STATUTORY RULES OF NORTHERN IRELAND

1993 No. 147

HEALTH AND SAFETY

Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1993

Made - - - - *29th March 1993*

Coming into operation *1st May 1993*

The Department of Agriculture, the Department of Economic Development and the Department of the Environment, acting jointly as the Department concerned(**1**) in exercise of the powers conferred 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 them 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 them to be appropriate, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1993 and shall come into operation on 1st May 1993.

Interpretation

2. —

(1) In these Regulations—

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

"agricultural activities" 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.

"building operation" has the meaning assigned to it by section 176(1) of the Factories Act (Northern Ireland) 1965(**3**) ;

"common parts" in relation to any premises or part of any premises means those areas used by or for providing services to, or facilities for, any occupier of such premises or part in common with any other occupier of premises or part of any premises;

(**1**) See Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**2**) S.I. 1978/1039 (N.I. 9)
(**3**) 1965 c. 20. (N.I.) the definition of "work of engineering construction" in section 176 has been extended by S.R. & O. (N.I.) 1960 No. 65 & S.R. and O. (N.I.) 1968 No. 235

"construction work" means a "building operation" or a "work of engineering construction" within the meanings assigned to those expressions by section 176(1) of the Factories Act (Northern Ireland) 1965;

"contractor" means a self-employed person, or an employer of persons carrying out construction work, except that in the case of a self-employed person who contracts to provide his labour only to another person, it shall mean that other person;

"dangerous substance" has the meaning assigned to it by regulation 2(1) of the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985(**4**) ;

"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(**5**) ;

"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;

"fairground" means any part of premises which 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 or a swimming pool slide;

"gas fitting" has the meaning assigned to it by Article 2(2) of the Gas (Northern Ireland) Order 1977(**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;

"quarry" has the meaning assigned to it by Article 2(2) of the Quarries (Northern Ireland) Order 1983(**9**) ;

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

"theatre" does not include a cinema;

"transport undertaking" means an undertaking primarily engaged in the transport of passengers or goods;

(**4**) S.R. 1985 No. 81 amended by S.R. 1988 No. 288, S.R. 1989 No. 182, S.R. 1990 No. 120 and S.R. 1990 No. 303
(**5**) S.R. 1989 No. 320 to which there are amendments not relevant to these Regulations
(**6**) S.I. 1977/596 (N.I. 7)
(**7**) S.R. 1985 No. 273
(**8**) 1969 c. 6 (N.I.)
(**9**) S.I. 1983/150 (N.I. 4)

"veterinary surgery" has the meaning assigned to it by section 27(1) of the Veterinary Surgeons Act 1966(**10**) ;

"work" in relation to a gas fitting means work of any of the following kinds:—

(a) installing the fitting;

(b) maintaining, servicing, permanently adjusting, repairing, altering or renewing the fitting or purging it of air or gas;

(c) where the fitting is stationary, changing its position; (d) removing the fitting.

"zoo" means a zoological establishment within the meaning of section 12(1) of the Welfare of Animals Act (Northern Ireland) 1972(**11**) .

(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. —

(1) These Regulations 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.

(2) These Regulations shall not apply to an industrial activity involving substances to which the Explosives Acts (Northern Ireland) 1875 to 1970(**12**) or the Explosives (Northern Ireland) Order 1972(**13**) applies.

District Councils to be enforcing authorities for certain premises and the Department of Economic Development or the Department of Agriculture to be the enforcing authority for certain premises

4. —

(1) Subject to paragraph (4), 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 Department shall be the enforcing authority in any other case.

(2) Where any premises to which paragraph (1) or (4)(a) 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) Where paragraph (2) applies, the district council for the area in which the premises are situated shall be the enforcing authority for the common parts, except that if the Department or the Department of Agriculture as the case may be, is the enforcing authority for—

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

(b) 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, that Department shall be the enforcing authority for those provisions in respect of such matters.

(4) Where any non-domestic premises—

(**10**) 1966 c. 36
(**11**) 1972 c. 7 (N.I.)
(**12**) 1875 c. 17, 1924 c. 5 (N.I.); 1970 c. 10 (N.I.)
(**13**) S.I. 1972/730 (N.I. 3)

(a) are wholly occupied in connection with any of the activities specified in Schedule 3 the Department of Agriculture shall be the enforcing authority for those premises;

(b) are partly occupied in connection with any of the activities specified in Schedule 3 and partly occupied (whether by another person or not) in connection with any other activities, then—

(i) the Department of Agriculture shall be the enforcing authority for that part of the premises where any of the activities specified in Schedule 3 is carried on,

(ii) the district council for the district in which those premises are situated shall be the enforcing authority for that part of the premises where the main activity carried on is specified in Schedule 1, and for the common parts; and

(iii) the Department shall be the enforcing authority for any other party

(5) This regulation shall have effect subject to regulation 5.

Department of Economic Development to be the enforcing authority for the whole of certain premises

5. —

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

(a) any land within the perimeter of an airport;

(b) 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, other than a building operation specified in paragraph 4 of Schedule 3;

(c) an offshore installation within the meaning of section 1(4) of the Mineral Workings (Offshore Installations) Act 1971(**14**) ;

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

(e) a hospital;

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

(2) The Department 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 Department 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(**15**) ;

(c) the Fire Authority for Northern Ireland as referred to in Article 3 of the Fire Services (Northern Ireland) Order 1984(**16**) ;

(**14**) 1971 c. 61; section 1 was substituted by section 24 of the Oil and Gas (Enterprise) Act 1982 (c. 23)
(**15**) 1970 c. 9 (N.I.)
(**16**) S.I. 1984/1821 (N.I. 11)

(d) a headquarters or an organisation designated for the purposes of the International Headquarters and Defence Organisation Act 1964(**17**) ; or a service authority of a visiting force within the meaning of section 12(1) of the Visiting Forces Act 1952(**18**) ;

(e) the Crown.

(5) Regulation 4(1) shall not apply to any of the following—

(a) any licensing or enforcing authority which by virtue of the Petroleum (Regulation) Acts (Northern Ireland) 1929 and 1937(**19**) is exercised by a harbour authority or a district council;

(b) any enforcing responsibility which, by virtue of the existing statutory provisions is exercised by the Fire Authority for Northern Ireland;

(c) enforcement of the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985(**20**) .

(6) The Department shall be the enforcing authority for premises if the main activity carried on there is indoor sports and any district council has any duty under Article 6 of the 1978 Order in respect of those premises or any plant therein.

(7) Subject to paragraph (8) the Department shall be the enforcing authority for—

(a) Article 7 of the 1978 Order; and

(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).

(8) The Department of Agriculture shall be the enforcing authority for Article 7 of the Order insofar as it relates to any article intended wholly or mainly for use at work in connection with any of the activities specified in Schedule 3.

Repeal and revocation

6. —

(1) Section 77(5) of the Office and Shop Premises Act (Northern Ireland) 1966(**21**) (which relates to enforcement of that Act in premises occupied by the Crown) is hereby repealed.

(2) The Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1985(**22**) are hereby revoked.

Sealed with the Official Seal of the Department of Agriculture on

L.S.

Ian Henderson
Assistant Secretary

29th March 1993.

(**17**) 1964 c. 5
(**18**) 1952 c. 67
(**19**) 1937 c. 4 (N.I.)
(**20**) S.R. 1985 No. 81
(**21**) 1966 c. 26 (N.I.)
(**22**) S.R. 1985 No. 103