

PROPOSAL FOR A DRAFT ORDER IN COUNCIL UNDER PARAGRAPH 1 OF SCHEDULE 1 TO THE NORTHERN IRELAND ACT 1974

DRAFT STATUTORY INSTRUMENTS

1998 No. (N.I.)

NORTHERN IRELAND

**Health and Safety at Work (Amendment)
(Northern Ireland) Order 1998**

*Made - - - -
Coming into operation on days to be appointed under
Article 1(2)*

At the Court at , the day of 1998
Present,
The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:
Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Health and Safety at Work (Amendment) (Northern Ireland) Order 1998.

(2) This Order shall come into operation on such day or days as the Department may by order appoint.

(3) An order under paragraph (2) may make such transitional provision as appears to the Department to be necessary or expedient in connection with the provisions brought into operation by the order.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

- “the Department” means the Department of Economic Development;
“the Executive” means the Health and Safety Executive for Northern Ireland;
“the principal Order” means the Health and Safety at Work (Northern Ireland) Order 1978.

The Health and Safety Executive for Northern Ireland

3.—(1) The body corporate established by Article 12 of the principal Order with the name of the Health and Safety Agency for Northern Ireland shall be known instead as “the Health and Safety Executive for Northern Ireland”.

(2) In Article 12 of the principal Order (establishment of the Executive)—

(a) after paragraph (2) there shall be inserted—

“(2A) The Head of the Department may appoint one of the members to be deputy chairman of the Executive.”;

(b) after paragraph (4) there shall be added—

“(5) The functions of the Executive, and of its officers and servants, shall be performed on behalf of the Crown.

(6) For the purpose of any civil proceedings arising out of those functions, the Crown Proceedings Act 1947 shall apply to the Executive as if it were a Department of Her Majesty’s Government in Northern Ireland within the meaning of that Act.

(7) The Department may by order subject to negative resolution amend paragraph (1) so far as it regulates the number of members of the Executive.”.

Functions of the Executive

4. For Article 13(1) of the principal Order (functions of the Executive) there shall be substituted

—
“(1) In addition to the other functions conferred on the Executive under this Order, but subject to paragraph (4), it shall be the general duty of the Executive to do such things and make such arrangements as it considers appropriate for the general purposes of this Part.

(1A) It shall be the duty of the Executive—

- (a) to assist and encourage persons concerned with matters relevant to any of the general purposes of this Part to further those purposes;
- (b) to make such arrangements as it considers appropriate for securing that government departments, employers, employees, organisations representing employers and employees respectively, and other persons concerned with matters relevant to any of those purposes are provided with an information and advisory service and are kept informed of, and adequately advised on, such matters;
- (c) to submit to the Department concerned such proposals as the Executive considers appropriate for the making of regulations under any of the relevant statutory provisions.”.

The Employment Medical Advisory Service

5. In Article 48 of the principal Order (the employment medical advisory service)—

(a) in paragraph (1)—

(i) for “Department” in the first place where it occurs there shall be substituted “Executive”;

(ii) in sub-paragraph (a), the words “the Agency” shall be omitted;

- (b) in paragraph (2)(b) the words “the Agency and” shall be omitted;
- (c) in paragraph (3)—
 - (i) after “The” where it first occurs there shall be inserted “Executive with the consent of the”;
 - (ii) the words from “and may appoint” onwards shall be omitted;
- (d) in paragraphs (5) and (7) for “Department” wherever it occurs there shall be substituted “Executive with the consent of the Department”;
- (e) in paragraph (6)—
 - (i) for “Department” in the first and second places where it occurs there shall be substituted “Executive”;
 - (ii) after “Department” in the third place where it occurs there shall be inserted “and the Department”.

Amendments and repeals

6.—(1) The statutory provisions set out in Schedule 1 shall have effect subject to the amendments specified in that Schedule, being minor amendments and amendments consequential upon the provisions of this Order.

(2) The statutory provisions set out in Schedule 2 are hereby repealed to the extent specified in the third column of that Schedule.

Clerk of the Privy Council

SCHEDULES

SCHEDULE 1

Article 6(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Petroleum (Consolidation) Act (Northern Ireland) 1929 (c. 13)

1. In section 3 (appeals from refusals to grant licences) and section 4 (fees payable for licences) for any reference to the Minister of Home Affairs there shall be substituted a reference to the Executive.

2. In section 23(1) (interpretation)—

(a) after the definition of “dock” insert—

““Executive” means the Health and Safety Executive for Northern Ireland established under Article 12 of the Health and Safety at Work (Northern Ireland) Order 1978;”;

(b) in the definition of “petroleum-spirit licence” for “Minister of Home Affairs” substitute “Executive”.

The Petroleum (Transfer of Licences) Act (Northern Ireland) 1937 (c. 4)

3. In section 1 (transfer of petroleum-spirit licences) for “Ministry of Home Affairs” where it twice occurs substitute “Health and Safety Executive for Northern Ireland”.

The Radiological Protection Act 1970 (c. 46)

4. In section 1(9) and (10) (establishment and functions of the National Radiological Protection Board) for “Agency” wherever it occurs substitute “Executive”.

The Employer’s Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 (NI 6)

5. In Article 8(2)(b) (production of certificates of insurance on demand by inspector) for “Ministry” substitute “Health and Safety Executive for Northern Ireland”.

The House of Commons Disqualification Act 1975 (c. 24)

6. In Part III of Schedule 1 (offices the holders of which are disqualified) insert at the appropriate place in alphabetical order—

“Chairman of the Health and Safety Executive for Northern Ireland.”.

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

7. In Part II of Schedule 1 (bodies of which all members are disqualified) insert at the appropriate place in alphabetical order—

“The Health and Safety Executive for Northern Ireland.”.

The Health and Safety at Work (Northern Ireland) Order 1978 (NI 9)

8. In the Order for “Agency”, wherever it occurs, substitute “Executive”.

9. In Article 2(2) (interpretation), in the definition of “enforcing authority” after “concerned” insert “, the Executive”.

10. In Article 13 (functions of the Executive)—

- (a) in paragraph (3) omit “, in accordance with proposals approved by the Department concerned,”;
- (b) in paragraph (4)(a) omit “under paragraphs (2) and (3)”.

11. In Article 15(1) (additional functions of the Executive)—

- (a) in sub-paragraph (a) after “Executive” in the first place where it occurs insert “(with or without payment)”;
- (b) after sub-paragraph (b) insert—
 - “(bb) provide (with or without payment) services or facilities required otherwise than for the general purposes of this Part in so far as they are required by any government department or other public authority in connection with the exercise by that department or authority of any of its functions;”.

12. In Article 16 (investigations and inquiries)—

- (a) in paragraph (1) after “concerned” insert “or the Executive”;
- (b) in paragraph (2) after “concerned” insert “or the Executive”;
- (c) in paragraph (5)—
 - (i) after “concerned” insert “or, as the case may be, the Executive”;
 - (ii) after “that Department” where it twice occurs insert “or the Executive”;
- (d) in paragraph (6)—
 - (i) after “concerned” insert “or, as the case may be, the Executive”;
 - (ii) after “that Department” where it thrice occurs insert “or the Executive”.

13. In Article 20 (enforcement authorities)—

- (a) in paragraph (1) after “concerned” insert “and the Executive”;
- (b) for paragraph (2) substitute—
 - “(2) Regulations may—
 - (a) make a specified authority or authorities of any specified class responsible for the enforcement of the relevant statutory provisions to such extent as may be prescribed;
 - (b) make provision for enabling responsibility for enforcing any of the relevant statutory provisions to be, to such extent as may be determined under the regulations—
 - (i) transferred from the Executive to a specified authority or from that authority to the Executive; or
 - (ii) assigned to the Executive or to a specified authority for the purpose of removing any uncertainty as to what are under this paragraph their respective responsibilities for the enforcement of those provisions;