

1991 No. 446**HEALTH AND SAFETY****Fire Certificates (Special Premises) Regulations
(Northern Ireland) 1991***Made 2nd October 1991**Coming into operation 2nd December 1991***ARRANGEMENT OF REGULATIONS**

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SCHEDULES

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Whereas under Article 54(1) of the Health and Safety at Work (Northern Ireland) Order 1978(a) (“the Order of 1978”) it appears to the Department of

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

Agriculture, the Department of Economic Development, the Department of the Environment and the Department of Health and Social Services (“the Department concerned”)(a) that the modification of local Acts contained in regulation 13 is expedient in connection with the other provisions of these Regulations;

Now, therefore, the Department concerned in exercise of the powers conferred by Articles 17(1), (2), (4), (5) and (6), 54(1) and (3) and 55(2) of, and paragraphs 3(1), 11, 13, 14(1), 15 and 20(a) of Schedule 3 to, the Order of 1978 and of every other power enabling it in that behalf, after consultation in accordance with Articles 46(1) and 54(5) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to it to be appropriate, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Fire Certificates (Special Premises) Regulations (Northern Ireland) 1991 and shall come into operation on 2nd December 1991.

Interpretation

2. In these Regulations —

“the Department” means the Department of Economic Development;

“fire certificate” means a certificate issued under these Regulations by the Department;

“Fire Services Order Certificate” means a fire certificate issued under the Fire Services (Northern Ireland) Order 1984(b) and includes a certificate deemed to have been so issued by Article 53(2) of, and paragraphs 4 and 6 of Schedule 4 to; that Order;

“responsible person” in relation to any premises means the person having control of those premises, whether as occupier or otherwise, in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not) except that in the case of a mine within the meaning of the Mines Act (Northern Ireland) 1969(c) the responsible person shall be the manager of that mine.

Premises for which a fire certificate is required

3.—(1) A fire certificate shall be required in respect of any premises of a description specified in Part I of Schedule 1 unless either—

(a) an exemption is granted in respect of them under regulation 15, or

(b) in the case of premises to which paragraph 14 of Part I of that Schedule applies, each condition in Part II of that Schedule is satisfied.

(a) See Article 2(2) of S.I. 1978/1039 (N.I. 9)

(b) S.I. 1984/1821 (N.I. 11)

(c) 1969 c. 6 (N.I.)

(2) Where any premises to which paragraph (1) applies (“specified premises”) are within the close curtilage or precincts of larger premises, any part of those larger premises used for the purposes of the specified premises (including use as a means of access) shall, for the purposes of these Regulations, be treated as forming part of the specified premises.

Application for and issue of a fire certificate

4.—(1) An application for a fire certificate shall be made by the responsible person to the Department and shall contain the particulars specified in Schedule 2.

(2) On receipt of an application for a fire certificate the Department may require the applicant within such time as it may specify:—

- (a) to furnish such plans of the premises to be covered by the certificate as it may specify; and
- (b) to furnish, in so far as it is reasonably practicable for him to do so, such plans of adjoining premises as it may specify;

and if the applicant fails to furnish the required plans within that time or such further time as the Department 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.

(3) Where an application for a fire certificate has been duly made and all such plans (if any) as are required to be furnished under paragraph (2) have been duly furnished, it shall be the duty of the Department to cause an inspection to be carried out; and if it is satisfied that—

- (a) the means of escape which are provided in case of fire;
- (b) the means (other than means for fighting fire) which are provided for securing that such means of escape can be safely and effectively used at all material times;
- (c) the means which are provided whether on the premises or elsewhere for fighting fire; and
- (d) the means which are provided whether on the premises or elsewhere for giving warning in case of fire,

are such as may reasonably be required in the circumstances of the case in connection with the premises, the Department shall issue a fire certificate.

(4) Where the Department, after causing such an inspection to be carried out is not satisfied as aforesaid, it shall by notice served on the applicant—

- (a) inform the applicant of that fact and of the steps which would have to be taken to satisfy it; and
- (b) notify him that it will not issue a fire certificate unless those steps are taken (whether by the applicant or otherwise) within such time as may be specified in the notice;

and if at the end of that time or such further time as may be allowed by the Department or by any order made on, or in proceedings arising out of, an appeal under regulation 12 against the notice those steps have not been taken, the fire certificate shall be deemed to have been refused.

Contents of a fire certificate

5.—(1) Every fire certificate shall specify—

- (a) the address of the premises;
- (b) the name of the responsible person;
- (c) the description of the premises by reference to the class or classes listed in Schedule 1;
- (d) the means of escape which are provided in case of fire;
- (e) the means (other than means for fighting fire) which are provided for securing that such means of escape can be safely and effectively used at all material times;
- (f) the type, number and location of the means which are provided (whether in the premises or elsewhere) for fighting fire; and
- (g) the type and location of the means which are provided (whether in the premises or elsewhere) for giving warning in case of fire,

and may do so by means of or by reference to a plan or photograph.

(2) A fire certificate may impose such conditions as the Department considers appropriate in the circumstances—

- (a) for securing that the means of escape in case of fire which are provided are properly maintained and kept free from obstruction;
- (b) for securing that the means which are provided as mentioned in paragraph (1)(e) to (g) are properly maintained;
- (c) for securing that the means which are provided as mentioned in paragraph (1)(f) and (g) are tested and examined at regular intervals and that records are kept of such tests and examinations;
- (d) for securing that persons at work on the premises receive appropriate instruction and training in what to do in case of fire, and that records are kept of instruction and training given for that purpose;
- (e) for limiting the number of persons who may be on the premises at any one time or at such times as the Department may specify;
- (f) for limiting the quantity and disposition of any substance or article which may be on the premises at any one time or at such times as the Department may specify; and
- (g) as to other precautions to be observed in relation to the risk to persons in case of fire.

(3) Any conditions imposed by virtue of paragraph (2) may be framed so as to apply to the whole of the premises or so as to apply to one or more parts of them and different conditions may be imposed in relation to different parts.

(4) A fire certificate shall be sent or delivered to the responsible person and where he is not the occupier of the premises a copy of it shall be sent to the occupier.

(5) An occupier of premises (whether or not he is the responsible person) shall keep the fire certificate, or the copy as the case may be, on the premises and shall make it available for inspection at reasonable times by any person who might be affected by any of its provisions.

(6) Where a fire certificate has been issued, the occupier of the premises (whether or not he is also the responsible person) shall keep a notice posted at a suitable place on or about the premises to which it relates in such characters and in such a position as to be easily seen and read by any person who might be affected by any of the provisions of the certificate; the notice shall state—

- (a) that a fire certificate has been issued;
- (b) where it, or a copy of it, may be inspected; and
- (c) the date of posting of the notice.

(7) Where the responsible person is not the occupier he shall keep the fire certificate and shall make it available for inspection at reasonable times by any person who might be affected by any of its provisions.

Changes by the responsible person affecting adequacy of matters specified in a fire certificate

6.—(1) Where the responsible person proposes to make any material change which will affect any of the matters specified or referred to in a fire certificate which is in force, he shall, before commencing to make that change, notify the Department in writing of the proposal.

(2) The provisions of regulation 4(2)(a) and (b) shall apply to a notice under paragraph (1) as they apply to an application for a fire certificate.

(3) If the Department is satisfied that if the proposed change were made, all of the matters mentioned in regulation 5(1)(d) to (g) and 5(2) would still be adequate, it shall on production of the fire certificate cause a copy of the notice to be attached to it together with a statement that it is so satisfied or it may vary the certificate or cancel it and issue a new one.

(4) If the Department is satisfied that if the change were made any of the matters mentioned in regulation 5(1)(d) to (g) and 5(2) would be inadequate it shall—

- (a) inform the responsible person of that fact and of the steps which would have to be taken to prevent their becoming inadequate in the event of the change being made;
- (b) notify him that the fire certificate will be cancelled if the change is made without those steps being taken.

(5) Where a notice has been given under paragraph (4)(b) the Department may cancel the certificate if the changes are made without the steps referred to in paragraph (4)(a) having been taken; and where the steps are taken it may vary the certificate or cancel it and issue a new one.

Changes by persons other than the responsible person affecting adequacy of matters specified in a fire certificate.

7.—(1) Where the responsible person becomes aware that some other person proposes to make or has made any material change which affects any of the matters specified or referred to in a fire certificate which is in force, the responsible person shall notify the Department in writing of the proposal or change as the case may be.

(2) The provisions of regulation 4(2)(a) and (b) shall apply to a notice under paragraph (1) as they apply to an application for a fire certificate.

(3) If the Department is satisfied that notwithstanding the change all of the matters mentioned in regulation 5(1)(d) to (g) and 5(2) would still be adequate, it shall on production of the fire certificate cause a copy of the notice to be attached to it together with a statement that it is so satisfied or it may vary the certificate or cancel it and issue a new one.

(4) If the Department is satisfied that any of the matters mentioned in regulation 5(1)(d) to (g) and 5(2) would become inadequate if the proposed change were made, or where the change has been made it is satisfied that any of those matters have become inadequate, it shall—

- (a) inform the responsible person of that fact and of the steps which would have to be taken to prevent their becoming or, as the case may be, remaining inadequate;
- (b) notify him that the fire certificate will be cancelled if those steps are not taken within such time as may be specified in the notice.

(5) Where a notice has been given under paragraph (4)(b) the Department may cancel the certificate if the steps are not taken within the time specified in the notice, or within such further time as may be allowed by the Department or by any order made on, or in proceedings arising out of, an appeal under regulation 12 against the notice; and where the steps are taken it may vary the certificate or may cancel it and issue a new one.

Other cases where a fire certificate becomes inadequate

8. If the Department considers that a fire certificate should be varied or cancelled because any of the matters mentioned in regulation 5(1)(d) to (g) and 5(2) is or has become inadequate it shall—

- (a) inform any person to whom the certificate, or a copy of it, was given under regulation 5(4) of that fact and the steps, if any, which would have to be taken for those matters to become adequate;
- (b) notify him that it will cancel the certificate unless those steps are taken within such time as may be specified in the notice; and if at the end of that time, or such further time as may be allowed by the Department or by any order made on, or in any proceedings arising out of, an appeal under regulation 12 against the notice, those steps have been taken, the Department may vary the certificate accordingly and if they have not been taken may, subject to any such order, cancel it.

Applications for variation of a fire certificate

9.—(1) Where a fire certificate is in force, the responsible person may apply to the Department for the certificate to be varied; any such application shall state the grounds on which it is made and the provisions of regulation 4(2) shall apply.

(2) If the Department is satisfied that the variation should be made it shall vary the certificate accordingly or may cancel it and issue a new one; and if it is not so satisfied it shall notify the responsible person that it refuses to vary the certificate.

Changes of responsible person

10. Where a fire certificate is in force in respect of any premises and a person becomes the responsible person in respect of those premises he shall notify the Department and the Department shall vary the certificate accordingly.

Persons not to work on specified premises unless a fire certificate is in force

11.—(1) Subject to paragraph (2) a responsible person shall not work or permit any other person to work on any premises for which a fire certificate is required unless such a certificate is in force and the conditions attached to it are being complied with or an application has been made for a certificate and it has not been refused or withdrawn.

(2) Paragraph (1) shall not apply where the work is solely for the purpose of—

- (a) taking any steps required under regulation 4(4), 6(4), 7(4) or 8;
- (b) complying with a condition imposed under regulation 5(2); or
- (c) otherwise making the premises safe.

Right of appeal

12.—(1) A person who is aggrieved by—

- (a) anything mentioned in a notice served under regulation 4(4) as a step which would have to be taken as a condition of the issue of a fire certificate or by the period allowed by such a notice for the taking of any steps mentioned in it;
- (b) a refusal to issue a fire certificate;
- (c) the inclusion of anything in, or the omission of anything from, a fire certificate;
- (d) a refusal to vary a fire certificate;
- (e) anything mentioned in a notice served under regulation 6(4), 7(4) or 8 with respect to any premises as a step which must be taken if the Department is not to become entitled to cancel the fire certificate relating to the premises;

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

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

- (a) in the case of a person who was given notice in accordance with these Regulations of the matter by which he is aggrieved, the date on which he was served with that notice (and for this purpose the date on which a certificate was issued or an application deemed to have been refused shall be treated as a date on which the applicant was served with a notice);
- (b) in the case of any other person, the date on which the relevant notice, or amended notice, as the case may be, was posted under regulation 5(6).

(3) In any proceedings for an offence of contravening regulation 11 or a requirement of, or condition contained in, a fire certificate at any time during the period between the relevant date and the final determination of an appeal under this regulation, it shall be a defence that the appeal was brought and had not been determined.

Modification of local Acts

13. Local Acts passed before the making of the Order of 1978 shall have effect subject to the following modification, that is to say, that a person required by or under any such local Act to do anything in relation to any premises shall not be treated as having acted in contravention of that local Act by reason of his failure to do that thing in so far as the failure is attributable to the fact that remedying it would involve a contravention of these Regulations.

Power of county court to modify agreements and apportion expenses

14.—(1) A person who, by reason of the terms of any agreement or lease relating to any premises to which these Regulations apply is prevented from carrying out or doing any structural or other alteration or other thing whose carrying out or doing is requisite in order to secure compliance with a provision of these Regulations or with a notice served under regulation 4(4), 6(4), 7(4) or 8 or with a condition imposed under regulation 5(2) 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 terms of the agreement or lease as it considers just and equitable in the circumstances of the case.

(2) Where the carrying out or doing on any such premises of any structural or other alterations or other thing whose carrying out or doing is requisite as mentioned in paragraph (1) 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 in what proportions 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.

Exemptions

15.—(1) Where the Department is satisfied in respect of any particular premises or part thereof or in respect of any description of premises that any requirement of regulations 3 to 11 is inappropriate or is not reasonably practicable, it may by certificate in writing (which it may at its discretion revoke) exempt those premises or that part of them or that description of premises from such requirement to such extent and subject to such conditions as may be specified in the certificate.

(2) An inspector shall be exempt from the requirements of Article 25(5) of the Order of 1978 (which requires an inspector to consult the Fire Authority for Northern Ireland before serving certain improvement and prohibition notices) in relation to any notice in connection with any premises in respect of which a fire certificate is required under these Regulations.

Transitional provisions

16.—(1) Where immediately before a fire certificate becomes required under these Regulations in respect of any premises a Fire Services Order certificate was in force in respect of those premises the Fire Services Order certificate shall be deemed to be a fire certificate issued under these Regulations and accordingly any condition attached to the Fire Services Order certificate shall have effect as a condition imposed under regulation 5(2) and the certificate may (in particular) be varied or cancelled in accordance with these Regulations.

(2) Any application for a Fire Services Order certificate with respect to any premises which is pending at the date of the coming into operation of these Regulations shall, in the case of premises for which a fire certificate is required by these Regulations, be deemed to be an application for a fire certificate in respect of them duly made in accordance with these Regulations and accordingly the provisions of regulation 4(2) to (4) shall apply.

(3) If in the case of premises for which a fire certificate is required by these Regulations any notice has been given to the Fire Authority for Northern Ireland of a proposal to undertake any of the changes of which notice is required to be given by Article 29(4) of the Fire Services (Northern Ireland) Order 1984(a) such notice shall be deemed to be a notice duly given in accordance with regulation 6(1) and accordingly the provisions of regulation 6(2) to (5) shall apply.

Sealed with the Official Seal of the Department of Agriculture on 2nd October 1991.

(L.S.)

I. C. Henderson

Assistant Secretary

Sealed with the Official Seal of the Department of Economic Development on 2nd October 1991.

(L.S.)

R. J. Minnis

Assistant Secretary

(a) S.I. 1984/1821 (N.I. 11). Article 29(4) is modified by regulations 3 and 5 of S.R. 1986 No. 354

No. 446

Health and Safety

2141

Sealed with the Official Seal of the Department of the Environment on 2nd
October 1991.

(L.S.)

Trevor Pearson

Assistant Secretary

Sealed with the Official Seal of the Department of Health and Social
Services on 2nd October 1991.

(L.S.)

J. Scott

Assistant Secretary

SCHEDULE 1

Regulation 3

PART I

PREMISES FOR WHICH A FIRE CERTIFICATE IS REQUIRED

1. Any premises at which are carried on any manufacturing processes in which the total quantity of any highly flammable liquid under pressure greater than atmospheric pressure and above its boiling point at atmospheric pressure may exceed 50 tonnes.

2. Any premises at which is carried on the manufacture of expanded cellular plastics and at which the quantities manufactured are normally of, or in excess of, 50 tonnes per week.

3. Any premises at which there is stored, or there are facilities provided for the storage of, liquefied petroleum gas in quantities of, or in excess of, 100 tonnes except where the liquefied petroleum gas is kept for use at the premises either as a fuel, or for the production of an atmosphere for the heat-treatment of metals.

4. Any premises at which there is stored, or there are facilities provided for the storage of, liquefied natural gas in quantities of, or in excess of, 100 tonnes except where the liquefied natural gas is kept solely for use at the premises as a fuel.

5. Any premises at which there is stored, or there are facilities provided for the storage of, any liquefied flammable gas consisting predominantly of methyl acetylene in quantities of, or in excess of, 100 tonnes except where the liquefied flammable gas is kept solely for use at the premises as a fuel.

6. Any premises at which oxygen is manufactured and at which there are stored, or there are facilities provided for the storage of, quantities of liquid oxygen of, or in excess of, 135 tonnes.

7. Any premises at which there are stored, or there are facilities provided for the storage of, quantities of chlorine of, or in excess of, 50 tonnes except when the chlorine is kept solely for the purpose of water purification.

8. Any premises at which artificial fertilizers are manufactured and at which there are stored, or there are facilities provided for the storage of, quantities of ammonia of, or in excess of, 250 tonnes.

9. Any premises at which there are in process, manufacture, use or storage at any one time, or there are facilities provided for such processing, manufacture, use or storage of, quantities of any of the materials listed below in, or in excess of, the quantities specified—

Phosgene	5 tonnes
Ethylene oxide	20 tonnes
Carbon disulphide	50 tonnes
Acrylonitrile	50 tonnes
Hydrogen cyanide	50 tonnes

Ethylene	100 tonnes
Propylene	100 tonnes
Any highly flammable liquid not otherwise specified	4,000 tonnes

10. Any building on the surface at any mine within the meaning of the Mines Act (Northern Ireland) 1969(a).

11. Any premises in which there is comprised—

- (a) any undertaking on a site for which a licence is required in accordance with section 1 of the Nuclear Installations Act 1965(b) or for which a permit is required in accordance with section 2 of that Act; or
- (b) any undertaking which would, except for the fact that it is carried on by the United Kingdom Atomic Energy Authority, or by, or on behalf of, the Crown, be required to have a licence or permit in accordance with the provisions mentioned in sub-paragraph (a).

12. Any premises containing any machine or apparatus in which charged particles can be accelerated by the equivalent of a voltage of not less than 50 megavolts except where the premises are used as a hospital.

13. Premises to which regulation 26 of the Ionising Radiations Regulations (Northern Ireland) 1985(c) applies.

14. Any building, or part of a building, which either—

- (a) is constructed for temporary occupation for the purposes of building operations or works of engineering construction; or
- (b) is in existence at the first commencement there of any further such operations or works

and which is used for any process or work ancillary to any such operations or works.

PART II

CONDITIONS TO BE SATISFIED IF A FIRE CERTIFICATE IS NOT TO BE REQUIRED FOR PREMISES SPECIFIED IN PARAGRAPH 14

15. Not more than 20 persons are employed at any one time in the building or part of the building.

16. Not more than 10 persons are employed at any one time elsewhere than on the ground floor of the building or part of the building.

17. No explosive or highly flammable material is stored or used in or under the building or part of the building.

(a) 1969 c. 6 (N.I.)

(b) 1965 c. 57

(c) S.R. 1985 No. 273

18. The building or part of the building is provided with such means of escape in case of fire for the persons employed there as may reasonably be required in the circumstances of the case.

19. In the building or part of the building there is provided and maintained appropriate means for fighting fire which are so placed as to be readily available for use.

20. While any person is in the building or part of the building for the purpose of employment or meals, the doors of the building or part and of any room therein in which he is, and any doors which afford a means of exit for persons employed in the building or part are not locked or fastened in such a manner that they cannot easily and immediately be opened from the inside.

21. Any doors opening on to any staircase or corridor from any room in the building or part of the building in which more than 10 persons are employed, except in the case of sliding doors, are constructed to open outwards.

22. Every window, door or other exit affording a means of escape from the building or part of the building in case of fire or giving access thereto, other than the means of exit in ordinary use, is distinctively and conspicuously marked by a notice of adequate size.

23. The contents of any room in the building or part of the building in which persons are employed are so arranged or disposed that there is a free passage way for all persons employed in the room to a means of escape in case of fire.

PART III

DEFINITIONS

24. In this Schedule—

“liquefied petroleum gas” means commercial butane, commercial propane or any mixture thereof;

“commercial butane” means a hydrocarbon mixture consisting predominantly of butane, butylene or any mixture thereof;

“commercial propane” means a hydrocarbon mixture consisting predominantly of propane, propylene or any mixture thereof;

“highly flammable liquid” means any liquid, liquid solution, emulsion or suspension (other than liquefied petroleum gas or liquefied natural gas) which when tested in the manner specified in Schedule 1 to the Highly Flammable Liquids and Liquefied Petroleum Gases Regulations (Northern Ireland) 1975(a), gives off a flammable vapour at a temperature of less than 32 degrees Celsius and, when tested in the manner specified in Schedule 2 to those Regulations, supports combustion.

SCHEDULE 2

Regulation 4

PARTICULARS TO BE INCLUDED IN AN APPLICATION FOR A FIRE CERTIFICATE

1. Address of the premises in respect of which the application is made.
2. Description of premises by reference to the list set out in Schedule 1.
3. Nature of the processes carried on, or to be carried on, on the premises.
4. Nature and approximate quantities of any explosive or highly flammable substance kept, or to be kept, on the premises.
5. Maximum number of persons likely to be on the premises at any one time.
6. Maximum number of persons likely to be in any building of which the premises form part at any one time.
7. Name and address of the occupier of the premises.
8. Name and address of any other person who has control of the premises.
9. If the premises consist of part of a building, the name and postal address of the person or persons having control of the building or any part of it.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide that a fire certificate issued by the Department of Economic Development shall, subject to exceptions, be required in respect of premises of the kind specified in Schedule 1. They make provision as to applications for and the issue of such certificates, their contents and the conditions which they may impose. They specify the steps to be taken where material changes are proposed or have occurred and provide for the variation or cancellation of fire certificates. They provide that, subject to exceptions persons are not to work on premises for which a fire certificate is required unless such a certificate is in force and the conditions attached to it are being complied with or an application has been made for a fire certificate and it has not been refused or withdrawn. The Regulations also make provision for appeals in specified cases, including a refusal to issue or vary a fire certificate, modify local Acts, give power to the county court to modify agreements and apportion expenses, and provide for the granting of exemptions. Transitional provisions include the provision that fire certificates issued under the Fire Services (Northern Ireland) Order 1984 which are in force immediately before a fire certificate becomes required under these Regulations are deemed to have been issued under these Regulations.

A person who contravenes the Regulations is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable, on summary conviction, to a fine not exceeding £2,000, or on conviction on indictment, to a fine.