
STATUTORY INSTRUMENTS

1978 No. 1039

Health and Safety at Work (Northern Ireland) Order 1978

^{F1} PART II

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

Enforcement

Powers of inspectors

^{F1F2}**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

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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^{F3} 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.

- F1 mod. by SR 2000/87; 2000/120
 F2 mod. by 2002 c. 8 (NI)
 F3 2004 c.33

Modifications etc. (not altering text)

- C1 Art. 22 applied (2.4.2006) by The Railways (Interoperability) Regulations 2006 (S.I. 2006/397), **reg. 35**
- C2 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)**
- C3 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)**
- C4 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)**
- C5 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)
- C6 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)
- C7 Arts. 21 22 applied (1.3.2014) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), **regs. 2(4), 20** (with regs. 3(4)(5), 31)
- C8 Arts. 20-30 applied with modification(s) (1.6.2015) by The Explosives (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2015 (S.R. 2015/236), **regs. 1(2), 5(1)(a)**
- C9 Arts. 20-30 applied (with modifications) (1.6.2015) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), **regs. 2(2), 16** (with regs. 3, 19)
- C10 Arts. 18-23 applied (with modifications) (28.9.2015) by The Control of Major Accident Hazards Regulations (Northern Ireland) 2015 (S.R. 2015/325), **regs. 1, 27(1)(a)** (with regs. 3(2), 27(3))
- C11 Arts. 18-28 applied (23.10.2015) by The Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2015 (S.R. 2015/339), **regs. 1, 30(2)(a)** (with reg. 3(1)(2))
- C12 Arts. 2122 applied (with modifications) (21.10.2016) by The Making Available on the Market and Supervision of Transfers of Explosives Regulations (Northern Ireland) 2016 (S.R. 2016/366), **reg. 1, Sch. 2 paras. 6(a), 7**
- C13 Art. 22 applied (with modifications) (8.12.2016) by The Electrical Equipment (Safety) Regulations 2016 (S.I. 2016/1101), **reg. 1, Sch. 5 paras. 1, 2** (with reg. 3)
- C14 Art. 22 applied (with modifications) (8.12.2016) by The Lifts Regulations 2016 (S.I. 2016/1093), **reg. 1, Sch. 9 paras. 1(c), 2** (with regs. 3-5)
- C15 Arts. 18-24 applied (19.12.2016) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations (Northern Ireland) 2016 (S.R. 2016/406), **regs. 1, 36(1)(a)** (with reg. 4(2), Sch. 15)
- C16 Arts. 20-23 applied (19.12.2016) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations (Northern Ireland) 2016 (S.R. 2016/406), **regs. 1, 36(8)(a)** (with reg. 4(2), Sch. 15)
- C17 Art. 22 applied (with modifications) (10.7.2017) by The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 2017 (S.R. 2017/90), **reg. 1, Sch. 4 para. 1(b)**
- C18 Art. 22 applied (with modifications) (21.4.2018) by The Personal Protective Equipment (Enforcement) Regulations 2018 (S.I. 2018/390), **reg. 1(1), Sch. 3** (with reg. 2(1)-(3))

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- C19** Arts. 21-24 applied (with modifications) (30.7.2018) by The Cableway Installations Regulations 2018 (S.I. 2018/816), regs. 1, **22(1)-(3)** (with reg. 4)
- C20** Art. 22 applied (with modifications) (8.12.2016) by The Simple Pressure Vessels (Safety) Regulations 2016 (S.I. 2016/1092), reg. 1, Sch. 7 paras. 1(b), **2** (with reg. 3) (as amended (1.10.2018) by The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), regs. 1(1), **2(2)(a)** (with reg. 1(2)-(4)))
- C21** Art. 22 applied (with modifications) (8.12.2016) by The Pressure Equipment (Safety) Regulations 2016 (S.I. 2016/1105), reg. 1, Sch. 9 paras. 1(b), **2** (with reg. 88) (as amended (1.10.2018) by The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), regs. 1(1), **4(2)** (with reg. 1(2)-(4)))
- C22** Art. 22 applied (with modifications) (16.7.2021) by The Market Surveillance (Northern Ireland) Regulations 2021 (S.I. 2021/858), reg. 1(1), Sch. 3 paras. 2, **3** (with reg. 3)

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