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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**

*Provisions as to offences*

**Offences**

- 31** <sup>F1</sup>.—<sup>F2</sup>(1) Any person who—
- (a) fails to discharge a duty to which he is subject by virtue of Articles 4 to 8;
  - (b) contravenes Article 9 or 10;
  - (c) contravenes any health and safety regulations or any requirement or prohibition imposed under any such regulations (including any requirement or prohibition to which he is subject by virtue of the terms of or any condition or restriction attached to any licence, approval, exemption or other authority issued, given or granted under the regulations);
  - (d) contravenes any requirement imposed by or under regulations under Article 16 or intentionally obstructs any person in the exercise of his powers under that Article;
  - (e) contravenes any requirement imposed by an inspector under Article 22 or 27;
  - (f) prevents or attempts to prevent any other person from appearing before an inspector or from answering any question to which an inspector may by virtue of Article 22(2) require an answer;
  - (g) contravenes any requirement or prohibition imposed by an improvement notice or a prohibition notice (including any such notice as modified on appeal);
  - (h) intentionally obstructs an inspector in the exercise or performance of his powers or duties<sup>F3</sup> or obstructs a customs officer in the exercise of his powers under Article 27A];
  - (i) contravenes any requirement imposed by a notice under Article 29(1);
  - (j) uses or discloses any information in contravention of Article<sup>F4</sup> . . . 30;
  - (k) makes a statement which he knows to be false or recklessly makes a statement which is false where the statement is made—
    - (i) in purported compliance with a requirement to furnish any information imposed by or under any of the relevant statutory provisions; or
    - (ii) for the purpose of obtaining the issue of a document under any of the relevant statutory provisions to himself or another person;
  - (l) intentionally makes a false entry in any register, book, notice or other document required by or under any of the relevant statutory provisions to be kept, served or given or, with intent to deceive, makes use of any such entry which he knows to be false;

*Status: Point in time view as at 01/01/2006.*

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

- (m) with intent to deceive,<sup>F5</sup> . . . uses a document issued or authorised to be issued under any of the relevant statutory provisions or required for any purpose thereunder or makes or has in his possession a document so closely resembling any such document as to be calculated to deceive;
- (n) falsely pretends to be an inspector;
- (o) fails to comply with an order made by a court under Article 39;

shall be guilty of an offence.

[<sup>F6</sup>(1A) Subject to any provision made by virtue of Article 17(6)(d), a person guilty of an offence under paragraph (1)(a) consisting of failure to discharge a duty to which he is subject by virtue of Articles 4 to 7 shall be liable—

- (a) on summary conviction, to a fine not exceeding £20,000;
- (b) on conviction on indictment, to a fine.]

(2) A person guilty of an offence under sub-paragraph ( *d*),( *f*), ( *h*) or ( *n*) of paragraph (1), or under sub-paragraph ( *e*) of that paragraph consisting of contravening a requirement imposed by an inspector under Article 22 shall be liable on summary conviction to a fine not exceeding<sup>F7</sup> level 5 on the standard scale].

[<sup>F6</sup>(2A) A person guilty of an offence under sub-paragraph ( *g*) or ( *o*) of paragraph (1) shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding £20,000, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.]

*Para.(3) rep. by 1998 NI 18*

(4) [<sup>F6</sup>Subject to any provision made under Article 17(6)( *d*) or ( *e*), a person guilty of an offence under paragraph (1) not falling within paragraph (1A), (2) or (2A)]; or of an offence under any of the existing statutory provisions, being an offence for which no other penalty is specified, shall be liable—

- (a) on summary conviction, to a fine not exceeding<sup>F7</sup> level 5 on the standard scale];
- (b) on conviction on indictment—
  - (i) if the offence is one to which this head applies, to imprisonment for a term not exceeding two years, or a fine, or both;
  - (ii) if the offence is not one to which head ( *i*) applies, to a fine.

(5) Paragraph (4)( *b*)*(i)* applies to the following offences—

- (a) an offence consisting of contravening any of the relevant statutory provisions by doing otherwise than under the authority of a licence issued by the Department concerned something for the doing of which such a licence is necessary under the relevant statutory provisions;
- (b) an offence consisting of contravening a term of or a condition or restriction attached to any such licence as is mentioned in sub-paragraph ( *a*);
- (c) an offence consisting of acquiring or attempting to acquire, possessing or using an explosive article or substance (within the meaning of any of the relevant statutory provisions) in contravention of any of the relevant statutory provisions;

*Sub#para.(d) rep. by 1992 NI 17*

- (e) an offence under paragraph (1)(*j*).

*Para.(6) rep. by 1992 NI 17*

Para.(7) rep. by 1981 c. 45

- F1 mod. by SR 2000/87; 2000/120
- F2 mod. by 2002 c. 8 (NI)
- F3 1987 NI 20
- F4 1988 NI 3
- F5 1986 NI 15
- F6 1992 NI 17
- F7 1984 NI 3

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

- C1 Art. 31 applied (2.4.2006) by [The Railways \(Interoperability\) Regulations 2006 \(S.I. 2006/397\)](#), **reg. 35**

**Extension of time for bringing summary proceedings**

<sup>F8F9</sup>32.—(1) Where—

- (a) a special report on any matter to which Article 16 applies is made under paragraph (2)(a) of that Article; or
- (b) a report is made by the person holding an inquiry into any such matter under paragraph (2)(b) of that Article; or
- (c) a coroner's inquest is held touching the death of any person whose death may have been caused by an accident which happened while he was at work or by a disease which he contracted or probably contracted at work or by any accident, act or omission which occurred in connection with the work of any person whatsoever;

and it appears from the report or, in a case falling within sub-paragraph (c), from the proceedings at the inquest, that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the report or inquest, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the making of the report or, in a case falling within sub-paragraph (c), within three months of the conclusion of the inquest.

(2) Where an offence under any of the relevant statutory provisions is committed by reason of a failure to do something at or within a time fixed by or under any of those provisions, the offence shall be deemed to continue until that thing is done.

(3) Summary proceedings for an offence to which this paragraph applies may be commenced at any time within<sup>F10</sup> six months from the date on which there comes to the knowledge of a responsible enforcing authority evidence sufficient in the opinion of that authority to justify a prosecution for that offence; and for the purposes of this paragraph—

- (a) a certificate of an enforcing authority stating that such evidence came to its knowledge on a specified date shall be conclusive evidence of that fact; and
- (b) a document purporting to be such a certificate and to be signed by or on behalf of the enforcing authority in question shall be presumed to be such a certificate unless the contrary is proved.

(4) Paragraph (3) applies to any offence under any of the relevant statutory provisions which a person commits under any provision or requirement to which he is subject as the designer, manufacturer, importer or supplier of any thing; and in that paragraph “responsible enforcing authority” means an enforcing authority within whose field of responsibility the offence in question lies, whether under Article 33 or otherwise.

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

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

- F8** mod. by SR 2000/87; 2000/120  
**F9** mod. by 2002 c. 8 (NI)  
**F10** mod. by SI 1992/711

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

- C2** Arts. 32 applied (2.4.2006) by [The Railways \(Interoperability\) Regulations 2006 \(S.I. 2006/397\)](#), **reg. 35**
- C3** Arts. 31-39 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)(b)**
- C4** Arts. 31-39 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)(b)**
- C5** Art. 32(1)(c)(d) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by virtue of [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**
- C6** Art. 32(2) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**
- C7** Art. 32(2)-(4) applied (with modifications) (16.1.2012) by [Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), **reg. 40(2)(3)(g)** (with reg. 3)

**Venue**

<sup>F11F12</sup>**33.** An offence under any of the relevant statutory provisions committed in connection with any plant or substance may, if necessary for the purpose of bringing the offence within the field of responsibility of any enforcing authority or conferring jurisdiction on any court to entertain proceedings for the offence, be treated as having been committed at the place where that plant or substance is for the time being.

- F11** mod. by SR 2000/87; 2000/120  
**F12** mod. by 2002 c. 8 (NI)

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

- C8** Art. 33 applied (2.4.2006) by [The Railways \(Interoperability\) Regulations 2006 \(S.I. 2006/397\)](#), **reg. 35**
- C9** Arts. 31-39 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)(b)**
- C10** Arts. 31-39 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)(b)**
- C11** Art. 33 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**

**Offences due to fault of other person**

<sup>F13F14</sup>**34.**—(1) Where the commission by any person of an offence under any of the relevant statutory provisions is due to the act or default of some other person, that other person shall be guilty of an offence, and a person may be charged with and convicted of the offence under this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where there would be or have been the commission of an offence under Article 31 by the Crown but for the circumstance that that Article does not bind the Crown, and that fact is due to

the act or default of a person other than the Crown, that person shall be guilty of the offence which, but for that circumstance, the Crown would be committing or would have committed, and may be charged with and convicted of that offence accordingly.

(3) The provisions of this Article are subject to any provision made under Article 17(6).

**F13** mod. by SR 2000/87; 2000/120

**F14** mod. by 2002 c. 8 (NI)

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

**C12** Art. 34 applied (2.4.2006) by [The Railways \(Interoperability\) Regulations 2006 \(S.I. 2006/397\)](#), **reg. 35**

**C13** Arts. 31-39 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)(b)**

**C14** Arts. 31-39 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)(b)**

**C15** Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**

**C16** Art. 34(1) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**

**C17** Art. 34(1)(2) applied (with modifications) (16.1.2012) by [Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), **reg. 40(2)(3)(g)** (with reg. 3)

**C18** Art. 34(2) applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**

**[<sup>F15</sup>Offences by bodies corporate**

<sup>F16F17</sup>**34A.** For the purposes of this Part section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.]

**F15** 1998 NI 18

**F16** mod. by SR 2000/87; 2000/120

**F17** mod. by 2002 c. 8 (NI)

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

**C19** Art. 34A applied (2.4.2006) by [The Railways \(Interoperability\) Regulations 2006 \(S.I. 2006/397\)](#), **reg. 35**

**C20** Arts. 31-39 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)(b)**

**C21** Arts. 31-39 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)(b)**

**C22** Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**

**C23** Art. 34A applied (with modifications) (16.1.2012) by [Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), **reg. 40(2)(3)(g)** (with reg. 3)

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## Restriction on institution of proceedings

<sup>F18F19</sup>**35.** Proceedings for an offence under any of the relevant statutory provisions shall not be instituted except by an inspector or by or with the consent of the Director of Public Prosecutions for Northern Ireland.

**F18** mod. by SR 2000/87; 2000/120

**F19** mod. by 2002 c. 8 (NI)

### Modifications etc. (not altering text)

**C24** Art. 35 applied (2.4.2006) by [The Railways \(Interoperability\) Regulations 2006 \(S.I. 2006/397\)](#), **reg. 35**

**C25** Arts. 31-39 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)(b)**

**C26** Arts. 31-39 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)(b)**

**C27** Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**

**C28** Art. 35 applied (with modifications) (16.1.2012) by [Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), **reg. 40(2)(3)(g)** (with reg. 3)

## Prosecutions by inspectors

<sup>F20F21</sup>**36.** An inspector, if authorised in that behalf by the enforcing authority which appointed him, may, although not of counsel or a solicitor, prosecute before a court of summary jurisdiction proceedings for an offence under any of the relevant statutory provisions.

**F20** mod. by SR 2000/87; 2000/120

**F21** mod. by 2002 c. 8 (NI)

### Modifications etc. (not altering text)

**C29** Art. 36 applied (2.4.2006) by [The Railways \(Interoperability\) Regulations 2006 \(S.I. 2006/397\)](#), **reg. 35**

**C30** Arts. 31-39 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)(b)**

**C31** Arts. 31-39 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)(b)**

**C32** Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**

**C33** Art. 36 applied (with modifications) (16.1.2012) by [Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), **reg. 40(2)(3)(g)** (with reg. 3)

## Onus of proving limits of what is practicable etc.

<sup>F22F23</sup>**37.** In any proceedings for an offence under any of the relevant statutory provisions consisting of a failure to comply with a duty or requirement to do something so far as is practicable or so far as is reasonably practicable, it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

F22 mod. by SR 2000/87; 2000/120

F23 mod. by 2002 c. 8 (NI)

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

C34 Arts. 37 applied (2.4.2006) by [The Railways \(Interoperability\) Regulations 2006 \(S.I. 2006/397\)](#), **reg. 35**

C35 Arts. 31-39 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)(b)**

C36 Arts. 31-39 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)(b)**

C37 Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**

C38 Art. 37 applied (with modifications) (16.1.2012) by [Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), **reg. 40(2)(3)(g)** (with reg. 3)

**Evidence**

<sup>F24</sup><sup>F25</sup>**38.**—(1) Where an entry is required by any of the relevant statutory provisions to be made in any register or other record, the entry, if made, shall, as against the person by or on whose behalf it was made, be admissible as evidence.

(2) Where an entry which is so required to be so made with respect to the observance of any of the relevant statutory provisions has not been made, that fact shall be admissible as evidence.

F24 mod. by SR 2000/87; 2000/120

F25 mod. by 2002 c. 8 (NI)

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

C39 Art. 38 applied (2.4.2006) by [The Railways \(Interoperability\) Regulations 2006 \(S.I. 2006/397\)](#), **reg. 35**

C40 Arts. 31-39 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)(b)**

C41 Arts. 31-39 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)(b)**

C42 Arts. 34-38 applied (with modifications) (10.5.2010 with effect as mentioned in reg. 41 of the amending Regulations) by [Train Driving Licences and Certificates Regulations \(Northern Ireland\) 2010 \(S.R. 2010/132\)](#), regs. 1(2), **40(2)(3)(g)**

C43 Art. 38 applied (with modifications) (16.1.2012) by [Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), **reg. 40(2)(3)(g)** (with reg. 3)

**Power of court to order cause of offence to be remedied and, in certain cases, forfeiture**

<sup>F26</sup><sup>F27</sup>**39.**—(1) Where a person is convicted of an offence under any of the relevant statutory provisions in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying the said matters.

(2) The time fixed by an order under paragraph (1) may be extended or further extended by order of the court on an application made before the end of that time as originally fixed or as extended under this paragraph, as the case may be.

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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, Cross Heading: Provisions as to offences. (See end of Document for details)

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(3) Where a person is ordered under paragraph (1) to remedy any matters, that person shall not be liable under any of the relevant statutory provisions in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under paragraph (2).

(4) Subject to paragraph (5), the court by or before which a person is convicted of an offence such as is mentioned in Article 31(5)(c) in respect of any such explosive article or substance as is there mentioned may order the article or substance in question to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(5) The court shall not order anything to be forfeited under paragraph (4) where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

**F26** mod. by SR 2000/87; 2000/120

**F27** mod. by [2002 c. 8 \(NI\)](#)

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

**C44** [Art. 39](#) applied (2.4.2006) by [The Railways \(Interoperability\) Regulations 2006 \(S.I. 2006/397\)](#), [reg. 35](#)



**Status:**

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**Changes to legislation:**

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