
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the carrying out of assessments to identify risks in respect of harm caused by fire, and the review of those assessments. They also make provision about fire safety in relevant premises (as defined in Article 50 of the Fire and Rescue Services (Northern Ireland) Order 2006 (“the 2006 Order”).

Part 3 of the 2006 Order replaces fire certification under the Fire Services (Northern Ireland) Order 1984 with a general duty to ensure, so far as is reasonably practicable, the safety of employees, a general duty in relation to non-employees to take such fire safety measures as it is reasonable to take to ensure the safety of persons lawfully on the premises and in the vicinity in respect of harm caused by fire, and a duty to carry out an assessment to identify risks to safety in respect of harm caused by fire. These Regulations impose a number of specific duties in relation to the fire safety measures to be taken. Part 3 of the 2006 Order and these Regulations give effect in Northern Ireland to:

- (a) Council Directive [89/391/EEC](#) on the introduction of measures to encourage improvements in the safety and health of workers at work (O.J. No. L 183, 29.6.89, p. 1) (“the Framework Directive”) (except for provisions on accident reporting (Article 9(1)(c) and (d) and (2)), employment protection rights (Articles 7(2), 8(4) and (5) and 11 (4)), and use of personal protective equipment (Article 13 (2)(b));
- (b) Council Directive [91/383/EEC](#) supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship (O.J. No. L 206, 29.7.91, p. 19) (“the Temporary Workers’ Directive”) (except for provisions on the responsibility of host undertakings to temporary workers (Article 8));
- (c) Article 6 of, together with paragraphs 4 and 5 each of the annexes to, Council Directive [89/654/EEC](#) concerning the minimum safety and health requirements for the workplace (O.J. No. L 393, 30.12.89, p. 1) (“the Workplace Directive”);
- (d) Articles 6 and 7 of Council Directive [94/33/EC](#) (O.J. No. L 216, 20.8.94, p. 12) on the protection of young people at work;
- (e) Council Directive [98/24/EC](#) on the protection of the health and safety of workers from the risks related to chemical agents at work (O.J. No. L 131, 05.05.98, p. 11) (“the Chemical Agents Directive”); and
- (f) Council Directive [99/92/EC](#) on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (O.J. No. L 23, 28.01.00, p.57) (“the Explosive Atmospheres Directive”),

in so far as these provisions relate to matters within devolved competence, general fire safety measures to be taken by employers and in so far as more specific legislation does not make appropriate provision.

Under Article 41(3) of the 2006 Order, failure to comply with a requirement or prohibition contained within these Regulations which puts a relevant person (defined in Article 52 of the 2006 Order) at risk of death or serious injury, in the event of a fire is an offence. It is a defence under Article 41 (10) of the 2006 Order for a person to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence. However, this defence is not available in proceedings for an offence under Article 41 (3) where a requirement or prohibition consists of a duty to comply so far as is reasonably practicable (Article 41 (11)). Article 41 (12) provides for a

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reverse burden of proof to apply in any proceedings for an offence under Article 41(3) consisting of a failure to comply with a requirement or prohibition so far as is practicable or so far as is reasonably practicable.

Part 2 makes provisions in connection with the carrying out of assessments and reviews under Articles 25 and 26 of the 2006 Order.

Part 3 makes provision in relation to fire safety in relevant premises. Duties are imposed on employers, on those exercising control to any extent of relevant premises, and on owners where the person exercising control of relevant premises does not have control in connection with the carrying on of an undertaking. Regulation 22 also imposes duties on employees.

Part 4 provides for miscellaneous matters, including the maintenance of measures provided to secure the safety of fire-fighters in the event of a fire in relevant premises (regulation 23). Regulation 24 exercises the power in Article 31(2) of the 2006 Order and extends provision made in regulation 23 to the common areas of private dwellings. Regulation 25 provides that persons nominated under the Regulations to assist in the fire safety measures are specified persons within the meaning of Article 44 of the 2006 Order, thereby preventing an employer relying on a nominated person's act or omission as a defence in proceedings for an offence under Article 41 or 42. Regulation 26 makes provision for the disapplication of regulations in particular circumstances.

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