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STATUTORY INSTRUMENTS

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**1978 No. 1039**

**Health and Safety at Work (Northern Ireland) Order 1978**

**<sup>F1</sup> PART II**

**HEALTH, SAFETY AND WELFARE IN CONNECTION WITH  
WORK, AND CONTROL OF DANGEROUS SUBSTANCES**

*Miscellaneous and supplementary*

**Civil liability**

<sup>F1</sup>**43** .—<sup>F2</sup>(1) Nothing in this Part shall be construed—

- (a) as conferring a right of action in any civil proceedings in respect of any failure to comply with any duty imposed by Articles 4 to 8 or any contravention of Article 9; or
- (b) as affecting the extent (if any) to which breach of a duty imposed by any of the existing statutory provisions is actionable; or
- (c) as affecting the operation of section 12 of the Nuclear Installations Act 1965 (right to compensation by virtue of certain provisions of that Act).

(2) Breach of a duty imposed by health and safety regulations shall, so far as it causes damage, be actionable except in so far as the regulations provide otherwise.

(3) No provision made under Article 17(6)(*b*) shall afford a defence in any civil proceedings, whether brought under paragraph (2) or not; but as regards any duty imposed as mentioned in paragraph (2) health and safety regulations may provide for any defence specified in the regulations to be available in any action for breach of that duty.

(4) Paragraphs (1)(*a*) and (2) are without prejudice to any right of action which exists apart from the provisions of this Order, and paragraph (3) is without prejudice to any defence which may be available apart from the provisions of the regulations there mentioned.

(5) Any term of an agreement which purports to exclude or restrict the operation of paragraph (2), or any liability arising by virtue of that paragraph shall be void, except in so far as health and safety regulations provide otherwise.

(6) In this Article “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person's physical or mental condition).

**F1** mod. by SR 2000/87; 2000/120

**F2** mod. by 2002 c. 8 (NI)

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**Modifications etc. (not altering text)**

**C1** Art. 43 applied (23.10.2015) by [The Genetically Modified Organisms \(Contained Use\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/339\)](#), regs. 1, **30(2)(a)** (with reg. 3(1)(2))

**C2** Art. 43(2) applied (with modifications) (27.7.2009) by [Chemicals \(Hazard Information and Packaging for Supply\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/238\)](#), **reg. 14(1)(c)**

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**Changes to legislation:** *There are currently no known outstanding effects for the Health and Safety at Work (Northern Ireland) Order 1978, Section 43 . (See end of Document for details)*

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- C3** Art. 43(2) applied (with modifications) (24.8.2009) by Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009/273), **reg. 14(1)(c)**
- C4** Art. 43(2) applied (with modifications) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(1), **7(1)(c)** (with regs. 3, 8-15, 19, 20, 21)
- C5** Art. 43(2) applied with modification(s) (1.6.2015) by The Explosives (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2015 (S.R. 2015/236), regs. 1(2), **5(1)(c)**
- C6** Art. 43(2) applied (with modifications) (1.6.2015) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013/206), regs. 2(2), **16(1)(c)** (with regs. 3, 19)

**Changes to legislation:**

There are currently no known outstanding effects for the Health and Safety at Work (Northern Ireland) Order 1978, Section 43 .