STATUTORY RULES OF NORTHERN IRELAND

1999 No. 90

HEALTH AND SAFETY

Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999

Made - - - -	*3rd March 1999*
Coming into operation	*1st April 1999*

The Department of Economic Development, being the Department concerned(**1**), in exercise of the powers conferred on it by Articles 17(1) and (3), 20(2) and 55(2) of the Health and Safety at Work (Northern Ireland) Order 1978(**2**) and of every other power enabling it in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to the Department to be appropriate, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999 and shall come into operation on 1st April 1999.

Interpretation

2.—(1) In these Regulations—

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

"agricultural activities"—

(a) includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, forestry, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds and the preparation of land for agricultural use;

(b) does not include such activities at a garden centre or other shop;

"common parts" means those parts of premises used in common by, or for providing services to or common facilities for, the occupiers of the premises;

(**1**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**2**) S.I. 1978/1039 (N.I. 9) as amended by S.I. 1998/2795 (N.I. 18)

"construction work" and "contractor" have the respective meanings assigned to them by regulation 2(1) of the Construction (Design and Management) Regulations (Northern Ireland) 1995(**3**);

"the Department" means the Department of Economic Development;

"dock premises" has the meaning assigned to it by regulation 2(1) of the Docks Regulations (Northern Ireland) 1989(**4**);

"electricity system" does not include the electric lines situated upon the consumer's side of the supply terminals together with any apparatus permanently connected or intended to be permanently connected thereto;

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

"fairground" means such part of premises as is for the time being used wholly or mainly for the operation of any fairground equipment, other than a coin-operated ride, non-powered childrens' playground equipment, swimming pool slide, go-kart, or plant designed to be used by members of the public for entertainment purposes for bouncing upon;

"gas" has the same meaning as in Part III of the Gas (Northern Ireland) Order 1996(**5**);

"gas fittings" has the meaning assigned to it by regulation 2(1) of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 1997(**6**);

"gas system" does not include a portable or mobile appliance supplied with gas from a cylinder, or the cylinder, pipes and other fittings used for supplying gas to that appliance;

"ionising radiation" has the meaning assigned to it by regulation 2(1) of the Ionising Radiations Regulations (Northern Ireland) 1985(**7**);

"livestock" means any creature kept for the production of food, wool, skins or fur or for the purpose of any agricultural activity;

"mine" has the meaning assigned to it by section 156(1) of the Mines Act (Northern Ireland) 1969(**8**);

"office activities" includes any activity for the purposes of administration, clerical work, handling money, telephone and telegraph operating and the production of computer software by the use of computers; and for this purpose "clerical work" includes writing, book keeping, sorting papers, filing, typing, duplicating, machine calculating, drawing and the editorial preparation of matter for publication except where that preparation is on the premises where newspapers, magazines, periodicals or books are printed;

"pleasure craft" has the meaning assigned to it by regulation 2(1) of the Docks Regulations (Northern Ireland) 1989;

"preparation dangerous for supply" has the meaning assigned to it by regulation 2(1) of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995(**9**);

"quarry" has the meaning assigned to it by Article 2(2) of the Quarries (Northern Ireland) Order 1983(**10**);

"railway" means any railway or tramway which in either case is used for the carriage of persons or goods;

(**3**) S.R. 1995 No. 209
(**4**) S.R. 1989 No. 320 to which there are amendments not relevant to these Regulations
(**5**) S.I. 1996/275 (N.I. 2)
(**6**) S.R. 1997 No. 194
(**7**) S.R. 1985 No. 273 to which there are amendments not relevant to these Regulations
(**8**) 1969 c. 6 (N.I.)
(**9**) S.R. 1995 No. 60 to which there are amendments not relevant to these Regulations
(**10**) S.I. 1983/150 (N.I. 4)

"substance dangerous for supply" has the meaning assigned to it by regulation 2(1) of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995;

"veterinary surgery" has the meaning assigned to it by section 27(1) of the Veterinary Surgeons Act 1966(**11**);

"work" in relation to a gas fitting has the meaning assigned to it by regulation 2(1) of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 1997;

"zoo" means a zoological establishment within the meaning of section 12(1) of the Welfare of Animals Act (Northern Ireland) 1972(**12**).

(2) In these Regulations, any reference to the enforcing authority for premises or parts of premises is a reference to the enforcing authority for the relevant statutory provisions in relation to those premises or parts, as the case may be, and to any activity carried on in them.

Application

3. These Regulations shall not apply to an industrial activity involving substances to which the Explosive Acts (Northern Ireland) 1875 to 1970(**13**) or the Explosives (Northern Ireland) Order 1972(**14**) apply.

District councils to be enforcing authorities for certain premises and the Executive to be the enforcing authority for certain premises

4.—(1) Where the main activity carried on in non-domestic premises is specified in Schedule 1, the district council for the district in which those premises are situated shall be the enforcing authority for them, and the Executive shall be the enforcing authority in any other case including the common parts of domestic premises.

(2) Where any premises to which paragraph (1) relates are occupied by more than one occupier, then each part separately occupied shall be regarded as being separate premises for the purposes of that paragraph.

(3) While a vehicle is parked in connection with the sale from it of food, drink or other articles, the vehicle together with its pitch shall be regarded as separate premises for the purposes of paragraph (1).

(4) Where paragraph (2) applies, the district council for the district in which the premises are situated shall be the enforcing authority for the common parts, except that—

(a) if the Executive is the enforcing authority for—

(i) all other parts of the premises, the Executive shall be the enforcing authority for the common parts;

(ii) any other part of the premises and the occupier of that part has any obligations under the relevant statutory provisions for any matters appertaining to the common parts, the Executive shall be the enforcing authority for those premises in respect of such matters;

(b) in the case of land within the perimeter of an airport, the Executive shall be the enforcing authority for the common parts—

(i) which are not within a building; or

(ii) to which passengers are admitted but other members of the public are not admitted.

(**11**) 1966 c. 36
(**12**) 1972 c. 7 (N.I.); section 12(1) was amended by S.I. 1994/1891 (N.I. 6) Article 14
(**13**) 1875 c. 17, 1924 c. 5 (N.I.); 1970 c. 10 (N.I.)
(**14**) S.I. 1972/730 (N.I. 3)

(5) This regulation shall have effect subject to regulations 5, 7 and 8.

The Executive to be the enforcing authority for the whole of certain premises

5.—(1) The Executive shall be the enforcing authority for the whole of the following premises whether occupied by more than one occupier or not—

(a) a building or construction site, that is to say, premises where the only activities being undertaken are construction work and activities for the purpose of or in connection with such work;

(b) an offshore installation within the meaning of regulation 3 of the Offshore Installations and Pipeline Works (Management and Administration) Regulations (Northern Ireland) 1995(**15**);

(c) the campus of a university, polytechnic, college, school or similar educational establishment;

(d) a hospital;

(e) a railway station, railway goods yard, railway track and any part of premises adjacent thereto, occupied in connection therewith.

(2) The Executive shall be the enforcing authority for—

(a) the enforcement of any of the relevant statutory provisions against a body specified in paragraph (4) or the officers or servants of such a body; and

(b) any part of premises occupied by such a body.

(3) Where premises are mainly occupied by a body specified in paragraph (4) and are partly occupied by another person for the purpose of providing services at the premises for that body, the Executive shall be the enforcing authority for the part of the premises occupied by that other person.

(4) The bodies referred to in paragraphs (2) and (3) are—

(a) a district council;

(b) the Police Authority for Northern Ireland as defined in section 1(1) of the Police Act (Northern Ireland) 1970(**16**);

(c) the Fire Authority for Northern Ireland as referred to in Article 3 of the Fire Services (Northern Ireland) Order 1984(**17**);

(d) a headquarters or an organisation designated for the purposes of the International Headquarters and Defence Organisation Act 1964(**18**); or a service authority of a visiting force within the meaning of section 12(1) of the Visiting Forces Act 1952(**19**);

(e) the Crown.

(5) Regulation 4(1) shall not apply to any licensing or enforcement function which by virtue of the Petroleum (Regulation) Acts (Northern Ireland) 1929 and 1937(**20**) is exercised by a harbour authority or a district council.

(6) The Executive shall be the enforcing authority for—

(a) Article 7 of the 1978 Order;

(b) the other relevant statutory provisions in respect of any activity specified in Schedule 2 (whether or not it is the main activity carried on in the premises).

(**15**) S.R. 1995 No. 340
(**16**) 1970 c. 9 (N.I.)
(**17**) S.I. 1984/1821 (N.I. 11)
(**18**) 1964 c. 5
(**19**) 1952 c. 67
(**20**) 1929 c. 13 (N.I.), 1937 c. 4 (N.I.) (1 Edw. 8 and 1 Geo. 6)

(7) Regulation 4 and the preceding provisions of this regulation shall have effect subject to any provisions made for enforcement responsibility by other regulations made under the 1978 Order or by any of the existing statutory provisions.

(8) This regulation shall have effect subject to regulations 7 and 8.

References in judgments, etc.

6.—(1) In the construction and for the purposes of any judgment, decree, award, deed, contract, certificate or other document passed or made before the date of coming into operation of these Regulations, any reference to, or which is to be construed as a reference to, the Department shall, so far only as may be necessary for the purposes of these Regulations, be construed as a reference to the Executive.

(2) The transfer of functions from the Department to the Executive by these Regulations shall not affect any appointment, direction, instruction, approval, requirement or authorisation made or given or other thing done by the Department before the date of coming into operation of these Regulations, but any such matter shall, if in force immediately before that date, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the Executive.

(3) Anything commenced before the date of coming into operation of these Regulations by or under the authority of the Department may, so far as it relates to any function transferred to the Executive by these Regulations, be carried on or completed by or under the authority of the Executive.

(4) Where, at the date of coming into operation of these Regulations, any legal proceeding is pending to which the Department is a party and the proceeding relates to any of the functions transferred to the Executive by these Regulations, the Executive shall be substituted in the proceeding for the Department, and the proceeding shall not abate by reason of the substitution.

Arrangements enabling responsibility for enforcement to be transferred

7.—(1) The responsibility for enforcing any of the relevant statutory provisions in respect of any particular premises, part of premises, or any activity carried on there may be transferred from the Executive to a district council or from a district council to the Executive.

(2) A transfer may be made only by agreement between the enforcing authority which has the current responsibility and the authority to which it is proposed to transfer it, or by the Department.

(3) Where a transfer has been made, the authority to which responsibility has been transferred shall cause notice of the transfer to be given to persons affected by it, and where a transfer has been made by the Department, the Department shall cause notice of it to be given to both enforcing authorities concerned.

(4) The preceding paragraphs shall not apply to any part of premises occupied by the Crown or to any activity carried on there but responsibility for enforcing any of the relevant statutory provisions in respect of office activities and the premises used for them may be transferred by an agreement between the Executive, the district council concerned and the government department or other public body concerned.

Arrangements enabling responsibility for enforcement to be assigned in cases of uncertainty

8.—(1) The responsibility for enforcing any of the relevant statutory provisions in respect of any particular premises, part of premises or any activity carried on there may be assigned to the Executive or to any district council; and an assignment under this paragraph may be made only by the Executive and the district council jointly and only where they agree—

(a) that there is uncertainty in the particular case as to what are their respective responsibilities by virtue of regulations made under Article 20(2) of the 1978 Order; and