

SCHEDULE 10

Regulation 38

Enforcement, offences and civil liability

Interpretation

1. In this Schedule—

“the 1999 Regulations” means the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999⁽¹⁾;

“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);

“inspector” means an inspector appointed under Article 21 of the 1978 Order; and

“work” shall be construed in accordance with Article 2(4) of the 1978 Order.

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

2.—(1) Articles—

(a) 18 to 28 (approval of codes of practice and enforcement);

(b) 31 to 39 (provisions as to offences); and

(c) 43(2) (civil liability),

of the 1978 Order shall, subject to the following provisions of this Schedule, and to the extent that they would not otherwise do so, apply to these Regulations as if they were health and safety regulations for the purposes of that Order.

(2) The Articles of the 1978 Order which are applied to these Regulations by sub-paragraph (1) shall so apply as if any reference to—

(a) danger, or danger to health and safety, were a reference to danger to the health or safety of humans or animals or to danger to the environment; and

(b) harm were a reference to harm to humans, animals or the environment.

(3) Articles 24 and 27 of the 1978 Order, as applied to these Regulations by sub-paragraph (1), shall apply as if the reference in those Articles to serious personal injury were a reference to—

(a) serious personal injury to humans;

(b) a breach of the Regulations and serious injury to animals; or

(c) a breach of the Regulations and serious harm to the environment.

Offences

3. A failure to discharge a duty—

(a) placed on the Executive by these Regulations; or

(b) placed on any person by regulation 5, 7(3), 9(4) to (6), 9(8), 10(4) to (6), 10(9), 11(5), 12(5), 17(4), 25(6), 26(2), 34(1) to (4) and 37,

shall not be an offence under Article 31(1)(c) of the 1978 Order.

(1) S.R. 1999 No. 90, as amended by S.R. 2000 No. 375

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Limitation on entry to domestic premises in certain circumstances

4.—(1) An inspector may not enter domestic premises in the exercise of his powers under the 1978 Order, as applied to these Regulations by virtue of paragraph 2, in respect of any activity which is not, or is not related to, an activity involving work, unless a justice of the peace has issued a warrant authorising him to enter and exercise his powers in those domestic premises.

(2) A justice of the peace may not issue such a warrant, unless on an application made by the inspector, he is satisfied—

- (a) that the inspector has reasonable grounds for believing that there is present in the domestic premises anything to which those powers relate; and
- (b) that—
 - (i) it is not practicable to communicate with any person entitled to grant entry to the domestic premises,
 - (ii) a person entitled to grant entry to the domestic premises has unreasonably refused an inspector entry,
 - (iii) entry to the domestic premises is unlikely to be granted unless a warrant is produced, or
 - (iv) the purpose of entry may be frustrated or seriously prejudiced unless an inspector arriving at the domestic premises can secure immediate entry to them.

Allocation of enforcement responsibility

5.—(1) Notwithstanding the 1999 Regulations, and subject to sub-paragraphs (2) to (7), the enforcing authority for these Regulations shall be the Executive.

(2) Where an active substance is placed on the market—

- (a) in or from any shop, mobile vehicle, market stall or other retail outlet; or
- (b) otherwise to members of the public, including by way of free sample, prize or mail order,

the enforcing authority for regulation 4 shall be the district council for the district in which the active substance is placed on the market.

(3) Where a biocidal product is placed on the market—

- (a) in or from any shop, mobile vehicle, market stall or other retail outlet; or
- (b) otherwise to members of the public, including by way of free sample, prize or mail order,

the enforcing authority for regulations 8(1), 30 and 31 shall be the district council for the district in which the biocidal product is placed on the market.

(4) Where a biocidal product is sold—

- (a) in or from any shop, mobile vehicle, market stall or other retail outlet; or
- (b) otherwise to members of the public, including by way of free sample, prize or mail order,

the enforcing authority for regulation 22(3) shall be the district council for the district in which the biocidal product is sold.

(5) Where a biocidal product is placed on the market, the enforcing authority for regulation 33 shall be the district council for the district in which the biocidal product is placed on the market.

(6) The 1999 Regulations shall apply to the enforcement of regulations 8(2), 8(5) and 22(4).

(7) The enforcing authority for regulations 8(2), 8(5) and 22(4)—

- (a) in respect of any use not related to an activity involving work; or
- (b) in respect of any use by a domestic servant in a private household,

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shall be the district council for the district in which the use occurs.