

SCHEDULE 5

ENFORCEMENT

Powers of the Health and Safety Executive for Northern Ireland as an enforcement authority

9. In relation to the enforcement of these Regulations by the Health and Safety Executive for Northern Ireland—

- (a) Articles 21 to 33 ^{M1}, 35, 36, 38 and 39 of the 1978 Order shall apply as provided in paragraph 10; and
- (b) Articles 34(1) and (2) and 34A ^{M2} of the 1978 Order shall apply in relation to offences under Article 31 as applied in relation to these Regulations and modified by paragraph 10.

Marginal Citations

- M1** All these provisions were modified by S.R. (NI) 2000/87, S.R. (NI) 2000/120 and section 1 of the [Railway Safety Act \(Northern Ireland\) 2002 \(c.8 \(N.I.\)\)](#). Article 22(7) was amended by the [Civil Partnerships Act 2004 \(c.33\)](#). Article 26(4) was repealed by Article 35 of, and Schedule 4 to, the [Industrial Training \(Northern Ireland\) Order 1984 \(S.I. 1984/1159 \(N.I. 9\)\)](#). Articles 27A and 29A were inserted, and Articles 30(1)(a) and 31(1)(h) amended, by Article 28 of, and Schedule 2 to, the [Consumer Protection \(Northern Ireland\) Order 1987 \(S.I. 1987/2049 \(N.I. 20\)\)](#). Article 29(1) was amended, and Article 31(3) was repealed, by the [Health and Safety at Work \(Amendment\) \(Northern Ireland\) Order 1998 \(S.I. 1998/2795 \(N.I. 18\)\)](#), Schedule 1, paragraphs 14 and 15 respectively. Articles 29(2) to (4) were repealed, and Article 31(1)(j) was amended, by Article 10(1)(c) of the [Statistics of Trade and Employment \(Northern Ireland\) Order 1988 \(S.I. 1988/595 \(N.I. 3\)\)](#). Article 29A was amended by the [Commissioners for Revenue and Customs Act 2005 \(c.11\)](#), Schedule 4, paragraph 19. Article 31(1)(m) was amended by Article 13(3) of, and Schedule 5 to, the [Criminal Justice \(Northern Ireland\) Order 1986 \(S.I. 1986/1883 \(N.I. 15\)\)](#). Article 31(5)(d) and (6) was repealed by Article 6(6) of the [Offshore, and Pipelines, Safety \(Northern Ireland\) Order 1992 \(S.I. 1992/1728 \(N.I. 17\)\)](#). Article 31(7) was repealed by Part III of the Schedule to the [Forgery and Counterfeiting Act 1981 \(c.45\)](#). There are other amendments to these provisions which are not relevant to these Regulations.
- M2** Article 34A was inserted by the [Health and Safety at Work \(Amendment\) \(Northern Ireland\) Order 1998 \(S.I. 1998/2795 \(N.I. 18\)\)](#), Schedule 1, paragraph 16.

10. For the purposes of the enforcement of these Regulations by the Health and Safety Executive for Northern Ireland, and in respect of any related proceedings for contravention of these Regulations, the provisions specified in paragraph 9 shall apply as if—

- (a) references to relevant statutory provisions were references to those provisions as modified by this paragraph and to these Regulations;
- (b) references to articles, substances, articles and substances, or plant, were references to machinery or partly completed machinery, or a machine or partly completed machine, as the context may require;
- (c) references to an “enforcing authority” or to its field of responsibility (however expressed) or to “the Department concerned” were to the Health and Safety Executive for Northern Ireland;
- (d) in Article 22, paragraph (3) were omitted;
- (e) Article 24, as well as permitting an inspector to serve a prohibition notice in the circumstances specified in Article 24(2), permitted an inspector to serve a prohibition notice in any case where—

Changes to legislation: *There are currently no known outstanding effects for the The Supply of Machinery (Safety) Regulations 2008, Powers of the Health and Safety Executive for Northern Ireland as an enforcement authority. (See end of Document for details)*

- (i) a responsible person has failed to comply with the requirements of these Regulations in relation to [F¹UK] marking; and
- (ii) the responsible person—
 - (aa) has been served with a notice under regulation 21(3), or an improvement notice under Article 23, in respect of that failure; and
 - (bb) has continued to fail to comply with those requirements after the period for remedying the contravention specified in the improvement notice;
- (f) in Article 25, paragraphs (3), (4) and (5) were omitted;
- (g) in Article 31—
 - (i) in paragraph (1), the whole of sub-paragraphs (a) to (d) were omitted;
 - (ii) paragraph (1A) were omitted;
 - (iii) in paragraph (2), the reference to sub-paragraph (d) of paragraph (1) were omitted;
 - (iv) paragraph (2A) were omitted;
 - (v) for paragraph (4) there were substituted the following—
 - “(4) A person guilty of an offence under any sub-paragraph of paragraph (1) not mentioned in paragraph (2) or of an offence under paragraph (1)(e) not falling within paragraph (2) shall be liable—
 - (a) on summary conviction, to a fine not exceeding £2000; or
 - (b) on conviction on indictment—
 - (i) in the case of an offence under paragraph (1)(g) or of an offence under paragraph (1)(j), to imprisonment for a term not exceeding two years, or a fine, or both; or
 - (ii) in all other cases, to a fine.”; and
 - (vi) paragraph (5) were omitted;
- (h) in Article 32—
 - (i) sub-paragraphs (a) and (b) were omitted from paragraph (1); and
 - (ii) in paragraph (3), for “six months” there were substituted “ twelve months ”; and
- (i) in Article 39, paragraphs (4) and (5) were omitted.

Changes to legislation:

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