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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**

*General duties*

**General duties of employers to their employees**

**4** <sup>F1</sup>.—<sup>F2F3F4</sup>(1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.

(2) Without prejudice to the generality of an employer's duty under paragraph (1), the matters to which that duty extends include in particular—

- (a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
- (b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
- (c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees;
- (d) so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;
- (e) the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

(3) Except in such cases as may be prescribed, it shall be the duty of every employer to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the health and safety at work of his employees and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all of his employees.

(4) Regulations may provide for the appointment in prescribed cases by recognised trade unions (within the meaning of the regulations) of safety representatives from amongst the employees, and those representatives shall represent the employees in consultations with the employers under paragraph (5) and shall have such other functions as may be prescribed.

(5) It shall be the duty of every employer to consult any such representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate

*Status: Point in time view as at 01/01/2006.*

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effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.

(6) In such cases as may be prescribed it shall be the duty of every employer, if requested to do so by the safety representatives mentioned in paragraph (4), to establish, in accordance with regulations, a safety committee having the function of keeping under review the measures taken to ensure the health and safety at work of his employees and such other functions as may be prescribed.

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| <b>F1</b> | mod. by SR 2000/87; 2000/120                             |
| <b>F2</b> | enforcing authority DED for certain purposes—SR 1989/321 |
| <b>F3</b> | mod. by SR 2001/295                                      |
| <b>F4</b> | mod. by <a href="#">2002 c. 8 (NI)</a>                   |

### **General duties of employers and self-employed to persons other than their employees**

**5**<sup>F5</sup>.—<sup>F6F7F8</sup>(1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.

(2)<sup>F9</sup> It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.

(3) In such cases as may be prescribed, it shall be the duty of every employer and every self-employed person, in the prescribed circumstances and in the prescribed manner, to give to persons (not being his employees) who may be affected by the way in which he conducts his undertaking the prescribed information about such aspects of the way in which he conducts his undertaking as might affect their health or safety.

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| <b>F5</b> | mod. by SR 2000/87; 2000/120                               |
| <b>F6</b> | enforcing authority DED for certain purposes—SR 1989/321   |
| <b>F7</b> | mod. by SR 2001/295  |
| <b>F8</b> | mod. by <a href="#">2002 c. 8 (NI)</a>                     |
| <b>F9</b> | mod. by SR 1982/273; 1991/238; 1994/143; 2000/120; 2003/34 |

### **General duties of persons concerned with premises to persons other than their employees**

**6**<sup>F10</sup>.—<sup>F11F12</sup>(1) This Article has effect for imposing on persons duties in relation to those who—

- (a) are not their employees; but
- (b) use non-domestic premises made available to them as a place of work or as a place where they may use plant or substances provided for their use there,

and applies to premises so made available and other non-domestic premises used in connection with them.

(2) It shall be the duty of each person who has, to any extent, control of premises to which this Article applies or of the means of access thereto or egress therefrom or of any plant or substance in such premises to take such measures as it is reasonable for a person in his position to take to ensure, so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom available for use by persons using the premises, and any plant or substance in the premises or, as the case may be, provided for use there, is or are safe and without risks to health.

(3) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to—

- (a) the maintenance or repair of any premises to which this Article applies or any means of access thereto or egress therefrom; or
- (b) the safety of or the absence of risks to health arising from plant or substances in any such premises;

that person shall be treated, for the purposes of paragraph (2), as being a person who has control of the matters to which his obligation extends.

(4) Any reference in this Article to a person having control of any premises or matter is a reference to a person having control of the premises or matter in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

**F10** mod. by SR 2000/87; 2000/120  
**F11** enforcing authority DED for certain purposes—SR 1989/321  
**F12** mod. by 2002 c. 8 (NI)

### General duties of manufacturers etc. as regards articles and substances for use at work

7<sup>F13</sup>.—<sup>F14F15F16F17F18</sup>(1) It shall be the duty of any person who designs, manufactures, imports or supplies any article for use at work or any article of fairground equipment —

- (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being set, used, cleaned or maintained by a person at work;
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by sub-paragraph ( a );
- (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all such times as are mentioned in sub#paragraph ( a ) and when it is being dismantled or disposed of; and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of sub#paragraph ( c ) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

(1A) It shall be the duty of any person who designs, manufactures, imports or supplies any article of fairground equipment —

- (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public;
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by sub-paragraph ( a );
- (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public; and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of sub#paragraph ( c ) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.]

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(2) It shall be the duty of any person who undertakes the design or manufacture of any article for use at work<sup>[F14]</sup> or of any article of fairground equipment] to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the design or article may give rise.

(3) It shall be the duty of any person who erects or installs any article for use at work in any premises where that article is to be used by persons at work<sup>[F14]</sup> or who erects or installs any article of fairground equipment] to ensure, so far as is reasonably practicable, that nothing about the way in which<sup>[F14]</sup> the article is erected or installed makes it unsafe or a risk to health at any such time as is mentioned in paragraph (1)( a) or, as the case may be, (1A)( a).]

<sup>[F14]</sup>(4) It shall be the duty of any person who manufactures, imports or supplies any substance—

- (a) to ensure, so far as is reasonably practicable, that the substance will be safe and without risks to health at all times when it is being used, handled, processed, stored or transported by a person at work or in premises to which Article 6 applies;
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by sub-paragraph ( a);
- (c) to take such steps as are necessary to secure that persons supplied by that person with the substance are provided with adequate information about any risks to health or safety to which the inherent properties of the substance may give rise, about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health at all such times as are mentioned in sub#paragraph ( a) and when the substance is being disposed of; and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of sub#paragraph ( c) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.]

(5) It shall be the duty of any person who undertakes the manufacture of any<sup>[F14]</sup> substance] to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the substance may give rise<sup>[F14]</sup> at all such times as are mentioned in paragraph (4)( a)].

(6) Nothing in the provisions of this Article shall be taken to require a person to repeat any testing, examination or research which has been carried out otherwise than by him or at his instance, in so far as it is reasonable for him to rely on the results thereof for the purposes of those provisions.

(7) Any duty imposed on any person by any of the preceding provisions of this Article shall extend only to things done in the course of a trade, business or other undertaking carried on by him (whether for profit or not) and to matters within his control.

(8) Where a person designs, manufactures, imports or supplies an article<sup>[F14]</sup> for use at work or an article of fairground equipment and does so far or to another] on the basis of a written undertaking by that other to take specified steps sufficient to ensure, so far as is reasonably practicable, that the article will be safe and without risks to health<sup>[F14]</sup> at all such times as are mentioned in sub#paragraph ( a) of paragraph (1) or as the case may be, in sub#paragraph ( a) of paragraph (1A)], the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed<sup>[F14]</sup> by virtue of that sub#paragraph] to such extent as is reasonable having regard to the terms of the undertaking.

<sup>[F14]</sup>(8A) Nothing in paragraph (7) or (8) shall relieve any person who imports any article or substance from any duty in respect of anything which—

- (a) in the case of an article designed outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who designed the article; or
  - (b) in the case of an article or substance manufactured outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who manufactured the article or substance.]
- (9) Where a person (“the ostensible supplier”) supplies any<sup>[F14]</sup> article or substance] to another (“the customer”) under a hire-purchase agreement, conditional sale agreement or credit-sale agreement, and the ostensible supplier—
- (a) carries on the business of financing the acquisition of goods by others by means of such agreements; and
  - (b) in the course of that business acquired his interest in the article or substance supplied to the customer as a means of financing its acquisition by the customer from a third person (“the effective supplier”),

the effective supplier and not the ostensible supplier shall be treated for the purposes of this Article as supplying the article or substance to the customer, and any duty imposed by this Article on suppliers shall accordingly fall on the effective supplier and not on the ostensible supplier.

<sup>[F14]</sup>(10) For the purposes of this Article an absence of safety or a risk to health shall be disregarded in so far as the case in or in relation to which it would arise is shown to be one the occurrence of which could not reasonably be foreseen; and in determining whether any duty imposed by virtue of sub#paragraph ( a) of paragraph (1), (1A) or (4) has been performed regard shall be had to any relevant information or advice which has been provided to any person by the person by whom the article has been designed, manufactured, imported or supplied or, as the case may be, by the person by whom the substance has been manufactured, imported or supplied.]

- F13 mod. by SR 2000/87; 2000/120
- F14 [1987 NI 20](#)
- F15 enforcing authority DED for certain purposes—SR 1989/321
- F16 mod. by SR 1985/273; 1990/147; 1993/27
- F17 mod. by SR 2000/375
- F18 mod. by [2002 c. 8 \(NI\)](#)

### General duties of employees at work

<sup>F19F20F21F22</sup>8. It shall be the duty of every employee while at work—

- (a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work; and
- (b) as regards any duty or requirement imposed on his employer or any other person by or under any of the relevant statutory provisions, to co-operate with him so far as is necessary to enable that duty or requirement to be performed or complied with.

- F19 mod. by SR 2000/87; 2000/120
- F20 enforcing authority DED for certain purposes—SR 1989/321
- F21 mod. by SR 2001/295
- F22 mod. by [2002 c. 8 \(NI\)](#)

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

- C1** Art. 8 modified (23.10.2015) by [The Genetically Modified Organisms \(Contained Use\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/339\)](#), regs. 1, **4(2)** (with reg. 3(1)(2))

#### Duty not to interfere with or misuse things provided pursuant to certain provisions

**9** <sup>F23</sup>. <sup>F24F25</sup> No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions.

- F23** mod. by SR 2000/87; 2000/120  
**F24** enforcing authority DED for certain purposes—SR 1989/321  
**F25** mod. by [2002 c. 8 \(NI\)](#)

#### Duty not to charge employees for things done or provided pursuant to certain specific requirements

**10** <sup>F26</sup>. <sup>F27</sup> No employer shall levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any specific requirement of the relevant statutory provisions.

- F26** mod. by SR 2000/87; 2000/120  
**F27** mod. by [2002 c. 8 \(NI\)](#)

#### General duty of the Department concerned

**11** <sup>F28</sup>. <sup>F29</sup> In addition to the other functions conferred on the Department concerned under this Order, it shall be the general duty of that Department to do such things and make such arrangements as it considers appropriate for the general purposes of this Part.

- F28** mod. by SR 2000/87; 2000/120  
**F29** mod. by [2002 c. 8 \(NI\)](#)

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