
STATUTORY INSTRUMENTS

2011 No. 3066

The Railways (Interoperability) Regulations 2011

PART 6

Appeals and Enforcement

Enforcement in Northern Ireland

40.—(1) It is the duty of the Health and Safety Executive for Northern Ireland⁽¹⁾ to make adequate arrangements for the enforcement of these Regulations in Northern Ireland.

(2) Subject to paragraph (5), the provisions of the Health and Safety at Work (Northern Ireland) Order 1978⁽²⁾ (“the 1978 Order”) specified in paragraph (3) (the “specified provisions”) apply for the purposes of the enforcement in Northern Ireland of these Regulations as if in the specified provision—

- (a) a reference to the “enforcing authority” was a reference to the Health and Safety Executive for Northern Ireland;
 - (b) a reference to the “relevant statutory provisions” was a reference to these Regulations and to the specified provisions; and
 - (c) a reference to “health and safety regulations” was a reference to these Regulations.
- (3) The provisions of the 1978 Order referred to in paragraph (2) are—
- (a) articles 21 and 22 (appointment and powers of inspectors), excluding article 22(3);
 - (b) articles 23 and 24 (improvement and prohibition notices);
 - (c) article 25 (provisions supplementary to articles 23 and 24), excluding article 25(3);
 - (d) article 26 (appeal against improvement and prohibition notices);
 - (e) article 28 (power to indemnify inspectors);
 - (f) article 30 (restrictions on disclosure of information); and
 - (g) articles 31(1)(c), (e) to (h), (j) to (o), 32(2) to (4), 34 (1) and (2), 34A to 38 and 39(1) to (3) (provision as to offences).

(4) The mode of trial and maximum penalty applicable to each offence under article 31 of the 1978 Order so applied and listed in the first column of the following table are set out opposite that offence in the subsequent columns of the table.

(1) Formerly known as the Health and Safety Agency for Northern Ireland which was established under Article 12 of the [Health and Safety at Work \(Northern Ireland\) Order 1978 \(S.I. 1978/ 1039 \(N.I. 9\)\)](#). Article 3(1) of the [Health and Safety at Work \(Amendment\) \(Northern Ireland\) Order 1998 \(S.I. 1998/ 2795 \(N.I. 18\)\)](#) changed its name to the Health and Safety Executive for Northern Ireland.

(2) [S.I. 1978/ 1039 \(N.I. 9\)](#). Article 24 was amended by [S.I. 1987/2049 \(N.I. 20\)](#), Article 28 and Schedule 2, paragraph 3. Article 26 was amended by [S.I. 1984/1159 \(N.I. 9\)](#), Article 35 and Schedule 4. Article 31 was amended by: [S.I. 1987/2049 \(N.I. 20\)](#), Article 28 and Schedule 2 paragraph 7; [S.I. 1988/595 \(N.I. 3\)](#), Article 10(1)(c); [S.I. 1986/1883 \(N.I. 15\)](#), Article 13(3) and Schedule 5; [S.I. 1992/1728 \(N.I. 17\)](#), article 6(1), (3), (4), (5), (7), Article 8 and Schedule 2; [S.I. 1998/2795 \(N.I. 18\)](#), Article 6 and Schedule 1, paragraph 15, and Schedule 2, Forgery and Counterfeiting Act 1981 (c. 45) section 30 and Schedule and the Health and Safety (Offences) Act 2008 (c.20) section 1(3). There are other amendments to the 1978 Order not relevant to these Regulations.

<i>Offence</i>	<i>Mode of trial</i>	<i>Penalty on summary conviction</i>	<i>Penalty on conviction on indictment</i>
An offence under article 31(1)(c), (e), (f), (g), (k), (j), (l), (m) or (o).	Summarily or on indictment.	Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale as it has effect from time to time (as if the offence was triable only summarily), or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under article 31(1)(h).	Summarily only.	Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale as it has effect from time to time, or both.	
An offence under article 31(1)(n).	Summarily only.	A fine not exceeding level 5 on the standard scale as it has effect from time to time.	

(5) A failure to discharge a duty placed on the Health and Safety Executive for Northern Ireland, DRDNI or the Secretary of State by these Regulations is not an offence under article 31(1)(c) of the 1978 Order.