***Changes to legislation:*** *Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 is up to date with all changes known to be in force on or before 16 July 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

# 1972 No. 963 (N.I. 6)

# Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972

*[28th June 1972]*

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**F1** Applied with mods. by SR 1995/340, reg. 21

## PART I

## GENERAL

### Title and commencement

**1.**—(1) This Order may be cited as the Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972.

(2) (3) *Commencement*

### 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 an Act of the Parliament of Northern Ireland.

(2) In this Order—

"business" includes a trade or profession and any activity carried on by a body of persons, whether corporate or unincorporate;

"employee" means an individual who has entered into or works under a contract of service or apprenticeship with another person for the purposes of a business carried on by that other person, whether such contract is express or implied, and "employer" shall be construed accordingly;

"the Minister"[F2] means the Minister of Health and Social Services and "Ministry"[F2] shall be construed accordingly;

"personal injury" includes loss of life, any disease and any impairment of a person's physical or mental condition;

"statutory provision" has the meaning assigned by section 1 of the Interpretation Act (Northern Ireland) 1954.

**F2** functions transf. by SRO (NI) 1973/504

*Art.3 rep. by SLR 1976*

# PART II

## EMPLOYER'S LIABILITY (DEFECTIVE EQUIPMENT)

**Extension of employer's liability for defective equipment**

**4.**—(1) Where, after this Part comes into operation—

(a) an employee suffers personal injury in the course of his employment in consequence of a defect in equipment provided by his employer for the purposes of the employer's business; and

(b) the defect is attributable wholly or partly to the fault of a third party (whether identified or not),

the injury shall be deemed to be also attributable to negligence on the part of the employer (whether or not he is liable in respect of the injury apart from this paragraph), but without prejudice to the law relating to contributory negligence and to any remedy by way of contribution or in contract or otherwise which is available to the employer in respect of the injury.

(2) In so far as any agreement purports to exclude or limit any liability of an employer arising out of paragraph (1), the agreement shall be void.

(3) In this Article—

"equipment" includes any plant and machinery, vehicle, aircraft and clothing; and

"fault" means negligence, breach of statutory duty or other act or omission which gives rise to liability in tort in Northern Ireland.

(4) This Article binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland and for the purposes of this Article persons in the service of the Crown shall be treated as employees of the Crown if they would not be so treated apart from this paragraph.

# PART III [F3]

## COMPULSORY INSURANCE AGAINST EMPLOYER'S LIABILITY

**F3** 1973 NI 16; 1977 NI 2

**Insurance against liability to employees**

**5.**—(1) Except as otherwise provided by this Part, every employer carrying on any business in Northern Ireland shall insure, and maintain insurance, under one or more approved policies with an authorised insurer or insurers against liability for personal injury suffered by his employees, and arising out of and in the course of their employment in Northern Ireland in that business but, except in so far as regulations otherwise provide, not including personal injury suffered outside Northern Ireland.

(2) Regulations may provide that the amount for which an employer is required by this Part to insure and maintain insurance shall be limited in such manner as may be prescribed by the regulations.

(3) For the purposes of this Part—

(a) "approved policy" means a policy of insurance not subject to any conditions or exceptions prohibited for those purposes by regulations;

**[**F4(b) "authorised insurer" means—

(i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance;

(ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance; or

(iii) a person who does not fall within sub-paragraph (i) or (ii) and who may lawfully effect or carry out contracts of insurance in a member State other than the United Kingdom;**]**

(c) except as otherwise provided by regulations, an employer not having a place of business in Northern Ireland shall be deemed not to carry on business there.

**[**F4(3A) Paragraph (3)(b) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.**]**

**F4** SI 2001/3649

### Employees to be exempted

**6.** This Part shall not require an employer to insure—

(a) in respect of an employee of whom the employer is the husband, wife,**[**F5 civil partner,**]** father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, grand-daughter, stepson, stepdaughter, brother, sister, half-brother or half-sister; or

(b) except as otherwise provided by regulations, in respect of employees not ordinarily resident in Northern Ireland.

**F5** 2004 c.33

### Employers exempted from insurance

**7.** This Part shall not require any insurance to be effected by—

(a) the Police Authority for Northern Ireland (which for the purposes of this Part shall be treated as the employer of members of the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve), a new town commission established under the New Towns Acts (Northern Ireland) 1965 to 1968, the Northern Ireland Housing Executive established under the Housing Executive Act (Northern Ireland) 1971 F6 or any body to which Part II of the Local Government (Members and Officers) Act (Northern Ireland) 1964 F7 for the time being applies; or

**[**F8(aa) a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991; or**]**

*Sub.-para. (ab) rep. by 2001 c. 16*

(b)