



# Fire (Scotland) Act 2005

## 2005 asp 5

### PART 3

#### FIRE SAFETY

#### CHAPTER 1

#### FIRE SAFETY DUTIES

##### *Duties*

### **53 Duties of employers to employees**

- (1) Each employer shall ensure, so far as is reasonably practicable, the safety of the employer's 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 the employer's employees in respect of harm caused by fire in the workplace;
  - (b) take in relation to the workplace such of the fire safety measures as are necessary to enable the employer to comply with the duty imposed by subsection (1).
- (3) Where under subsection (2)(a) an employer carries out an assessment, the employer shall—
  - (a) in accordance with regulations under section 57, review the assessment; and
  - (b) take in relation to the workplace such of the fire safety measures as are necessary to enable the employer to comply with the duty imposed by subsection (1).
- (4) Schedule 2 makes provision as to the fire safety measures.

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## **54 Duties in relation to relevant premises**

- (1) Where a person has control to any extent of relevant premises the person shall, to that extent, comply with subsection (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 subsection (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 person who owns the relevant premises shall also comply with subsection (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 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 subsection (2).
- (5) Where under subsection (2)(a) a person carries out an assessment, the person shall—
  - (a) in accordance with regulations under section 57, 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.

## **55 Taking of measures under section 53 or 54: considerations**

- (1) Subsection (2) applies where under section 53(2)(b) or (3)(b) or 54(2)(b) or (5)(b) a person is required to take any fire safety measures.
- (2) The person shall implement the fire safety measures on the basis of the considerations mentioned in subsection (3).
- (3) Those considerations are—
  - (a) avoiding risks;
  - (b) evaluating risks which cannot be avoided;
  - (c) combating risks at source;
  - (d) adapting to technical progress;
  - (e) replacing the dangerous with the non-dangerous or the less dangerous;
  - (f) developing a coherent overall fire prevention policy which covers technology, organisation of work and the influence of factors relating to the working environment;

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- (g) giving collective fire safety protective measures priority over individual measures; and
- (h) giving appropriate instructions to employees.

## 56 Duties of employees

Each employee shall while at work—

- (a) take reasonable care for the safety in respect of harm caused by fire of—
  - (i) the employee; and
  - (ii) any other relevant person who may be affected by acts or omissions of the employee; and
- (b) in relation to any requirement imposed by virtue of this Part on the employee's employer, co-operate with the employer in so far as is necessary for the purpose of enabling the employer to comply with the requirement.

### *Regulations*

## 57 Risk assessments: power to make regulations

- (1) The Scottish Ministers may make regulations about the carrying out of assessments and reviews under sections 53 and 54.
- (2) Regulations under subsection (1) may in particular make provision for or in connection with—
  - (a) specifying matters which persons must take into account when carrying out assessments and reviews in relation to substances specified in the regulations;
  - (b) specifying other matters which persons must take into account when carrying out assessments and reviews;
  - (c) requiring persons to carry out assessments and reviews before employing persons of a description so specified;
  - (d) requiring persons in such circumstances as may be so specified to keep records of such information as may be so specified; and
  - (e) specifying circumstances in which reviews must be carried out.

### **Annotations:**

#### **Commencement Information**

- II** S. 57 wholly in force at 1.10.2006; s. 57 not in force at Royal Assent see s. 90; s. 57 in force for certain purposes at 6.4.2005 by [S.S.I. 2005/207](#), [art. 3](#); s. 57 in force at 1.10.2006 in so far as not already in force by [S.S.I. 2006/458](#), [art. 2\(e\)](#)

## 58 Scottish Ministers' power to make regulations about fire safety

- (1) The Scottish Ministers may by regulations make provision about fire safety in relevant premises.
- (2) Regulations under subsection (1) may in particular make provision for or in connection with—
  - (a) precautions that must be taken or observed;

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- (b) imposing requirements on persons (including requirements about the enforcement of any provision included in the regulations);
- (c) the provision, maintenance and keeping free from obstruction of any means of escape in case of fire;
- (d) the provision and maintenance of means for securing that any means of escape can be safely and effectively used at all material times;
- (e) the provision and maintenance of means for fighting fire and means for giving warning in the event of fire;
- (f) the internal construction of premises and the materials used in that construction;
- (g) prohibiting the presence or use in relevant premises of equipment of a description specified in the regulations, or prohibiting its presence or use unless standards, or conditions, so specified are complied with;
- (h) where relevant premises form part of a building, enabling arrangements to be entered into with owners or occupiers of other parts of the building for the purpose of enabling persons who are subject to duties imposed by virtue of this Part to comply with them;
- (i) securing that employees receive appropriate instruction or training in what to do in the event of fire;
- (j) securing that, in circumstances so specified, numbers of attendants so specified are stationed in parts of the relevant premises so specified;
- (k) the keeping of records of instruction or training given, or other things done, in pursuance of the regulations; and
- (l) the giving of assistance or information by any person concerned in the enforcement of requirements imposed by virtue of this Part to any other person so concerned for the purposes of any such requirement.

#### **Annotations:**

#### **Commencement Information**

- I2** S. 58 wholly in force at 1.10.2006; s. 58 not in force at Royal Assent see s. 90; s. 58 in force for certain purposes at 6.4.2005 by [S.S.I. 2005/207](#), [art. 3](#); s. 58 in force at 1.10.2006 in so far as not already in force by [S.S.I. 2006/458](#), [art. 2\(c\)](#)

## **59 Power to make further provision for protection of fire-fighters**

- (1) This section applies where regulations under section 58(1) make provision for or in connection with the maintenance of premises, facilities or equipment with a view to securing the safety of fire-fighters (whether employees of [<sup>F1</sup>SFRS] or otherwise) in the event of a fire in relevant premises (“safeguarding provision”).
- (2) The Scottish Ministers may by regulations apply, subject to any modifications (specified in the regulations) that they consider necessary, the safeguarding provision to common areas of private dwellings.
- (3) In subsection (2), “common area” includes, where a stair, passage, garden, yard, garage, outhouse or other appurtenance of a private dwelling is used in common by the occupants of more than one private dwelling, that stair, passage, garden, yard, garage, outhouse or other appurtenance.

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**Annotations:**

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**Amendments (Textual)**

- F1** Word in s. 59(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(21\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

*Special case*

**60 Special case: temporary suspension of Chapter 1 duties**

- (1) If in relation to any relevant premises the application of any of the Chapter 1 duties would prevent a person who falls within subsection (2) from carrying out the person's operational duties, the Chapter 1 duty (or, as the case may be duties) in question shall be deemed not to apply in relation to those relevant premises during the period when the person is carrying out those duties.
- (2) A person falls within this subsection if the person is—
- (a) a member of—
    - (i) the armed forces of the Crown; or
    - (ii) a visiting force;
  - (b) a constable; or
  - (c) of such other description as the Scottish Ministers may by regulations prescribe.
- (3) A person subject to the Chapter 1 duty (or duties) which, by virtue of subsection (1) is (or are) deemed not to apply in relation to relevant premises shall, during the period mentioned in that subsection, ensure so far as is possible the safety of relevant persons in respect of harm caused by fire in those premises.
- (4) For the purposes of this section, “operational duties”, in relation to a person falling within subsection (2), means anything done—
- (a) while the person is at work in the capacity in which the person falls within that subsection; and
  - (b) which the person is required to do by virtue of being at work in that capacity.

**Annotations:**

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**Modifications etc. (not altering text)**

- C1** S. 60(1) modified (1.10.2006) by [The Fire Safety \(Scotland\) Regulations 2006 \(S.S.I. 2006/456\)](#), [reg. 24\(3\)\(b\)\(i\)](#)
- C2** S. 60(3) modified (1.10.2006) by [The Fire Safety \(Scotland\) Regulations 2006 \(S.S.I. 2006/456\)](#), [reg. 24\(3\)\(b\)\(i\)](#)

**Changes to legislation:**

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