

2003 No. 454

HEALTH AND SAFETY

FIRE SERVICES

**Management of Health and Safety at Work and Fire
Precautions (Workplace) (Amendment) Regulations
(Northern Ireland) 2003**

Made - - - - - *20th October 2003*

Coming into operation *24th November 2003*

The Department of Health, Social Services and Public Safety and the Department of Enterprise, Trade and Investment(a) being Departments designated(b) for the purposes of section 2(2) of the European Communities Act 1972(c), in relation to measures relating to employers' obligations in respect of the health and safety of workers and in relation to the minimum health and safety requirements for the workplace that relate to fire safety, acting jointly in exercise of the powers conferred on them by the said section 2(2) and of every other power enabling them in that behalf, the Department of Health, Social Services and Public Safety in exercise of the powers conferred on it by Articles 48 and 49(6) of the Fire Services (Northern Ireland) Order 1984(d), and now vested in it(e) and of every other power enabling it in that behalf, and the Department of Enterprise, Trade and Investment being the Department concerned(f), in exercise of the powers conferred on it by Articles 2(5), 17(1), (2), (3) and (5), 43(2), 54(1) and 55(2) of, and paragraphs 5(1), 6, 7(1), 8, 9, 11, 13, 14, 15 and 17(a) of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(g) ("the 1978 Order") and of every other power enabling it in that behalf, and for the purpose of giving effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A)(h) of the 1978 Order, after the carrying out by the said Executive of consultations in accordance with Article 46(3)(i) of the 1978 Order, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations (Northern Ireland) 2003 and shall come into operation on 24th November 2003.

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- (a) Formerly the Department of Economic Development, *see* S.I. 1982/846 (N.I. 11), Article 3 and S.I. 1999/283 (N.I. 1), Article 3(5)
(b) S.I. 1992/1711 and S.I. 1999/2027
(c) 1972 (c. 68); the enabling powers conferred by section 2(2) were extended by virtue of section 1 of the European Economic Area Act 1993 (c. 51)
(d) S.I. 1984/1821 (N.I. 11); Article 48 was amended by S.I. 1993/1578 (N.I. 7), Article 19
(e) *See* Article 6(c) of, and Part III of Schedule 4 to, S.R. 1999 No. 481
(f) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(g) S.I. 1978/1039 (N.I. 9), Article 55(2) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 2, paragraph 19
(h) Article 13(1A) was substituted by S.I. 1998/2795 (N.I. 18) Article 4
(i) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18

Amendments to the Management of Health and Safety at Work Regulations (Northern Ireland) 2000

2.—(1) The Management of Health and Safety at Work Regulations (Northern Ireland) 2000(a) shall be amended in accordance with the following paragraphs.

(2) For regulation 2 there shall be substituted the following regulation –

“Disapplication of these Regulations

2.—(1) These Regulations shall not apply to or in relation to the master and crew of a ship, or to the employer of such persons, in respect of the normal ship-board activities of a ship’s crew which are carried out solely by the crew under the direction of the master.

(2) Regulations 3(4) and (5), 10(2) and 19 shall not apply to occasional work or short-term work involving work regarded as not being harmful, damaging or dangerous to young people in a family undertaking.

(3) In this regulation –

“normal ship-board activities” include –

(a) the construction, reconstruction or conversion of a ship within territorial waters;
and

(b) the repair of a ship save repair when carried out in dry dock;

“ship” includes every description of vessel used in navigation, other than a ship belonging to Her Majesty which forms part of Her Majesty’s Navy.”.

(3) For regulation 22 there shall be substituted the following regulation –

“Restriction of civil liability for breach of statutory duty

22. Breach of a duty imposed on an employer by these Regulations shall not confer a right of action in any civil proceedings in so far as that duty applies for the protection of persons not in his employment.”.

Amendments to the Fire Precautions (Workplace) Regulations (Northern Ireland) 2001

3.—(1) The Fire Precautions (Workplace) Regulations (Northern Ireland) 2001(b) shall be amended in accordance with the following paragraphs.

(2) In regulation 9(1) there shall be omitted the words “provisions of health and safety regulations or”.

(3) In regulation 9(2)(a)(ii), for the words “premises to which” there shall be substituted the words “premises of a description specified in Part I of Schedule 1 to” and the word “apply” shall be omitted.

(4) For head (ii) of regulation 9(2)(b) there shall be substituted the following head –

“(ii) have effect in relation to a workplace in Northern Ireland other than –

(a) an excepted workplace, or

(b) any workplace referred to in paragraphs (i) and (ii) of paragraph (2)(a), other than a building on the surface at a mine.”.

(5) After regulation 9(2) there shall be inserted the following paragraph –

“(2A) Notwithstanding that the provisions of Part II are not provisions forming part of the relevant statutory provisions, the provisions of Part II shall, in so far as they apply to any workplace referred to in paragraphs (i) and (ii) of paragraph (2)(a) other than a building on the surface at a mine, be deemed to be health and safety regulations for the purposes of Articles 18 to 26, 28, 30, 31 to 37, 39 and 43 of the 1978 Order.”.

(6) After regulation 9 there shall be inserted the following regulation –

(a) S.R. 2000 No. 388

(b) S.R. 2001 No. 348

“Civil liability for breach of statutory duty

9A.—(1) Subject to paragraph (2), breach of a duty imposed on an employer by the workplace fire precautions legislation shall, so far as it causes damage, confer a right of action in civil proceedings.

(2) Breach of a duty imposed on an employer by the workplace fire precautions legislation shall not confer a right of action in civil proceedings in so far as that duty applies for the protection of persons not in his employment.”.

(7) In regulation 16 –

(a) in paragraph (2) sub-paragraph (g) shall be omitted;

(b) after paragraph (5) there shall be inserted the following paragraph –

“(6) Insofar as Part II contains any provision which is made under the 1984 Order, Article 44A of the 1984 Order shall not apply in respect of any contravention of such provision.”.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 20th October 2003.

(L.S.)

Michael J. Bohill

A senior officer of the Department of Enterprise, Trade and Investment

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 20th October 2003.

(L.S.)

Leslie Frew

A senior officer of the Department of Health, Social Services and Public Safety

EXPLANATORY NOTE

(This note is not part of the Regulations.)

1. These Regulations amend the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 (“the 2000 Regulations”) and the Fire Precautions (Workplace) Regulations (Northern Ireland) 2001 (“the 2001 Regulations”).

2. These Regulations replace regulation 22 of the 2000 Regulations (which provided that breach of a duty imposed by the Regulations could not confer a right of action in any civil proceedings), to the effect that employees may bring civil claims against their employers where they are in breach of duties imposed by the 2000 Regulations (but as respects claims by non-employees the exclusion of civil liability for breach of duties imposed by the 2000 Regulations remains). They also make amendments to the 2001 Regulations so as to achieve the same effect in relation to breaches of duties imposed by Part II of those Regulations and regulations 1 to 5, 7 to 12 and 13(2) and (3) of the 2000 Regulations in so far as those regulations impose requirements concerning general fire precautions to be taken or observed by an employer (other than in “excepted workplaces”, as defined by those Regulations).

3. Regulation 2 of these Regulations replaces regulation 2 of the 2000 Regulations. The effect of the new regulation is to alter the disapplication of the 2000 Regulations with regard to activities on ships. The exclusion of occasional work or short-term work involving domestic service in a private household from the scope of regulations 3(4), 5, 10(2) and 19 of the 2000 Regulations has now been repealed.

4. Paragraphs 2 to 4 of regulation 3 amend regulation 9 of the 2001 Regulations. The amendments make the Health and Safety Executive for Northern Ireland the enforcing authority in respect of Part II of the 2001 Regulations in relation to a workplace which is or is in or on a ship in the course of construction or repair and a workplace, other than a building on the surface at a mine, which comprises premises of a description specified in Part I of Schedule 1 to the Fire Certificates (Special Premises) Regulations (Northern Ireland) 1991. The amendments also take away the enforcement role the fire authority had in respect of such workplaces (other than a building on the surface at a mine) for the purposes of regulations 1 to 5, 7 to 12 and 13(2) and (3) of the 2000 Regulations; this role will now pass to the Health and Safety Executive for Northern Ireland.

5. In Great Britain, the corresponding Regulations are the Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations 2003 (S.I. 2003/2457). The Great Britain Health and Safety Executive has prepared a regulatory impact assessment in relation to those Regulations and a copy of that assessment together with a Northern Ireland Supplement prepared by the Health and Safety Executive for Northern Ireland is held at the offices of that Executive at 83 Ladas Drive, Belfast BT6 9FR from where a copy may be obtained on request.

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