
Status: Point in time view as at 01/01/2006.

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STATUTORY INSTRUMENTS

1984 No. 1821

The Fire Services (Northern Ireland) Order 1984

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Fire Services (Northern Ireland) Order 1984 and, except as provided by paragraph (2), shall come into operation on the expiration of two months from the day on which it is made.

(2) The following provisions, namely—

(a) Part III,

Sub#para. (b) rep. by 1991 NI 12

(c) paragraphs 3 to 6 of Schedule 4, and

(d) Part II of Schedule 5,

shall come into operation on such day or days as the Head of the Department may by order appoint^{F1}.

F1 partly exercised by SR's 1985/136,1986/353
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Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954^{F2} shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Authority” means the Fire Authority for Northern Ireland;

“the Department” means the Department of the Environment;

“district council” has the same meaning as in the Local Government Act (Northern Ireland) 1972^{F3};

“equipment” includes uniform and any article of apparel properly used by a member of the fire brigade in the performance of his duties as such;

“fire brigade” means the organised body of fire officers and firemen trained and equipped by the Authority for the purposes of—

(a) extinguishing fires occurring in buildings and elsewhere;

(b) rescuing persons and property from such fires;

(c) carrying out such other duties as may be required of them under this Order,

and includes the fire engines, appliances and equipment with which the body is provided for those purposes;

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- “fire officer” means a member of the fire brigade not below the rank of station officer;
- “fire services” means the services provided by the Authority under Article 4;
- “member of the fire brigade” means a fire officer or fireman;
- “owner”, in relation to a building, means any person who is for the time being receiving a rack rent of the building whether on his own account or as agent or trustee for any other person or who, if the building were let for occupation at a rack rent, would so receive that rack rent;
- “prescribed” means prescribed by regulations;
- “rack rent” has the same meaning as in the Rates (Northern Ireland) Order 1977^{F4};
- “street” includes any highway and any public passage whether a thoroughfare or not.
- (3) References to the extinction of fires include references to the prevention of spreading of fires.

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| F2 | 1954 c. 33 (N.I). |
| F3 | 1972 c. 9 (N.I). |
| F4 | S.I. 1977/2157 (N.I. 28). |

PART II

FIRE SERVICES

The Fire Authority for Northern Ireland

The Fire Authority for Northern Ireland

3.—(1) The body known as the Fire Authority for Northern Ireland shall continue to be the fire authority for the whole of Northern Ireland.

(2) The Authority shall continue to be a body corporate, with perpetual succession, to which section 19 of the Interpretation Act (Northern Ireland) 1954 applies.

(3) Schedule 1 shall have effect with respect to the constitution and proceedings of the Authority.

(4) The headquarters of the Authority shall be situated at such place as the Authority may, with the consent of the Department, determine.

Duties of the Authority

4.—(1) The Authority shall provide fire services—

- (a) by making provision for fire-fighting purposes and for the protection of life and property in case of fire;
 - (b) by securing the administration and enforcement of the provisions of this Order which relate to fire precautions; and
 - (c) by securing efficient arrangements for giving, when requested, advice in respect of buildings and other property as to fire prevention, restricting the spread of fires and means of escape in case of fire.
- (2) The Authority shall make the provision required under paragraph (1) (a) by securing—
- (a) the services of the fire brigade to meet efficiently all normal requirements;
 - (b) the efficient training of members of the fire brigade;

- (c) efficient arrangements for enabling persons to call the fire brigade in cases of fire, for summoning the members of the fire brigade and for manning the fire engines and appliances;
 - (d) subject to paragraph (4), efficient arrangements for obtaining, by inspection or otherwise, information required for the purposes of its functions, with respect to—
 - (i) the character of buildings and other property, where in the opinion of the Authority there may exist a serious risk of fire;
 - (ii) the available water supplies and the means of access thereto; and
 - (iii) other material local circumstances; and
 - (e) efficient arrangements for ensuring that reasonable steps are taken to prevent or mitigate damage to property resulting from measures taken in dealing with fires.
- (3) The Authority may secure fire services by itself providing and maintaining, either wholly or in part, such fire services or by making arrangements for the provision and maintenance, either wholly or in part, of such fire services by other persons.
- (4) For the purposes of paragraph (2) (d), subsections (1) to (7) of section 98 of the Local Government Act (Northern Ireland) 1972 (power to enter land) shall have effect as if—
- (a) in subsection (1) of that section, for the purposes there specified, there were substituted the purpose of obtaining information as to the character of buildings and other property referred to in paragraph (2) (d) (i);
 - (b) in subsection (2), the words from “but such consent” to the end were omitted; and
 - (c) in subsections (1) and (5) of that section, for references to the council there were substituted references to the Authority.

Powers of the Authority

- 5.—(1) The powers of the Authority shall include power—
- (a) to provide accommodation for members of the fire brigade, fire engines, appliances or equipment, including housing and other accommodation for members of the fire brigade and furniture reasonably required for such accommodation;
 - (b) to purchase (either by agreement or compulsorily in accordance with paragraph (2)) or take on lease any land required for the purposes of its functions under this Part;
 - (c) to dispose of or mortgage, charge or otherwise deal with any land for the time being vested in it;
 - (d) to enter into such contracts as may be necessary for the purposes of this Part, as if the Authority were a district council;
 - (e) to pay to any persons who render services in connection with the extinction of fires and the protection of life and property in case of fire such rewards as it thinks fit, which in the case of a member of the fire brigade may be in addition to the remuneration of any such member;
 - ^{F5}(ee) to employ the fire brigade, or use any fire engine, appliance or equipment outside Northern Ireland at sea (whether or not within the territorial sea of the United Kingdom); or]
 - (f) to employ the fire brigade or use any fire engine, appliance or equipment outside Northern Ireland in accordance with any arrangement entered into by the Department^{F6}. . . ; and
 - (g) to employ the fire brigade, or use any fire engine, appliance, or equipment, for such purposes other than fire-fighting purposes as it may think fit, and in respect of any such employment or use to charge and recover such sum by way of fees or expenses as the Authority may think reasonable.

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(2) Where the Authority desires to acquire compulsorily any land which it considers necessary for the purposes of this Part, it may apply to the Department for an order vesting such land in it and, subject to paragraph (3), the Department may make such order.

(3) The provisions of the Local Government Act (Northern Ireland) 1972, which are specified in Schedule 2, shall have effect in relation to every such vesting order subject to the modifications and adaptations set out in that Schedule.

(4) Before making any order under paragraph (2), the Department shall have regard to the effect which the order, if made, would have on the user, value and amenities of land in the immediate neighbourhood of the land proposed to be acquired.

(5) The proceeds of the sale by the Authority of any property acquired or held by it under or by virtue of this Part, and the amount of any fees or expenses paid to the Authority in respect of any services rendered by it under this Part for which the Authority may receive payment, shall be applied by the Authority for the purposes of this Part.

F5 1998 NI 11

F6 1998 c.47

Fire-hydrants

6^{F7}.—(1) The Authority shall arrange with the Department—

- (a) for the provision and maintenance of such fire-hydrants as are necessary for securing the efficient use of the available supply of water in case of fire; and
- (b) for indicating by a notice or distinguishing mark, which may be placed on any wall or fence adjoining a street or public place, the locations of fire-hydrants.

(2) Any person who uses a fire-hydrant otherwise than for the purpose of extinguishing fires or for any fire brigade purpose or for any purpose authorised by the Department, or intentionally damages or obstructs any fire-hydrant otherwise than in consequence of its use for such a purpose as aforesaid, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

F7 functions transf. by SR 1999/481

Water supplies

7. The Authority may use for the purpose of extinguishing fires any convenient or suitable supply of water, and shall be liable to pay reasonable compensation therefore, but nothing in this Article shall affect Article 35 (2) of the Water and Sewerage Services (Northern Ireland) Order 1973^{F8}.

F8 S.I. 1973/70 (N.I.2).

Application of certain provisions of the Local Government Act (Northern Ireland) 1972

8.—(1) The following sections of the Local Government Act (Northern Ireland) 1972 shall effect as if any reference therein to a district council or a member or officer thereof were a reference to the Authority or a member or officer thereof respectively, that is to say—

- (a) section 23 (admission of public to meetings);
- (b) section 24 (information to be given as to meetings);
- (c) section 25 (facilities for newspaper representatives);

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- (d) section 26 (certain publications to be privileged);
- (e) section 27 (savings);
- (f) section 31 (recovery of wrongful gains and remedies against member guilty of reprehensible conduct);
- (g) section 48 (protection for officer acting in execution of duty);
- (h) section 123 (penalty for destroying notices); and
- (i) section 126 (compensation for damage by council).

(2) Section 31 of the Local Government Act (Northern Ireland) 1972 shall in its application to the Authority by paragraph (1) have effect as if any reference in that section to that Act included a reference to this Order.

Administration and finance

Establishment scheme

9.—(1) The Authority shall submit to the Department, within such period as the Department may direct, a scheme (in this Article referred to as an “establishment scheme”) making provision with respect to the control, administration and conditions of service of members of the fire brigade and other staff employed by the Authority.

(2) The establishment scheme shall provide for the appointment of—

- (a) a chief fire officer, who shall be directly responsible to the Authority;
- (b) such other members of the fire brigade as may be necessary for the provision of efficient fire services; and
- (c) such administrative and other officers as may be necessary to assist the chief fire officer in the performance of the functions of the Authority.

(3) The Department may, with the consent of the Department of Finance and Personnel in relation to any provision concerning the appointment of the officers mentioned in paragraph (2) (c), approve an establishment scheme with or without modifications and the Authority shall comply with the scheme.

(4) The Authority may submit to the Department provisions amending an establishment scheme approved under paragraph (3) and that paragraph shall apply to those provisions or a scheme replacing an existing scheme.

(5) For the purposes of this Article the Department may make regulations as to the appointment and the conditions of service of persons employed by the Authority as members of the fire brigade, and in particular as to—

- (a) the method of appointment of members of the fire brigade, their qualifications for appointment and promotion,
- (b) the maintenance of discipline, and
- (c) appeals against dismissal or disciplinary action (including dismissal on disciplinary grounds).

Pensions

^{F9}10. #??

(1) The Department, with the approval of the Department of Finance and Personnel, may by order provide#??

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- (a) for the establishment and maintenance of one or more pension schemes for the purpose of providing pensions and other similar benefits in respect of the service of members of the fire brigade employed by the Authority;
- (b) for the payment of contributions by the Authority or by members of the fire brigade, or both by the Authority and the members of the fire brigade;
- (c) for securing that service with any body other than the Authority may, in such cases, upon such terms and subject to such conditions as may be specified in the order, be reckoned for superannuation purposes; and
- (d) for reckoning for superannuation purposes, upon such terms and subject to such conditions as may be specified in the order, of service occurring before 14th February 1950, as well as of service occurring thereafter.

(2) The Department may by order apply, subject to such modifications and conditions as may be specified in the order and as from such date as may be so specified, as respects employees (other than members of the fire brigade) of the Authority the provisions of any statutory provision for the time being in force relating to the pensions payable to or in respect of employees of district councils.

(3) An order made under this Article may provide for#??

- (a) the making as a condition precedent to the reckoning under paragraph (1) (c) of service with a body other than the Authority of#??
 - (i) payments (whether in the form of repayments of contributions, payments of accrued superannuation values or any other payment of whatsoever nature directed to the creation or preservation of pension rights of the person concerned) by any former employer of the person concerned or out of any superannuation fund relevant to that person's former employment;
 - (ii) where the person concerned has received any payment in respect of his pension rights upon ceasing to be employed in his former employment, payments by that person equal to all or any of the amounts so received;
- (b) in the case of a person who having ceased to be in the employment of the Authority has entered the employment of another person, the making of payments by the Authority corresponding to any payments such as are described in sub-paragraph (a) (i);
- (c) pensions and other superannuation benefits which are being paid or may become payable to or in respect of such persons as are specified in the order being persons who before the date so specified died or ceased to serve in the employment, service in which qualified them for those pensions or superannuation benefits;

and any former employer such as is referred to in sub-paragraph (a) (i) and the person having charge of any superannuation fund such as is so referred to shall have power to make the payments mentioned in sub-paragraph (a) (i) if, apart from the provisions of this paragraph, they would not have power to do so.

(4) An order under this Article may be framed so as to have effect as from a date earlier than the making of the order and section 18 (2) of the Administrative and Financial Provisions Act (Northern Ireland) 1962^{F10} shall not apply to any such order.

(5) ^{F11}Without prejudice to the generality of paragraph (1), an order made under that paragraph may make provision#??]

- ^{F11}(a) where a person, immediately before he undertakes service of a description specified in Schedule 1 to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951^{F12} or attends for hourly instruction as defined in section 42 of that Act, is a member of the fire brigade, for treating the period of such service or instruction and such further period, if any, as may be specified in the order, on such conditions, if any, as may be so specified, as service in the employment of the Authority.

[^{F11}(b) for the manner in which any question arising under the order is to be determined and for appeals from determinations of any such question.]

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| <p>F9 Order repealed (arts. 3-20, 49A-52, Schs. 1, 2, 3, 5 on 1.7.2006) by The Fire and Rescue Services (Northern Ireland) Order 2006 (S.I. 2006/1254 (N.I. 9)), arts. 1(3), 63(2), Sch. 4 (subject to art. 60 which makes provision for art. 10 to continue to have effect); S.R. 2006/257, art. 2(e)(ii)</p> <p>F10 1962 c. 7 (N.I.).</p> <p>F11 1998 NI 11</p> <p>F12 1951 c. 65.</p> |
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Expenditure by the Authority

11.—(1) Subject to this Article, the Authority may—

- (a) make payments towards—
 - (i) expenditure reasonably incurred by a member or officer of the Authority in respect of attendance at any conference or meeting held for the purpose of discussing any matter connected with the discharge of the functions of the Authority and convened by any body or association for the time being recognised by the Department for the purposes of this Article;
 - (ii) any reasonable expenses incurred in purchasing reports of the proceedings of any such conference or meeting;
- (b) pay any reasonable subscriptions, whether annual or otherwise, to the funds of any scientific, technical or professional association or body of persons (whether corporate or unincorporate) which carries on activities otherwise than for purposes of gain by the association or body or by individual members thereof and the objects of which are ancillary to any of the functions of the Authority;
- (c) defray in whole or in part expenses reasonably incurred in the reception of visitors or the entertainment of members of the public;
- (d) make payments towards the provision of amenities for the use of members of the fire brigade in fire stations; and
- (e) make loans to officers of the Authority to facilitate the purchase by them of motor cars for use in connection with their official duties.

(2) The payments which the Authority may make under paragraph (1) (a) (i) towards expenditure on travelling or subsistence incurred by a member or officer of the Authority shall be at rates to be determined by the Authority but not exceeding in the case of a member of the Authority those prescribed under section 36 of the Local Government Act (Northern Ireland) 1972.

(3) Payments made under paragraph (1) (c) or (d) by the Authority in any financial year shall not, except with the consent of the Department, exceed in the aggregate £1,000 in either case.

(4) Loans under paragraph (1) (e) shall be made—

- (a) in accordance with a scheme prepared by the Authority and approved by the Department; and
- (b) on such conditions and at such rates of interest as the Department may, with the approval of the Department of Finance and Personnel, determine.

[^{F13}Accounts and audit

12.—(1) The Authority shall—

- (a) keep proper accounts and proper records in relation to the accounts; and

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- (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts shall—
 - (a) be in such form; and
 - (b) contain such information,
 as the Department may, with the approval of the Department of Finance and Personnel, direct.
- (3) The Authority shall, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—
 - (a) the Department; and
 - (b) the Comptroller and Auditor General for Northern Ireland.
- (4) The Comptroller and Auditor General shall—
 - (a) examine, certify and report on every statement of accounts sent to him by the Authority under this Article; and
 - (b) send a copy of his report to the Department.
- (5) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.]

F13 2003 NI 5

Estimates of the Authority's receipts and payments

13.—(1) The Authority shall, at such times and in such form as the Department, with the approval of the Department of Finance and Personnel, may direct, prepare and submit to the Department estimates of its receipts and payments during such period as may be specified in the direction and shall submit such other information relating to those estimates as the Department may require.

(2) The Authority may at any time where necessary submit a supplementary estimate to the Department.

(3) The Department may approve an estimate submitted under paragraph (1) or a supplementary estimate submitted under paragraph (2) either in whole or in part or subject to such modifications or conditions as the Department may think fit, and expenditure incurred in accordance with an estimate or supplementary estimate as so approved shall be approved expenditure for the purposes of Article 14.

Payments to the Authority

14.—(1) The Department shall, at such times, in such manner and subject to such conditions as the Department, with the approval of the Department of Finance and Personnel may think fit, pay to the Authority such sums as are necessary to defray approved expenditure not defrayed under paragraph (2).

(2) The Authority shall comply with such directions as the Department, with the approval of the Department of Finance and Personnel, may give as to the application of moneys which the Authority receives otherwise than under paragraph (1) or under Article 5 (5) and, to the extent that any statutory provision or any such direction does not require the moneys to be applied in a particular manner or for a particular purpose, the Authority shall apply those moneys in the defrayment of approved expenditure.

Borrowing powers

15.—(1) Subject to paragraph (2), the Authority may, by way of temporary loan or overdraft from a bank or otherwise, borrow any sums which it may temporarily require for the purposes of defraying expenses pending the receipt of moneys receivable by the Authority.

(2) The total amount for the time being outstanding on foot of borrowings by the Authority under paragraph (1) shall not exceed such sums as the Department, with the approval of the Department of Finance and Personnel, may specify to the Authority in writing and all sums borrowed by the Authority under paragraph (1) shall be repaid before the expiration of the financial year in which they are borrowed.

Annual report

16.—(1) The Authority shall make to the Department a report of its activities in the financial year ending on 31st March in each year as soon as may be after that date,^{F14} . . .

(2) The Department shall lay before the Northern Ireland Assembly a copy of every report made under this Article.

F14 1993 NI 7

Insurance by the Authority against accidents to its members

17.—(1) The Authority may enter into a contract with any person whereby, in consideration of payments by the Authority by way of premium or otherwise, that person undertakes to pay to the Authority such sums as may be provided in the contract in the event of any member of the Authority meeting with a personal accident, whether fatal or not, while he is engaged on the business of the Authority.

(2) Any sum received by the Authority under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by it to, or to the personal representatives of, the member of the Authority in respect of whose accident that sum is received.

(3) The provisions of the Life Assurance Act 1774^{F15} shall not apply to any such contract, but any such contract shall be deemed to be insurance business within Group 1 in Part II of Schedule 2 to the Insurance Companies Act 1982^{F16}.

F15 1774 c. 48.

F16 1982 c. 50.

Owners, occupiers, etc., not to pay for fire services

18. Notwithstanding anything contained in any statutory provision, the Authority shall not be entitled to require owners or occupiers of property to make any payment in respect of fire services.

Miscellaneous

Power to extinguish fires, etc.

19.—(1) Any member of the fire brigade being on duty, and any member of the Royal Ulster Constabulary, may enter and if necessary break into any premises or place in which a fire has or is reasonably supposed to have broken out, or any premises or place which it is necessary to enter for the purpose of extinguishing a fire or of protecting any premises or place from acts done for fire-

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fighting purposes or from damage whether by fire or otherwise, without the consent of the owner or occupier thereof, and may do all such acts and things as he may think necessary for extinguishing fire or for protecting from fire any such premises or place or rescuing any person or property therein.

(2) Any person who intentionally obstructs or interferes with any member of the fire brigade, engaged in operations for the extinction of a fire or the protection or rescue of any person or property from fire, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) At any fire, the senior member of the fire brigade present or, if any arrangement made under this Part provides that any other person shall have charge of the operations for the extinction of the fire, that other person—

- (a) shall have the sole charge and control of all operations for the extinction of the fire including the fixing of the positions of fire engines and apparatus, the attaching of hose to any water pipes or the use of any water supply, and the selection of the parts of the building on fire or of adjoining buildings against which the water is to be directed or which it may be necessary to demolish in order to prevent the fire from spreading; and
- (b) may require the water to be shut off from the mains and pipes in any area in order to give a greater supply and pressure of water for extinguishing the fire;

and, notwithstanding anything in any statutory provision, no person or body shall be liable to any penalty or claim by reason of the interruption of the supply of water occasioned only by compliance with such a requirement.

(4) The senior officer of police present at any fire or, in the absence of any officer of police, the senior member of the fire brigade present may close to traffic any street or may stop or regulate the traffic in any street whenever in the opinion of that officer or member it is necessary or desirable to do so for fire-fighting purposes or for the safety or protection of life or property.

False alarms

20.—(1) Any person who by any means whatsoever gives or causes to be given to the fire brigade an alarm of fire knowing it to be false shall be guilty of an offence and liable on summary conviction, to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

(2) Where a person is seen or found committing or attempting to commit or is reasonably suspected of committing or attempting to commit or is reasonably suspected of having committed or attempted to commit an offence under paragraph (1) a member of the Royal Ulster Constabulary may, without warrant, stop, detain, search and apprehend him.

PART III

FIRE PRECAUTIONS

Premises for which fire certificates are required

Interpretation

21.—(1) In this Part—

“authorised member of the fire brigade” means any member of the fire brigade authorised under Article 39;

“building” includes a temporary or movable building and also includes any permanent structure and any temporary structure other than a movable one;

“building regulations” means regulations made under Article 3 of the Building Regulations (Northern Ireland) Order 1979^{F17};

“designated use” has the meaning assigned by Article 22 (1);

[^{F18}“escape”, in relation to premises, means escape from them to some place of safety beyond the building which constitutes or comprises the premises and any area enclosed by it or enclosed with it;]

“fire certificate” has the meaning assigned by Article 22 (1);

“furniture” includes furnishings (including wall-coverings and ceiling-coverings of all sorts, as well as floor-coverings);

“premises” means building or part of a building;

[^{F18}“prohibition notice” means a notice under Article 33(2);]

“the relevant building”, in relation to—

- (a) any premises with respect to which a notice under Article 24 is in force;
- (b) any premises which are the subject of an application for a fire certificate; or
- (c) any premises with respect to which a fire certificate is in force, means the building constituting or comprising the premises in question;

“work” has the same meaning as in the Health and Safety at Work (Northern Ireland) Order 1978^{F19}.

[^{F18}(2) For the purposes of any provision of this Part relating to means of escape, consideration may be given to, and conditions or requirements imposed as respects, any place or thing by means of which a person escapes from premises to a place of safety; and “means of escape” shall be construed accordingly.]

F17 S.I. 1979/1709 (N.I. 16).

F18 1993 NI 7

F19 S.I. 1978/1039 (N.I. 9).

Uses of premises for which fire certificate is compulsory

22.—(1) A certificate issued under this Part by the Authority (in this Part referred to as a “fire certificate”) shall, subject to any exemption conferred by or under this Part, be required in respect of any premises which are put to a use for the time being designated under this Article (in this Part referred to as a “designated use”).

(2) For the purposes of this Article, the Department may by order designate particular uses of premises, but shall not so designate any particular use unless it falls within at least one of the following classes of use, that is to say—

- (a) use as, or for any purpose involving the provision of, sleeping accommodation;
- (b) use as, or as part of, an institution providing treatment or care;
- (c) use for purposes of entertainment, recreation or instruction or for purposes of any club, society or association;
- (d) use for purposes of teaching, training or research;
- (e) use for any purpose involving access to the premises by members of the public, whether on payment or otherwise;
- (f) use as a place of work.

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(3) An order under this Article may provide that a fire certificate shall not by virtue of this Article be required for premises of any description specified in the order, notwithstanding that they are or form part of premises which are put to a designated use.

[^{F20}(3A) An order under this Article may, as respects any designated use, specify descriptions of premises which qualify for exemption by the Authority under Article 26A from the requirement for a fire certificate in respect of premises which are put to that use.]

(4) For the purpose of any provision made in an order under this Article by virtue of paragraph (3)[^{F20} or 3A], a description of premises may be framed by reference to the purpose for which premises are used or the frequency of their use for any purpose[^{F20} or their situation, construction or arrangement] or by reference to any other circumstances whatsoever.

(5) An order under this Article may include such supplementary and incidental provisions as appear to the Department to be necessary or expedient for the purposes of the order.

(6) Without prejudice to any exemption conferred by or under this Part, where premises consisting of a part of a building are put to a designated use, any other part of the building which is occupied together with those premises in connection with that use of them shall for the purposes of this Part be treated as forming part of the premises put to that use.

F20 1993 NI 7

Premises exempt from Article 22

23. No fire certificate shall by virtue of Article 22 be required in respect of—
Sub-para.(a) rep. by 1993 NI 7

- (b) any premises consisting of or comprised in a house which is occupied as a single private dwelling; or
- (c) any premises to which health and safety regulations, made under Article 17 of the Health and Safety at Work (Northern Ireland) Order 1978 for the purposes of paragraph 11 of Schedule 3 to that Order, apply.

Power to make fire certificate compulsory for use of premises as dwelling etc.

24.—(1) This Article applies to any premises not for the time being excluded by paragraph (2) which have been, are being or are to be, used as a dwelling if—

- (a) the premises consist of or comprise a room which has been, is being or is to be, used as living accommodation and which—
 - (i) is below the ground floor of the building which constitutes or comprises the premises;
 - (ii) is two or more floors above the ground floor of that building; or
 - (iii) is a room of which the floor is 6 metres or more above the surface of the ground on any side of that building; or
 - (b) explosive or highly flammable materials of any prescribed kind have been, are being or are to be, kept anywhere under, in or on the building which constitutes or comprises the premises in a quantity or aggregate quantity greater than the quantity prescribed for the purposes of this sub-paragraph as the maximum in relation to materials of that kind.
- (2) This Article does not apply to—
- (a) any premises consisting of or comprised in a house which is occupied as a single private dwelling;

- (b) any premises consisting of or comprised in a house which is occupied by persons who do not form a single household.
- (3) If in the case of any premises it appears to the Authority that they are premises to which this Article applies, the Authority may serve a notice under this Article relating to those premises on either—
 - (a) the occupier of the premises;
 - (b) the owner of the premises; or
 - (c) a person (whether the occupier or owner of the premises or not) having the overall management of the building constituting or comprising the premises.
- (4) A notice under this Article shall—
 - (a) specify the premises to which it relates;
 - (b) give particulars of the facts by reason of which it appears to the Authority that this Article applies to the premises;
 - (c) specify one of the positions mentioned in paragraph (3) and state that the person on whom the notice is served is being served with it as the occupier of that position;
 - (d) indicate that on the coming into force of the notice a fire certificate will, in the circumstances mentioned in paragraph (6), be required in respect of the premises to which the notice relates; and
 - (e) state the right of appeal against the notice conferred by Article 25 and the time within which such an appeal may be brought.
- (5) Before serving a notice under this Article the Authority shall consult the Northern Ireland Housing Executive.
- (6) A fire certificate shall be required in respect of any premises which, while this Article applies to them and there is in force a notice under this Article relating to them, are used as a dwelling.
- (7) Where, in the case of any premises, there is in force a notice under this Article relating to them and it appears to the Authority that the notified person has ceased to occupy the specified position, the Authority may serve a fresh notice under this Article in respect of the premises; and on the coming into force of a notice served by virtue of this paragraph, the previous notice relating to the premises shall cease to have effect.
- (8) In this Part—
 - (a) “the notified persons”, in relation to any premises in respect of which a notice under this Article is in force, means the person on whom that notice was served; and
 - (b) “the specified position”, in relation to a notice served under this Article, means the position specified in the notice in pursuance of paragraph (4) (c).

Right of appeal against, and coming into force of, notices under Article 24

25.—(1) Where a notice under Article 24 is served in respect of any premises, the person on whom it is served may within 21 days from the service of the notice appeal to the county court, in accordance with county court rules, on either or both of the following grounds, that is to say—

- (a) that the premises to which the notice relates are not premises to which Article 24 applies; or
- (b) that he does not occupy the specified position.

(2) On an appeal under this Article the court, if satisfied as to either of the grounds mentioned in paragraph (1), shall by order cancel the notice, but shall otherwise by order confirm it.

(3) A notice served under Article 24 shall come into force only if it does so by virtue of paragraph (4).

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

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(4) A notice served under Article 24 shall, unless previously withdrawn by the Authority, come into force—

- (a) where no appeal under this Article is brought against it within the time mentioned in paragraph (1), at the end of 21 days from the expiration of that time;
- (b) where such an appeal is so brought but is withdrawn or dismissed for want of prosecution, at the end of 21 days from the date of withdrawal or dismissal of the appeal;
- (c) where such an appeal is so brought, is not withdrawn or dismissed as aforesaid, and is finally determined by the confirmation of the notice, at the end of 21 days from the date of the final determination of the appeal.

Fire certificates

Application for, and issue of, fire certificate

26.—(1) An application for a fire certificate with respect to any premises must be made to the Authority on the form provided by the Authority and—

- (a) must specify the particular use or users of the premises which it is desired to have covered by the certificate;
- (b) must give such information as may be required about the premises and any relevant matter connected with them; and
- (c) if the premises consist of part of a building, must, in so far as it is available to the applicant, give such information as may be required about the rest of the building and any relevant matter connected with it.

(2) On receipt of an application for a fire certificate with respect to any premises the Authority^[F21] shall notify the applicant of his duties under paragraph (2A) and] may require the applicant within such time as it may specify—

- (a) to furnish the Authority with such plans of the premises as it may specify; and
- (b) if the premises consist of part of a building, to furnish the Authority, in so far as it is possible for him to do so, with such plans of such other part or parts of the building as it may specify;

and if the applicant fails to furnish the required plans within that time or such further time as the Authority may allow, the application shall be deemed to have been withdrawn at the end of that time or further time, as the case may be.

^[F21](2A ^{F22} Where an application is made for a fire certificate with respect to any premises it is the duty of the occupier to secure that, when the application is made and pending its disposal—

- (a) the means of escape in case of fire with which the premises are provided can be safely and effectively used at all material times;
- (b) the means for fighting fire with which the premises are provided are maintained in efficient working order; and
- (c) any persons employed to work in the premises receive instruction or training in what to do in case of fire.]

(3) Where an application for a fire certificate with respect to any premises has been duly made and all such plans (if any) as are required to be furnished under paragraph (2) in connection with it have been duly furnished, it shall be the duty of the Authority^[F21] to consider whether or not, in the case of premises which qualify for exemption under Article 26A, to grant exemption and, if the Authority does not grant it, it shall be the duty of the Authority] to cause to be carried out an inspection of the relevant building (including any part of it which consists of premises to which any

exemption conferred by or under this Part applies), and if the Authority is satisfied as regards any use of the premises which is specified in the application that—

- (a) the means of escape in case of fire with which the premises are provided;
- (b) the means (other than means for fighting fire) with which the relevant building is provided for securing that the means of escape with which the premises are provided can be safely and effectively used at all material times;
- (c) the means for fighting fire (whether in the premises or affecting the means of escape) with which the relevant building is provided^{F21}. . . ; and
- (d) the means with which the relevant building is provided for giving to persons in the premises warning in case of fire,

are such as may reasonably be required in the circumstances of the case in connection with that use of the premises, the Authority shall issue a certificate covering that use.

(4) Where the Authority, after causing to be carried out under paragraph (3) an inspection of the relevant building, is, as regards any use of the premises specified in the application, not satisfied that the means mentioned in that paragraph are such as may reasonably be required in the circumstances of the case in connection with that use, it shall by notice served on the applicant—

- (a) inform him of that fact and of the steps which would have to be taken (whether by way of making alterations to any part of the relevant building or of otherwise providing that building or, as the case may be, the premises with any of those means) to satisfy the Authority as regards that use; and
- (b) notify him that the Authority will not issue a fire certificate covering that use unless those steps are taken (whether by the applicant or otherwise) within a specified time,

and if at the end of that time or such further time as may be allowed by the Authority or by any order made by the court on, or in proceedings arising out of, an appeal under Article 30 against the notice, a certificate covering that use has not been issued, it shall be deemed to have been refused.

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[^{F23}Powers for the Authority to grant exemption in particular cases

26A.—(1) The Authority may, if it thinks fit as regards any premises which appear to the Authority to be premises qualifying for exemption under this Article as respects any particular use, grant exemption from the requirement to have a fire certificate covering that use.

(2) Exemption under this Article for any premises as respects any use of them may be granted by the Authority, with or without the making of an application for the purpose,—

- (a) on the making of an application for a fire certificate with respect to the premises covering that use; or
- (b) at any time during the currency of a fire certificate with respect to the premises which covers that use.

(3) In deciding whether or not to grant exemption under this Article for any premises the Authority shall have regard to all the circumstances of the case and in particular to the degree of seriousness of the risk in case of fire to persons in the premises.

(4) ^{F24} For the purpose of making that decision the Authority may—

- (a) require the applicant or, as the case may be, the occupier of the premises to give such information as it requires about the premises and any matter connected with them; and

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(b) cause to be carried out an inspection of the relevant building.

(5) The Authority shall not grant exemption under this Article for any premises without causing an inspection to be carried out under paragraph (4) unless the Authority has caused the premises to be inspected (under that or any other power) within the preceding 12 months.

(6) The effect of the grant of exemption under this Article as respects any particular use of premises is that, during the currency of the exemption, no fire certificate in respect of the premises is required to cover that use and accordingly—

- (a) where the grant is made on an application for a fire certificate, the grant disposes of the application or of so much of it as relates to that use; and
- (b) where the grant is made during the currency of a fire certificate, the certificate shall wholly or as respects that use cease to have effect.

(7 ^{F24} On granting an exemption under this Article, the Authority shall, by notice to the applicant for the fire certificate or the occupier of the premises, as the case may be, inform him that the Authority has granted exemption as respects the particular use or uses of the premises specified in the notice and of the effect of the grant.

(8) A notice of the grant of exemption for any premises as respects a particular use of them may include a statement specifying the greatest number of persons of a description specified in the statement for the purposes of that use who, in the opinion of the Authority, can safely be in the premises at any one time.

(9 ^{F24} Where a notice of the grant of exemption for any premises includes a statement under paragraph (8), the Authority may, by notice served on the occupier of the premises, direct that, as from a date specified in the notice, the statement—

- (a) is cancelled; or
- (b) is to have effect as varied by the notice;

and, on such a variation the statement shall be treated, so long as the variation remains in force, as if the variation were specified in it.]

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F24 mod by SR 1993/404

[^{F25} **Withdrawal of exemptions under Article 26A**

26B.—(1) Where the Authority has granted an exemption under Article 26A from the requirement to have a fire certificate covering any particular use of premises the Authority may, if it thinks fit, at any time, withdraw the exemption in accordance with paragraphs (2) to (4).

(2) In deciding whether or not to withdraw an exemption, the Authority shall have regard to all the circumstances of the case and in particular to the degree of seriousness of the risk in case of fire to persons in the premises.

(3 ^{F26} The Authority may withdraw an exemption as respects any particular use of premises without exercising any of the powers of inspection or inquiry conferred by Article 40 but the Authority shall not withdraw the exemption without first giving notice to the occupier of the premises that the Authority proposes to withdraw it and the reasons for the proposal and giving him an opportunity of making representations on the matter.

(4 ^{F26} An exemption shall be withdrawn by serving a notice on the occupier of the premises to which the exemption relates stating that the exemption will cease to have effect as respects the particular use or uses of the premises specified in the notice on such date as is so specified, being

a date not earlier than the end of the period of 14 days beginning with the date on which service of the notice is effected.

(5 ^{F26} If premises cease to qualify for exemption under Article 26A the Authority if it has granted an exemption under that Article shall notify the occupier of the premises of the fact and date of the cessation of the exemption.]

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Contents of fire certificate

27.—(1 ^{F27} Every fire certificate issued with respect to any premises shall specify—

- (a) the particular use or uses of the premises which the certificate covers;
- (b) the means of escape in case of fire with which the premises are provided;
- (c) the means (other than means for fighting fire) with which the relevant building is provided for securing that the means of escape with which the premises are provided can be safely and effectively used at all material times;
- (d) the type, number and location of the means for fighting fire (whether in the premises or affecting the means of escape) with which the relevant building is provided^{F28} . . . ; and
- (e) the type, number and location of the means with which the relevant building is provided for giving to persons in the premises warning in case of fire,

and may, where appropriate, do so by means of or by reference to a plan.

(2) A fire certificate issued with respect to any premises may impose such requirements as the Authority considers appropriate in the circumstances—

- (a) for securing that the means of escape in case of fire with which the premises are provided are properly maintained and kept free from obstruction;
- (b) for securing that the means with which the relevant building is provided as mentioned in paragraph (1) (c) to (e) are properly maintained;
- (c) for securing that persons employed to work in the premises receive appropriate instruction or training in what to do in case of fire, and that records are kept of instruction or training given for that purpose;
- (d) for limiting the number of persons who may be in the premises at any one time; and
- (e) as to other precautions to be observed in the relevant building in relation to the risk, in case of fire, to persons in the premises.

(3) Any requirements imposed by virtue of paragraph (2) by a fire certificate issued with respect to any premises—

- (a) may, in so far as they apply to the premises, be framed either so as to apply to the whole of the premises or so as to apply to one or more parts of them; and
- (b) where the premises do not constitute the whole of the relevant building, may (where appropriate) be framed either so as to apply to the whole of the rest of that building or so as to apply to one or more parts of the rest of it,

and different requirements may, in either case, be imposed in relation to different parts; and a fire certificate covering more than one use of the premises to which it relates may by virtue of paragraph (2) impose different requirements in relation to different uses of the premises or of any part of the premises.

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(4) For the purposes of this Part a fire certificate issued with respect to any premises shall be treated as requiring every matter specified in the certificate in accordance with paragraph (1) (b), (c), (d) or (e) to be kept in accordance with its specification in the certificate; and references in this Part to requirements imposed by a fire certificate shall be construed accordingly.

(5)^{F27} In so far as a requirement imposed by a fire certificate issued with respect to any premises requires anything to be done or not to be done to or in relation to any part of the relevant building, the person responsible for any contravention thereof shall (subject to any provision included in the certificate in pursuance of paragraph (6)) be the occupier of that part.

(6)^{F27} If, as regards any requirement mentioned in paragraph (5), the Authority considers it appropriate in the circumstances to provide that some other person or persons shall be responsible for any contravention thereof instead of, or in addition to, the occupier of that part, the Authority may so provide in the certificate and, if the certificate covers more than one use of the premises, may in pursuance of this paragraph make different provision therein in relation to different uses of the premises.

(7) Subject to paragraph (8), the Authority—

- (a) shall not issue a fire certificate which would have the effect of making a person responsible under or by virtue of paragraph (5) or (6) for contraventions of a requirement imposed by the certificate, or make in a fire certificate any amendment which would have that effect, unless (in either case) the Authority has previously consulted the person in question about his proposed responsibility for contraventions of the requirement; and
- (b) shall not amend a fire certificate so as to vary any requirement imposed by it, in a case where any person already responsible under or by virtue of paragraph (5) or (6) for contraventions of that requirement is to continue to be so responsible when the variation takes effect, unless they have previously consulted that person about the proposed variation;

but, without prejudice to any right of appeal conferred by Article 30, a fire certificate shall not be invalidated by any failure of the Authority to comply with the requirements of this paragraph.

(8) Where the Authority proposes to issue a new fire certificate with respect to any premises as an alternative to amending an existing fire certificate, and the new certificate would have the effect of reimposing without variation a requirement imposed by the existing certificate and of making any person who is responsible under or by virtue of paragraph (5) or (6) for contraventions of the existing requirement continue to be so responsible for contraventions of it as reimposed, the Authority shall not be required under paragraph (7) to consult that person by reason only of that fact.

(9)^{F27} A fire certificate issued with respect to any premises other than premises in relation to which a notice under Article 24 is in force shall be sent to the occupier of the premises and shall be kept in the premises so long as it is in force.

(10) A fire certificate issued with respect to any premises in relation to which a notice under Article 24 is in force shall be sent to the notified person and, if that person is not the occupier of the premises, a copy of the certificate shall be sent to the occupier of the premises; and so long as the certificate is in force—

- (a) the certificate shall be kept in the relevant building; and
- (b) where a copy of the certificate is by this paragraph required to be sent to the occupier of the premises, the copy shall be kept in the premises.

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Offences in relation to foregoing provisions

28.—(1 ^{F29} Subject to paragraph (3) and Article 30 (3), if any premises are at any time put to a designated use, being premises such that, where they are put to that use, a fire certificate is by virtue of Article 22 required in respect of them, then, if no fire certificate covering that use is at that time in force in respect of the premises, the occupier of the premises shall be guilty of an offence.

(2) Subject to paragraph (3) and Article 30 (3), if any premises are used as a dwelling at any time while Article 24 applies to them and a notice under that Article relating to them is in force, then, if no fire certificate covering that use is at that time in force in respect of the premises, the notified person shall, unless he proves that at that time he no longer occupied the specified position, be guilty of an offence.

(3) A person shall not be guilty of an offence under paragraph (1) or (2) by reason of any premises being put to a designated use or used as a dwelling at a time after an application for a fire certificate with respect to them covering that use has been duly made and before the certificate is granted or refused.

[^{F30}(3A ^{F29} If, pending the disposal of an application for a fire certificate with respect to any premises, the premises are put to a designated use, then, if any requirement imposed by Article 26(2A) is contravened by reason of anything done or not done to or in relation to any part of the relevant building, the occupier shall be guilty of an offence.)]

(4) Subject to paragraph (5) and Article 30 (4) and (5), if, while a fire certificate is in force in respect of any premises, any requirement imposed thereby is contravened by reason of anything done or not done to or in relation to any part of the relevant building, every person who under or by virtue of Article 27 (5) or (6) is responsible for that contravention shall be guilty of an offence.

(5 ^{F29} A person shall [^{F30} other than the occupier of the premises] not be convicted of an offence under paragraph (4) unless it is proved that his responsibility for contraventions of the requirement in question had been made known to him before the occurrence of the contravention in respect of which he is charged.

[^{F30}(5A ^{F29} A person guilty of an offence under paragraph (3A) shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.)]

(6) A person guilty of an offence under paragraph (1), (2) or (4) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.

(7 ^{F29} In the event of a contravention of paragraph (9) of Article 27 in the case of a fire certificate required by that paragraph to be kept in any premises or of a contravention of paragraph (10) of that Article in the case of a copy of a fire certificate required in paragraph (10) (b) of that article to be kept in any premises, the occupier of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) If, while there is in force a notice under Article 24 relating to any premises, there occurs a contravention of paragraph (10) of Article 27 in the case of a fire certificate issued with respect to those premises and required by sub-paragraph (a) of that paragraph to be kept in the relevant building, the notified person shall, unless he proves that at the material time he no longer occupied the specified position, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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Change of conditions affecting adequacy of certain matters specified in fire certificate, etc.

29.—(1) Subject to paragraph (2), it shall be a condition of issuing a fire certificate that, so long as the fire certificate is in force with respect to any premises, the Authority may cause any part of the relevant building to be inspected at any reasonable time for the purpose of ascertaining whether there has been any change of conditions by reason of which any of the matters mentioned in Article 27(1) (b) to (e) have become inadequate in relation to any use of the premises covered by the certificate.

(2) Where a building or part of a building is used as a dwelling or consists of premises of any other description prescribed for the purposes of this paragraph, an inspection of the building or, as the case may be, of such a part shall not be made under this paragraph as of right unless 24 hours' notice has been given to the occupier of the building or, as the case may be, of the part in question; and for the purposes of this paragraph a description of premises may be framed in any of the ways mentioned in Article 22 (4).

(3) Where the occupier of a relevant building fails, without reasonable excuse, to permit the Authority to carry out an inspection in accordance with the condition imposed by paragraph (1), the Authority may cancel the fire certificate in force with respect to the premises.

(4) ^{F31} If, while a fire certificate is in force with respect to any premises—

- (a) it is proposed to make a material extension of, or material structural alteration to, the premises;
- (b) it is proposed to make a material alteration in the internal arrangement of the premises or in the furniture or equipment with which the premises are provided; or
- (c) the occupier of the premises proposes to begin to keep explosive or highly flammable materials of any prescribed kind anywhere under, in or on the relevant building in a quantity or aggregate quantity or aggregate quantity greater than the quantity prescribed for the purposes of this sub-paragraph as the maximum in relation to material of that kind,

the occupier shall, before the carrying out of the proposals is begun, give notice of the proposals to the Authority; and if the carrying out of the proposals is begun without such notice having been given, the occupier shall be guilty of an offence.

(5) If, while a fire certificate is in force with respect to any premises not constituting the whole of the relevant building, any person who as occupier of any other part of that building is under Article 27 (5) or (6) responsible for contraventions of any requirement imposed by the certificate proposes to begin to keep explosive or highly flammable materials of any prescribed kind anywhere under, in or on that building in a quantity or aggregate quantity greater than the quantity prescribed for the purposes of this paragraph as the maximum in relation to materials of that kind, that person shall, before the carrying out of the proposals is begun, give notice of the proposals to the Authority; and if the carrying out of the proposals is begun without such notice having been given, that person shall be guilty of an offence.

(6) ^{F31} If the Authority is satisfied, as regards any premises with respect to which notice under paragraph (4) has been given to it that the carrying out of the proposals notified would result in any of the matters mentioned in Article 27 (1) (b) to (e) becoming inadequate in relation to any use of the premises covered by the relevant fire certificate, the Authority may by notice served on the occupier within 2 months from the receipt of the notice under paragraph (4)—

- (a) inform the occupier of the steps which would have to be taken in relation to the relevant building (whether by way of making alterations to any part of the relevant building or otherwise) to prevent the matters in question from becoming in its opinion inadequate in relation to that use in the event of the proposals being carried out; and
- (b) give him such directions as the Authority considers appropriate for securing, as regards any of the proposals which may be specified in the directions, that that proposal, or any stage of it which may be so specified, is not carried out until such of those steps as may

be so specified in relation to that proposal or stage have been taken (whether by him or otherwise),

and if those steps are duly taken in connection with the carrying out of the proposals, the Authority shall amend the fire certificate or issue a new one.

(7 ^{F31} If the Authority is satisfied (whether as a result of an inspection made under paragraph (1) or otherwise) that, as regards any premises with respect to which a fire certificate is in force, any of the matters mentioned in Article 27 (1) (b) to (e) has, in consequence of a change of conditions, become adequate in relation to any use of the premises covered by the certificate, the Authority may by notice served on the occupier—

- (a) inform him of that fact and of the steps which would have to be taken in relation to the relevant building (whether by way of making alterations to any part of the relevant building or otherwise) to make the matter in question adequate in its opinion in relation to that use and
- (b) notify him that if those steps are not taken (whether by him or otherwise) within such period as may be specified in the notice, the fire certificate may be cancelled.

and if those steps are duly taken, the Authority shall, if necessary, amend the fire certificate or issue a new one.

(8) If the Authority considers (whether as a result of an inspection made under paragraph (1) or otherwise) that, as regards any premises with respect to which a fire certificate is in force, it would, in consequence of a change of conditions or of the coming into force of any regulations made under Article 34, be appropriate to amend the certificate for any of the following purposes, that is to say—

- (a) to vary or revoke any requirements which the certificate imposes by virtue of Article 27 (2);
- (b) to add to the requirements which the certificate so imposes; or
- (c) to alter the effect of the certificate as to the person or persons responsible under or by virtue of Article 27 (5) or (6) for contraventions of any requirement imposed (whether by virtue of Article 27 (2) or otherwise) by the certificate,

the Authority may, subject to Article 27 (7), make such amendments in the certificate as it thinks appropriate for that purpose or issue a new certificate embodying those amendments.

(9 ^{F31} If any person contravenes a direction given to him in pursuance of paragraph (6) (b), he shall be guilty of an offence; and the Authority may cancel the fire certificate issued with respect to any premises if it is satisfied that there has been such a contravention by the occupier, whether or not proceedings are brought in respect of the contravention.

(10) A person guilty of an offence under paragraph (4), (5) or (9) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.

(11) Where—

- (a) a notice has been served under paragraph (7) in connection with any premises; and
- (b) the steps mentioned in it in accordance with sub-paragraph (a) of that paragraph are not taken within
 - (i) the period specified in the notice in accordance with sub-paragraph (b) of that paragraph, or
 - (ii) such longer period as may be allowed by the Authority or by any order made by a court on or in proceedings arising out of, an appeal under Article 30 against the notice;

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the Authority may cancel the fire certificate in force with respect to the premises or, if it covers two or more uses of the premises, may either cancel it or amend it so as to remove from those uses one or more of them; and in that case the Authority may make in the fire certificate all such amendments as it thinks appropriate in connection with the removal of the uses in question.

(12) Where there is in force a notice under Article 24 relating to any premises, the foregoing provisions of this Article shall apply to them subject to the following modifications, that is to say—

- (a) in paragraph (4), the first reference to the occupier shall be read as a reference to the occupier or the notified person, the second reference to the occupier shall be read as a reference to the occupier or the notified person, as the case may be, and the third reference to the occupier shall be read as a reference to the person required by that paragraph to give notice of the proposals;
- (b) in paragraphs (6) and (9), references to the occupier shall, if the notice under paragraph (4) was given by the notified person, be read as references to that person; and
- (c) in paragraph (7), references to the occupier shall be read as references to the notified person.

(13) Where the Authority is satisfied, as regards any premises with respect to which a notice under paragraph (4) has been given to it, that the carrying out of the proposals notified would not result in any of the matters mentioned in Article 27 (1) (b) to (e) becoming inadequate, the Authority shall, on production of the fire certificate in force with respect to the premises, cause to be attached to it a copy of the notice together with a written statement that it is so satisfied.

(14) Where in pursuance of this Article the Authority amends a fire certificate of which by virtue of Article 27 (10) a copy is required to be kept in the premises to which the certificate relates, it shall cause the copy to be similarly amended; and where in pursuance of paragraph (13) the Authority causes any document to be attached to such a fire certificate, it shall cause the like document to be attached to the copy of the certificate required to be kept in the premises to which the certificate relates.

F31 mod by SR 1993/404

[^{F32}Change of conditions affecting premises for which exemption has been granted

29A.—(1 ^{F33} If, during the currency of an exemption granted under Article 26A for any premises, it is intended to carry out in relation to those premises any proposals to which this Article applies, the occupier shall, before the carrying out of the proposals is begun, give notice of the proposals to the Authority; and if the carrying out of the proposals is begun without such notice having been given, the occupier shall be guilty of an offence.

(2 ^{F33} This Article applies to the following proposals, namely, any proposal—

- (a) to make—
 - (i) an extension of, or structural alteration to, the premises which would affect the means of escape from the premises; or
 - (ii) an alteration in the internal arrangement of the premises, or in the furniture or equipment with which the premises are provided, which would affect the means of escape from the premises; or
- (b) on the part of the occupier, to begin to keep explosive or highly flammable materials of any prescribed kind anywhere under, in or on the building which constitutes or comprises the premises in a quantity or aggregate quantity greater than the quantity prescribed for the purposes of this paragraph as the maximum in relation to materials of that kind; or

- (c) in a case where the notice of exemption under Article 26A includes a statement under paragraph (8) of that Article, to make such a use of the premises as will involve there being in the premises at any one time a greater number of persons in relation to whom the statement applies than is specified or treated as specified in the statement.
- (3) A person guilty of an offence under paragraph (1) shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.]

F32 1993 NI 7

F33 mod by SR 1993/404

[^{F34}Charges for issue or amendment of fire certificates

29B.—(1 ^{F35} Where the Authority—

- (a) issues a fire certificate under Article 26, or
- (b) except in a case falling within paragraph (2), amends a fire certificate or, as an alternative to amendment, issues a new fire certificate, under Article 29,

the applicant for the certificate or, as the case may be, the occupier of the premises to which the amended or new certificate relates shall pay to the Authority such fee as the Authority determines.

(2) No fee shall be chargeable for the amendment of a fire certificate, or issue of a new fire certificate embodying amendments, under Article 29(8) in a case where the amendment or amendments is or are made in consequence of the coming into operation of regulations under Article 34.

(3) A fee charged by the Authority under this Article in connection with the issue of a fire certificate or the amendment of a, or issue of a new, fire certificate shall not exceed an amount which represents the cost to the Authority of the work reasonably done by the Authority for the purposes of the issue of the certificate or, as the case may be, the amendment of the certificate or issue of the new certificate, other than the cost of any inspection of the premises.]

F34 1993 NI 7

F35 mod by SR 1993/404

Right of appeal as regards matters arising out of Articles 26 to 29

30.—(1) A person who is aggrieved—

- (a) by anything mentioned in a notice served under Article 26 (4) as a step which would have to be taken as a condition of the issue of a fire certificate with respect to any premises, or by the period allowed by such notice for the taking of any steps mentioned in it;
- (b) by the refusal of the Authority to issue a fire certificate with respect to any premises;
- (c) by the inclusion of anything in, or the omission of anything from, a fire certificate issued with respect to any premises by the Authority;
- (d) by the refusal of the Authority to cancel or to amend a fire certificate issued with respect to any premises;
- (e) by any direction given in pursuance of Article 29 (6) (b);
- (f) by anything mentioned in a notice served under Article 29 (7) with respect to any premises as a step which must be taken if the Authority is not to become entitled to cancel the fire

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certificate relating to the premises, or by the period allowed by such a notice for the taking of any steps mentioned in it; or

- (g) by the amendment or cancellation in pursuance of Article 29 (3), (8), (9) or (11) of a fire certificate issued with respect to any premises,

may, within 21 days from the relevant date, appeal to the county court in accordance with county court rules; and on such appeal the court may make such order as it thinks fit.

(2) In this Article “the relevant date” means—

- (a) in relation to a person aggrieved by any such refusal, direction, cancellation or amendment as is mentioned in paragraph (1) or by any matter mentioned in sub-paragraph (a) or (f) of that paragraph, the date on which he was first served by the Authority with notice of the refusal, direction, cancellation, amendment or matter in question;
- (b) in relation to a person aggrieved by the inclusion of anything in, or the omission of anything from, a fire certificate issued with respect to any premises, the date on which the inclusion or omission was first made known to him;

and for the purposes of sub-paragraph (b) a person who is served with a fire certificate or a copy of, or of any part of, a fire certificate shall be taken to have had what the certificate or that part of it does and does not contain made known to him at the time of the service on him of the certificate or copy.

(3) Where an appeal is brought under this Article against the refusal of the Authority to issue a fire certificate with respect to any premises or the cancellation or amendment in pursuance of Article 29 (9) or (11) of a fire certificate issued with respect to any premises, a person shall not be guilty of an offence under Article 28 (1) or (2) by reason of the premises in question being put to a designated use or used as a dwelling at a time between the relevant date and the final determination of the appeal.

(4) Where an appeal is brought under this Article against the inclusion in a fire certificate of anything which has the effect of making the certificate impose a requirement, a person shall not be guilty of an offence under Article 28 (4) by reason of a contravention of that requirement which occurs at a time between the relevant date and the final determination of the appeal.

(5) Where an appeal is brought under this Article against—

- (a) the inclusion in a fire certificate, in pursuance of paragraph (5) or (6) of Article 27, of a provision making any person responsible for contraventions of any requirement imposed by the certificate; or
- (b)^{F36} the omission from a fire certificate of a provision which, if included in pursuance of those paragraphs, would prevent any person from being, as the occupier of any premises, responsible under those paragraphs for contraventions of any requirement imposed by the certificate,

that person shall not be guilty of an offence under Article 28 (4) by reason of a contravention of that requirement which occurs at a time between the relevant date and the final determination of the appeal.

F36 mod by SR 1993/404

[^{F37} **Duty as to means of escape and for fighting fire**

31.—(1) All premises to which this Article applies shall be provided with—

- (a) such means of escape in case of fire, and
- (b) such means for fighting fire,

as may reasonably be required in the circumstances of the case.

(2) The premises to which this Article applies are premises which are exempt from the requirement for a fire certificate by virtue of—

- (a) a provision made in an order under Article 22 by virtue of paragraph (3) of that Article, or
- (b) the grant of exemption by the Authority under Article 26A^{F38} but this Article does not apply where Part II of the Fire Precautions (Workplace) Regulations (Northern Ireland) 2001 applies].

(3)^{F39} In the event of a contravention of the duty imposed by paragraph (1) the occupier of the premises shall, except as provided in paragraph (4), be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A person is not guilty of an offence under this Article in respect of any contravention of the duty imposed by paragraph (1) which is the subject of an improvement notice under Article 31C.]

F37 1993 NI 7
F38 SR 2001/348
F39 mod by SR 1993/404

[^{F40}Codes of practice as to means of escape and for fighting fire

31A.—(1) The Department may, after consultation with such persons or bodies of persons as appear to the Department requisite,—

- (a) prepare and issue codes of practice for the purpose of providing practical guidance on how to comply with the duty imposed by Article 31; and
- (b) revise any such code by revoking, varying, amending or adding to the provisions of the code.

(2) A code shall not be issued or revised unless a draft of it has been laid before and approved by a resolution of the Assembly.

(3) In this Order references to a code of practice under this Article are references to such a code as it has effect for the time being, with any revisions, under this Article.]

F40 1993 NI 7

[^{F41}Legal effect of codes of practice

31B.—(1) A failure on the part of a person to observe any provision of a code of practice under Article 31A shall not of itself render him liable to any criminal or civil proceedings.

(2) If, in any proceedings whether civil or criminal under this Order, it is alleged that there has been a contravention on the part of any person of the duty imposed by Article 31—

- (a) a failure to observe a provision of a code of practice under Article 31A may be relied on as tending to establish liability, and
- (b) compliance with such a code may be relied on as tending to negative liability.]

F41 1993 NI 7

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

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[^{F42}Improvement notices

31C.—(1 ^{F43} Where the Authority is of the opinion that the duty imposed by Article 31 has been contravened in respect of any premises to which that Article applies, the Authority may serve on the occupier of those premises a notice (“an improvement notice”) which—

- (a) states the Authority is of that opinion;
 - (b) specifies, by reference to a code of practice under Article 31A if the Authority thinks fit, what steps the Authority considers are necessary to remedy that contravention; and
 - (c) requires the occupier to take steps to remedy that contravention within such period (ending not earlier than the period within which an appeal against the improvement notice can be brought under Article 31D) as may be specified in the notice.
- (2) Where an improvement notice has been served under paragraph (1)—
- (a) the Authority may withdraw that notice at any time before the end of the period specified in the notice; and
 - (b) if an appeal against the improvement notice is not pending, the Authority may extend or further extend the period specified in the notice.
- (3) Where any premises are premises to which Article 31 applies and—
- (a) the building which constitutes or comprises the premises is a building to which at the time of its erection building regulations imposing requirements as to means of escape in case of fire applied; and
 - (b) in connection with the erection of that building plans were, in accordance with building regulations, deposited with a district council, or former local authority,

the Authority shall not in pursuance of paragraph (1) serve an improvement notice requiring structural or other alterations relating to the means of escape from the premises unless the requirements of paragraph (4) are satisfied in relation to those premises.

(4) The requirements of this paragraph are satisfied in relation to such premises as are mentioned in paragraph (3) if—

- (a) regulations are in operation under Article 34 applying to the premises in relation to any use of them as respects which exemption under Article 26A has been granted, being regulations which impose requirements as to means of escape in case of fire, and the Authority is satisfied that alterations to the building which constitutes or comprises the premises are necessary to bring the premises into compliance with the regulations in respect of those requirements; or
- (b) the Authority is satisfied that the means of escape in case of fire with which the premises are provided are inadequate in relation to any such use of the premises by reason of matters or circumstances of which particulars were not required by or under the building regulations to be supplied in connection with the deposit of plans.

(5) In this Article “structural or other alterations relating to means of escape from the premises”, in relation to any such premises as are mentioned in this Article, means structural or other alterations directly connected with the provision of the premises with adequate means of escape in case of fire.]

F42 1993 NI 7

F43 mod by SR 1993/404

[^{F44}Rights of appeal against improvement notices

31D.—(1) A person on whom an improvement notice is served may, within 21 days from the date on which the improvement notice is served, appeal to the county court in accordance with county court rules.

(2) On an appeal under this Article, the county court may either cancel or affirm the notice, and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.

(3) Where an appeal is brought under this Article against an improvement notice, the bringing of the appeal shall have the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.]

F44 1993 NI 7

[^{F45}Provision as to offences

31E.—(1) It is an offence for a person to contravene any requirement imposed by an improvement notice.

(2) Any person guilty of an offence under paragraph (1) shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine, or imprisonment for a term not exceeding 2 years, or both.]

F45 1993 NI 7

Means of escape from fire in hotels and boarding houses

32.—(1) Subject to Article 22, any premises used or intended to be used as an hotel or boarding house shall be provided with such means of escape in case of fire as may reasonably be required in the circumstances of the case by the Authority.

(2) New premises shall not be occupied for use as an hotel or boarding house until the Authority has issued[^{F46} either] a fire certificate in relation to the premises[^{F46} or a letter from an authorised member of the fire brigade stating that the premises afford an adequate means of escape in case of fire and that appropriate means for fighting fire have been provided and have been or will be maintained on those premises, together with, where necessary, appropriate means for giving warning in case of fire.]

(3) For the purpose of paragraph (2) the conversion into a hotel or boarding house of any premises not originally constructed for that purpose shall be deemed to be the erection of new premises.

(4) Any person who contravenes paragraph (1) or paragraph (2) shall be guilty of an offence and liable on summary conviction for every such offence to a penalty not exceeding level 4 on the standard scale.

F46 1993 NI 7

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Premises involving excessive fire risk

[^{F47}Special procedure in case of serious risk: prohibition notices

33 ^{F48}.—(1) This Article applies to—

- (a) any premises which are being or are proposed to be put to a use (whether designated or not) which falls within at least one of the classes of use mentioned in Article 22, other than premises of the description given in Article 23; and
- (b) any premises to which Article 24 for the time being applies.

(2) If as regards any premises to which this Article applies the Authority is of the opinion that use of the premises involves or will involve a risk to persons on the premises in case of fire so serious that use of the premises ought to be prohibited or restricted, the Authority may serve on the occupier of the premises a notice (“a prohibition notice”).

(3) The matters relevant to the assessment by the Authority, for the purposes of paragraph (2), of the risk to persons in case of fire include anything affecting their escape from the premises in that event.

(4) A prohibition notice shall—

- (a) state that the Authority is of the opinion referred to in paragraph (2);
- (b) specify the matters which in the opinion of the Authority give or, as the case may be, will give rise to that risk; and
- (c) direct that the use to which the prohibition notice relates is prohibited or restricted to such extent as may be specified in the notice until the specified matters have been remedied.

(5) A prohibition notice may include directions as to the steps which will have to be taken to remedy the matters specified in the notice.

(6) A prohibition or restriction contained in a prohibition notice in pursuance of paragraph (4) (c) shall take effect immediately it is served if the Authority is of the opinion, and so states in the notice, that the risk of serious personal injury is or, as the case may be, will be imminent, and in any other case shall take effect at the end of a period specified in the prohibition notice.

(7) Where a prohibition notice has been served under paragraph (2) the Authority may withdraw the notice at any time.]

F47 1993 NI 7

F48 mod. SR 2001/348

[^{F49}Rights of appeal against prohibition notices

33A ^{F50}.—(1) A person on whom a prohibition notice is served may, within 21 days from the date on which the prohibition notice is served, appeal to the county court in accordance with county court rules.

(2) On an appeal under this Article, the county court may either cancel or affirm the notice, and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.

(3) Where an appeal is brought under this Article against a prohibition notice, the bringing of the appeal shall not have the effect of suspending the operation of the notice, unless, on the application of the appellant, the court so directs (and then only from the giving of the direction).]

F49 1993 NI 7

F50 mod. SR 2001/348

[^{F51} **Provision as to offences**

33B ^{F52}.—(1) It shall be an offence for any person to contravene any prohibition or restriction imposed by a prohibition notice.

(2) In any proceedings for an offence under paragraph (1) where the person charged is a person other than the person on whom the prohibition notice was served, it shall be a defence for that person to prove that he did not know and had no reason to believe the notice had been served.

(3) Any person guilty of an offence under paragraph (1) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine, or imprisonment for a term not exceeding 2 years, or both.]

F51 1993 NI 7

F52 mod. SR 2001/348

Regulations about fire precautions

Power to make regulations about fire precautions

34.—(1) In the case of any particular use of premises which the Department has power to designate under Article 22 the Department may by regulations make provisions as to the precautions which, as regards premises put to that use, or any specified class of such premises, are to be taken or observed in relation to the risk to persons in case of fire, but so that nothing in any regulations made under this Article shall apply to premises of any description falling within Article 23 (b); and nothing in this Article shall confer on the Department power to make provision with respect to the taking or observance of special precautions in connection with the carrying on of any manufacturing process.

(2) The Department may by regulations make provision as to the precautions which are to be taken or observed in relation to the risk to persons in case of fire as regards premises which, while Article 24 applies to them and a notice under that Article is in force in relation to them, are used as a dwelling, or any specified class of such premises.

(3) Without prejudice to the generality of the powers conferred on the Department by paragraphs (1) and (2), regulations made under this Article may in particular, as regards any premises to which they apply, impose requirements—

- (a) as to the provision, maintenance and keeping free from obstruction of means of escape in case of fire;
- (b) as to the provision and maintenance of means for securing that any means of escape can be safely and effectively used at all material times;
- (c) as to the provision and maintenance of means for fighting fire and means for giving warning in case of fire;
- (d) as to the internal construction of the premises and the materials used in that construction;
- (e) for prohibiting altogether the presence or use in the premises of furniture or equipment of any specified description, or prohibiting its presence or use unless specified standards or conditions are complied with;
- (f) for securing that persons employed to work in the premises receive appropriate instruction or training in what to do in case of fire;

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- (g) for securing that, in specified circumstances, specified numbers of attendants are stationed in specified parts of the premises; and
 - (h) as to the keeping of records of instruction or training given, or other things done, in pursuance of the regulations.
- (4) Regulations under this Article—
- (a) may impose requirements on persons other than occupiers of premises to which they apply;
 - (b) may, as regards any of their provisions, make provision as to the person or persons who are to be responsible for any contravention thereof; and
 - (c) may provide that if any specified provision of the regulations is contravened, the person or each of the persons who under the regulations is or are responsible for the contravention shall be guilty of an offence under the regulations.
- (5) before making any regulations under this Article, the Department shall consult with such persons or bodies of persons as appear to it requisite.
- (6) A person guilty of an offence under the regulations by virtue of paragraph (4) (c) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.
- (7) While there are in force under this Article any regulations applying to premises put to a particular use, or to any specified class of such premises, the Authority—
- (a) in determining under paragraph (3) of Article 26 whether to issue a fire certificate covering that use with respect to any premises to which the regulations apply, shall proceed on the footing that, as regards any matter mentioned in sub-paragraphs (a) to (d) of that paragraph about which provision is made in the regulations, no more can reasonably be required in the circumstances of the case than is required by the regulations; and
 - (b) shall not in any fire certificate covering that use issued with respect to any premises to which the regulations apply impose in pursuance of Article 27 (2) in relation to that use any requirement as to any matter about which provision is made in the regulations which is more onerous than the requirements of the regulations as to that matter.
- (8) Where there are in force under this Article any regulations applying to premises put to a particular use, or to any specified class of such premises, and a fire certificate covering that use is in force with respect to any premises to which the regulations apply, then—
- (a) so long as the requirements as to any matter which are imposed by the fire certificate in relation to that use are complied with, no person shall be guilty of an offence under the regulations by reason of any contravention of a requirement of the regulations as to that matter;
 - (b) ^{F53} if as a result of an inspection made under Article 29 (1) it appears to the Authority that any of the matters mentioned in Article 27 91) (b) to (e) is not in conformity with any provision made in the regulations about that matter, the Authority shall by notice served on the occupier—
 - (i) inform him of that fact and of the steps which would have to be taken in relation to the relevant building (whether by way of making alterations to any part of the relevant building or otherwise) to bring the matter in question into conformity with that provision; and
 - (ii) notify him that if those steps are not taken (whether by himself or otherwise) within such period as may be specified in the notice, the fire certificate may be cancelled,

and if those steps are duly taken, the Authority shall, if necessary, amend the fire certificate or issue a new one.

(9) Where there is in force a notice under Article 24 relating to any premises, paragraph (8) (b) shall apply to them subject to the modification that the first reference to the occupier shall be read as a reference to the occupier or the notified person, and the other references to the occupier shall be read as references to the occupier or the notified person, as the case may be.

(10) Articles 29 (11) and 30 shall (with the necessary modifications) have effect in a case where a notice is served under paragraph (8) (b) with respect to any premises as they have effect in a case where a notice is served under Article 29 (7); and where in pursuance of this Article the Authority amends a fire certificate of which by virtue of Article 27 (10) a copy is required to be kept in the premises to which the certificate relates, it shall cause the copy to be similarly amended.

(11) After the coming into operation of this paragraph no regulations shall be made^{F54} under Article 6(2)(a) of the Cinemas (Northern Ireland) Order 1991]; but any regulations made under that provision which are in force when this paragraph comes into operation shall have effect as if made under this Article, and may be amended or revoked accordingly.

F53 mod by SR 1993/404

F54 1991 NI 12

Exercise of certain powers of Authority where building regulations as to means of escape apply

35.—(1) Where an application is made for a fire certificate with respect to any premises and—

- (a) the relevant building is a building to which at the time of its erection building regulations imposing requirements as to means of escape in case of fire applied; and
- (b) in connection with the erection of that building plans were, in accordance with building regulations, deposited with a district council or former local authority,

the Authority shall not in pursuance of Article 26 (4) make the issue of a certificate conditional on the making to the building of structural or other alterations relating to escape from the premises unless—

- (i) there are in force under Article 34 regulations applying to the premises in relation to any use of the premises specified in the application, being regulations which impose requirements as to means of escape in case of fire or means for securing that any means of escape can be safely and effectively used at all material times and the Authority is satisfied that alterations to the relevant building are necessary to bring the premises into compliance with the regulations in respect of those requirements; or
- (ii) the Authority is satisfied that the means of escape in case of fire with which the premises are provided or the means of the sort mentioned in Article 26 (3) (b) with which the relevant building is provided are inadequate in relation to any use of the premises so specified by reason of matters or circumstances of which particulars were not required by or under the building regulations to be supplied in connection with the deposit of plans.

(2) Where an application is made for a fire certificate with respect to any premises in the circumstances described in paragraph (1) (a) and (b) and since the erection of the building plans have, in accordance with the building regulations, been deposited with a district council or former local authority in connection with any proposals relating to the building, paragraph (1) shall have effect in relation to that application as if in head (ii) the reference to the deposit of plans included a reference to the deposit of plans in connection with those proposals.

(3) Where, while a fire certificate is in force with respect to any premises—

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- (a) the Authority receives notice under paragraph (4) of Article 29 of any proposals falling within that paragraph to which building regulations imposing requirements as to means of escape in case of fire apply; and
- (b) in connection with those proposals plans have, in accordance with building regulations, been deposited with a district council or former local authority,

the Authority shall not in pursuance of paragraph (6) of that Article make the carrying out of those proposals conditional on the making to the relevant building of structural or other alterations relating to escape from the premises unless—

- (i) there are in force under Article 34 regulations applying to the premises in relation to any use of the premises covered by the certificate, being regulations which impose requirements such as are mentioned in paragraph (1) (i), and the Authority is satisfied that the carrying out of the proposals in compliance with the requirements of the building regulations will not itself ensure that, when the proposals have been carried out, the premises will comply with the regulations under Article 34 in respect of the requirements such as are mentioned in paragraph (1) (i) which the regulations under Article 34 impose; or
- (ii) the Authority is satisfied that, by reason of matters or circumstances of which particulars are not required by or under the building regulations to be supplied in connection with the deposit of plans, the carrying out of the proposals in compliance with the requirements of the building regulations will not itself ensure that, when the proposals have been carried out, the means of escape in case of fire with which the premises will then be provided and the means of the sort mentioned in Article 26 (3) (b) with which the relevant building will then be provided will be adequate in relation to every use of the premises covered by the certificate.

(4) In this Article “structural or other alterations relating to escape from the premises”, in relation to any such premises as are mentioned in this Article, means structural or other alterations directly connected with the provision of the premises with adequate means of escape in case of fire or the provision of the relevant building with adequate means of the sort mentioned in Article 26 (3) (b).

(5) References in this Article to building regulations shall, in any particular case in relation to which there is in force a direction under Article 15 of the Building Regulations (Northern Ireland) Order 1979 dispensing with or relaxing any requirement in such regulations, be construed as references to building regulations as they apply in that case.

Consultation between the Authority and other authorities

District councils to consult Authority before dispensing with or relaxing certain requirements of building regulations

36. Where, in the case of any requirement as to structural fire precautions, or means of escape in case of fire, contained in building regulations, the power to dispense with or relax that requirement conferred by Article 15 (1) of the Building Regulations (Northern Ireland) Order 1979 is by virtue of paragraph (2) of that Article exercisable by a district council, then, before exercising that power in relation to any premises or proposed premises, the council shall consult the Authority.

District councils to consult Authority in certain cases before passing plans

37.—(1) Where it is proposed to erect a building or to make any extension of or structural alteration to a building and, in connection with the proposals, plans are, in accordance with building regulations, deposited with a district council, then, if it appears to the council likely—

- (a) that the first use to which any premises constituting or comprised in the building or, as the case may be, the building as extended will be put after the proposals are carried out will be a use which at the time of the deposit of the plans was a designated use; or

- (b) that the first use to which any such premises will be put after the proposals are carried out will be used as a dwelling, and that one or more of the conditions set out in Article 24 (1) (a) and (b) will then be fulfilled as regards those premises,

the council shall consult the Authority before passing the plans.

(2) Where it is proposed to change the use to which a building or part of a building is put and, in connection with that proposal, plans are, in accordance with building regulations, deposited with a district council, then if it appears to the council likely—

- (a) that the first use to which any premises constituting or comprised in the building will be put after the time when that change of use occurs will be a use which at the time of the deposit of the plans was a designated use; or
- (b) that the first use to which any such premises will be put after the time when that change of use occurs will be use as a dwelling, and that one or more of the conditions set out in Article 24 (1) (a) and (b) will then be fulfilled as regards those premises,

the council shall consult the Authority before passing the plans.

Authority to consult other authorities before requiring alterations to buildings

38.—(1) Before the Authority—

- (a) serves on the applicant for a fire certificate with respect to any premises a notice under Article 26 (4) informing him that it will not issue a certificate unless alterations are made to the relevant building; or
- (b) serves in respect of any premises a notice under Article 29 (6) or (7)^{F55}, Article 31C] or Article 34 (8) (b) mentioning as a step which would have to be taken^{F55} or, in the case of a notice under Article 31C, which must be taken] anything involving the making of alterations to the relevant building,

the Authority shall consult the district council for the area in which the premises are situated and, if the premises are used as a place of work, the enforcing authority within the meaning of Article 2 (2) of the Health and Safety at Work (Northern Ireland) Order 1978.

(2) For the avoidance of doubt it is hereby declared that a district council or an enforcing authority which has in accordance with this Article been consulted by the Authority proposing to serve any such notice as is mentioned in paragraph (1) may be a person aggrieved within the meaning of Article 30.

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Enforcement

Enforcement of this Part

39^{F56}. The Authority shall enforce the provisions of this Part and regulations made under this Part, and the Chief Fire Officer may authorise members of the fire brigade to act for that purpose.^{F56}

F56 prosp. insertion by 1993 NI 7

Powers of authorised members of the fire brigade

40.—(1) Subject to this Article, an authorised member of the fire brigade may do anything necessary for the purpose of carrying this Part and regulations thereunder into effect and, in

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particular, shall, so far as may be necessary for that purpose, have power to do so at any reasonable time any of the following things, namely—

- (a) to enter any such premises as are mentioned in paragraph (2), and to inspect the whole or any part thereof and anything therein;
 - (b) to make such inquiry as may be necessary for any of the purposes mentioned in paragraph (3);
 - (c) to require the production of, and to inspect, any fire certificate in force with respect to any premises or any copy of any such certificate;
 - (d) to require any person having responsibilities in relation to any such premises as are referred to in sub-paragraph (a) (whether or not the owner or occupier of the premises or a person employed to work therein) to give him such facilities and assistance with respect to any matters or things to which the responsibilities of that person extend as are necessary for the purpose of enabling the authorised member of the fire brigade to exercise any of the powers conferred on him by this paragraph.
- (2) The premises referred to in paragraph (1) (a) are the following, namely—
- (a) any premises requiring a fire certificate (other than premises in respect of which a fire certificate is in force or in respect of which the Authority has received an application for a fire certificate) or to which any regulations made under Article 34 apply;
 - [^{F57}(aa) any premises in respect of which there is in force an exemption under Article 26A from the requirement for a fire certificate with respect to them;]
 - (b) any premises such as are mentioned in Article 33 (1) (a);
 - (c) any premises to which Article 24 for the time being applies;
 - (d) any premises not falling within any of the foregoing sub-paragraphs which form part of a building comprising any premises so falling; and
 - (e) any premises which the authorised member of the fire brigade has reasonable cause to believe to be premises falling within any of the foregoing sub-paragraphs.
- (3) The purposes referred to in paragraph (1) (b) are the following, namely—
- (a) to ascertain, as regards any premises, whether they fall within any of the sub-paragraphs (a) to (d) of paragraph (2);
 - (b) to identify the owner or occupier of any premises falling within any of those sub-paragraphs;
 - (c) to ascertain whether, in the case of any premises to which Article 24 for the time being applies, any person has the overall management of the building constituting or comprising the premises and, if so, to identify that person;
 - (d) to ascertain, as regards any premises falling within any of the said sub-paragraphs (a) to (d), whether the provisions of this Order and regulations made under Article 34 are complied with, and, where a fire certificate is in force in respect of any such premises, whether the requirements imposed by the certificate are complied with.
- (4) Where an authorised member of the fire brigade seeks to enter premises under paragraph (1) (a), he shall—
- (a) except in case of emergency, give at least 24 hours' notice of his intention to the occupier, and
 - (b) produce, if required to do so, some duly authenticated document showing his authority; and

if it is shown to the satisfaction of a resident magistrate on a sworn complaint in writing—

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- (i) that admission to premises which an authorised person seeks to enter under paragraph (1) (a), has been refused to that person, or that refusal is apprehended; and
- (ii) that there are reasonable grounds for entry to the premises for any purpose for which entry is required,

the resident magistrate may by warrant under his hand authorise that person to enter the premises, if need be by force.

(5) In the case of premises used as a dwelling or premises of any other description prescribed for the purposes of this paragraph, no power of entry conferred by paragraph (1) shall be exercised as of right unless 24 hours' notice has been given to the occupier; and for the purposes of this paragraph a description of premises may be framed in any of the ways mentioned in Article 22 (4).

(6) A person who—

- (a) intentionally obstructs an authorised member of the fire brigade in the exercise or performance of his powers or duties under this Part; or
- (b) without reasonable excuse fails to comply with any requirement imposed by an authorised member of the fire brigade under paragraph (1) (d).

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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Restriction on disclosure of information

41.—^{F58}(1) ^{F58}Subject to paragraph (2),] if a person discloses (otherwise than in the performance of his duty or for the purposes of any legal proceedings, including an arbitration, or for the purposes of a report of any such proceedings) any information obtained by him in any premises entered by him in the exercise of powers conferred by this Part, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

^{F58}(2) Nothing in paragraph (1) prohibits the disclosure of information to an enforcing authority within the meaning of the Health and Safety at Work (Northern Ireland) Order 1978 in order to enable that authority to discharge any function falling within its field of responsibility.

(3) The definition of “enforcing authority” in Article 2(2) and Article 2(3) of the Health and Safety at Work (Northern Ireland) Order 1978 (enforcing authority's “field of responsibility”) shall apply for the purposes of this Article as it applies for the purposes of Part II of that Order.]

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Offences, penalties and legal proceedings

Falsification of documents, false statements, etc.

42.—(1) If a person—

- (a) with intent to deceive, makes or has in his possession a document so closely resembling a fire certificate as to be calculated to deceive;
- (b) for the purpose of procuring the issue of a fire certificate, makes any statement or gives any information which he knows to be false in a material particular or recklessly makes any statement or gives any information which is so false;

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- (c) in purported compliance with any obligation to give information to which he is subject under or by virtue of this Part, or in response to any inquiry made by virtue of Article 40 (1) (b), gives any information which he knows to be false in a material particular or recklessly gives any information which is so false; or
- (d) makes in any register, book, notice or other document required by or by virtue of regulations made under this Part to be kept, served or given, an entry which he knows to be false in a material particular.

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) If a person with intent to deceive pretends to be an authorised member of the fire brigade, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offences due to fault of other person

43. Where the commission by any person of an offence under this Part or any regulations made thereunder is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this Article whether or not proceedings are taken against the first-mentioned person.

Defence available to persons charged with offences

44. In any proceedings for an offence under this Part or under regulations made thereunder, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

[^{F59}Civil and other liability

44A. Except in so far as this Order otherwise expressly provides, and subject to section 20(1) and (4) of the Interpretation Act (Northern Ireland) 1954 (offences under two or more laws), the provisions of this Order shall not be construed as—

- (a) conferring a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of a provision of this Order, of any regulations thereunder or of any fire certificate or notice issued or served thereunder by the Authority; or
- (b) affecting any requirement or restriction imposed by or under any other statutory provision; or
- (c) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Order.]

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Power where notice under Article 24 in force, to modify agreements, etc.

45 ^{F60}.—(1) Where there is in force a notice under Article 24 relating to any premises (in this Article referred to as “the relevant premises”), this Article shall apply to any premises consisting of or comprised in the relevant building.

(2) A person who, by reason of the terms and conditions of an agreement or lease relating to any premises to which this Article applies, is prevented from carrying out or doing with respect to the premises any structural or other alterations or other thing whose carrying out or doing is requisite—

- (a) as being a step mentioned in a notice served in connection with the relevant premises under any of the following provisions, namely Articles 26 (4), 29 (6), 29 (7) or 34 (8) (b);
- (b) in order to secure compliance with a requirement imposed by a fire certificate issued with respect to the relevant premises; or
- (c) in order to secure compliance with a provision of regulations under Article 34 which is, or will become, applicable to the premises by virtue of there being in force a notice under Article 24 relating to the relevant premises,

may apply to the county court in accordance with county court rules and the court may make such an order setting aside or modifying any of the terms and conditions of the agreement or lease as the court considers just and equitable in the circumstances of the case.

(3) Subject to paragraph (4), where, in the case of any premises to which this Article applies, the carrying out or doing with respect to those premises of any structural or other alterations or other thing whose carrying out or doing is requisite as mentioned in paragraph (2) involves a person having an interest in the premises in expense or in increased expense, and he alleges that the whole or part of the expense or, as the case may be, the increase, ought to be borne by some other person having an interest in the premises, the first-mentioned person may apply to the county court in accordance with county court rules and the court may by order give such directions—

- (a) with respect to the persons by whom the expense or increase is to be borne, and the proportions in which it is to be borne by them; and
- (b) if need be, for modification of the terms of any agreement or lease relating to the premises so far as concerns rent payable in respect of the premises,

as the court considers just and equitable in the circumstances of the case.

(4) On an application under paragraph (3) the court shall not direct the whole or any part of the expense or increase to be borne by a person other than the applicant by reason only of that other person being a statutory tenant of the premises or any part of the premises.

(5) References in paragraph (2) to the terms and conditions of an agreement or lease relating to any premises include references to the terms and conditions on or subject to which by virtue of Article 15 of the Rent (Northern Ireland) Order 1978^{F61} a statutory tenant retains possession of any premises.

(6) In this Article “statutory tenant” has the same meaning as in the Rent (Northern Ireland) Order 1978.

F60 mod by SR 1993/404

F61 [S.I. 1978/1050 \(N.I. 20\)](#).

Supplemental

Suspension of terms and conditions of licences dealing with same matters as fire certificates or regulations

46.—(1) Where any statutory provision provides for the licensing of premises of any class or description and the authority responsible for issuing licences thereunder is required or authorised to impose terms, conditions or restrictions in connection with the issue of such licences, then, in the case of any premises of that class or description—

- (a) so long as there is in force with respect to the premises a fire certificate covering the use of the premises by reason of which a licence under that statutory provision is required, any term, condition or restriction imposed in connection with the issue under that statutory provision of any licence with respect to those premises shall be of no effect in so far as

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it relates to any matter in relation to which requirements are or could be imposed by that certificate; and

- (b) without prejudice to sub-paragraph (a), so long as there are in force under Article 34 any regulations applying to the premises in respect of that use, any term, condition or restriction imposed as aforesaid shall be of no effect in so far as it relates to any matter about which provision is made in the regulations.

(2) References in this Article to the issue of licences include references to their renewal, transfer or variation.

Modification of application of this Part to factory, office and shop premises

47.—(1) The Department may make regulations modifying the application of this Part to factory premises, office premises and shop premises for which a fire certificate is required by virtue of an order made under Article 22 (2) (f) or in consequence of the making of regulations under Article 34.

(2) The Department and the Department of Economic Development may jointly by order make such repeals and modifications to the Factories Act (Northern Ireland) 1965^{F62} and the Office and Shop Premises Act (Northern Ireland) 1966 as appear to those Departments to be necessary in consequence of the making of a designation order under Article 22 (2) (f) or of the making of regulations under paragraph (1) or Article 34.

F62 1965 c. 20 (N.I.).

Power to apply this Part to vessels and movable structures

48. The Department may by regulations apply any of the provisions of this Part, subject to such modifications as may be prescribed, to—

- (a) vessels remaining moored or on dry land for such periods or in such circumstances as may be prescribed; and
- (b) tents and other movable structures of any prescribed description^[F63]; and
- ^[F63](c) places of work in the open air of any prescribed description.]

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Application of this Part to Crown, etc.

49.—(1) Subject to this Article—

- (a) Articles 22, 23, 24 (except paragraph (5)), 25,^[F64] 26(2A), 26A, 26B] 27,^[F64] 31 (except paragraphs (3) and (4)), 31A and 31B] and 34 (1) to (3) and (4) (a) and (b), shall apply to premises occupied by the Crown; and
- (b) Articles 22, 23, 24 (except paragraph (5)), 25 to 29^[F64] 29A, 29B], 31 to 34, 40 and 41 shall apply to premises owned by the Crown but not occupied by it.

(2) No fire certificates shall by virtue of paragraph (1) be required in respect of premises of any of the following descriptions, that is to say—

- (a) any premises constituting, or forming part of, a prison within the meaning of the Prison Act (Northern Ireland) 1953^{F65} or constituting, or forming part of, a remand centre or detention centre provided under section 2 of the Treatment of Offenders Act (Northern Ireland) 1968^{F66};

Sub-para.(b) rep. by 1991 NI 1

(c) any premises occupied solely for purposes of the armed forces of the Crown.

(3) Subject to paragraph (4), any provision of this Part which, by virtue of paragraph (1), applies to premises occupied or owned by the Crown shall, in its application to any such premises, have effect with the substitution—

(a) for any reference to an authorised member of the fire brigade, of a reference to a person authorised by the^[F67] Health and Safety Executive for Northern Ireland], and

(b) for any reference to the Authority of a reference to the^[F67] Health and Safety Executive for Northern Ireland].

(4) Without prejudice to the generality of paragraph (3) (a), the^[F67] Health and Safety Executive for Northern Ireland] may authorise a member of the fire brigade to inspect and report in connection with the implementation of this Part as applied by this Article, and—

(a) ^[F67]the Executive] may enter into arrangements with the Authority for that purpose, and

(b) a member of the fire brigade authorised by^[F67] the Executive] under this paragraph shall report to^[F67] the Executive] as to the matters in respect of which he is authorised.

(5) If a person with intent to deceive pretends to be a person authorised by the^[F67] Health and Safety Executive for Northern Ireland] for the purposes of paragraph (4), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) To such extent, if any, as they so provide, regulations under Articles 47 and 48 shall bind the Crown.

(7) Any premises used for the purposes of a visiting force or of a headquarters of defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964^{F68} shall be exempt from the operation of this Part to the extent to which the premises would be exempt, therefrom, if the premises were occupied by the Crown solely for the purposes of the armed forces of the Crown.

(8) In this Article “visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952^{F69}.

- | | |
|------------|--------------------|
| F64 | 1993 NI 7 |
| F65 | 1953 c. 18 (N.I.). |
| F66 | 1968 c. 29 (N.I.). |
| F67 | 1998 NI 18 |
| F68 | 1964 c. 5. |
| F69 | 1952 c. 67. |

PART IV

FUNCTIONS OF THE DEPARTMENT

^[F70]Functions of the Department

49A. The Department may—

(a) for the purpose of promoting fire safety, disseminate information or advice;

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- (b) for the purpose of dealing with civil emergencies, make provision for the storage and maintenance of emergency fire fighting vehicles and associated equipment and such other arrangements as the Department thinks fit.]

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Inspectors

50.—(1) The Department may appoint an inspector or inspectors for the purpose of—

- (a) obtaining information as to the manner in which the Authority is performing its functions and as to technical matters relating to those functions; and
- (b) assisting the Authority to give full effect to the provisions of this Order.

(2) There shall be paid to each such inspector such remuneration as the Department may, with the consent of the Department of Finance and Personnel, determine.

(3) An inspector of the Department may attend any meetings of the Authority during the transaction of any business arising under any of the provisions of this Order and may take part in the proceedings but may not vote at any such meeting.

Inquiries and default powers

51.—(1) The Department may cause such local or other inquiries to be held or investigations to be made as the Department thinks expedient for the purposes of this Order.

(2) If the Department, after causing a local or other inquiry to be held or an investigation to be made, is satisfied that the Authority has failed to discharge any of its functions, the Department may make an order—

- (a) declaring the Authority to be in default; and
- (b) directing it, for the purpose of remedying the default, to take such action, within such period, as is specified in the order.

(3) If an order under paragraph (2) is not complied with, the Department may by order empower an officer of the Department to exercise, or procure the exercise of, the function in question.

PART V

MISCELLANEOUS

Orders and regulations

52.—(1) The Department may make regulations—

- (a) providing for anything which is by this Order required or authorised to be prescribed; or
- (b) granting or providing for the granting of exemptions from any of the regulations made under the Order.

(2) Orders (other than vesting orders, court orders and orders made under Article 1 (2) or 51 and all regulations made under this Order shall be subject to negative resolution.

Amendments, savings, transitional provisions and repeals

Para.(1)—Amendments

(2) The savings and transitional provisions set out in Schedule 4 shall have effect.

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Para.(3)—Repeals

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Changes to legislation:

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