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STATUTORY INSTRUMENTS

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**2006 No. 1254**

**The Fire and Rescue Services (Northern Ireland) Order 2006**

**PART III**

**FIRE SAFETY**

**CHAPTER IV**

**MISCELLANEOUS AND GENERAL**

**Prohibition on charging employees**

**45.** No employer shall charge, or permit the charging of, any employee of his in respect of anything done or provided in pursuance of any of the fire safety duties.

**Civil liability for breach of statutory duty**

**46.**—(1) Subject to paragraph (2), nothing in this Part shall be construed as conferring a right of action in any civil proceedings (other than proceedings for recovery of a fine).

(2) Breach of a duty imposed on an employer by virtue of this Part shall, in so far as it causes damage to an employee, confer a right of action on that employee in civil proceedings.

**Consequential restriction of application of Part II of Health and Safety at Work (Northern Ireland) Order 1978**

**47.**—(1) Part II of the [Health and Safety at Work \(Northern Ireland\) Order 1978 \(NI 9\)](#) (“the 1978 Order”) and any regulations and orders made under it shall not apply to relevant premises, in so far as the 1978 Order or any regulations or orders made under it relate to any matter in relation to which requirements are or could be imposed by or under this Order.

(2) Nothing in paragraph (1) affects the operation of Part II of the 1978 Order or any such regulations or orders where an enforcing authority (as defined in Article 2(2) of the 1978 Order) is also enforcing the provisions of this Part.

**Suspension of terms and conditions of licences dealing with same matters as this Part**

**48.**—(1) This Article applies where—

- (a) a statutory provision provides for the licensing of premises or a person in respect of premises;
- (b) the authority responsible for issuing licences under such a statutory provision is required or authorised to impose terms, conditions or restrictions in connection with the issue of such licences; and
- (c) such a licence is required in respect of relevant premises.

(2) A term, condition or restriction imposed in connection with the issue under such a statutory provision of the licence shall be of no effect in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by virtue of this Part.

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

**Crown application, etc.**

**49.**—(1) The provisions of this Part, and of regulations made under it, shall bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(2) No contravention by the Crown of any provision of this Part or of any regulations made under it shall make the Crown criminally liable; but the High Court may, on the application of the Health and Safety Executive for Northern Ireland, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), the provisions of this Part and of regulations made under it shall apply to persons in the public service of the Crown as they apply to other persons.

(4) In relation to relevant premises in respect of which the Crown is subject to any of the fire safety duties, this Part shall have effect with the substitution—

- (a) for any reference to an authorised officer, of a reference to a person authorised by the Health and Safety Executive for Northern Ireland; and
- (b) for any reference to the Board, of a reference to the Health and Safety Executive for Northern Ireland.

(5) Without prejudice to the generality of paragraph (4)(a), the Health and Safety Executive for Northern Ireland may authorise a fire and rescue officer to inspect and report in connection with the implementation of this Part as applied by this Article, and—

- (a) the Executive may enter into arrangements with the Board for that purpose; and
- (b) a fire and rescue officer authorised by the Executive under this paragraph shall report to the Executive as to the matters in respect of which he is authorised.

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

(7) In this Article any reference to the Crown includes the Crown in right of Her Majesty's Government in the United Kingdom.