

## SCHEDULE 9

Regulation 68(3)

### Enforcement powers of the Health and Safety Executive for Northern Ireland under the 1978 Order

#### Enforcement powers under the 1978 Order

1. For the purposes of enforcing these Regulations and RAMS (in its application to pressure equipment or assemblies), the following Articles of the 1978 Order apply subject to the modifications in paragraph 2—

- (a) Article 21 (appointment of inspectors);
- (b) Article 22 (powers of inspectors);
- (c) Article 23 (improvement notices);
- (d) Article 24 (prohibition notices);
- (e) Article 25 (provisions supplementary to Articles 23 and 24);
- (f) Article 26 (appeal against improvement or prohibition notice);
- (g) Article 27 (power to deal with cause of imminent danger);
- (h) Article 27A (power of customs officer to detain articles and substances);
- (i) Article 28 (power of enforcing authorities to indemnify inspectors);
- (j) Article 29 (obtaining of information by the Executive, enforcing authorities etc);
- (k) Article 29A (information communicated by Commissioners for Revenue and Customs);
- (l) Article 30 (restrictions on disclosure of information);
- (m) Article 31 (offences);
- (n) Article 32 (extension of time for bringing summary proceedings);
- (o) Article 33 (venue);
- (p) Article 36 (prosecution by inspectors);
- (q) Article 38 (evidence); and
- (r) Article 39 (power of court to order cause of offence to be remedied and, in certain cases, forfeiture).

#### Modifications to the 1978 Order

2. The Articles of the 1978 Order referred to in paragraph 1 apply as if—

- (a) references to “the relevant statutory provisions” were references to—
  - (i) the provisions of the 1978 Order set out in paragraph 1, as modified by this paragraph; and
  - (ii) these Regulations;
- [<sup>F1</sup>(aa) references to “risk” were references to <sup>F1</sup>“risk” within the meaning of regulation 2(4) of these Regulations;]
- (b) for the following references, there were substituted “ the Health and Safety Executive for Northern Ireland ”
  - (i) in Article 21(1), “Every enforcing authority”;
  - [<sup>F2</sup>(ii) in Article 36, “the enforcing authority”;
  - (iii) in Article 22(2)(c)(i), “his (the inspector's) enforcing authority”;

- (iv) in Articles 27A(1), “any enforcing authority” and 29A(2), “an enforcing authority”;
- <sup>F3</sup>(v) . . . . .
- (vi) in Articles 29 and 30, “the Executive”;
- (c) in Article 21—
  - (i) in paragraph (1), “within its field of responsibility” were omitted;
  - (ii) in paragraph (2), sub-paragraph (b) were omitted;
  - (iii) in paragraph (3), for “enforcing authority which appointed him” there were substituted “ Health and Safety Executive for Northern Ireland ”;
- (d) in Article 22(1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
- <sup>F4</sup>(da) in Article 22(2)(h), for “him to have caused or to be likely to cause danger to health or safety” there were substituted “contravene the relevant statutory provisions or present a risk”;
- (e) Article 22(3) were omitted;
- <sup>F5</sup>(ea) in Article 23—
  - (i) before paragraph (a), there were inserted—
    - “(za) is making available on the market pressure equipment or an assembly which presents a risk”;
    - (ii) in sub-paragraph (ii), after “specifying the”, there were inserted “risk, or”; and
    - (iii) in sub-paragraph (iv), after “requiring that person to”, there were inserted “address the risk or”;
- <sup>F6</sup>(f) for Article 24(2) and (3) there were substituted—
 

“(2) An inspector may serve a notice (in this Part referred to as a “prohibition notice”) on a person if, as regards any activities to which this paragraph applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—

  - (a) a risk; or
  - (b) the contravention of a relevant statutory provision.

(3) A prohibition notice must—

  - (a) state that the inspector is of the said opinion;
  - (b) specify the matters which in his opinion give or, as the case may be, will give rise to the said risk;
  - (c) where in his opinion any of those matters involves or, as the case may be, will involve a contravention of any of the relevant statutory provisions, state that he is of the opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and
  - (d) direct that the activities to which the notice relates must not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of sub-paragraph (b) and any associated contraventions of provisions so specified in pursuance of sub-paragraph (c) have been remedied.”]
- (g) in Article 25, paragraphs (3), (4) and (5) were omitted;

- (h) in Article 28, for “the enforcing authority which appointed him”, “that authority” and “the authority”, there were, in each case, substituted “ the Health and Safety Executive for Northern Ireland ”;
- [<sup>F7</sup>(i) in Article 29—
- (i) for paragraph 1(b) there were substituted—
    - “(b) any information which the Health and Safety Executive for Northern Ireland needs for the discharge of its functions;”;
  - (ii) “the Department concerned, or” and “or as the case may be, to the enforcing authority in question” were omitted;]
- (j) in Article 30—
- (i) in paragraph (3), “or any enforcing authority” were omitted;
  - [<sup>F8</sup>(ii) in paragraph (4), “or an enforcing authority” and “or authority (including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;]
  - (iii) in paragraph (5), “or the purposes of the enforcing authority in question” were omitted;
- [<sup>F9</sup>(iv) in paragraph (6), “16(4)(a) or” were omitted;
- (v) for paragraph (6)(b), there were substituted—
    - “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”]
- (k) in Article 31(1), the following subparagraphs were omitted—
- (i) sub-paragraphs (a) to (i); and
  - (ii) sub-paragraphs (k) to (m);
- [<sup>F10</sup>(l) for Article 31(2), there were substituted—
- “(2) A person guilty of an offence under this Article is liable—
    - (a) on summary conviction, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding three months, or to both;
    - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years, or to both;”]
- (n) Article 31(3) were omitted;
- (o) In Article 32—
- (i) in paragraph (1), sub-paragraphs (a) and (b) were omitted;
  - (ii) paragraphs (3) and (4) were omitted;
- [<sup>F11</sup>(p) in Article 33, for “any enforcing authority”, there were substituted “the Health and Safety Executive for Northern Ireland”; and]
- (q) in Article 39, paragraphs (3A), (4) and (5) were omitted.

**F1** Sch. 9 para. 2(aa) inserted (1.10.2018) by [The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment \(Miscellaneous Amendments\) \(Northern Ireland\) Regulations 2018 \(S.I. 2018/966\)](#), regs. 1(1), **4(2)(a)** (with reg. 1(2)-(4))

**F2** Sch. 9 para. 2(b)(ii) substituted (1.10.2018) by [The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment \(Miscellaneous Amendments\) \(Northern Ireland\) Regulations 2018 \(S.I. 2018/966\)](#), regs. 1(1), **4(2)(b)(i)** (with reg. 1(2)-(4))

**Changes to legislation:** There are currently no known outstanding effects for the The Pressure Equipment (Safety) Regulations 2016, SCHEDULE 9. (See end of Document for details)

- F3** Sch. 9 para. 2(b)(v) omitted (1.10.2018) by virtue of The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), regs. 1(1), **4(2)(b)(ii)** (with reg. 1(2)-(4))
- F4** Sch. 9 para. 2(da) inserted (1.10.2018) by The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), regs. 1(1), **4(2)(c)** (with reg. 1(2)-(4))
- F5** Sch. 9 para. 2(ea) inserted (1.10.2018) by The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), regs. 1(1), **4(2)(d)** (with reg. 1(2)-(4))
- F6** Sch. 9 para. 2(f) substituted (1.10.2018) by The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), regs. 1(1), **4(2)(e)** (with reg. 1(2)-(4))
- F7** Sch. 9 para. 2(i) substituted (1.10.2018) by The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), regs. 1(1), **4(2)(f)** (with reg. 1(2)-(4))
- F8** Sch. 9 para. 2(j)(ii) substituted (1.10.2018) by The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), regs. 1(1), **4(2)(g)(i)** (with reg. 1(2)-(4))
- F9** Sch. 9 para. 2(j)(iv)(v) inserted (1.10.2018) by The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), regs. 1(1), **4(2)(g)(ii)** (with reg. 1(2)-(4))
- F10** Sch. 9 para. 2(l) substituted for Sch. 9 para. 2(l)(m) (1.10.2018) by The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), **regs. 1(1), 4(2)(h)** (with reg. 1(2)-(4))
- F11** Sch. 9 para. 2(p) substituted (1.10.2018) by The Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 (S.I. 2018/966), regs. 1(1), **4(2)(i)** (with reg. 1(2)-(4))

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There are currently no known outstanding effects for the The Pressure Equipment (Safety) Regulations 2016, SCHEDULE 9.