

Northern Ireland Fire & Rescue Service
Fire Safety Legislation Advice Note 004

Fire Safety Enforcement in Crown Premises

Version 1 - 18 December 2019

The Health and Safety Executive for Northern Ireland (HSENI) is the enforcing authority for fire safety duties in Crown Premises as defined by Article 49 of The Fire and Rescue Services (Northern Ireland) Order 2006.

To demark responsibilities for fire safety enforcement in Crown Premises, NIFRS and HSENI, adopt the following general definition:

A Crown premises is defined as:

- *where greater than or equal to 50% of the employees occupying the premises are civil servants (officers or servants of the Crown); or*
- *where a premises is owned or leased by the Crown.*

In Northern Ireland, a list of Crown Premises is maintained by:

Fire Safety Unit, Properties Division, Enterprise Shared Services, Department of Finance & Personnel, 3rd Floor, Northland House, 3-5 Frederick Street, Belfast. BT1 2NR.

The occupier of the premises will be the initial point of contact for any inspection.

The relevant legislative articles are detailed overleaf.

Article 49 states:

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.

The fire safety duties apply to relevant premises as defined by Article 50 of The Order. This states:

Meaning of “relevant premises”

50.—(1) In this Part, “relevant premises” means any premises other than

- (a) domestic premises;
- (b) ships, 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;
- (c) mines and offshore installations;
- (d) borehole sites to which the Borehole Sites and Operations Regulations (Northern Ireland) 1995 (SR 1995/491) apply;
- (e) premises occupied solely for the purposes of the armed forces of the Crown;
- (f) premises occupied solely by any visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964 (c. 5);
- (g) premises which are situated within premises occupied solely for the purposes of the armed forces of the Crown but which are not themselves so occupied; or
- (h) if the undertaking carried on in premises is agriculture or forestry, any land other than buildings which is situated away from the undertaking’s buildings.

(2) For the purposes of paragraph (1), “premises” includes any place, and, in particular—

- (a) any installation on land;
- (b) any tent or movable structure; and
- (c) vehicles other than—
 - (i) an aircraft, locomotive, rolling stock, trailer or semi-trailer used as a means of transport;
 - (ii) a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994 (c. 22); or
 - (iii) a vehicle which is exempt from duty under that Act.

(3) References in this Part to relevant premises include references to a part of relevant premises.

(4) The Department may by regulations modify paragraphs (1), (2) and (6).

(5) Where the Department exercises the power in paragraph (4), it may by regulations make any modifications of this Part in its application, in consequence of the exercise of that power, to relevant premises specified in the regulations under that paragraph that the Department considers necessary or expedient.

(6) For the purposes of paragraph (1)–

“domestic premises” means premises occupied as a private dwelling (including a stair, passage, garden, yard, garage, outhouse or other appurtenance of such premises which is used in common by the occupants of more than one such dwelling), but does not include a house in multiple occupation;

“mine” has the same meaning as in the Mines Act (Northern Ireland) 1969 (c. 6), but does not include any building on the surface at a mine;

“normal ship-board activities” include the repair of a ship, save repair when carried out in dry dock;

“ship” includes every description of vessel used in navigation.

Under Article 30 of the Order, the Department of Health, Social Services and Public Safety (now the Department of Health) has the power to make regulations about fire safety in relevant premises. This power was used to introduce The Fire Safety Regulations (Northern Ireland) 2010, which came into effect on 15 November 2010.

The Regulations apply to relevant premises, which by definition, also include Crown Premises.

The Order and the Regulations do not define what is a Crown Premises. Article 49(7) states that any reference to the Crown includes the Crown in right of Her Majesty’s Government in the United Kingdom.

Responsibilities in relevant premises are defined by Article 25 and Article 26 of the Order, as detailed overleaf.

Article 25 of the Order details the duties of employers to employees. This states:

Duties of employees to employees

25.—(1) Each employer shall ensure, so far as is reasonably practicable, the safety of his employees in respect of harm caused by fire in the workplace.

(2) Each employer shall—

(a) carry out an assessment of the workplace for the purpose of identifying any risks to the safety of his employees in respect of harm caused by fire in the workplace; and

(b) take in relation to the workplace such of the fire safety measures as are necessary to enable him to comply with the duty imposed by paragraph (1).

(3) Where under paragraph (2)(a) an employer carries out an assessment, he shall—

(a) in accordance with regulations under Article 29, review the assessment; and

(b) take in relation to the workplace such of the fire safety measures as are necessary to enable him to comply with the duty imposed by paragraph (1).

Article 26 of the Order details the duties in relation to relevant premises. This states:

Duties in relation to relevant premises

26.—(1) Where a person has control to any extent of relevant premises he shall, to that extent, comply with paragraph (2).

(2) The person shall—

(a) carry out an assessment of the relevant premises for the purpose of identifying any risks to the safety of relevant persons in respect of harm caused by fire in the relevant premises; and

(b) take in relation to the relevant premises such of the fire safety measures as in all the circumstances it is reasonable for a person in his position to take to ensure the safety of relevant persons in respect of harm caused by fire in the relevant premises.

(3) If a person falls within paragraph (1) other than by virtue of—

(a) having control to any extent of relevant premises in connection with the carrying on by the person (whether for profit or not) of an undertaking; or

(b) owning relevant premises,

the owner of the relevant premises shall also comply with paragraph (2).

(4) A person who has, by virtue of a contract or tenancy, an obligation of any extent in relation to—

- (a) the maintenance or repair of–
 - (i) relevant premises; or
 - (ii) anything in or on relevant premises; or
- (b) safety in respect of harm caused by fire in relevant premises, shall also comply, to the extent of the obligation, with paragraph (2).

(5) Where under paragraph (2)(a) a person carries out an assessment, he shall–

- (a) in accordance with regulations under Article 29, review the assessment; and
- (b) take in relation to the relevant premises such of the fire safety measures as in all the circumstances it is reasonable for a person in his position to take to ensure the safety of relevant persons in respect of harm caused by fire in the relevant premises.

Therefore:

Article 25 applies to a premises where greater than or equal to 50% of the employees occupying the premises are civil servants, and:

Article 26 applies to a premises owned or leased by the Crown.

For any queries please contact:

Group Commander (Protection)

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