault of a third party (whether identified or not),

the injury shall be deemed to be also attributable to negligence on the part of the employer (whether or not he is liable in respect of the injury apart from this paragraph), but without prejudice to the law relating to contributory negligence and to any remedy by way of contribution or in contract or otherwise which is available to the employer in respect of the injury.

(2) In so far as any agreement purports to exclude or limit any liability of an employer arising out of paragraph (1), the agreement shall be void.

(3) In this Article—

“equipment” includes any plant and machinery, vehicle, aircraft and clothing; and

“fault” means negligence, breach of statutory duty or other act or omission which gives rise to liability in tort in Northern Ireland.

(4) This Article binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland and for the purposes of this Article persons in the service of the Crown shall be treated as employees of the Crown if they would not be so treated apart from this paragraph.

PART III
COMPULSORY INSURANCE AGAINST EMPLOYER'S LIABILITY

Insurance against liability to employees

5.—(1) Except as otherwise provided by this Part, every employer carrying on any business in Northern Ireland shall insure, and maintain insurance, under one or more approved policies with an authorised insurer or insurers against liability for personal injury suffered by his employees, and arising out of and in the course of their employment in Northern Ireland in that business but, except in so far as regulations otherwise provide, not including personal injury suffered outside Northern Ireland.

(2) Regulations may provide that the amount for which an employer is required by this Part to insure and maintain insurance shall be limited in such manner as may be prescribed by the regulations.

(3) For the purposes of this Part—

- (a) “approved policy” means a policy of insurance not subject to any conditions or exceptions prohibited for those purposes by regulations;
- (b) “authorised insurer” means a person or body of persons lawfully carrying on in Northern Ireland insurance business of any class relevant for the purposes of the Insurance Companies Act (Northern Ireland) 1968^(a) and issuing the policy or policies in the course thereof;

(a) 1968 c. 6 N.I.).

- (c) except as otherwise provided by regulations, an employer not having a place of business in Northern Ireland shall be deemed not to carry on business there.

Employees to be exempted

6. This Part shall not require an employer to insure—
- (a) in respect of an employee of whom the employer is the husband, wife, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, grand-daughter, stepson, stepdaughter, brother, sister, half-brother or half-sister; or
- (b) except as otherwise provided by regulations, in respect of employees not ordinarily resident in Northern Ireland.

Employers exempted from insurance

7. This Part shall not require any insurance to be effected by—
- (a) the Police Authority for Northern Ireland (which for the purposes of this Part shall be treated as the employer of members of the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve), a new town commission established under the New Towns Acts (Northern Ireland) 1965 to 1968 (a), the Northern Ireland Housing Executive established under the Housing Executive Act (Northern Ireland) 1971 (b) or any body to which Part II of the Local Government (Members and Officers) Act (Northern Ireland) 1964 (c) for the time being applies; or
- (b) any body corporate established by or under any statutory provision for the carrying on of any industry or part of an industry, or of any undertaking, under public ownership or control; or
- (c) in relation to any such cases as may be specified in the regulations, any employer exempted by regulations.

Certificates of insurance

8.—(1) Provision may be made by regulations for securing that certificates of insurance in such form and containing such particulars as may be prescribed by the regulations, are issued by insurers to employers entering into contracts of insurance in accordance with the requirements of this Part and for the surrender in such circumstances as may be so prescribed of certificates so issued.

(2) Where a certificate of insurance is required to be issued to an employer in accordance with regulations under paragraph (1), the employer (subject to any provision made by the regulations as to the surrender of the certificate) shall during the currency of the insurance and such further period (if any) as may be provided by regulations—

- (a) comply with any regulations requiring him to display copies of the certificate of insurance for the information of his employees;
- (b) produce the certificate of insurance or a copy thereof on demand to any inspector duly authorised for the purposes of this Part by the Ministry and produce or send the certificate or a copy thereof to such other persons, at such place and in such circumstances as may be prescribed by regulations;

(a) 1965 c. 13 (N.I.); 1966 c. 38 (N.I.); 1968 c. 33 (N.I.).
 (b) 1971 c. 5 (N.I.). (c) 1964 c. 14 (N.I.).

(c) permit the policy of insurance or a copy thereof to be inspected by such persons and in such circumstances as may be prescribed by regulations.

(3) A person who fails to comply with a requirement imposed by or under this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £50.

Penalty for failure to insure

9. An employer who on any day is not insured in accordance with this Part when required to be so shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

Regulations

10.—(1) The Ministry may make regulations for any purpose for which regulations are authorised or required to be made by or under this Part.

(2) Regulations under this Part shall be subject to negative resolution.

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order extends the liability of employers for injuries suffered in Northern Ireland by their employees to include liability due to defective equipment where the defect is the fault of a third party. It also requires employers to insure against any liability to their employees for personal injuries, including the liability imposed by the Order.

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