STATUTORY INSTRUMENTS

1978 No. 1039 (N.I. 9)

Health and Safety at Work (Northern Ireland) Order 1978

- - - - - - *[25th July 1978]*

Modifications etc. (not altering text)

C1 Order: functions modified (1.10.2008) by Cross-border Railway Services (Working Time) Regulations (Northern Ireland) 2008 (S.R. 2008/315); **reg. 10(3)**

C2 Order modified (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(2)**

C3 Order modified (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(2)**

C4 Order modified (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 10, **Sch. 12 para. 4(12)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

PART I [F1]

INTRODUCTORY

F1 mod. by SR 2001/295

Title and commencement

1.—(1) This Order may be cited as the Health and Safety at Work (Northern Ireland) Order 1978.

(2) *Commencement*

Interpretation

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

(2) In this Order—

"the **[**[F2]Executive**]**" means the Health and Safety**[**[F2] Executive**]** for Northern Ireland established under Article 12;

"article for use at work" means—

(a) any plant designed for use or operation (whether exclusively or not) by persons at work, and

(b) any article designed for use as a component in any such plant;

[[F3]"article of fairground equipment" means any fairground equipment or any article designed for use as a component in any such equipment;**]**

"code of practice" (without prejudice to Article 18(8)) includes a standard, a specification and any other documentary form of practical guidance;

"conditional sale agreement" means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

"contract of employment" means a contract of employment or apprenticeship (whether express or implied and, if express, whether oral or in writing);

"credit-sale agreement" means an agreement for the sale of goods, under which the purchase price or part of it is payable by instalments, but which is not a conditional sale agreement;

[[F3]"customs officer" means an officer within the meaning of the Customs and Excise Management Act 1979;**]**

"the Department" means the Department of Manpower Services;

"the Department concerned" in relation to any purpose or function under this Order in relation to matters of any class, means the government department which is concerned, or the government departments acting jointly which are concerned, with matters of that class under any of the existing statutory provisions, and where no department is so concerned, means the Department;

"domestic premises" means premises occupied as a private dwelling (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling), and "non-domestic premises" shall be construed accordingly;

"employee" means an individual who works under a contract of employment**[**[F4] or who is treated by Article 47A as being an employee**]**;

"enforcing authority" means the Department concerned**[**[F2], the Executive**]** or any other authority which is by any of the relevant statutory provisions or by regulations under Article 20(2) made responsible for the enforcement of any of those provisions to any extent;

[[F3]"fairground equipment" means any fairground ride, any similar plant which is designed to be in motion for entertainment purposes with members of the public on or inside it or any plant which is designed to be used by members of the public for entertainment purposes either as a slide or for bouncing upon, and in this definition the reference to plant which is designed to be in motion with members of the public on or inside it includes a reference to swings, dodgems and other plant which is designed to be in motion wholly or partly under the control of, or to be put in motion by, a member of the public;**]**

"the general purposes of this Part" has the meaning assigned by Article 3;

"government department", except in the definition of Department concerned, includes a department of the Government of the United Kingdom;

"health and safety regulations" has the meaning assigned by Article 17(1);

"hire-purchase agreement" means an agreement other than a conditional sale agreement, under which—

(a) goods are bailed in return for periodical payments by the person to whom they are bailed; and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs:—

(i) the exercise of an option to purchase by that person;

(ii) the doing of any other specified act by any party to the agreement;

(iii) the happening of any other event;

and "hire-purchase" shall be construed accordingly;

"improvement notice" means a notice under Article 23;

"inspector" means an inspector appointed under Article 21;

[[F3]"micro#organism" includes any microscopic biological entity which is capable of replication;**]**

"modifications" includes additions, omissions, amendments, adaptations, applications, extensions, restrictions and substitutions;

"offshore installation" means any installation which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation;

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

"plant" includes any machinery, equipment or appliance;

"premises" includes any place and, in particular, includes—

(a) any vehicle, vessel, aircraft or hovercraft,

(b) any installation on land (including the foreshore and other land intermittently covered by water), any offshore installation, and any other installation (whether floating, or resting on the seabed or the subsoil thereof, or resting on other land covered with water or the subsoil thereof), and

(c) any tent or movable structure;

"prescribed" means prescribed by regulations;

"prohibition notice" means a notice under Article 24;

"regulations" means regulations made by the Department concerned;

"self-employed person" means an individual who works for gain or reward otherwise than under a contract of employment, whether or not he himself employs others;

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954 ; and

(a) "existing statutory provisions" means the provisions mentioned in Schedule 1;

(b) "relevant statutory provisions" means—

(i) the provisions of Part II and of any health and safety regulations; and

(ii) the existing statutory provisions;

"substance" means any natural or artificial substance**[**[F3] (including micro#organisims)**]**, whether in solid or liquid form or in the form of a gas or vapour;

Definition rep. by 1987 NI 20

"supply" where the reference is to supplying articles or substances, means supplying them by way of sale, lease, hire or hire-purchase, whether as principal or agent for another.

(3) In this Order any reference to an enforcing authority's field of responsibility is a reference to the field over which that authority's responsibility for the enforcement of any of the relevant statutory provisions extends for the time being.

(4) Subject to paragraph (5) for the purposes of this Order—

(a) "work" means work as an employee or as a self-employed person;

(b) an employee is at work throughout the time when he is in the course of his employment, but not otherwise;[F4]. . .

[[F4](bb) a person holding the office of constable is at work throughout the time when he is on duty, but not otherwise; and]

(c) a self-employed person is at work throughout such time as he devotes to work as a self-employed person.

(5) Regulations may—

(a) extend the meaning of "work" and "at work"; and

(b) in that connection provide for any of the relevant statutory provisions to have effect subject to such adaptations as may be specified in the regulations.

F2 1998 NI 18
F3 1987 NI 20
F4 1997 NI 16

[F5] PART II

HEALTH, SAFETY AND WELFARE IN CONNECTION WITH WORK, AND CONTROL OF DANGEROUS SUBSTANCES

F5 mod. by SR 2001/295

Modifications etc. (not altering text)

C5 Pt. II restricted (15.11.2010) by Fire and Rescue Services (Northern Ireland) Order 2006 (S.I. 2006/1254 (N.I. 9)), arts. 1(3), **47** (with arts. 44, 46, 47(2), 49, 62); S.R. 2010/328, **art. 2**

Preliminary

Preliminary

3 [F6]**.**—[F7](1) The provisions of this Part shall have effect with a view to—

(a) securing the health, safety and welfare of persons at work;

(b) protecting persons other than persons at work against risks to health or safety arising out of or in connection with the activities of persons at work;

(c) controlling the keeping and use of explosive or highly flammable or otherwise dangerous substances, and generally preventing the unlawful acquisition, possession and use of such substances.

(2) The provisions of this Part relating to the making of health and safety regulations and the preparation and approval of codes of practice shall in particular have effect with a view to enabling the existing statutory provisions to be progressively replaced by a system of regulations and approved codes of practice operating in combination with the other provisions of this Part and designed to maintain or improve the standards of health, safety and welfare established by or under the existing statutory provisions.

(3) For the purposes of this Part risks arising out of or in connection with the activities of persons at work shall be treated as including risks attributable to the manner of conducting an undertaking, the plant or substances used for the purposes of an undertaking and the condition of premises so used or any part of them.

(4) References in this Part to the general purposes of this Part are references to the purposes mentioned in paragraph (1).

(5) [F8]. . . . . .

F6 mod. by SR 2000/87; 2000/120
F7 mod. by 2002 c. 8 (NI)
F8 Art. 3(5) omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 10, **Sch. 12 para. 3(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

General duties

General duties of employers to their employees

4 [F9]**.**—[F10F11F12](1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.

(2) Without prejudice to the generality of an employer's duty under paragraph (1), the matters to which that duty extends include in particular—

(a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;

(b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;

(c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees;

(d) so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;

(e) the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

(3) Except in such cases as may be prescribed, it shall be the duty of every employer to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the health and safety at work of his employees and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all of his employees.

(4) Regulations may provide for the appointment in prescribed cases by recognised trade unions (within the meaning of the regulations) of safety representatives from amongst the employees, and those representatives shall represent the employees in consultations with the employers under paragraph (5) and shall have such other functions as may be prescribed.

(5) It shall be the duty of every employer to consult any such representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate

effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.

(6) In such cases as may be prescribed it shall be the duty of every employer, if requested to do so by the safety representatives mentioned in paragraph (4), to establish, in accordance with regulations, a safety committee having the function of keeping under review the measures taken to ensure the health and safety at work of his employees and such other functions as may be prescribed.

F9 mod. by SR 2000/87; 2000/120
F10 enforcing authority DED for certain purposes—SR 1989/321
F11 mod. by SR 2001/295
F12 mod. by 2002 c. 8 (NI)

General duties of employers and self-employed to persons other than their employees

5 [F13]**.**—[F14F15F16](1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.

(2 [F17] It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.

(3) In such cases as may be prescribed, it shall be the duty of every employer and every self-employed person, in the prescribed circumstances and in the prescribed manner, to give to persons (not being his employees) who may be affected by the way in which he conducts his undertaking the prescribed information about such aspects of the way in which he conducts his undertaking as might affect their health or safety.

F13 mod. by SR 2000/87; 2000/120
F14 enforcing authority DED for certain purposes—SR 1989/321
F15 mod. by SR 2001/295
F16 mod. by 2002 c. 8 (NI)
F17 mod. by SR 1982/273; 1991/238; 1994/143; 2000/120; 2003/34

General duties of persons concerned with premises to persons other than their employees

6 [F18]**.**—[F19F20](1) This Article has effect for imposing on persons duties in relation to those who—

(a) are not their employees; but

(b) use non-domestic premises made available to them as a place of work or as a place where they may use plant or substances provided for their use there,

and applies to premises so made available and other non-domestic premises used in connection with them.

(2) It shall be the duty of each person who has, to any extent, control of premises to which this Article applies or of the means of access thereto or egress therefrom or of any plant or substance in such premises to take such measures as it is reasonable for a person in his position to take to ensure, so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom available for use by persons using the premises, and any plant or substance in the premises or, as the case may be, provided for use there, is or are safe and without risks to health.

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

(a) the maintenance or repair of any premises to which this Article applies or any means of access thereto or egress therefrom; or

(b) the safety of or the absence of risks to health arising from plant or substances in any such premises;

that person shall be treated, for the purposes of paragraph (2), as being a person who has control of the matters to which his obligation extends.

(4) Any reference in this Article to a person having control of any premises or matter is a reference to a person having control of the premises or matter in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

F18 mod. by SR 2000/87; 2000/120
F19 enforcing authority DED for certain purposes—SR 1989/321
F20 mod. by 2002 c. 8 (NI)

General duties of manufacturers etc. as regards articles and substances for use at work

7 [F21]**.—[**[F22F23F24F25F26](1) It shall be the duty of any person who designs, manufactures, imports or supplies any article for use at work or any article of fairground equipment —

(a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being set, used, cleaned or maintained by a person at work;

(b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by sub-paragraph (*a*);

(c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all such times as are mentioned in sub#paragraph (*a*) and when it is being dismantled or disposed of; and

(d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of sub#paragraph (*c*) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

(1A) It shall be the duty of any person who designs, manufactures, imports or supplies any article of fairground equipment —

(a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public;

(b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by sub-paragraph (*a*);

(c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public; and

(d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of sub#paragraph (*c*) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.**]**

(2) It shall be the duty of any person who undertakes the design or manufacture of any article for use at work**[**[F22] or of any article of fairground equipment**]** to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the design or article may give rise.

(3) It shall be the duty of any person who erects or installs any article for use at work in any premises where that article is to be used by persons at work**[**[F22] or who erects or installs any article of fairground equipment**]** to ensure, so far as is reasonably practicable, that nothing about the way in which**[**[F22] the article is erected or installed makes it unsafe or a risk to health at any such time as is mentioned in paragraph (1)(*a*) or, as the case may be, (1A)(*a*).**]**

[[F22](4) It shall be the duty of any person who manufactures, imports or supplies any substance—

(a) to ensure, so far as is reasonably practicable, that the substance will be safe and without risks to health at all times when it is being used, handled, processed, stored or transported by a person at work or in premises to which Article 6 applies;

(b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by sub-paragraph (*a*);

(c) to take such steps as are necessary to secure that persons supplied by that person with the substance are provided with adequate information about any risks to health or safety to which the inherent properties of the substance may give rise, about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health at all such times as are mentioned in sub#paragraph (*a*) and when the substance is being disposed of; and

(d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of sub#paragraph (*c*) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.**]**

(5) It shall be the duty of any person who undertakes the manufacture of any**[**[F22] substance**]** to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the substance may give rise**[**[F22] at all such times as are mentioned in paragraph (4)(*a*)**]**.

(6) Nothing in the provisions of this Article shall be taken to require a person to repeat any testing, examination or research which has been carried out otherwise than by him or at his instance, in so far as it is reasonable for him to rely on the results thereof for the purposes of those provisions.

(7) Any duty imposed on any person by any of the preceding provisions of this Article shall extend only to things done in the course of a trade, business or other undertaking carried on by him (whether for profit or not) and to matters within his control.

(8) Where a person designs, manufactures, imports or supplies an article**[**[F22] for use at work or an article of fairground equipment and does so far or to another**]** on the basis of a written undertaking by that other to take specified steps sufficient to ensure, so far as is reasonably practicable, that the article will be safe and without risks to health**[**[F22] at all such times as are mentioned in sub#paragraph (*a*) of paragraph (1) or as the case may be, in sub#paragraph (*a*) of paragraph (1A)**]**, the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed**[**[F22] by virtue of that sub#paragraph**]** to such extent as is reasonable having regard to the terms of the undertaking.

[[F22](8A) Nothing in paragraph (7) or (8) shall relieve any person who imports any article or substance from any duty in respect of anything which—

(a) in the case of an article designed outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who designed the article; or

(b) in the case of an article or substance manufactured outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who manufactured the article or substance.**]**

(9) Where a person ("the ostensible supplier") supplies any**[**[F22] article or substance**]** to another ("the customer") under a hire-purchase agreement, conditional sale agreement or credit-sale agreement, and the ostensible supplier—

(a) carries on the business of financing the acquisition of goods by others by means of such agreements; and

(b) in the course of that business acquired his interest in the article or substance supplied to the customer as a means of financing its acquisition by the customer from a third person ("the effective supplier"),

the effective supplier and not the ostensible supplier shall be treated for the purposes of this Article as supplying the article or substance to the customer, and any duty imposed by this Article on suppliers shall accordingly fall on the effective supplier and not on the ostensible supplier.

[[F22](10) For the purposes of this Article an absence of safety or a risk to health shall be disregarded in so far as the case in or in relation to which it would arise is shown to be one the occurrence of which could not reasonably be foreseen; and in determining whether any duty imposed by virtue of sub#paragraph (*a*) of paragraph (1), (1A) or (4) has been performed regard shall be had to any relevant information or advice which has been provided to any person by the person by whom the article has been designed, manufactured, imported or supplied or, as the case may be, by the person by whom the substance has been manufactured, imported or supplied.**]**

F21 mod. by SR 2000/87; 2000/120
F22 1987 NI 20
F23 enforcing authority DED for certain purposes—SR 1989/321
F24 mod. by SR 1985/273; 1990/147; 1993/27
F25 mod. by SR 2000/375
F26 mod. by 2002 c. 8 (NI)

General duties of employees at work

[F27F28F29F30]**8.** It shall be the duty of every employee while at work—

(a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work; and

(b) as regards any duty or requirement imposed on his employer or any other person by or under any of the relevant statutory provisions, to co-operate with him so far as is necessary to enable that duty or requirement to be performed or complied with.

F27 mod. by SR 2000/87; 2000/120
F28 enforcing authority DED for certain purposes—SR 1989/321
F29 mod. by SR 2001/295
F30 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)

C6 Art. 8 modified (23.10.2015) by The Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2015 (S.R. 2015/339), regs. 1, **4(2)** (with reg. 3(1)(2))

Duty not to interfere with or misuse things provided pursuant to certain provisions

9 [F31]**.** [F32][F33]No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions.

F31 mod. by SR 2000/87; 2000/120
F32 enforcing authority DED for certain purposes—SR 1989/321
F33 mod. by 2002 c. 8 (NI)

Duty not to charge employees for things done or provided pursuant to certain specific requirements

10 [F34]**.** [F35]No employer shall levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any specific requirement of the relevant statutory provisions.

F34 mod. by SR 2000/87; 2000/120
F35 mod. by 2002 c. 8 (NI)

General duty of the Department concerned

11 [F36]**.** [F37]In addition to the other functions conferred on the Department concerned under this Order, it shall be the general duty of that Department to do such things and make such arrangements as it considers appropriate for the general purposes of this Part.

F36 mod. by SR 2000/87; 2000/120
F37 mod. by 2002 c. 8 (NI)

*The Health and Safety***[***F38*** *Executive***]** *for Northern Ireland*

F38 1998 NI 18

Establishment of the[F39 Executive]

12 [F40]**.**—[F41](1) There shall be established a body to be called the Health and Safety**[**[F39] Executive**]** for Northern Ireland consisting of a chairman appointed by the Head of the Department and not less than six nor more than nine other members appointed by the Head of the Department in accordance with paragraph (2).

(2) Before appointing the members of the**[**[F39] Executive**]** (other than the chairman) the Head of the Department shall—

(a) as to three of them, consult such organisations representing employers as he considers appropriate;

(b) as to three others, consult such organisations representing employees as he considers appropriate; and

(c) as to any other members he may appoint, consult such organisations representing district councils and such other organisations, other than the organisations mentioned in sub-paragraph (*a*) or (*b*), as he considers appropriate.

[[F39](2A) The Head of the Department may, after consultation with the Executive, appoint one of the members to be deputy chairman of the Executive.**]**

(3) The**[**[F39] Executive**]** shall have such functions as are conferred on it under the succeeding provisions of this Order.

(4) The provisions of Schedule 2 shall have effect with respect to the**[**[F39] Executive**]**.

[[F39](5) The functions of the Executive, and of its officers and servants, shall be performed on behalf of the Crown.

(6) For the purpose of any civil proceedings arising out of those functions, the Crown Proceedings Act 1947 shall apply to the Executive as if it were a Department of Her Majesty's Government in Northern Ireland within the meaning of that Act.

(7) The Department may by order subject to negative resolution amend paragraph (1) so far as it regulates the number of members of the Executive.**]**

F39 1998 NI 18
F40 mod. by SR 2000/87; 2000/120
F41 mod. by 2002 c. 8 (NI)

Functions of the[F42] Executive]

13 [F43]**.—[**[F42F44](1) In addition to the other functions conferred on the Executive under this Order, but subject to paragraph (4), it shall be the general duty of the Executive to do such things and make such arrangements as it considers appropriate for the general purposes of this Part.

(1A) It shall be the duty of the Executive—

(a) to assist and encourage persons concerned with matters relevant to any of the general purposes of this Part to further those purposes;

(b) to make such arrangements as it considers appropriate for securing that government departments, employers, employees, organisations representing employers and employees respectively, and other persons concerned with matters relevant to any of those purposes are provided with an information and advisory service and are kept informed of, and adequately advised on, such matters;

(c) to submit to the Department concerned such proposals as the Executive considers appropriate for the making of regulations under any of the relevant statutory provisions.**]**

(2) The**[**[F42] Executive**]**, in accordance with Article 18, may prepare and issue codes of practice and may approve codes of practice prepared by other persons.

(3) The**[**[F42] Executive**]** may,[F42]. . .

(a) make such arrangements as it considers appropriate for—

(i) the carrying out of, and the publication of the results of, research; and

(ii) the provision of training and information;

in connection with the purposes of this Part; and

(b) encourage research and the provision of training and information in that connection by others;

(c) generally promote health and safety at work.

(4) The[F42 Executive] shall—

(a) submit to the Department particulars of what it proposes to do for the purpose of performing its functions[F42]. . . ; and

(b) subject to sub-paragraph (*c*), ensure that its activities are in accordance with proposals approved by the Department; and

(c) give effect to any directions given to it by the Department.

F42 1998 NI 18
F43 mod. by SR 2000/87; 2000/120
F44 mod. by 2002 c. 8 (NI)

Control of the[F45 Executive] by the Department

14 [F46]**.** [F47]The Department may—

(a) approve, with or without modifications, any proposals submitted to it in pursuance of Article 13(4)(*a*);

(b) give to the[F45 Executive] at any time such directions as the Department thinks fit with respect to the functions of the[F45 Executive].

F45 1998 NI 18
F46 mod. by SR 2000/87; 2000/120
F47 mod. by 2002 c. 8 (NI)

Additional functions of the[F48 Executive]

15 [F49]**.**—[F50](1) The[F48 Executive] may—

(a) make agreements with any government department or other person for that department or person to perform on behalf of the[F48 Executive][F48 (with or without payment)] any of the functions of the[F48 Executive];

(b) subject to paragraph (2), make agreements with any Minister of the Crown, government department or public authority for the[F48 Executive] to perform on behalf of that Minister, department or authority (with or without payment) functions exercisable by the Minister, department or authority, being functions which in the opinion of the Department can appropriately be performed by the[F48 Executive] in connection with any of the[F48 Executive] 's functions;

[F48(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;]

(c) appoint persons or committees of persons to provide the[F48 Executive] with advice in connection with any of its functions and (without prejudice to the generality of the following sub-paragraph) pay to persons so appointed such remuneration as the Department, with the approval of the Department of the Civil Service, may determine;

(d) in connection with any of the functions of the**[**[F48] Executive**]**, pay to any person such travelling and subsistence allowances and such compensation for loss of remunerative time as the Department, with the approval of the Department of the Civil Service, may determine;

(e) carry out or arrange for or make payments in respect of, research into any matter connected with any of the**[**[F48] Executive**]** 's functions, and disseminate or arrange for or make payments in respect of the dissemination of, information derived from such research;

(f) include, in any arrangements made by the**[**[F48] Executive**]** for the provision of facilities or services by it or on its behalf, provision for the making of payments to the**[**[F48] Executive**]** or any person acting on its behalf by other parties to the arrangements and by persons who use those facilities or services.

(2) Nothing in paragraph (1)(*b*) shall authorise the**[**[F48] Executive**]** to perform any function of a Minister, department or authority which consists of a power to make regulations or other instruments of a legislative character.

F48 1998 NI 18
F49 mod. by SR 2000/87; 2000/120
F50 mod. by 2002 c. 8 (NI)

Investigations and inquiries

Investigations and inquiries

16 [F51]**.**—[F52](1) This Article applies to the following matters, that is to say any accident, occurrence, situation or other matter whatsoever which[F53]. . . **[**[F54F53]. . . the Executive**]** thinks it necessary or expedient to investigate for any of the general purposes of this Part or with a view to the making of regulations for those purposes.

(2) [F53]. . . **[**[F54F53]. . . the Executive**]** may at any time—

(a) investigate or authorise any other person to investigate, and make a special report on any matter to which this Article applies; or

(b) cause an inquiry to be held into any such matter.

(3) Any inquiry held by virtue of paragraph (2)(*b*) shall be held in accordance with regulations, and shall be held in public except where or to the extent that the regulations provide otherwise.

(4) Regulations made under paragraph (3) may in particular include provision—

(a) conferring on the person holding any such inquiry, and any person assisting him in the inquiry, powers of entry and inspection;

(b) conferring on any such person powers of summoning witnesses to give evidence or produce documents and power to take evidence on oath and administer oaths or require the making of declarations;

(c) requiring any such inquiry to be held otherwise than in public where or to the extent that a Minister of the Crown or Head of the Department concerned so directs.

(5) In the case of a special report made by virtue of paragraph (2)(*a*)[F53]. . . **[**[F54F53]. . . the Executive**]** may cause the report, or so much of it as[F53]. . . **[**[F54F53]. . . the Executive**]** thinks fit, to be made public at such time and in such manner as[F53]. . . **[**[F54F53]. . . the Executive**]** thinks fit.

(6) [F53]. . . **[**[F54F53]. . . the Executive**]**

(a) in the case of an investigation and special report made by virtue of paragraph (2)(*a*), may pay to the person making it such remuneration and expenses as[F53]. . . **[**[F54F53]. . . the Executive**]**, with the approval of the Department of the Civil Service, may determine;

(b) in the case of an inquiry held by virtue of paragraph (2)(*b*), may pay to the person holding it and to any assessor appointed to assist him such remuneration and expenses, and to persons attending the inquiry as witnesses such expenses, as[F53]. . . **[**[F54F53]. . . the Executive**]**, with the like approval, may determine; and

(c) may, to such extent as[F53]. . . **[**[F54F53]. . . the Executive**]** may determine, defray the other costs, if any, of any such investigation and special report or inquiry.

F51 mod. by SR 2000/87; 2000/120
F52 mod. by 2002 c. 8 (NI)
F53 2005 c. 12
F54 1998 NI 18

Health and safety regulations and approved codes of practice

Health and safety regulations

17 [F55]**.—**[F56F57](1) Subject to Article 46, regulations (in this Order referred to as "health and safety regulations") may provide for any of the general purposes of this Part.

(2) Without prejudice to the generality of paragraph (1), health and safety regulations may for any of the general purposes of this Part make provision for any of the purposes mentioned in Schedule 3.

(3) Health and safety regulations—

(a) may repeal or modify any of the existing statutory provisions;

(b) may exclude or modify in relation to any specified class of case any of the provisions of Articles 4 to 10 or any of the existing statutory provisions;

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

(4) Health and safety regulations—

(a) may impose requirements by reference to the approval of the**[**[F58] Executive**]** or any other specified body or person;

(b) may provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time.

(5) Health and safety regulations—

(a) may provide (either unconditionally or subject to conditions, and with or without limit of time) for exemptions from any requirement or prohibition imposed by or under any of the relevant statutory provisions;

(b) may enable exemptions from any requirement or prohibition imposed by or under any of the relevant statutory provisions to be granted (either unconditionally or subject to conditions, and with or without limit of time) by any specified person or by any person authorised in that behalf by a specified authority.

(6) Health and safety regulations—

(a) may specify the persons who, in the event of a contravention of a requirement or prohibition imposed by or under the regulations, are to be guilty of an offence, whether in addition to or to the exclusion of other persons;

(b) may provide for any specified defence to be available in proceedings for any offence under the relevant statutory provisions either generally or in specified circumstances;

(c) may exclude proceedings on indictment in relation to offences consisting of a contravention of a requirement or prohibition imposed by or under any of the existing statutory provisions, Articles 4 to 10 or health and safety regulations;

(d) may restrict the punishments (other than the maximum fine on conviction on indictment) which can be imposed in respect of any such offence as is mentioned in sub-paragraph (*c*).

(e) [F59] . . . . . .

(7) Without prejudice to Article 33, health and safety regulations may make provision for enabling offences under any of the relevant statutory provisions to be treated as having been committed at any specified place for the purpose of bringing any such offence within the field of responsibility of any enforcing authority or conferring jurisdiction on any court to entertain proceedings for any such offence.

(8) In this Article "specified" means specified in health and safety regulations.

F55 mod. by SR 2000/87; 2000/120
F56 mod. by SR 2000/194
F57 mod. by 2002 c. 8 (NI)
F58 1998 NI 18
F59 Art. 17(6)(e) repealed (16.1.2009) by Health and Safety (Offences) Act 2008 (c. 20), ss. 2, 3(2), Sch. 3 para. 3(1), **Sch. 4** (with s. 3(3))

Approval of codes of practice by the[F60 Executive]

[F61F62]**18.**—(1) For the purpose of providing practical guidance with respect to the requirements of any provision of Articles 4 to 8 or of health and safety regulations or of any of the existing statutory provisions, the**[**[F60] Executive**]** may, subject to paragraph (2)—

(a) approve and issue such codes of practice (whether prepared by it or not) as in its opinion are suitable for that purpose;

(b) approve such codes of practice issued or proposed to be issued otherwise than by the**[**[F60] Executive**]** as in its opinion are suitable for that purpose.

(2) The**[**[F60] Executive**]** shall not approve a code of practice under paragraph (1) without the consent of the Department concerned, and shall, before seeking its consent, consult—

(a) any government department or other body that appears to the**[**[F60] Executive**]** to be appropriate (and in particular, in the case of a code relating to electro-magnetic radiations, the Department of Health and Social Services [F63]...); and

(b) such government departments and other bodies, if any, as in relation to any matter dealt with in the code, the**[**[F60] Executive**]** is required to consult under this Article by virtue of directions given to it by the Department.

(3) Where a code of practice is approved by the**[**[F60] Executive**]** under paragraph (1), the**[**[F60] Executive**]** shall issue a notice in writing—

(a) identifying the code in question and stating the date on which its approval by the**[**[F60] Executive**]** is to take effect; and

(b) specifying for which of the provisions mentioned in paragraph (1) the code is approved.

(4) The**[**[F60] Executive**]** may—

(a) revise the whole or any part of any code of practice prepared by it in pursuance of this Article;

(b) approve any revision or proposed revision of the whole or any part of any code of practice for the time being approved under this Article;

and the provisions of paragraphs (2) and (3) shall, with the necessary modifications, apply in relation to the approval of any revision under this paragraph as they apply in relation to the approval of a code of practice under paragraph (1).

(5) The**[**[F60] Executive**]** may at any time with the consent of the Department concerned withdraw its approval from any code of practice approved under this Article, but before seeking the consent of that Department shall consult the same government departments and other bodies as it would be required to consult under paragraph (2) if it were proposing to approve the code.

(6) Where under paragraph (5) the**[**[F60] Executive**]** withdraws its approval from a code of practice approved under this Article, the**[**[F60] Executive**]** shall issue a notice in writing identifying the code in question and stating the date on which its approval of it is to cease to have effect.

(7) References in this Part to an approved code of practice are references to that code as it has effect for the time being by virtue of any revision of the whole or any part of it approved under this Article.

(8) The power of the**[**[F60] Executive**]** under paragraph (1)(*b*) to approve a code of practice issued or proposed to be issued otherwise than by the**[**[F60] Executive**]** shall include power to approve a part of such a code of practice; and accordingly in this Part "code of practice" may be read as including a part of such a code of practice.

F60 1998 NI 18
F61 mod. by SR 2000/87; 2000/120
F62 mod. by 2002 c. 8 (NI)
F63 Words in art. 18(2)(a) omitted (1.4.2013) by virtue of The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 7(2)**

Modifications etc. (not altering text)

C7 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**
C8 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

Use of approved codes of practice in criminal proceedings

[F64F65]**19.**—(1) A failure on the part of any person to observe any provision of an approved code of practice shall not of itself render him liable to any civil or criminal proceedings; but where in any criminal proceedings a party is alleged to have committed an offence by reason of a contravention of any requirement or prohibition imposed by or under any such provision as is mentioned in Article 18(1) being a provision for which there was an approved code of practice at the time of the alleged contravention, the following paragraph shall have effect with respect to that code in relation to those proceedings.

(2) Any provision of the code of practice which appears to the court to be relevant to the requirement or prohibition alleged to have been contravened shall be admissible in evidence in the proceedings; and if it is proved that there was at any material time a failure to observe any provision of the code which appears to the court to be relevant to any matter which it is necessary for the prosecution to prove in order to establish a contravention of that requirement or prohibition, that

matter shall be taken as proved unless the court is satisfied that the requirement or prohibition was in respect of that matter complied with otherwise than by way of observance of that provision of the code.

(3) In any criminal proceedings—

(a) a document purporting to be a notice issued by the**[**[F66] Executive**]** under Article 18 shall be taken to be such a notice unless the contrary is proved; and

(b) a code of practice which appears to the court to be the subject of such a notice shall be taken to be the subject of that notice unless the contrary is proved.

F64 mod. by SR 2000/87; 2000/120
F65 mod. by 2002 c. 8 (NI)
F66 1998 NI 18

Modifications etc. (not altering text)
C9 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**
C10 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

Enforcement

Authorities responsible for enforcement of the relevant statutory provisions

[F67][F68]**20.**—(1) It shall be the duty of the Department concerned**[**[F69] and the Executive**]** to make adequate arrangements for the enforcement of the relevant statutory provisions except to the extent that some other authority is by any of those provisions or by regulations under paragraph (2) made responsible for their enforcement.

[[F69](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.**]**

(3) Any provision made by regulations under paragraph (2) shall have effect subject to any provision made by health and safety regulations in pursuance of Article 17(3)(*c*).

(4) Where any authority other than the Department concerned**[**[F69] or the Executive**]** is by any of the relevant statutory provisions or by regulations under paragraph (2) made responsible for the enforcement of any of those provisions to any extent, that authority shall—

(a) make adequate arrangements for the enforcement of those provisions to that extent; and

(b) perform the duty imposed on it by sub-paragraph (*a*) and any other functions conferred on it by any of the relevant statutory provisions**[**[F69] in accordance with such guidance as the Executive may give to the authority**]**.

F67 mod. by SR 2000/87; 2000/120
F68 mod. by 2002 c. 8 (NI)
F69 1998 NI 18

Modifications etc. (not altering text)
C11 Art. 20 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**
C12 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**
C13 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**
C14 Arts. 20-28 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(a)** (with regs. 3, 8-15, 19)

Appointment of inspectors

[F70F71]**21.**—(1) Every enforcing authority may appoint as inspectors (under whatever title it may determine) such persons having suitable qualifications as it thinks necessary for carrying into effect the relevant statutory provisions within its field of responsibility, and may terminate any appointment made under this Article.

(2) Every appointment of a person as an inspector under this Article shall be made in writing specifying which of the powers conferred on inspectors by the relevant statutory provisions are to be exercisable by the person appointed; and an inspector shall in right of his appointment under this Article—

(a) be entitled to exercise only such of those powers as are so specified; and

(b) be entitled to exercise the powers so specified only within the field of responsibility of the authority which appointed him.

(3) So much of an inspector's written appointment as specifies the powers which he is entitled to exercise may be varied by the enforcing authority which appointed him.

(4) An inspector shall, if so required when exercising or seeking to exercise any power conferred on him by any of the relevant statutory provisions, produce his written appointment or a duly authenticated copy thereof.

F70 mod. by SR 2000/87; 2000/120
F71 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)
C14 Arts. 20-28 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(a)** (with regs. 3, 8-15, 19)
C15 Art. 21 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**
C16 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**

C17 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

C18 Art. 21 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(a)**

C19 Art. 21 applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(a)** (with reg. 3)

Powers of inspectors

[F72][F73]**22.**—(1) Subject to the provisions of Article 21 and this Article, an inspector may, for the purpose of carrying into effect any of the relevant statutory provisions within the field of responsibility of the enforcing authority which appointed him, exercise the powers set out in paragraph (2).

(2) The powers of an inspector referred to in paragraph (1) are the following, namely—

(a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) to enter any premises which he has reason to believe it is necessary for him to enter for the purpose mentioned in paragraph (1);

(b) to take with him a constable if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(c) without prejudice to sub-paragraph (*b*), on entering any premises by virtue of sub-paragraph (*a*) to take with him—

(i) any other person duly authorised in writing by his (the inspector's) enforcing authority; and

(ii) any equipment or materials required for any purpose for which the power of entry is being exercised;

(d) to make such examination and investigation as may in any circumstances be necessary for the purpose mentioned in paragraph (1);

(e) as regards any premises which he may enter, to direct that those premises or any part of them, or anything therein, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (*d*);

(f) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under sub-paragraph (*d*);

(g) to take samples of any articles or substances found in any premises which he may enter, and the atmosphere in or in the vicinity of any such premises;

(h) in the case of any article or substance found in any premises which he may enter, being an article or substance which appears to him to have caused or to be likely to cause danger to health or safety, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the purpose mentioned in paragraph (1));

(i) in the case of any such article or substance as is mentioned in sub-paragraph (*h*), to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—

(i) to examine it and do to it anything which he may do under that sub-paragraph;

(ii) to ensure that it is not tampered with before his examination of it is completed;

(iii) to ensure that it is available for use as evidence in any proceedings for an offence under any of the relevant statutory provisions or any proceedings relating to a notice under Article 23 or 24;

(j) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (*d*) to answer (in the absence of persons other than a person nominated by him to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of his answers;

(k) to require the production of, inspect, and take copies of or of any entry in—

(i) any books or documents which by virtue of any of the relevant statutory provisions are required to be kept; and

(ii) any other books or documents which it is necessary for him to see for the purposes of any examination or investigation under sub-paragraph (*d*);

(l) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on him by this Article;

(m) any other power which is necessary for the purpose mentioned in paragraph (1).

(3) The Department concerned may by regulations make provision as to the procedure to be followed in connection with the taking of samples under paragraph (2)(*g*) (including provision as to the way in which samples that have been so taken are to be dealt with).

(4) Where an inspector proposes to exercise the power conferred by paragraph (2)(*h*) in the case of an article or substance found in any premises he shall offer to any person who at the time is present in and has responsibilities in relation to those premises, the opportunity to be present at anything which is to be done by virtue of that power unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of the State.

(5) Before exercising the power conferred by paragraph (2)(*h*) in the case of any article or substance, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

(6) Where under the power conferred by paragraph (2)(*i*) an inspector takes possession of any article or substance found in any premises, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample thereof and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

(7) No answer given by a person in pursuance of a requirement imposed under paragraph (2)(*j*) shall be admissible in evidence against that person or the**[**[F74] spouse or civil partner**]** of that person in any proceedings.

(8) Nothing in this Article shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court.

F72 mod. by SR 2000/87; 2000/120
F73 mod. by 2002 c. 8 (NI)
F74 2004 c.33

Modifications etc. (not altering text)

C14 Arts. 20-28 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(a)** (with regs. 3, 8-15, 19)

C20 Art. 22 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C21 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**

C22 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

C23 Art. 22 applied in part (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(a)**

C24 Art. 22 excluding art. 22(3) applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(a)** (with reg. 3)

Improvement notices

[F75][F76]**23.** If an inspector is of the opinion that a person—

(a) is contravening one or more of the relevant statutory provisions; or

(b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

he may serve on him a notice—

(i) stating that he is of that opinion;

(ii) specifying the provision or provisions as to which he is of that opinion;

(iii) giving particulars of the reasons why he is of that opinion; and

(iv) requiring that person to remedy the contravention or, as the case may be, the matters occasioning it within such period (ending not earlier than the period within which an appeal against the notice can be brought under Article 26) as may be specified in the notice.

F75 mod. by SR 2000/87; 2000/120

F76 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)

C14 Arts. 20-28 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(a)** (with regs. 3, 8-15, 19)

C25 Arts. 23 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C26 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**

C27 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

C28 Art. 23 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(b)**

C29 Art. 23 applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(b)** (with reg. 3)

Prohibition notices

[F77][F78]**24.**—(1) This Article applies to any activities which are being or are**[**[F79] likely**]** to be carried on by or under the control of any person, being activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are so carried on, apply.

(2) If as regards any activities to which this Article applies an inspector is of the opinion that, as carried on or**[**[F79] likely**]** to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve a risk of serious personal injury, the inspector may serve on that person a notice—

(a) stating that the inspector is of the said opinion;

(b) specifying the matters which in his opinion give or, as the case may be, will give rise to the said risk;

(c) where in his opinion any of those matters involves or, as the case may be, will involve a contravention of any of the relevant statutory provisions, stating that he is of that opinion, and

(i) specifying the provision or provisions as to which he is of that opinion; and

(ii) giving particulars of the reasons why he is of that opinion; and

(d) directing that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of sub-paragraph (*b*) and any associated contravention of provisions so specified in pursuance of sub-paragraph (*c*) have been remedied.

[[F79](3) A direction contained in a prohibition notice in pursuance of paragraph (2)(*d*) shall take effect—

(a) at the end of the period specified in the notice; or

(b) if the notice so declares, immediately.**]**

F77 mod. by SR 2000/87; 2000/120
F78 mod. by 2002 c. 8 (NI)
F79 1987 NI 20

Modifications etc. (not altering text)

C14 Arts. 20-28 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(a)** (with regs. 3, 8-15, 19)

C30 Art. 24 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C31 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**

C32 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

C33 Art. 24 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(b)**

C34 Art. 24 applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(b)** (with reg. 3)

Provisions supplementary to Articles 23 and 24

[F80][F81]**25.**—(1) In this Article and Article 26 "a notice" means an improvement notice or a prohibition notice.

(2) A notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions—

(a) may be framed to any extent by reference to any approved code of practice; and

(b) may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.

(3) Where any of the relevant statutory provisions applies to a building or any matter connected with a building and an inspector proposes to serve an improvement notice relating to a contravention of that provision in connection with that building or matter, the notice shall not direct any measures to be taken to remedy the contravention of that provision which are more onerous than those necessary to secure conformity with the requirements of any building regulations for the time being in force to which that building or matter would be required to conform if the relevant building were being newly erected unless the provision in question imposes specific requirements more onerous than the requirements of any such building regulations to which the building or matter would be required to conform as aforesaid.

(4) In paragraph (3) "the relevant building", in the case of a building, means that building, and, in the case of a matter connected with a building, means the building with which the matter is connected.

(5) Before an inspector serves in connection with any premises used or about to be used as a place of work a notice requiring or likely to lead to the taking of measures affecting the means of escape in case of fire with which the premises are or ought to be provided, he shall consult **[**[F82]the Northern Ireland Fire and Rescue Service Board**]** .

(6) Where a notice which is not to take immediate effect has been served—

(a) the notice may be withdrawn by an inspector at any time before the end of the period specified therein in pursuance of Article 23 or Article 24(3) as the case may be; and

(b) the period so specified may be extended or further extended by an inspector at any time when an appeal against the notice is not pending.

F80 mod. by SR 2000/87; 2000/120

F81 mod. by 2002 c. 8 (NI)

F82 Words in art. 25(5) substituted (1.7.2006) by Fire and Rescue Services (Northern Ireland) Order 2006 (S.I. 2006/1254 (N.I. 9)), arts. 1(3), 63(1), **Sch. 3 para. 11** (with arts. 49, 62); S.R. 2006/257, **art. 2(b)(d)**

Modifications etc. (not altering text)

C14 Arts. 20-28 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(a)** (with regs. 3, 8-15, 19)

C35 Art. 25 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C36 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**

C37 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

C38 Art. 25 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(c)**

C39 Art. 25 excluding art. 25(3) applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(c)** (with reg. 3)

Appeal against improvement or prohibition notice

[F83][F84]**26.**—(1) A person on whom a notice is served may within such period from the date of its service as may be prescribed appeal to an industrial tribunal; and on such an appeal the tribunal may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the tribunal may in the circumstances think fit.

(2) Where an appeal under this Article is brought against a notice within the period allowed under paragraph (1) then—

(a) in the case of an improvement notice, the bringing of the appeal shall have the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal;

(b) in the case of a prohibition notice, the bringing of the appeal shall have the like effect if, but only if, on the application of the appellant the tribunal so directs (and then only from the giving of the direction).

(3) One or more assessors may be appointed for the purposes of any proceedings brought before an industrial tribunal under this Article.
Para.(4) rep. by 1984 NI 9

F83 mod. by SR 2000/87; 2000/120
F84 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)
C14 Arts. 20-28 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(a)** (with regs. 3, 8-15, 19)
C40 Art. 26 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**
C41 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**
C42 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**
C43 Art. 26 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(d)**
C44 Art. 26 applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(d)** (with reg. 3)

Power to deal with cause of imminent danger

[F85][F86]**27.**—(1) Where, in the case of any article or substance found by him in any premises which he has power to enter, an inspector has reasonable cause to believe that, in the circumstances in which he finds it, the article or substance is a cause of imminent danger of serious personal injury, he may seize it and cause it to be rendered harmless (whether by destruction or otherwise).

(2) Before there is rendered harmless under this Article—

(a) any article that forms part of a batch of similar articles; or

(b) any substance,

the inspector shall, if it is practicable for him to do so, take a sample thereof and give to a responsible person at the premises where the article or substance was found by him a portion of the sample marked in a manner sufficient to identify it.

(3) As soon as may be after any article or substance has been seized and rendered harmless under this Article, the inspector shall prepare and sign a written report giving particulars of the circumstances in which the article or substance was seized and so dealt with by him, and shall—

(a) give a signed copy of the report to a responsible person at the premises where the article or substance was found by him; and

(b) unless that person is the owner of the article or substance, also serve a signed copy of the report on the owner;

and if, where sub-paragraph (*b*) applies, the inspector cannot after reasonable enquiry ascertain the name or address of the owner, the copy may be served on him by giving it to the person to whom a copy was given under sub-paragraph (*a*).

F85 mod. by SR 2000/87; 2000/120
F86 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)
C14 Arts. 20-28 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(a)** (with regs. 3, 8-15, 19)
C45 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**
C46 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

[[F87]Power of customs officer to detain articles and substances

[F88][F89]**27A.**—(1) A customs officer may, for the purpose of facilitating the exercise or performance by any enforcing authority or inspector of any of the powers or duties of the authority or inspector under any of the relevant statutory provisions, seize any imported article or imported substance and detain it for not more than two working days.

(2) Anything seized and detained under this Article shall be dealt with during the period of its detention in such manner as the Commissioners of Customs and Excise may direct.

(3) In paragraph (1) the reference to two working days is a reference to a period of forty#eight hours calculated from the time when the goods in question are seized but disregarding so much of any period as falls on a Saturday or Sunday or on Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Northern Ireland.**]**

F87 1987 NI 20
F88 mod. by SR 2000/87; 2000/120
F89 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)
C14 Arts. 20-28 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(a)** (with regs. 3, 8-15, 19)
C47 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**

C48 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

Power of enforcing authorities to indemnify their inspectors

[F90][F91]**28.** Where—

(a) an action has been brought against an inspector in respect of an act done in the execution or purported execution of any of the relevant statutory provisions; and

(b) the circumstances are such that he is not legally entitled to require the enforcing authority which appointed him to indemnify him,

that authority may, nevertheless, indemnify him against the whole or part of any damages and costs which he may have been ordered to pay or may have incurred, if the authority is satisfied that he honestly believed that the act complained of was within his powers and that his duty as an inspector required or entitled him to do it.

F90 mod. by SR 2000/87; 2000/120
F91 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)

C14 Arts. 20-28 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(a)** (with regs. 3, 8-15, 19)

C49 Art. 28 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C50 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**

C51 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

C52 Art. 28 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(e)**

C53 Art. 28 applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(e)** (with reg. 3)

Obtaining and disclosure of information

Obtaining of information

[F92][F93]**29.**—(1) For the purpose of obtaining—
Sub#para.(a) rep. by 1998 NI 18

(b) any information which an enforcing authority needs for the discharge of the authority's functions,

the Department concerned, or the**[**[F94] Executive**]**[F94]. . . , may serve on any person a notice requiring that person to furnish to the**[**[F94] Executive**]** or, as the case may be, to the enforcing authority in question such information about such matters as may be specified in the notice, and to do so in such form and manner and within such time as may be so specified.
Paras.(2)#(4) rep. by 1988 NI 3

F92 mod. by SR 2000/87; 2000/120

F93 mod. by 2002 c. 8 (NI)
F94 1998 NI 18

Modifications etc. (not altering text)
C54 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**
C55 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

[F95[F96Information communicated by Commissioners for Revenue and Customs]

F97F98**29A.**—(1) If they think it appropriate to do so for the purpose of facilitating the exercise or performance by any person to whom paragraph (2) applies of any of that person's powers or duties under any of the relevant statutory provisions,**[**F96 the Commissioners for Her Majesty's Revenue and Customs**]** and Excise may authorise the disclosure to that person of any information obtained**[**F96 or held**]** for the purposes of the exercise**[**F96 by Her Majesty's Revenue and Customs**]** of their functions in relation to imports.

(2) This paragraph applies to an enforcing authority and to an inspector.

(3) A disclosure of information made to any person under paragraph (1) shall be made in such manner as may be directed by**[**F96 the Commissioners for Her Magesty's Revenue and Customs**]** and may be made through such persons acting on behalf of that person as may be so directed.

(4) Information may be disclosed to a person under paragraph (1) whether or not the disclosure of the information has been requested by or on behalf of that person.**]**

F95 1987 NI 20
F96 2005 c. 11
F97 mod. by SR 2000/87; 2000/120
F98 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)
C56 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**
C57 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**

Restrictions on disclosure of information

F99F100**30.**—(1) In this Article—

(a) "relevant information" means information obtained by a person under Article 29(1) or furnished to any person**[**F101 under Article 29A or**]** in pursuance of a requirement imposed by any of the relevant statutory provisions; and

(b) "the recipient", in relation to any relevant information, means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.

(2) Subject to paragraph (3), no relevant information shall be disclosed without the consent of the person by whom it was furnished.

(3) Paragraph (2) shall not apply to—

(a) disclosure of information to the[F102 Executive], a government department or any enforcing authority;

(b) without prejudice to sub-paragraph (*a*), disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions;

(c) without prejudice to sub-paragraph (*a*), disclosure by the recipient of information to—

(i) an officer of a district council who is authorised by that council to receive it,

(ii) a constable authorised by the Chief Constable to receive it;

[F103(iii) an officer of a water undertaker or sewerage undertaker who is authorised by that undertaker to receive it;]

(d) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case;

(e) disclosure of information for the purposes of any legal proceedings or any investigation or inquiry held by virtue of Article 16(2).

(4) In paragraph (3) any reference to the[F102 Executive], a government department or an enforcing authority includes respectively a reference to an officer of that body or authority (including, in the case of an enforcing authority, any inspector appointed by it), and also, in the case of a reference to the[F102 Executive], includes a reference to—

(a) a person performing any functions of the[F102 Executive] on its behalf by virtue of Article 15(1)(*a*);

(b) an officer of a body which is so performing any such functions; and

(c) an adviser appointed in pursuance of Article 15(1)(*c*).

(5) A person to whom information is disclosed in pursuance of paragraph (3) shall not use the information for a purpose other than—

(a) in a case falling within sub-paragraph (*a*) of that paragraph, a purpose of the[F102 Executive] or of the government department in question, or the purposes of the enforcing authority in question in connection with the relevant statutory provisions, as the case may be;

(b) in the case of information given to an officer of a district council, the purposes of the council in connection with the relevant statutory provisions or any statutory provision relating to public health or public safety;

(c) in the case of information given to a constable, the purposes of the police in connection with the relevant statutory provisions or any statutory provision relating to public health, public safety or the safety of the State.

[F104(d) in the case of information given to an officer of a water undertaker or sewerage undertaker, the purposes of the undertaker in connection with the relevant statutory provisions or any statutory provision relating to public health, public safety or the protection of the environment.]

(6) A person shall not disclose any information obtained by him as a result of the exercise of any power conferred by Article 16(4)(*a*) or 22 (including, in particular, any information with respect to any trade secret obtained by him in any premises entered by him by virtue of any such power) except—

(a) for the purposes of his functions; or

(b) for the purposes of any legal proceedings or any investigation or inquiry held by virtue of Article 16(2) or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of Article 16(2); or

(c) with the relevant consent.

(7) In paragraph (6) "the relevant consent" means, in the case of information furnished in pursuance of a requirement imposed under Article 22, the consent of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.

(8) Notwithstanding anything in paragraph (6) an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons (or the representatives of persons) employed at any premises adequately informed about matters affecting their health, safety and welfare, give to such persons or their representatives the following descriptions of information, that is to say—

(a) factual information obtained by him as mentioned in that paragraph which relates to those premises or anything which was or is therein or was or is being done therein; and

(b) information with respect to any action which he has taken or proposes to take in or in connection with those premises in the performance of his functions;

and, where an inspector does as aforesaid, he shall give the like information to the employer of the first-mentioned persons.

(9) Notwithstanding anything in paragraph (6), a person who has obtained such information as is referred to in that paragraph may furnish to a person who appears to him to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by him in the course of exercising any of the powers referred to in that paragraph.

F99 mod. by SR 2000/87; 2000/120
F100 mod. by 2002 c. 8 (NI)
F101 1987 NI 20
F102 1998 NI 18
F103 Art. 30(3)(c)(iii) added (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(1), **Sch. 12 para. 13(1)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2)
F104 Art. 30(5)(d) added (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(1), **Sch. 12 para. 13(2)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2)

Modifications etc. (not altering text)
C58 Arts. 18-30 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(a)**
C59 Arts. 18-30 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(a)**
C60 Art. 30 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(f)**
C61 Art. 30 applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(f)** (with reg. 3)

Provisions as to offences

Offences

[F105][F106]**31.**—(1) Any person who—

(a) fails to discharge a duty to which he is subject by virtue of Articles 4 to 8;

(b) contravenes Article 9 or 10;

(c) contravenes any health and safety regulations or any requirement or prohibition imposed under any such regulations (including any requirement or prohibition to which he is subject by virtue of the terms of or any condition or restriction attached to any licence, approval, exemption or other authority issued, given or granted under the regulations);

(d) contravenes any requirement imposed by or under regulations under Article 16 or intentionally obstructs any person in the exercise of his powers under that Article;

(e) contravenes any requirement imposed by an inspector under Article 22 or 27;

(f) prevents or attempts to prevent any other person from appearing before an inspector or from answering any question to which an inspector may by virtue of Article 22(2) require an answer;

(g) contravenes any requirement or prohibition imposed by an improvement notice or a prohibition notice (including any such notice as modified on appeal);

(h) intentionally obstructs an inspector in the exercise or performance of his powers or duties**[**[F107] or obstructs a customs officer in the exercise of his powers under Article 27A**]**;

(i) contravenes any requirement imposed by a notice under Article 29(1);

(j) uses or discloses any information in contravention of Article[F108]. . . 30;

(k) makes a statement which he knows to be false or recklessly makes a statement which is false where the statement is made—

(i) in purported compliance with a requirement to furnish any information imposed by or under any of the relevant statutory provisions; or

(ii) for the purpose of obtaining the issue of a document under any of the relevant statutory provisions to himself or another person;

(l) intentionally makes a false entry in any register, book, notice or other document required by or under any of the relevant statutory provisions to be kept, served or given or, with intent to deceive, makes use of any such entry which he knows to be false;

(m) with intent to deceive,[F109]. . . uses a document issued or authorised to be issued under any of the relevant statutory provisions or required for any purpose thereunder or makes or has in his possession a document so closely resembling any such document as to be calculated to deceive;

(n) falsely pretends to be an inspector;

(o) fails to comply with an order made by a court under Article 39;

shall be guilty of an offence.

[[F110](2) Schedule 3A (which specifies the mode of trial and maximum penalty applicable to offences under this Article and the existing statutory provisions) has effect.

(3) Schedule 3A is subject to any provision made by virtue of Article 17(6)(c) or (d).**]**

Para.(6) rep. by 1992 NI 17

Para.(7) rep. by 1981 c. 45

F105 mod. by SR 2000/87; 2000/120
F106 mod. by 2002 c. 8 (NI)
F107 1987 NI 20
F108 1988 NI 3
F109 1986 NI 15

F110 Art. 31(2)(3) substituted (16.1.2009) for art. 31(1A)-(5) by Health and Safety (Offences) Act 2008 (c. 20), **ss. 1(3)**, 3(2) (with s. 3(3))

Modifications etc. (not altering text)

C62 Art. 31 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C63 Arts. 31-39 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(b)**

C64 Arts. 31-39 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(b)**

C65 Arts. 31-39 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(b)** (with regs. 3, 8-15, 19, 20, 21)

C66 Art. 31(1)(c) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

C67 Art. 31(1)(c)(e)-(h)(j)-(o) applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(g)** (with reg. 3)

C68 Art. 31(1)(e)-(h) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

C69 Art. 31(1)(j)-(o) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

C70 Art. 31(2) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

Extension of time for bringing summary proceedings

[F111][F112]**32.**—(1) Where—

(a) a special report on any matter to which Article 16 applies is made under paragraph (2)(*a*) of that Article; or

(b) a report is made by the person holding an inquiry into any such matter under paragraph (2) (*b*) of that Article; or

(c) a coroner's inquest is held touching the death of any person whose death may have been caused by an accident which happened while he was at work or by a disease which he contracted or probably contracted at work or by any accident, act or omission which occurred in connection with the work of any person whatsoever;

and it appears from the report or, in a case falling within sub-paragraph (*c*), from the proceedings at the inquest, that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the report or inquest, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the making of the report or, in a case falling within sub-paragraph (*c*), within three months of the conclusion of the inquest.

(2) Where an offence under any of the relevant statutory provisions is committed by reason of a failure to do something at or within a time fixed by or under any of those provisions, the offence shall be deemed to continue until that thing is done.

(3) Summary proceedings for an offence to which this paragraph applies may be commenced at any time within[F113] six months from the date on which there comes to the knowledge of a responsible

enforcing authority evidence sufficient in the opinion of that authority to justify a prosecution for that offence; and for the purposes of this paragraph—

(a) a certificate of an enforcing authority stating that such evidence came to its knowledge on a specified date shall be conclusive evidence of that fact; and

(b) a document purporting to be such a certificate and to be signed by or on behalf of the enforcing authority in question shall be presumed to be such a certificate unless the contrary is proved.

(4) Paragraph (3) applies to any offence under any of the relevant statutory provisions which a person commits under any provision or requirement to which he is subject as the designer, manufacturer, importer or supplier of any thing; and in that paragraph "responsible enforcing authority" means an enforcing authority within whose field of responsibility the offence in question lies, whether under Article 33 or otherwise.

F111 mod. by SR 2000/87; 2000/120
F112 mod. by 2002 c. 8 (NI)
F113 mod. by SI 1992/711

Modifications etc. (not altering text)

C65 Arts. 31-39 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(b)** (with regs. 3, 8-15, 19, 20, 21)

C71 Arts. 32 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C72 Arts. 31-39 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(b)**

C73 Arts. 31-39 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(b)**

C74 Art. 32(1)(c)(d) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by virtue of Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

C75 Art. 32(2) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

C76 Art. 32(2)-(4) applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(g)** (with reg. 3)

Venue

F114F115**33.** An offence under any of the relevant statutory provisions committed in connection with any plant or substance may, if necessary for the purpose of bringing the offence within the field of responsibility of any enforcing authority or conferring jurisdiction on any court to entertain proceedings for the offence, be treated as having been committed at the place where that plant or substance is for the time being.

F114 mod. by SR 2000/87; 2000/120
F115 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)

C65 Arts. 31-39 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(b)** (with regs. 3, 8-15, 19, 20, 21)

C77 Art. 33 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C78 Arts. 31-39 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(b)**

C79 Arts. 31-39 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(b)**

C80 Art. 33 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

Offences due to fault of other person

[F116][F117]**34.**—(1) Where the commission by any person of an offence under any of the relevant statutory provisions is due to the act or default of some other person, that other person shall be guilty of an offence, and a person may be charged with and convicted of the offence under this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where there would be or have been the commission of an offence under Article 31 by the Crown but for the circumstance that that Article does not bind the Crown, and that fact is due to the act or default of a person other than the Crown, that person shall be guilty of the offence which, but for that circumstance, the Crown would be committing or would have committed, and may be charged with and convicted of that offence accordingly.

(3) The provisions of this Article are subject to any provision made under Article 17(6).

F116 mod. by SR 2000/87; 2000/120

F117 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)

C65 Arts. 31-39 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(b)** (with regs. 3, 8-15, 19, 20, 21)

C81 Art. 34 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C82 Arts. 31-39 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(b)**

C83 Arts. 31-39 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(b)**

C84 Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

C85 Art. 34(1) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

C86 Art. 34(1)(2) applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(g)** (with reg. 3)

C87 Art. 34(2) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

[[F118]Offences by bodies corporate

[F119][F120]**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.**]**

F118 1998 NI 18
F119 mod. by SR 2000/87; 2000/120
F120 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)

C65 Arts. 31-39 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(b)** (with regs. 3, 8-15, 19, 20, 21)
C88 Art. 34A applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**
C89 Arts. 31-39 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(b)**
C90 Arts. 31-39 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(b)**
C91 Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**
C92 Art. 34A applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(g)** (with reg. 3)

Restriction on institution of proceedings

[F121][F122]**35.** Proceedings for an offence under any of the relevant statutory provisions shall not be instituted except by an inspector or by or with the consent of the Director of Public Prosecutions for Northern Ireland.

F121 mod. by SR 2000/87; 2000/120
F122 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)

C65 Arts. 31-39 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(b)** (with regs. 3, 8-15, 19, 20, 21)
C93 Art. 35 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**
C94 Arts. 31-39 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(b)**
C95 Arts. 31-39 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(b)**
C96 Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

C97 Art. 35 applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(g)** (with reg. 3)

Prosecutions by inspectors

[F123][F124]**36.** An inspector, if authorised in that behalf by the enforcing authority which appointed him, may, although not of counsel or a solicitor, prosecute before a court of summary jurisdiction proceedings for an offence under any of the relevant statutory provisions.

F123 mod. by SR 2000/87; 2000/120
F124 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)

C65 Arts. 31-39 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(b)** (with regs. 3, 8-15, 19, 20, 21)
C98 Art. 36 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**
C99 Arts. 31-39 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(b)**
C100 Arts. 31-39 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(b)**
C101 Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**
C102 Art. 36 applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(g)** (with reg. 3)

Onus of proving limits of what is practicable etc.

[F125][F126]**37.** In any proceedings for an offence under any of the relevant statutory provisions consisting of a failure to comply with a duty or requirement to do something so far as is practicable or so far as is reasonably practicable, it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

F125 mod. by SR 2000/87; 2000/120
F126 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)

C65 Arts. 31-39 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(b)** (with regs. 3, 8-15, 19, 20, 21)
C103 Arts. 37 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**
C104 Arts. 31-39 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(b)**
C105 Arts. 31-39 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(b)**

C106 Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

C107 Art. 37 applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(g)** (with reg. 3)

Evidence

[F127][F128]**38.**—(1) Where an entry is required by any of the relevant statutory provisions to be made in any register or other record, the entry, if made, shall, as against the person by or on whose behalf it was made, be admissible as evidence.

(2) Where an entry which is so required to be so made with respect to the observance of any of the relevant statutory provisions has not been made, that fact shall be admissible as evidence.

F127 mod. by SR 2000/87; 2000/120

F128 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)

C65 Arts. 31-39 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(b)** (with regs. 3, 8-15, 19, 20, 21)

C108 Art. 38 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C109 Arts. 31-39 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(b)**

C110 Arts. 31-39 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(b)**

C111 Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**

C112 Art. 38 applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(g)** (with reg. 3)

Power of court to order cause of offence to be remedied and, in certain cases, forfeiture

[F129][F130]**39.**—(1) Where a person is convicted of an offence under any of the relevant statutory provisions in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying the said matters.

(2) The time fixed by an order under paragraph (1) may be extended or further extended by order of the court on an application made before the end of that time as originally fixed or as extended under this paragraph, as the case may be.

(3) Where a person is ordered under paragraph (1) to remedy any matters, that person shall not be liable under any of the relevant statutory provisions in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under paragraph (2).

[[F131](3A) Paragraph (4) applies where a person is convicted of an offence consisting of acquiring or attempting to acquire, possessing or using an explosive article or substance (within the meaning of any of the relevant statutory provisions) in contravention of any of the relevant statutory provisions.**]**

(4) Subject to paragraph (5), the court by or before which**[**[F132] the person is convicted of the offence**]** may order the article or substance in question to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(5) The court shall not order anything to be forfeited under paragraph (4) where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

F129 mod. by SR 2000/87; 2000/120
F130 mod. by 2002 c. 8 (NI)
F131 Art. 39(3A) inserted (16.1.2009) by Health and Safety (Offences) Act 2008 (c. 20), ss. 2, 3(2), **Sch. 3 para. 3(2)** (with s. 3(3))
F132 Words in art. 39(4) substituted (16.1.2009) by Health and Safety (Offences) Act 2008 (c. 20), ss. 2, 3(2), **Sch. 3 para. 3(3)** (with s. 3(3))

Modifications etc. (not altering text)
C65 Arts. 31-39 applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(b)** (with regs. 3, 8-15, 19, 20, 21)
C113 Art. 39 applied (2.4.2006) byThe Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**
C114 Arts. 31-39 applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(b)**
C115 Arts. 31-39 applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(b)**
C116 Art. 39(1)-(3) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (S.R. 2010/132), regs. 1(2), **40(2)(3)(g)**
C117 Art. 39(1)-(3) applied (with modifications) (16.1.2012) by Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 40(2)(3)(g)** (with reg. 3)

Financial provisions

Financial provisions

40 [F133]**.—**[F134](1) The Department shall pay to the**[**[F135] Executive**]** such sums as the Department, with the approval of the Department of Finance may determine are appropriate for the purpose of enabling the**[**[F135] Executive**]** to perform its functions.

(2) Regulations may provide for such fees as may be fixed by or determined under the regulations to be payable for or in connection with the performance by or on behalf of any authority to which this paragraph applies of any function conferred on that authority by or under any of the relevant statutory provisions.

(3) Paragraph (2) applies to the following authorities, namely the**[**[F135] Executive**]**, the Department concerned, every enforcing authority, and any other person on whom any function is conferred by or under any of the relevant statutory provisions.

(4) Regulations under this Article may specify the person by whom any fee payable under the regulations is to be paid; but no such fee shall be made payable by a person in any of the following capacities, namely an employee, a person seeking employment, a person training for employment, and a person seeking training for employment.

(5) In paragraph (4) the references to a person training for employment and a person seeking training for employment shall include respectively a person attending an industrial rehabilitation course provided under the Disabled Persons (Employment) Act (Northern Ireland) 1945 and a person seeking to attend such a course.

(6) For the purposes of this Article the performance by an inspector of his functions shall be treated as the performance by the enforcing authority which appointed him of functions conferred on that authority by or under any of the relevant statutory provisions.

F133 mod. by SR 2000/87; 2000/120
F134 mod. by 2002 c. 8 (NI)
F135 1998 NI 18

Miscellaneous and supplementary

Representations in connection with licensing provisions in the relevant statutory provisions

41 [F136]**.**—[F137](1) Any person who is aggrieved by a decision of an authority having power to issue licences (other than nuclear site licences) under any of the relevant statutory provisions—

(a) refusing to issue him a licence, to renew a licence held by him, or to transfer to him a licence held by another;

(b) issuing him a licence on or subject to any term, condition or restriction whereby he is aggrieved;

(c) varying or refusing to vary any term, condition or restriction on or subject to which a licence is held by him; or

(d) revoking a licence held by him,

may make representations to the Department concerned in accordance with the provisions**[**[F138] prescribed by order under Article 10 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (model provisions with respect to appeals)**]**.

(2) In this Article—

"licence" means a licence under any of the relevant statutory provisions other than a nuclear site licence;

"nuclear site licence" means a licence to use a site for the purposes of installing or operating a nuclear installation within the meaning of paragraph (3).

(3) For the purposes of paragraph (2) "nuclear installation" means—

(a) a nuclear reactor (other than such a reactor comprised in a means of transport, whether by land, water or air); or

(b) any other installation of such class or description as may be prescribed for the purposes of this sub-paragraph or section 1(1)(*b*) of the Nuclear Installations Act 1965 , being an installation designed or adapted for—

(i) the production or use of atomic energy; or

(ii) the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiations; or

(iii) the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter, being matter which has been produced or irradiated in the course of the production or use of nuclear fuel;

and in this paragraph—

"atomic energy" has the meaning assigned by the Atomic Energy Act 1946 ;

"nuclear reactor" means any plant (including any machinery, equipment or appliance, whether affixed to land or not) designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons.

F136 mod. by SR 2000/87; 2000/120
F137 mod. by 2002 c. 8 (NI)
F138 1998 NI 18

Default powers

42 [F139]**.**—[F140](1) The Department concerned may cause such local or other inquiries to be held as that Department thinks expedient in connection with any matter relating to the enforcement functions of an enforcing authority under this Order.

(2) If the Department concerned is satisfied, after having caused a local inquiry to be held into the matter, that an enforcing authority has failed to perform any of its enforcement functions, that Department may by order empower an officer of that Department to exercise, or procure the exercise of, that function.

(3) Where any expenses are incurred by the Department concerned or by an officer of the Department concerned under any order under paragraph (2)—

(a) the amount of those expenses as certified by that Department shall, on demand, be paid to that Department by the enforcing authority concerned;

(b) any sum demanded under sub-paragraph (*a*)—

(i) shall be recoverable by that Department from that authority as a civil debt due to the Crown; or

(ii) may be deducted from any sums payable by a Northern Ireland Department to the enforcing authority concerned.

F139 mod. by SR 2000/87; 2000/120
F140 mod. by 2002 c. 8 (NI)

Civil liability

[F141]**43 .**—[F142](1) Nothing in this Part shall be construed—

(a) as conferring a right of action in any civil proceedings in respect of any failure to comply with any duty imposed by Articles 4 to 8 or any contravention of Article 9; or

(b) as affecting the extent (if any) to which breach of a duty imposed by any of the existing statutory provisions is actionable; or

(c) as affecting the operation of section 12 of the Nuclear Installations Act 1965 (right to compensation by virtue of certain provisions of that Act).

(2) Breach of a duty imposed by health and safety regulations shall, so far as it causes damage, be actionable except in so far as the regulations provide otherwise.

(3) No provision made under Article 17(6)(*b*) shall afford a defence in any civil proceedings, whether brought under paragraph (2) or not; but as regards any duty imposed as mentioned in

paragraph (2) health and safety regulations may provide for any defence specified in the regulations to be available in any action for breach of that duty.

(4) Paragraphs (1)(*a*) and (2) are without prejudice to any right of action which exists apart from the provisions of this Order, and paragraph (3) is without prejudice to any defence which may be available apart from the provisions of the regulations there mentioned.

(5) Any term of an agreement which purports to exclude or restrict the operation of paragraph (2), or any liability arising by virtue of that paragraph shall be void, except in so far as health and safety regulations provide otherwise.

(6) In this Article "damage" includes the death of, or injury to, any person (including any disease and any impairment of a person's physical or mental condition).

F141 mod. by SR 2000/87; 2000/120
F142 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)
C118 Art. 43(2) applied (with modifications) (27.7.2009) by Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/238), **reg. 14(1)(c)**
C119 Art. 43(2) applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(c)**
C120 Art. 43(2) applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(c)** (with regs. 3, 8-15, 19, 20, 21)

Application to Crown

44 [F143]**.—**[F144](1) Subject to the provisions of this Article, the provisions of this Part, except Articles 23 to 27 and 31 to 39, and of regulations made under this Part shall bind the Crown.

(2) Although they do not bind the Crown, Articles 31 to 39 shall apply to persons in the public service of the Crown as they apply to other persons.

(3) For the purposes of this Part and regulations made thereunder persons in the service of the Crown shall be treated as employees of the Crown whether or not they would be so treated apart from this paragraph.

(4) Without prejudice to Article 17(5), the Secretary of State may, to the extent that it appears to him requisite or expedient to do so in the interests of the safety of the State or the safe custody of persons lawfully detained, by order exempt the Crown either generally or in particular respects from all or any of the provisions of this Part which would, by virtue of paragraph (1), bind the Crown.

(5) An order under paragraph (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

F143 mod. by SR 2000/87; 2000/120
F144 mod. by 2002 c. 8 (NI)

Modifications etc. (not altering text)
C121 Art. 44(1) applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**
C122 Art. 44(2) applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

C123 Art. 44(3) applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**

Adaptation of enactments to metric units or appropriate metric units

45 [F145]**.**—[F146](1) Regulations may amend—

(a) any of the relevant statutory provisions; or

(b) any provision of a statutory provision which relates to any matter relevant to any of the general purposes of this Part but is not among the relevant statutory provisions;

by substituting an amount or quantity expressed in metric units for an amount or quantity not so expressed or by substituting an amount or quantity expressed in metric units of a description specified in the regulations for an amount or quantity expressed in metric units of a different description.

(2) The amendments shall be such as to preserve the effect of the provisions mentioned except to such extent as in the opinion of the Department concerned is necessary to obtain amounts expressed in convenient and suitable terms.

(3) Regulations may, in the case of a provision which falls within paragraph (1) and contains words which refer to units other than metric units, repeal those words if the Department concerned is of the opinion that those words could be omitted without altering the effect of that provision.

F145 mod. by SR 2000/87; 2000/120
F146 mod. by 2002 c. 8 (NI)

Regulations under the relevant statutory provisions

46 [F147]**.**—[F148](1) Where any power to make regulations under any of the relevant statutory provisions is exercisable by the Department concerned that power may be exercised either so as to give effect (with or without modifications) to**[**[F149] proposals**]** submitted by the**[**[F149] Executive**]** under Article 13**[**[F149] (1A)(*c*)**]** or independently of any such**[**[F149] proposals**]**; but the Department concerned shall not exercise that power independently of such**[**[F149] proposals**]** unless that Department has consulted the**[**[F149] Executive**]** and such other bodies as appear to that Department to be appropriate.

(2) Where the Department concerned proposes to exercise any such power as is mentioned in paragraph (1) so as to give effect to any such**[**[F149] proposals**]** as are there mentioned with modifications, that Department shall, before making the regulations, consult the**[**[F149] Executive**]**.

(3) Where the**[**[F149] Executive**]** proposes to submit under Article 13**[**[F149] (1A)(*c*)**]** any such**[**[F149] proposals**]** as are mentioned in paragraph (1) except**[**[F149] proposals**]** for the making of regulations under Article 40(2), it shall, before so submitting them, consult—

(a) any government department or other body that appears to the**[**[F149] Executive**]** to be appropriate (and, in particular, in the case of proposals for the making of regulations under Article 20(2), any body representing district councils that so appears, and, in the case of proposals for the making of regulations relating to electro-magnetic radiations, the Department of Health and Social Services [F150]...);

(b) such government departments and other bodies, if any, as, in relation to any matter dealt with in the proposals, the**[**[F149] Executive**]** is required to consult, under this paragraph by virtue of directions given to it by the Department.

F147 mod. by SR 2000/87; 2000/120
F148 mod. by 2002 c. 8 (NI)

F149 1998 NI 18
F150 Words in art. 46(3)(a) omitted (1.4.2013) by virtue of The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 7(3)**

Exclusion of application to domestic employment

47 [F151]**.** [F152]Nothing in this Part shall apply in relation to a person by reason only that he employs another, or is himself employed, as a domestic servant in a private household.

F151 mod. by SR 2000/87; 2000/120
F152 mod. by 2002 c. 8 (NI)

Application of Part to police

47A [F153]**.—**[F154](1) For the purposes of this Part, a person who, otherwise than under a contract of employment, holds the office of constable shall be treated as an employee of the relevant officer.

(2) In this Article "the relevant officer"

[[F155](a) in relation to a police officer, means the Chief Constable;**]**

(b) [F156]. . . . . .

(c) in relation to any other person holding the office of constable, means the person who has the direction and control of the body of constables in question.

[[F157](2A) For the purposes of this Part, the relevant officer, as defined by paragraph (2)(a) or (c), shall be treated as a corporation sole.

(2B) Where, in a case in which the relevant officer, as so defined, is guilty of an offence by virtue of this Article, it is proved—

(a) that the officer-holder personally consented to the commission of the offence,

(b) that he personally connived in its commission, or

(c) that the commission of the offence was attributable to personal neglect on his part,

the office-holder (as well as the corporation sole) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2C) In paragraph (2B) "the office-holder", in relation to the relevant officer, means an individual who, at the time of the consent, connivance or neglect—

(a) held the office or other position mentioned in paragraph (2) as the office or position of that officer; or

(b) was for the time being responsible for exercising and performing the powers and duties of that office or position.

(2D) The provisions mentioned in paragraph (2E) (which impose the same liability for unlawful conduct of constables on persons having their direction or control as would arise if the constables were employees of those persons) do not apply to any liability by virtue of this Part.

(2E) Those provisions are—

(a) paragraph 7(1) of Schedule 8 to the Police Act 1997;

(b) section 27(8) of the Police (Northern Ireland) Act 1998;

(c) section 29(1) of that Act;

(d) section 28 of the Serious Organised Crime and Police Act 2005.**]**

(3) For the purposes of regulations under Article 4(4) the Police Association for Northern Ireland shall be treated as a recognised trade union recognised by the Chief Constable[F158]. . . .

(4) Regulations under Article 4(4) may provide, in relation to persons falling within paragraph (2)(b) or (c), that a body specified in the regulations is to be treated as a recognised trade union recognised by such person as may be specified.

F153 mod. by SR 2000/87; 2000/120
F154 mod. by 2002 c. 8 (NI)
F155 2000 c. 32
F156 Art. 47A(2)(b) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 174(2), 178(8), Sch. 4 para. 39, Sch. 17 Pt. 2; S.I. 2006/378, **art. 4(1)**, Sch. paras. 10, 12, 13(o) (subject to art. 4(1)-(7))
F157 Art. 47A(2A)-(2E) inserted (25.7.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), **ss. 27(1)**, 31(1)(f) (with s. 27(4)-(6))
F158 2000 c. 32

PART III

THE EMPLOYMENT MEDICAL ADVISORY SERVICE

The employment medical advisory service

48.—(1) There shall be established within the**[**[F159] Executive**]** an employment medical advisory service, which shall have the functions of—

(a) securing that[F159]. . . , government departments and others concerned with the health of employed persons or of persons seeking or training for employment can be kept informed of, and adequately advised on, matters of which they ought respectively to take cognisance concerning the safeguarding and improvement of the health of those persons;

(b) giving to employed persons and persons seeking or training for employment information and advice on health in relation to employment and training for employment;

(c) advising the Department concerned on matters relating to health and safety at work.

(2) In paragraph (1)—

(a) the reference to persons training for employment shall include persons attending industrial rehabilitation courses provided by virtue of the Disabled Persons (Employment) Act (Northern Ireland) 1945 ; and

(b) the reference to persons (other than[F159]. . . the government departments mentioned therein) concerned with the health of employed persons or of persons seeking or training for employment shall be taken to include organisations representing employers, employees and occupational health practitioners respectively.

(3) The**[**[F159] Executive with the consent of the**]** Department shall appoint persons to be employment medical advisers,[F159]. . .

(4) A person shall not be qualified to be appointed, or to be, an employment medical adviser unless he is a fully registered medical practitioner **[**[F160]who holds a licence to practise.**]**

(5) The**[**[F159] Executive with the consent of the Department**]** may determine the cases and circumstances in which employment medical advisers are to perform the duties or exercise the powers conferred on employment medical advisers by or under this Order or otherwise.

(6) The**[**[F159] Executive**]** may pay—

(a) to employment medical advisers such salaries or such fees and travelling or other allowances; and

(b) to other persons called upon to give advice in connection with the functions of the employment medical advisory service such travelling or other allowances or compensation for loss of remunerative time; and

(c) to persons attending for medical examinations conducted by, or in accordance with arrangements made by, employment medical advisers (including pathological, physiological and radiological tests and similar investigations so conducted) such travelling or subsistence allowances or such compensation for loss of earnings;

as the**[**[F159] Executive**]**, with the approval of the Department**[**[F159] and the Department**]** of the Civil Service, may determine.

(7) The**[**[F159] Executive with the consent of the Department**]** may for the purposes mentioned in paragraph (1), and for the purpose of assisting employment medical advisers in the performance of their functions, investigate or assist in, arrange for or make payments in respect of the investigation of problems arising in connection with any such matters as are so mentioned or otherwise in connection with the functions of employment medical advisers, and for the purpose of investigation or assisting in the investigation of such problems may provide and maintain such laboratories and other services as appear to the**[**[F159] Executive with the consent of the Department**]** to be requisite.

F159 1998 NI 18

F160 Words in art. 48(4) added (16.11.2009) in accordance with art. art. 1(3) by The Medical Act 1983 (Amendment) Order 2002 (S.I. 2002/3135), art. 1(2)(3), **Sch. 1 para. 19(1)** (with Sch. 2)

Fees

49.—(1) The Department may by regulations provide for such fees as may be fixed by or determined under the regulations to be payable for or in connection with the performance by the employment medical advisory service of any function conferred under this Part or otherwise.

(2) The provisions of paragraphs (4) and (5) of Article 40 shall apply in relation to regulations under this Article with the modification that references to that Article shall be construed as references to this Article.

Supplementary

50. The Department of Health and Social Services shall arrange with each Health and Social Services Board for one of its officers who is a fully registered medical practitioner **[**[F161]who holds a licence to practise**]** to furnish, on the application of an employment medical adviser, such particulars of the school medical record of a person who has not attained the age of eighteen and such other information relating to his medical history in the possession of that Board as the adviser may reasonably require for the efficient performance of his functions; so, however, that no particulars or information about any person which may be furnished to an adviser under this Article shall (without the consent of that person) be disclosed by the adviser otherwise than for the efficient performance of his functions.

F161 Words inserted in art. 50 (16.11.2009) by The Medical Act 1983 (Amendment) Order 2002 (S.I. 2002/3135), art. 1(2)(3), **Sch. 1 para. 19(2)** (with Sch. 2)

Amendment of the Factories Act (Northern Ireland) 1965

51.—(1) The position and functions of appointed factory doctors are hereby abolished; and accordingly. … *residue, with Schedule 5 Pt.I, amends 1965 c.20 (NI)*
Para.(2), with Schedule 5 Pt.II, effects amendments

(3) The transitional provision specified in Part III of Schedule 5 shall have effect for the purposes of this Order.

PART IV

MISCELLANEOUS AND GENERAL

Art. 52 rep. by 2004 c. 17

Application to explosives

53. [F162] . . . . . .

F162 Art. 53 omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 10, **Sch. 12 para. 3(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

General power to repeal or modify statutory provisions

54.—(1) The Department concerned may by order made subject to negative resolution or by regulations repeal or modify any provision to which this paragraph applies if it appears to that Department that the repeal or, as the case may be, the modification of that provision is necessary or expedient in consequence of or in connection with any provision made by or under Part II.

(2) Paragraph (1) applies to any provision, not being among the relevant statutory provisions, which—

(a) is contained in this Order or in any other statutory provision passed or made before the making of this Order; or

(b) applies, excludes or for any other purpose refers to any of the relevant statutory provisions and is contained in any statutory provision not falling within paragraph (*a*).

(3) An order or regulations under paragraph (1) may contain such supplemental and consequential provisions as the Department concerned considers necessary for giving full effect to the order or regulations.

(4) Without prejudice to the generality of paragraph (1), the modifications which may be made by an order or regulations thereunder include modifications relating to the enforcement of provisions to which this Article applies (including the appointment of persons for the purpose of such enforcement, and the powers of persons so appointed).

(5) Before making an order or regulations under this Article, the Department concerned shall consult such bodies as appear to that Department to be appropriate.

Regulations

55.—(1) Regulations under this Order shall be subject to negative resolution.

(2) Regulations**[**[F163] and orders**]** under this Order may contain incidental, supplementary and transitional provisions.

F163 1998 NI 18

Art.56(1), with Schedule 6, effects amendments; para.(2), with Schedule 7, effects repeals; para.(3) spent

SCHEDULES

SCHEDULE 1 [F164]

Articles 2(2) and 3.

EXISTING STATUTORY PROVISIONS

F164 mod. by 2002 c. 8 (NI)

1. The provisions of the Acts mentioned in the following table which are specified in the third column of the table.

Chapter	Short Title	Provisions which are existing statutory provisions
1882 c.22	The Boiler Explosions Act 1882.	The whole Act.
1890 c.35	The Boiler Explosions Act 1890.	The whole Act.
1919 c.23	The Anthrax Prevention Act 1919.	Sections 2 and 3.
1920 c.65	The Employment of Women, Young Persons and Children Act 1920.	The whole Act.
1922 c.35	The Celluloid and Cinematograph Film Act 1922.	The whole Act.
F165	**F165**	**F165**
. . .	. . .	. . .
1928 c.10	The Roads Improvement Act (Northern Ireland) 1928.	Section 7.
1929 c.13	The Petroleum (Consolidation) Act (Northern Ireland) 1929.	The whole Act.
1936 c.22	The Hours of Employment (Conventions) Act 1936.	The whole Act.
1937 c.4	The Petroleum (Transfer of Licences) Act (Northern Ireland) 1937.	The whole Act.
1938 c.4	The Hydrogen Cyanide (Fumigation) Act (Northern Ireland) 1938.	The whole Act.
F166	**F166**	**F166**
. . .	. . .	. . .

1954 c.5	The Agriculture (Poisonous Substances) Act (Northern Ireland) 1954. [F167]	The whole Act.
1959 c.24	The Agriculture (Safety, Health and Welfare Provisions) Act (Northern Ireland) 1959.	The whole Act.
1965 c.20	The Factories Act (Northern Ireland) 1965.	The whole Act except section 135.
1965 c.57	The Nuclear Installations Act 1965.	Sections 1, 3, to 6, 22 and**[**[F168] 24A**]** and Schedule 2.
1966 c.26	The Office and Shop Premises Act (Northern Ireland) 1966.	The whole Act.
1969 c.6	The Mines Act (Northern Ireland) 1969.	The whole Act except section 129.
[[F165]SI 1983/150 (N.I.4)**]**	**[**[F165]The Quarries (Northern Ireland) Order 1983.**]**	**[**[F165]The whole Order except Article 11.**]**

F165 1983 NI 4
F166 SR 1993/24
F167 SR 1981/94
F168 1989 c. 7

2. The provisions of any regulations, orders or other instruments of a legislative character made or having effect under any provision specified in that table.

[[F169]**3.** The provisions of—

(a) the Explosives Act 1875,

(b) the Explosives Act (Northern Ireland) 1970, and

(c) the Explosives (Northern Ireland) Order 1972,

and of any regulations, orders or other instruments of a legislative character made or having effect under any of those provisions.**]**

F169 Sch. 1 para. 3 inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 10, **Sch. 12 para. 3(4)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

SCHEDULE 2

Article 12(4).

THE HEALTH AND SAFETY**[**[F170] EXECUTIVE**]** FOR NORTHERN IRELAND

F170 1998 NI 18

Status

1. The**[**[F171] Executive**]** shall be a body corporate to which, subject to paragraph 15, section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply.

F171 1998 NI 18

Para.2 rep by 1998 NI 18

Members

3. Persons may be appointed as whole-time or part-time members of the**[**[F172] Executive**]**.

F172 1998 NI 18

4. Subject to paragraphs 5 and 6 a person shall hold and vacate office as chairman**[**[F173], deputy chairman**]** or member of the**[**[F173] Executive**]** in accordance with the terms of his appointment.

F173 1998 NI 18

5. A person may at any time resign office as chairman**[**[F174], deputy chairman**]** or member of the**[**[F174] Executive**]** by notice in writing to the Department.

F174 1998 NI 18

6.—(1) The Head of the Department may at any time remove a person from office as chairman**[**[F175], deputy chairman**]** or member of the**[**[F175] Executive**]** if satisfied that—

(a) he has been absent from meetings of the**[**[F175] Executive**]** for a period longer than six consecutive months without the permission of the**[**[F175] Executive**]**; or

(b) he has been convicted of a criminal offence; or

(c) he has become bankrupt or made an arrangement with his creditors; or

(d) he is incapacitated by physical or mental illness; or

(e) he is otherwise unable or unfit to perform his duties.

(2) If the chairman**[**[F175] or deputy chairman**]** ceases to be a member of the**[**[F175] Executive**]** he shall also cease to be chairman**[**[F175] or, as the case may be, deputy chairman**]**.

F175 1998 NI 18

7. Past service as chairman**[**[F176], deputy chairman**]** or member of the**[**[F176] Executive**]** is no bar to reappointment.

F176 1998 NI 18

Remuneration of members

8. The Department may pay or make such payments towards the provision of such remuneration, allowances (including allowances for expenses), pensions or gratuities to or in respect of the

chairman[F177, deputy chairman] and other members of the[F177 Executive], or any of them, as with the approval of the Department of the Civil Service, it may determine.

F177 1998 NI 18

Proceedings

9. The[F178 Executive] may regulate its own procedure and business including its quorum.

F178 1998 NI 18

10. A person authorised in writing in that behalf by the Department shall be entitled to attend any meeting of the[F179 Executive] and to take part in the proceedings at the meeting, but not to vote.

F179 1998 NI 18

11. The validity of any proceedings of the[F180 Executive] shall not be affected by any vacancy in the office of chairman[F180, deputy chairman] or member of the[F180 Executive] or by any defect in the appointment of the chairman[F180, deputy chairman] or any member.

F180 1998 NI 18

The Seal

12. The fixing of the common seal of the[F181 Executive] shall be authenticated by the signature of the chairman[F181 or deputy chairman] of the[F181 Executive] or some other member thereof authorised either generally or specially by the[F181 Executive] to act for that purpose.

F181 1998 NI 18

Instruments

13. A document purporting to be duly executed under the common seal of the[F182 Executive] shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

F182 1998 NI 18

14. Any contract or instrument which, if entered into or executed by an individual, would not require to be[F183 executed as a deed] may be entered into or executed on behalf of the[F184 Executive] by any person generally or specially authorised by the[F184 Executive] to act for that purpose, and any document purporting to be such a contract or instrument shall be deemed to be such a contract or instrument until the contrary is proved.

F183 2005 NI 7
F184 1998 NI 18

Staff

[[F185]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) shall 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 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.**]**

F185 1998 NI 18

Performance of functions

16. The**[**[F186] Executive**]** may authorise any member of the**[**[F186] Executive**]** or any officer or servant of the**[**[F186] Executive**]** to perform on behalf of the**[**[F186] Executive**]** such of the**[**[F186] Executive**]** 's functions (including the function conferred on the**[**[F186] Executive**]** by this paragraph) as are specified in the authorisation.

F186 1998 NI 18

17. The**[**[F187] Executive**]** with the consent of the Department concerned may appoint officers from that Department as assessors to assist the**[**[F187] Executive**]** in the discussion of any matter relating to its functions.

F187 1998 NI 18

[[F188]**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.

[
[F189](3) The Executive shall send a copy of every report prepared under this paragraph to the Department.

(4) The Department shall—

(a) lay the report before the Assembly; and

(b) cause the report to be published.**]]**

F188 1998 NI 18
F189 2003 NI 5

Accounts and reports

[[F190]**18.**—(1) The Executive shall—

(a) keep proper accounts and proper records in relation to the accounts; and

(b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts shall—

(a) be in such form; and

(b) contain such information,

as the Department may, with the approval of the Department of Finance and Personnel, direct.

(3) The Executive shall, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—

(a) the Department; and

(b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on every statement of accounts sent to him by the Executive under this paragraph; and

(b) send a copy of his report to the Department.

(5) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.**]**

F190 2003 NI 5

SCHEDULE 3

Article 17.

SUBJECT-MATTER OF HEALTH AND SAFETY REGULATIONS

1.—(1) Regulating or prohibiting—

(a) the manufacture, supply or use of any plant;

(b) the manufacture, supply, keeping or use of any substance;

(c) the carrying on of any process or the carrying out of any operation.

(2) Imposing requirements with respect to the design, construction, guarding, siting, installation, commissioning, examination, repair, maintenance, alteration, adjustment, dismantling, testing or inspection of any plant.

(3) Imposing requirements with respect to the marking of any plant or of any articles used or designed for use as components in any plant, and in that connection regulating or restricting the use of specified markings.

(4) Imposing requirements with respect to the testing, labelling or examination of any substance.

(5) Imposing requirements with respect to the carrying out of research in connection with any activity mentioned in sub-paragraphs (1) to (4).

2.—(1) Prohibiting or regulating the transport of articles or substances of any specified description.

(2) Imposing requirements with respect to the manner and means of transporting articles or substances of any specified description, including requirements with respect to the construction, testing and marking of containers and means of transport and the packaging and labelling of articles or substances in connection with their transport.

3.—(1) Prohibiting the carrying on of any specified activity or the doing of any specified thing except under the authority and in accordance with the terms and conditions of a licence, or except with the consent or approval of a specified authority.

(2) Providing for the grant, renewal, variation, transfer and revocation of licences (including the variation and revocation of conditions attached to licences).

4. Requiring any person, premises or thing to be registered in any specified circumstances or as a condition of the carrying on of any specified activity or the doing of any specified thing.

5.—(1) Requiring, in specified circumstances, the appointment (whether in a specified capacity or not) of persons (or persons with specified qualifications or experience, or both) to perform specified functions, and imposing duties or conferring powers on persons appointed (whether in pursuance of the regulations or not) to perform specified functions.

(2) Restricting the performance of specified functions to persons possessing specified qualifications or experience.

6. Regulating or prohibiting in specified circumstances the employment of persons.

7.—(1) Requiring the making of arrangements for securing the health of persons at work or other persons, including arrangements for medical examinations and health surveys.

(2) Requiring the making of arrangements for monitoring the atmospheric or other conditions in which persons work.

8. Imposing requirements with respect to any matter affecting the conditions in which persons work, including in particular such matters as the structural condition and stability of premises, the means of access to and egress from premises, cleanliness, temperature, lighting, ventilation, overcrowding, noise, vibrations, ionising and other radiations, dust and fumes.

9. Securing the provision of specified welfare facilities for persons at work, including in particular such things as an adequate water supply, sanitary conveniences, washing and bathing facilities, ambulance and first-aid arrangements, cloakroom accommodation, sitting facilities and refreshment facilities.

10. Imposing requirements with respect to the provision and use in specified circumstances of protective clothing or equipment, including clothing affording protection against the weather.

11. Requiring in specified circumstances the taking of specified precautions in connection with the risk of fire.

12.—(1) Prohibiting or imposing requirements in connection with the emission within any premises of any specified gas, smoke or dust or any other specified substance whatsoever.

(2) Prohibiting or imposing requirements in connection with the emission of noise, vibrations or any ionising or other radiations within any premises.

(3) Imposing requirements with respect to the monitoring of any such emission as is mentioned in sub-paragraphs (1) and (2).

13. Imposing requirements with respect to the instruction, training and supervision of persons at work.

14.—(1) Requiring, in specified circumstances, specified matters to be notified in a specified manner to specified persons.

(2) Empowering inspectors in specified circumstances to require persons to submit written particulars of measures proposed to be taken to achieve compliance with any of the relevant statutory provisions.

15. Imposing requirements with respect to the keeping and preservation of records and other documents, including plans and maps.

16. Imposing requirements with respect to the management of animals.

17. The following purposes as regards premises of any specified description where persons work, namely—

(a) requiring precautions to be taken against dangers to which the premises or persons therein are or may be exposed by reason of conditions (including natural conditions) existing in the vicinity;

(b) securing that persons in the premises leave them in specified circumstances.

18. Conferring, in specified circumstances involving a risk of fire or explosion, power to search a person or any article which a person has with him for the purpose of ascertaining whether he has in his possession any article of a specified kind likely in those circumstances to cause a fire or explosion, and power to seize and dispose of any article of that kind found on such a search.

19. Restricting, prohibiting or requiring the doing of any specified thing where any accident or other occurrence of a specified kind has occurred.

20. As regards cases of any specified class, being a class such that the variety in the circumstances of particular cases within it calls for the making of special provision for particular cases, any of the following purposes, namely—

(a) conferring on employers or other persons power to make rules or give directions with respect to matters affecting health or safety;

(b) requiring employers or other persons to make rules with respect to any such matters;

(c) empowering specified persons to require employers or other persons either to make rules with respect to any such matters or to modify any such rules previously made by virtue of this paragraph; and

(d) making admissible in evidence without further proof, in such circumstances and subject to such conditions as may be specified, documents which purport to be copies of rules or rules of any specified class made under this paragraph.

21. Conferring on any district council power to make byelaws with respect to any specified matter, specifying the authority or persons by whom any byelaws made in the exercise of that power need to be confirmed, and generally providing for the procedure to be followed in connection with the making of any such byelaws.

Interpretation

22.—(1) In this Schedule "specified" means specified in health and safety regulations.

(2) Any mention in this Schedule of a purpose that falls within any more general purpose mentioned therein is without prejudice to the generality of the more general purpose.

[F191SCHEDULE 3A

OFFENCES: MODE OF TRIAL AND MAXIMUM PENALTY

F191 Sch. 3A inserted (16.1.2009) by Health and Safety (Offences) Act 2008 (c. 20), ss. 1(4), 3(2), **Sch. 2** (with s. 3(3))

The mode of trial and maximum penalty applicable to each offence listed in the first column of the following table are as set out opposite that offence in the subsequent columns of the table.

Offence	***Mode of trial***	***Penalty on summary conviction***	***Penalty on conviction on indictment***
An offence under Article 31(1)(a) consisting of a failure to discharge a duty to which a person is subject by virtue of Articles 4 to 7.	Summarily or on indictment.	Imprisonment for a term not exceeding 6 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under Article 31(1)(a) consisting of a failure to discharge a duty to which a person is subject by virtue of Article 8.	Summarily or on indictment.	Imprisonment for a term not exceeding 6 months, or a fine not exceeding the statutory maximum, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under Article 31(1)(b) consisting of a contravention of Article 9.	Summarily or on indictment.	Imprisonment for a term not exceeding 6 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under Article 31(1)(b) consisting of a contravention of Article 10.	Summarily or on indictment.	A fine not exceeding £20,000.	A fine.
An offence under Article 31(1)(c).	Summarily or on indictment.	Imprisonment for a term not exceeding 6 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.

An offence under Article 31(1)(d).	Summarily only.	A fine not exceeding level 5 on the standard scale.	
An offence under Article 31(1)(e), (f) or (g).	Summarily or on indictment.	Imprisonment for a term not exceeding 6 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under Article 31(1)(h).	Summarily only.	Imprisonment for a term not exceeding 6 months, or a fine not exceeding level 5 on the standard scale, or both.	
An offence under Article 31(1)(i).	Summarily or on indictment.	A fine not exceeding the statutory maximum.	A fine.
An offence under Article 31(1)(j).	Summarily or on indictment.	Imprisonment for a term not exceeding 6 months, or a fine not exceeding the statutory maximum, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under Article 31(1)(k), (l) or (m).	Summarily or on indictment.	Imprisonment for a term not exceeding 6 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under Article 31(1)(n).	Summarily only.	A fine not exceeding level 5 on the standard scale.	
An offence under Article 31(1)(o).	Summarily or on indictment.	Imprisonment for a term not exceeding 6 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under the existing statutory provisions for which no other penalty is specified.	Summarily or on indictment.	Imprisonment for a term not exceeding 6 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.**]**

Schedule 4 rep. by 1998 NI 18

SCHEDULE 5 Article 51.

THE FACTORIES ACT (NORTHERN IRELAND) 1965 (c.20)

Parts I (paras.1#4), II (paras.5#11)—Amendments

PART III

TRANSITIONAL PROVISION

12. Where, at the commencement of this Schedule, a person's employment is unlawful under section 74(2) of the Factories Act (Northern Ireland) 1965 (as originally enacted) or under that subsection as extended by section 126 of that Act, and is known to be so by the occupier of the factory or, if the employment is not in a factory, by the employer, then there shall be deemed to have been served on that occupier or employer immediately after that commencement by an employment medical adviser, under the subsection substituted for section 74(2) by paragraph 6, a written notice stating that, in the opinion of the adviser, the continued employment of that person in that process would involve special danger to his health.

Schedule 6—Amendments

Schedule 7—Repeals

Status:
Point in time view as at 01/09/2013.

Changes to legislation:
There are currently no known outstanding effects for the Health and Safety at Work (Northern Ireland) Order 1978.