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STATUTORY INSTRUMENTS

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**2006 No. 1254**

**The Fire and Rescue Services (Northern Ireland) Order 2006**

**PART III**

**FIRE SAFETY**

**CHAPTER III**

**OFFENCES**

**Offences**

**41.—(1) If—**

- (a) a person fails to carry out a duty to which he is subject by virtue of—
  - (i) Article 25;
  - (ii) Article 26; or
  - (iii) Article 27; and
- (b) the failure to carry out the duty in question puts a relevant person at risk of death, or injury, in the event of fire,

the person shall be guilty of an offence.

**(2) If—**

- (a) an employee fails to carry out a duty to which he is subject by virtue of Article 28; and
- (b) the failure to carry out the duty in question puts a relevant person at risk of death, or injury, in the event of fire,

the employee shall be guilty of an offence.

**(3) If—**

- (a) a person fails to comply with a requirement or prohibition to which he is subject by virtue of regulations made under Article 29 or 30; and
- (b) the failure to comply with the requirement or prohibition in question puts a relevant person at risk of death, or injury, in the event of fire,

the person shall be guilty of an offence.

**(4) It shall be an offence for a person—**

- (a) to fail, without reasonable excuse, to comply with a requirement imposed by an authorised officer under Article 34(2)(c);
- (b) falsely to pretend to be an authorised officer;
- (c) to fail to comply with a restriction or prohibition imposed by a prohibition notice;
- (d) to fail to comply with a requirement imposed by an enforcement notice or an alterations notice;
- (e) to contravene Article 45;

- (f) to make in any register, book, notice or other document required by virtue of this Part to be kept, served or given an entry which he knows to be false in a material particular; or
  - (g) to give any information which he knows to be false in a material particular, or recklessly to give any information which is false in a material particular, where the information is given in purported compliance with a requirement to give information imposed by virtue of this Part.
- (5) A person guilty of an offence under paragraph (1), (3) or (4)(c) or (d) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.
- (6) A person guilty of an offence under paragraph (2) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine.
- (7) A person guilty of an offence under paragraph (4)(a) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) A person guilty of an offence under paragraph (4)(b) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) A person guilty of an offence under paragraph (4)(e), (f) or (g) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) Subject to paragraph (11), it shall be a defence for a person charged with an offence under this Article to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (11) Paragraph (10) shall not apply to—
- (a) an offence under paragraph (1) in respect of a failure to comply with the duty mentioned in sub-paragraph (a)(i) of that paragraph; or
  - (b) an offence under paragraph (3) in respect of a failure to comply so far as is reasonably practicable with a requirement or, as the case may be, a prohibition.
- (12) In any proceedings for an offence under paragraph (1) in respect of a failure to comply with the duty mentioned in sub-paragraph (a)(i) of that paragraph, the onus of showing that it was not reasonably practicable to do more than was done shall be on the accused.
- (13) In any proceedings for an offence under paragraph (3) in respect of a failure to comply with a requirement or prohibition so far as is practicable or so far as is reasonably practicable, the onus of showing that it was not practicable, or (as the case may be) was not reasonably practicable, to do more than was done shall be on the accused.

**Changes to legislation:**

There are currently no known outstanding effects for the The Fire and Rescue Services (Northern Ireland) Order 2006, Section 41.