
STATUTORY INSTRUMENTS

1987 No. 2049

The Consumer Protection (Northern Ireland) Order 1987

PART V

MISCELLANEOUS AND SUPPLEMENTAL

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

28. The Health and Safety at Work (Northern Ireland) Order 1978(1) (which includes provision with respect to the safety of certain articles and substances) shall have effect with the amendments specified in Schedule 2; and, accordingly, the general purposes of Part II of that Order shall include the purpose of protecting persons from the risks protection from which would not be afforded by virtue of that Part but for those amendments.

Restrictions on disclosure of information

29.—(1) Subject to paragraph (2), a person shall be guilty of an offence if he discloses any information—

- (a) which was obtained by him in consequence of its being given to any person in compliance with any requirement imposed by regulations under Article 19;
- (b) which was obtained by him in consequence of the exercise by any person of any power conferred by Part IV.

(2) Paragraph (1) shall not apply to a disclosure of information if the information is publicised information or the disclosure is made—

- (a) for the purpose of facilitating the exercise of a relevant person's functions under this Order or any enactment or subordinate legislation mentioned in paragraph (3);
- (b) for the purposes of compliance with a Community obligation; or
- (c) in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings.

(3) The enactments and subordinate legislation referred to in paragraph (2)(a) are—

- (a) the Trade Descriptions Act 1968(2);
- (b) Parts II and III and section 125 of the Fair Trading Act 1973(3);
- (c) the Consumer Credit Act 1974(4);
- (d) the Restrictive Trade Practices Act 1976(5);
- (e) the Resale Prices Act 1976(6);

(1) 1978 NI 9
(2) 1968 c. 29
(3) 1973 c. 41
(4) 1974 c. 39
(5) 1976 c. 34
(6) 1976 c. 53

- (f) the Estate Agents Act 1979⁽⁷⁾;
 - (g) the Competition Act 1980⁽⁸⁾;
 - (h) the Telecommunications Act 1984⁽⁹⁾;
 - (i) any subordinate legislation made (whether before or after the passing of this Order) for the purpose of securing compliance with the Directive of the Council of the European Communities, dated 10th September 1984 (No.84/450/EEC) on the approximation of the laws, regulations and administrative provisions of the member States concerning misleading advertising.
- (4) In paragraph (2)(a) the reference to a person's functions shall include a reference to any function of making, amending or revoking any regulations or order.
- (5) A person guilty of an offence under this Article shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (6) In this Article—
- “publicised information” means any information which has been disclosed in any civil or criminal proceedings; and
- “relevant person” means any of the following, that is to say—
- (a) a Northern Ireland department, head of such a department, Minister of the Crown or Government department;
 - (b) the Monopolies and Mergers Commission, the Director General of Fair Trading or the Director General of Telecommunications.

Defence of due diligence

30.—(1) Subject to paragraphs (2) to (4), in proceedings against any person for an offence under Article 13(1) it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due—

- (a) to the act or default of another; or
- (b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings, he has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) It is hereby declared that a person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

(7) 1979 c. 38
(8) 1980 c. 21
(9) 1984 c. 12

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

Liability of persons other than principal offender

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

Civil proceedings

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

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

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

Regulations as to giving information to certain persons, etc.

33.—(1) The Department may by regulations make provision for the manner in which any information is to be given to any person under any provision of Part IV.

(2) Regulations made by the Department may prescribe the person, or manner of determining the person, who is to be treated for the purposes of Article 21(1) or 23 as the person from whom any goods were purchased or seized where the goods were purchased or seized from a vending machine.

(3) Regulations under paragraph (1) or (2)—

- (a) may make such supplemental, consequential and transitional provisions as the Department considers appropriate; and
- (b) shall be subject to negative resolution.

Savings for certain privileges

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

- (a) as requiring any person to produce any records if he would be entitled to refuse to produce those records in any proceedings in any court on the grounds that they are the subject of legal professional privilege; or
- (b) as authorising any person to take possession of any records which are in the possession of a person who would be so entitled.

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

Minor and consequential amendments and repeals

35.—(1) The enactments mentioned in Schedule 3 shall have effect subject to the amendments specified in that Schedule (being minor amendments and amendments consequential on this Order).

(2) The enactments mentioned in Schedule 4 are hereby repealed to the extent specified in the third column of that Schedule.

Status: *This is the original version (as it was originally made).*
