STATUTORY RULES OF NORTHERN IRELAND

2009 No. 132

HEALTH AND SAFETY

The Health and Safety (Fees) Regulations (Northern Ireland) 2009

Made - - - -	*25th March 2009*
Coming into operation	*27th April 2009*

The Department of Enterprise, Trade and Investment(**1**), being the Department concerned(**2**), makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**3**) and Articles 40(2) and (4), 49 and 55(2) of the Health and Safety at Work (Northern Ireland) Order 1978(**4**).

The Department was designated(**5**) for the purposes of section 2(2) in relation to the control and regulation of genetically modified organisms.

The Regulations give effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A) of the 1978 Order(**6**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health and Safety (Fees) Regulations (Northern Ireland) 2009 and shall come into operation on 27th April 2009.

(2) In these Regulations—

"the 1978 Order" means the Health and Safety at Work (Northern Ireland) Order 1978;

"employment medical adviser" means an employment medical adviser appointed under Article 48(3) of the 1978 Order(**7**);

"the Executive" means the Health and Safety Executive for Northern Ireland; and

(**1**) Formerly the Department of Economic Development; *see*S.I. 1999/283 (N.I. 1), Article 3(5); that Department was formerly the Department of Manpower Services, *see*S.I. 1982/846 (N.I. 11), Article 3
(**2**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**3**) 1972 c. 68: the enabling powers conferred by section 2(2) were extended by virtue of section 1 of the European Economic Area Act 1993 (c. 51). Section 2(2) was further amended by section 27(1), and paragraphs 2 and 3 by section 27(2), of the Legislative and Regulatory Reform Act 2006 (C. 51).
(**4**) S.I. 1978/1039 (N.I. 9)
(**5**) S.I. 1991/755
(**6**) Article 13(1) was substituted by S.I. 1998/2795 (N.I. 18), Article 4
(**7**) Article 48(3) was amended by S.I. 1998/2795 (N.I. 18), Article 5(c)

"renewal of licence" means the granting of a licence to follow a previous licence of the same kind without any amendment or gap in time.

(3) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Fees payable under the Petroleum (Consolidation) Act (Northern Ireland) 1929 and the Petroleum (Transfer of Licences) Act (Northern Ireland) 1937

2. The fee payable under each provision specified in column 1 of Schedule 1 for the purpose described in the corresponding entry in column 2 shall be that specified in the corresponding entry in column 3 of that Schedule.

Date from which fees are payable under the Petroleum (Consolidation) Act (Northern Ireland) 1929 and the Petroleum (Transfer of Licences) Act (Northern Ireland) 1937

3. Notwithstanding the provisions of section 4 of the Petroleum (Consolidation) Act (Northern Ireland) 1929(**9**) or section 1(4) of the Petroleum (Transfer of Licences) Act (Northern Ireland) 1937(**10**), the fees specified in Schedule 1 shall be payable for any petroleum-spirit licence first having effect or any transfer or renewal of a licence first taking effect on or after the date of the coming into operation of these Regulations irrespective of the date of the application for that licence, transfer or renewal.

Fees payable for medical examination or surveillance by an employment medical adviser

4.—(1) A fee shall be payable to the Executive by an employer in respect of a medical examination or medical surveillance of each of his employees by an employment medical adviser for the purposes of any provision specified in column 1 of Schedule 2.

(2) The fee payable under paragraph (1) shall be a basic fee for each examination or on each occasion when the surveillance is carried out together with additional fees for X-rays and laboratory tests where these are taken or carried out in connection with the examination or surveillance.

(3) For the purposes of paragraph (2), in the case of an examination or surveillance carried out for the purposes of a provision specified in column 1 of Schedule 2—

(a) the basic fee shall be the amount specified in column 3 of that Schedule for that provision;

(b) the additional fee for X-rays shall be the amount specified in column 4 of that Schedule for that provision and shall cover all X-rays taken in connection with any one examination or any one occasion when surveillance is carried out;

(c) the additional fee for laboratory tests shall be the amount specified in column 5 of that Schedule for that provision and shall cover all such tests carried out in connection with any one examination or any one occasion when surveillance is carried out.

(4) Where an employment medical adviser carries out a medical examination of a self-employed person for the purposes of the Control of Asbestos Regulations (Northern Ireland) 2007(**11**), that self-employed person shall pay to the Executive fees ascertained in accordance with paragraphs (2) and (3).

(**8**) 1954 c. 33 (N.I.)
(**9**) 1929 c. 13 (N.I.); section 4 was amended by S.R. 1992 No. 396 and S.I. 1998/2795 (N.I. 18)
(**10**) 1937 c. 4 (N.I.) (1 Edw. 8 & 1 Geo. 6); section 1(4) was amended by S.R. 1992 No. 396 and S.I. 1998/2795 (N.I. 18)
(**11**) S.R. 2007 No. 31, revoked in part by S.R. 2007 No. 62

Fees payable for medical surveillance by an employment medical adviser under the Control of Lead at Work Regulations (Northern Ireland) 2003

5.—(1) Fees shall be payable in accordance with paragraph (2) by an employer to the Executive in respect of medical surveillance of any of his employees by an employment medical adviser for the purposes of the Control of Lead at Work Regulations (Northern Ireland) 2003(**12**).

(2) The fee payable for each item described in column 1 of Schedule 3 shall be that specified in the corresponding entry in column 2 of that Schedule.

Fees payable for various applications under the Control of Asbestos Regulations (Northern Ireland) 2007

6.—(1) A fee shall be payable by the applicant to the Executive on each application for a licence under the Control of Asbestos Regulations (Northern Ireland) 2007 ("the 2007 Regulations").

(2) The fee payable on application for a licence described in column 1 of Table 1 in Schedule 4 shall be that specified in column 2 of that Table.

(3) Where the Executive refuses to grant an applicant a licence under the 2007 Regulations and offers to reassess whether to grant the application if shortcomings leading to the refusal are remedied, a fee shall be payable by the applicant to the Executive in respect of any such reassessment.

(4) The fee payable for the reassessment referred to in paragraph (3) shall be that specified in column 1 of Table 2 in Schedule 4.

(5) Where the Executive amends a licence granted under the 2007 Regulations and the amendment relates to a condition or the duration of the licence, a fee shall be payable to the Executive by the licensee.

(6) The fee payable under paragraph (5) shall be that specified in column 2 of Table 2 in Schedule 4.

(7) Where the Executive replaces a lost licence granted under the 2007 Regulations or amends a licence granted under those Regulations for reasons other than those referred to in paragraph (5), a fee shall be payable to the Executive by the licensee.

(8) The fee payable under paragraph (7) shall be that specified in column 3 of Table 2 in Schedule 4.

Fee payable on application for approval under the Freight Containers (Safety Convention) Regulations (Northern Ireland) 1992

7.—(1) A fee shall be payable by the applicant to the Executive on each application for approval of a scheme or programme for examination of containers under the Freight Containers (Safety Convention) Regulations (Northern Ireland) 1992(**13**).

(2) The fee payable on application for the approval described in column 1 of Schedule 5 shall be that specified in column 2 of that Schedule.

Fees associated with notifications and applications under the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2001

8.—(1) The fee specified in column 2 of Schedule 6 shall be payable by a notifier to the competent authority on each such notification or application under the 2001 Regulations as is referred to in the corresponding entry in column 1 of that Schedule.

(**12**) S.R. 2003 No. 35, amended by S.R. 2005 No. 165 and S.R. 2006 No. 173
(**13**) S.R. 1992 No. 2, to which the relevant amendment is S.R. 1998 No. 125, regulation 12 and Schedule 9

(2) No fee shall be returned to a notifier where the competent authority returns a notification pursuant to regulation 14(7) of the 2001 Regulations or a notifier withdraws his notification pursuant to regulation 15(7) of the 2001 Regulations.

(3) In this regulation, "the 2001 Regulations" means the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2001(**14**) and "competent authority" has the same meaning as in those Regulations.

Fees payable in respect of offshore installations

9.—(1) A fee shall be payable to the Executive by the person referred to in column 2 of Schedule 7 for the performance by the Executive of such functions conferred on the Executive as are specified in column 1 of that Schedule.

(2) A fee shall be payable to the Executive by an operator or owner who has prepared a current safety case pursuant to the 2007 Regulations for the performance by or on behalf of the Executive, or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1978 Order which relates to the enforcement of any of the relevant statutory provisions against one or more than one of the following—

(a) that operator or owner in relation to the installation to which the current safety case relates; or

(b) a contractor in relation to any work carried out by him on or in connection with that installation.

(3) In this regulation, regulation 11 and Schedule 7, "the 1993 Regulations" means the Offshore Installations (Safety Case) Regulations (Northern Ireland) 1993(**15**), "the 2007 Regulations" means the Offshore Installations (Safety Case) Regulations (Northern Ireland) 2007(**16**) and "installation", "current safety case", "safety case", "operator" and "owner" have the same meanings as in the 2007 Regulations.

Fees payable in respect of gas safety functions

10.—(1) A fee shall be payable to the Executive by the person referred to in column 2 of Schedule 8 for the performance by the Executive of such functions conferred on the Executive as are specified in column 1 of that Schedule.

(2) A fee shall be payable to the Executive by a person conveying gas who has prepared a safety case pursuant to the 1997 Regulations or by a network emergency co-ordinator for the performance by or on behalf of the Executive, or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1978 Order which relates to the enforcement of any of the relevant statutory provisions against one or other or both of the following—

(a) that person in relation to the network, including a pipeline that it is intended will form part of the network, to which the safety case relates; or

(b) a contractor in relation to work carried out by him on or in connection with that network including work on a pipeline that it is intended will form part of that network;

insofar as such enforcement is for the purpose of protecting persons from risks arising from the manner in which gas is or is to be conveyed or used.

(3) A fee shall be payable to the Executive by a person conveying gas who has prepared a safety case pursuant to the 1997 Regulations and a major accident prevention document pursuant to the

(**14**) S.R. 2001 No. 295, to which the relevant amendment is S.R. 2003 No. 510, regulation 17 and Schedule 13
(**15**) S.R. 1993 No. 221, amended by S.R. 1995 No. 340, S.R. 1995 No. 345, S.R. 1996 No. 228, S.R. 1999 No. 150 and S.R. 2005 No. 45, revoked by S.R. 2007 No. 247
(**16**) S.R. 2007 No. 247, revoked in part by S.R. 2008 No. 21

Pipelines Safety Regulations (Northern Ireland) 1997(**17**) for the performance by or on behalf of the Executive, or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1978 Order which relates to the enforcement of any of the relevant statutory provisions against one or other or both of the following—

(a) that person in relation to work relating to a major accident hazard pipeline, including the construction of a pipeline that it is intended will form part of the network, to which the major accident hazard prevention document relates; or

(b) a contractor in relation to work carried out by him relating to a major accident hazard pipeline, including the construction of a pipeline that it is intended will form part of the network, to which the major accident hazard prevention document relates.

(4) For the purposes of this regulation, regulation 11 and Schedule 8, "the 1997 Regulations" means the Gas Safety (Management) Regulations (Northern Ireland) 1997(**18**), "network", "network emergency co-ordinator" and "safety case" have the same meanings as in the 1997 Regulations and "major accident hazard pipeline" has the same meaning as in the Pipelines Safety Regulations (Northern Ireland) 1997.

Provisions supplementary to regulations 9 and 10

11.—(1) The fees referred to in regulations 9 and 10 shall—

(a) not exceed the sum of the costs reasonably incurred by the Executive for the performance of the function referred to in the respective regulation; and

(b) be payable within 30 days from the date of the invoice that the Executive has sent or given to the person who is required to pay the fees, and such invoices shall include a statement of the work done and the costs incurred including the period to which the statement relates.

(2) Any fees payable under regulations 9 and 10 shall not include any costs connected with any—

(a) criminal investigation or prosecution incurred (in either case) from the date any summons is obtained from a Magistrates' Court; or

(b) appeal pursuant to Article 26 of the 1978 Order (appeal against improvement or prohibition notice) and regulation 12(1) and (3)(c) of, and Schedules 1 and 5 to, the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005(**19**).

(3) For the purposes of regulation 9 and paragraph (2)(a), an installation shall be treated as being in Northern Ireland if it is in the Northern Irish area within the meaning of Article 1 of the Civil Jurisdiction (Offshore Activities) Order 1987(**20**).

(4) Any reference in regulation 9 to a person who has prepared a current safety case includes a reference to—

(a) a person who is required to prepare a safety case, and in that connection as if any reference in that regulation to the installation to which the current safety case relates were a reference to the installation to which the safety case would have related if it had been prepared in accordance with such requirement; and

(b) a person who is treated as having prepared a current safety case by virtue of regulation 2(9) of the 2007 Regulations.

(5) Any reference in regulation 10 to a person who has prepared a safety case includes a reference to a person who is required to prepare a safety case, and in that connection as if any reference in that

(**17**) S.R. 1997 No. 193, amended by S.R. 1999 No. 150
(**18**) S.R. 1997 No. 195, amended by S.R. 1999 No. 150 and S.R. 2000 No. 388
(**19**) S.R. 2005 No. 150, amended by S.R. 2005 No. 376, S.R. 2005 No. 578, S.R. 2006 No. 261 and S.R. 2007 No. 340; revoked in part by S.R. 2006 No. 261
(**20**) S.I. 1987 No. 2197