



# Fire (Scotland) Act 2005

## 2005 asp 5

### PART 3

#### FIRE SAFETY

### CHAPTER 2

#### ENFORCEMENT

#### 61 Enforcing authorities

- (1) Each enforcing authority shall enforce the Chapter 1 duties.
- (2) In carrying out the duty imposed by subsection (1), an enforcing authority shall have regard to any guidance given by the Scottish Ministers.
- (3) For the purpose of carrying out the duty imposed by subsection (1), an enforcing authority may appoint enforcement officers.

<sup>F1</sup>(4) .....

<sup>F1</sup>(5) .....

- (6) Subsection (1) does not authorise an enforcing authority to institute proceedings for an offence.
- (7) [<sup>F2</sup>SFRS] may make arrangements with [<sup>F3</sup>the [<sup>F4</sup>appropriate body]] for such of the functions conferred on [<sup>F5</sup>SFRS] by virtue of this Part as may be specified in the arrangements to be carried out (with or without payment) on its behalf by the [<sup>F4</sup>appropriate body] in relation to a workplace so specified.

[<sup>F6</sup>(7A) For the purposes of subsection (7), “appropriate body” means—

- (a) in relation to a workplace which is, or is on, premises for which it is the enforcing authority, the Office for Nuclear Regulation;
- (b) in relation to any other workplace, the Health and Safety Executive.]

- (8) [<sup>F7</sup>SFRS] may make arrangements with a person prescribed in regulations by the Scottish Ministers for such of the functions conferred on [<sup>F7</sup>SFRS] by virtue of this Part

---

*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Section 61. (See end of Document for details)*

---

as may be specified in the arrangements to be carried out (with or without payment) on its behalf by the person in relation to a workplace so specified.

(9) In this section, “enforcing authority” means—

[<sup>F8</sup>(za) in relation to relevant premises—

<sup>F9</sup>(i) .....

<sup>F9</sup>(ii) .....

(iii) which are a ship which is in the course of construction, reconstruction, conversion or repair by persons other than the ship's master and crew (or by persons including the ship's master and crew); or

[<sup>F10</sup>(iv) which are a workplace which is, or is on, a construction site, other than one in relation to which the Office for Nuclear Regulation is responsible for health and safety enforcement;]

the Health and Safety Executive;

[<sup>F11</sup>(zaa) in relation to relevant premises—

(i) for which a licence is required by virtue of section 1 of the Nuclear Installations Act 1965 or for which a permit is required by virtue of section 2 of that Act;

(ii) for which such a licence or permit would be required but for the fact that the premises are used by, or on behalf of, the Crown; or

(iii) which are a workplace which is, or is on, a construction site in relation to which the Office for Nuclear Regulation is responsible for health and safety enforcement,

the Office for Nuclear Regulation;]

(zb) in relation to relevant premises which are—

(i) occupied solely for the purposes of the armed forces of the Crown (other than premises such as are mentioned in paragraph (za)(iii));

(ii) 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); or

(iii) situated within premises occupied solely for the purposes of the armed forces of the Crown but which are not themselves so occupied (other than premises such as are mentioned in paragraph (za)(iii)),

the fire service maintained by the Secretary of State for Defence;]

(a) in relation to relevant premises which are—

(i) a sports ground designated in an order under section 1 of the Safety of Sports Grounds Act 1975 (c. 52) (safety certificates for large sports stadia);

(ii) a sports ground to which Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c. 27) applies; or

(iii) a regulated stand within the meaning of section 26(5) of that Act of 1987 (safety certificates for stands at certain sports grounds),

the local authority in whose area the relevant premises are situated;

[<sup>F12</sup>(b) in relation to any other relevant premises, SFRS.]

[<sup>F13</sup>(9A) For the purposes of subsection (9)—

(a) “construction site” means a construction site, as defined in regulation 2(1) of the Construction (Design and Management) Regulations 2007, to which

---

*Changes to legislation:* There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Section 61. (See end of Document for details)

---

those Regulations apply, other than one to which regulation 46(1) of those Regulations applies;

- (b) the Office for Nuclear Regulation is responsible for health and safety enforcement in relation to a construction site if, by virtue of regulations under section 18(2) of the Health and Safety at Work etc. Act 1974 (enforcement), it is responsible for the enforcement of any of the relevant statutory provisions (within the meaning of Part 1 of that Act) in relation to the site.]

(10) The Scottish Ministers may by regulations modify subsection (9) [<sup>F14</sup>or (9A)].

#### Textual Amendments

- F1** S. 61(4)(5) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F2** Word in s. 61(7) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 103(1)(a)(i)**, 129(2); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F3** Words in s. 61(7) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), art. 22, **Sch. 3** (with art. 21)
- F4** Words in s. 61(7) substituted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 86(2)**; S.I. 2014/251, art. 4
- F5** Words in s. 61(7) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 103(1)(a)(ii)**, 129(2); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F6** S. 61(7A) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 86(3)**; S.I. 2014/251, art. 4
- F7** Words in s. 61(8) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 103(1)(a)(ii)**, 129(2); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F8** S. 61(9)(za)(zb) inserted (22.7.2005) by [The Fire \(Scotland\) Act 2005 \(Consequential Provisions and Modifications\) Order 2005 \(S.I. 2005/2060\)](#), arts. 1(2)(d)(e), **2(4)(a)**
- F9** S. 61(9)(za)(i)(ii) omitted (1.4.2014) by virtue of [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 86(5)(a)**; S.I. 2014/251, art. 4
- F10** S. 61(9)(za)(iv) substituted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 86(5)(b)**; S.I. 2014/251, art. 4
- F11** S. 61(9)(zaa) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 86(6)**; S.I. 2014/251, art. 4
- F12** S. 61(9)(b) substituted for s. 61(9)(b)(c) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 103(1)(b)**, 129(2); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F13** S. 61(9A) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 86(8)**; S.I. 2014/251, art. 4
- F14** Words in s. 61(10) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 86(9)**; S.I. 2014/251, art. 4

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

- C1** S. 61(1) modified (1.10.2006) by [The Fire Safety \(Scotland\) Regulations 2006 \(S.S.I. 2006/456\)](#), **reg. 24(3)(b)(ii)**
- C2** S. 61(9)(zb) modified (1.10.2006) by [The Fire Safety \(Scotland\) Regulations 2006 \(S.S.I. 2006/456\)](#), **reg. 24(3)(a)(i)**
- C3** S. 61(9)(b) modified (1.10.2006) by [The Fire Safety \(Scotland\) Regulations 2006 \(S.S.I. 2006/456\)](#), **reg. 24(3)(a)(i)(b)(ii)**

**Changes to legislation:**

There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Section 61.