

2005 No. 383

FIRE AND RESCUE SERVICES

**The Fire (Scotland) Act 2005 (Consequential Modifications and
Amendments) Order 2005**

Made - - - - - *19th July 2005*

Coming into force in accordance with article 1

The Scottish Ministers, in exercise of the powers conferred by sections 87 and 88(2) of the Fire (Scotland) Act 2005(a), and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 88(4) of that Act, been laid before, and approved by resolution of, the Scottish Parliament:

Citation and commencement

1. This Order may be cited as the Fire (Scotland) Act 2005 (Consequential Modifications and Amendments) Order 2005 and shall come into force on the day on which Part 1 of the Fire (Scotland) Act 2005 comes into force.

Consequential modifications and amendments

- 2.—(1) The enactments referred to in Schedule 1 are amended as there specified.
(2) The enactments listed in Schedule 2 are repealed in accordance with that Schedule.

HUGH HENRY
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
19th July 2005

SCHEDULE 1

Article 2(1)

MODIFICATIONS OF PUBLIC GENERAL ACTS

The Theatres Act 1968 (c.54)

- 1.** In section 15 of the Theatres Act 1968 (powers of entry and inspection)–
- (a) in subsection (4)–
 - (i) for “fire” (in both places) substitute “relevant”;
 - (ii) for “officer” where it secondly occurs substitute “employee”;
 - (b) in subsection (5)(a) for “fire” substitute “authorised employee of a relevant”; and
 - (c) after subsection (6) add–

“(7) In this section, “relevant authority” has the meaning given by section 6 of the Fire (Scotland) Act 2005 (asp 5).”.

The Gaming Act 1968 (c.65)

- 2.**—(1) The Gaming Act 1968 is amended as follows.
- (2) In subsection (9) of section 43 (rights of entry to licensed premises), for the words from “fire authority” to “1947)” substitute “relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5))”.
- (3) In Schedule 2 (grant, renewal, cancellation and transfer of licences), in paragraph 2(2), in the definition of “the appropriate fire authority”, for the words from “fire”, where it firstly occurs, to “1947)” substitute “authority” means a relevant authority as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5)”.

The Fire Precautions Act 1971 (c.40)

- 3.**—(1) The Fire Precautions Act 1971 is amended as follows.
- (2) In the provisions mentioned in sub-paragraph (3), for “fire authority” (in each place) substitute “appropriate authority”.
- (3) The provisions are–
- (a) in section 1 (use of premises requiring fire certificate), subsections (1) and (3A)(b);
 - (b) in section 3 (power of fire authority to make fire certificates compulsory), subsections (3) to (5) and (7);
 - (c) in section 4 (rights of appeal against and coming into force of section 3 notices), subsection (4);
 - (d) in section 5 (application for and issue of fire certificates), subsections (1) to (4)(c);
 - (e) in section 5A(d) (powers of fire authorities to grant exemptions), subsections (1) to (5) and (7) to (9);
 - (f) in section 5B(e) (withdrawal of exemptions), subsections (1) to (3) and (5);
 - (g) in section 6 (contents of fire certificate), subsections (2) and (5) to (7);

(a) Subsection (5) was amended by sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c.21).
(b) Subsection (3A) was inserted by section 8(2)(a) of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
(c) Subsections (2) and (3) were amended by sections 8(2)(a) and sections 1(3) and 50(2) of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
(d) Subsection 5A was inserted by section 1(4) of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
(e) Subsection 5B was inserted by section 1(4) of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).

- (h) in section 8 (change of conditions affecting adequacy of certain matters specified in fire certificates, etc), subsections (1) to (7), (9), (11) and (12);
 - (i) in section 8A(a) (change of conditions affecting premises for which exemption has been granted), subsection (1);
 - (j) in section 8B(b) (charges in relation to fire certificates), subsections (1) and (3);
 - (k) in section 9 (rights of appeal in respect of sections 5 to 8), subsections (1) to (3);
 - (l) in section 9A(c) (duty as to means of escape and for fighting fire), subsection (2);
 - (m) in section 9D(d) (improvement notices), subsections (1) and (2);
 - (n) in section 10(e) (prohibition notices), subsections (2) to (4) and (7);
 - (o) in section 12(f) (power to make regulations about fire precautions), subsections (7), (8) and (10);
 - (p) in section 14 (exercise of certain powers of fire authority in Scotland), subsections (1) and (2);
 - (q) in section 17(g) (duty of fire authorities to consult other authorities before requiring building alterations), subsections (1) and (2);
 - (r) in section 18(h) (enforcement of Act), subsections (1) and (2);
 - (s) in section 27A(i) (civil and other liability), paragraph (a); and
 - (t) in Schedule 2(j) (special provision for certain premises), paragraph 3(5).
- (4) In section 20 (exercise of inspectors' powers)–
- (a) in subsection (1), for “officer of the fire brigade maintained by the fire authority” substitute “employee of the appropriate authority”; and
 - (b) in subsection (2)–
 - (i) for “officer of a fire brigade” substitute “employee of an appropriate authority”; and
 - (ii) for “fire authority who maintain that brigade” substitute “appropriate authority”.
- (5) In section 40 (application to Crown)–
- (a) in subsection (3)–
 - (i) for “fire authority” substitute “appropriate authority”; and
 - (ii) omit “or any person authorised by the Secretary of State to act for the purposes of this section”;
 - (b) in subsection (4)–
 - (i) for “officer of the fire brigade maintained by the fire authority” substitute “employee of the appropriate authority”;
 - (ii) for “officer of a fire brigade” substitute “employee of an appropriate authority”; and
 - (iii) for “fire authority who maintain that brigade” substitute “appropriate authority”; and
 - (c) in subsection (6), for “officer of the fire brigade maintained by the fire authority” substitute “employee of the appropriate authority”.

(a) Section 8A was inserted by section 2(1) of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
 (b) Section 8B was inserted by section 3 of the Fire Safety and Safety of Places Sport Act 1987 (c.27).
 (c) Section 9A was substituted by section 5 of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
 (d) Section 9D was inserted by section 7(1) of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
 (e) Section 10 was substituted by section 9(1) of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
 (f) Section 12 was amended by section 7(2) of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
 (g) Section 17 was amended by Schedule 15 Part II and Schedule 29 of the Local Government (Scotland) Act 1973 (c.65), section 78(1)(6) of the Health and Safety at Work etc. Act 1974 (c.37) and section 7(3) of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
 (h) Section 18 was amended by section 78(1)(7) of the Health and Safety at Work etc. Act 1974 (c.27).
 (i) Section 27A was inserted by section 12 of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
 (j) Schedule 2 was inserted by section 16(2) and Schedule 1 of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).

- (6) In section 41 (application to UK Atomic Energy Authority premises)–
- (a) in paragraph (a)–
 - (i) for “fire authority” substitute “appropriate authority”; and
 - (ii) omit “or any person authorised by the Secretary of State to act for the purposes of this section”; and
 - (b) in paragraph (b), for “officer of the fire brigade maintained by the fire authority” substitute “employee of the appropriate authority”.
- (7) In sub-section (1) of section 43 (interpretation)–
- (a) after “Act–” insert–
 - ““appropriate authority”, in relation to any premises or proposed premises, means the relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5)) for the area in which the premises are or are to be situated;” and
 - (b) in the definition of “fire inspector”, for “section 24 of the Fire Services Act 1947”(a) substitute “section 43 of the Fire (Scotland) Act 2005 (asp 5)”.

The Health and Safety at Work etc. Act 1974 (c.37)

4. In subsection (4) of section 23 of the Health and Safety at Work etc. Act 1974 (supplementary provisions about notices) for the words from “fire”, where it secondly occurs, to “1971”, substitute “authority discharging in the area where the premises are (or are to be) situated the functions under the Fire (Scotland) Act 2005 (asp 5) of a relevant authority (as defined in section 6 of that Act).”.

The Local Government, Planning and Land Act 1980 (c.65)

5. In paragraph (a) of subsection (1) of section 152 of the Local Government Planning and Land Act 1980 (fire precautions and home insulation), for “fire authority under the Fire Precautions Act 1971” substitute “relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5))”.

The Zoo Licensing Act 1981 (c.37)

6. In subsection (2) of section 3 of the Zoo Licensing Act 1981 (consideration of application for licence) for paragraph (c) substitute–

“(c) any relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5)) in whose area the zoo or any part of it is, or is to be situated if that authority is not the local authority for the area;”.

The Civic Government (Scotland) Act 1982 (c.45)

7.—(1) The Civic Government (Scotland) Act 1982 is amended as follows.

(2) In the provisions mentioned in sub-paragraph (3), for “fire authority” (in each place) substitute “appropriate relevant authority”.

(3) The provisions are–

- (a) in section 5 (rights of entry and inspection), subsection (1);
- (b) in section 93 (fire precautions in common stairs etc.), subsections (3), (4) and (7);
- (c) in section 98 (luminous tube signs), subsection (1)(a) to (c);
- (d) in Schedule 1 (licensing – further provisions as to the general system), paragraphs 2(1), 5(5)(d), 7(3)(a), 9(5), 9(7), 10(2)(a), 10(4), 11(7)(d), 12(4), 12(7), 17(4)(c), 17(4)(d);

(a) 1947 c.41.

- (e) in Schedule 2 (control of sex shops), paragraphs 8(1), 10(1)(d), 13(5)(d), 14(5), 14(7), 15(2)(a), 15(5) and 23(4)(b).
- (4) In paragraph (a) of subsection (3) of section 5 (rights of entry and inspection), for “a fire authority” substitute “an employee of an appropriate relevant authority”.
- (5) In the provisions mentioned in sub-paragraph (6), for “the fire authority” substitute “an employee of the appropriate relevant authority”.
- (6) The provisions are—
- in section 5 (rights of entry and inspection), subsection (3)(b) and (c)(a) and subsection (6); and
 - in Schedule 2 (control of sex shops), paragraph 20(1), (3) and (5).
- (7) In section 8 (interpretation of Parts I and II), after “requires” insert—
- ““appropriate relevant authority”, in relation to a licensing authority’s area, means the authority discharging in that area the functions of a relevant authority as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5);”.
- (8) In subsection (4) of section 89 (safety of platforms etc.)—
- for the words from “fire authority” (where they firstly occur) to “1959” substitute “appropriate relevant authority (being the authority discharging in the area of the local authority the functions of a relevant authority as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5))”; and
 - for “fire authority” where it thirdly occurs substitute “appropriate relevant authority”.
- (9) In section 93 (fire precautions in common stairs etc.)—
- in subsection (6), for “a fire authority” substitute “an appropriate relevant authority”; and
 - in subsection (9) for the words from ““fire authority”” where it firstly occurs to “1959” substitute ““appropriate relevant authority” means the authority discharging in the area in which the common property is situated the functions of a relevant authority as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5)”.
- (10) In subsection (2) of section 98 (luminous tube signs), after “above—” insert—
- ““appropriate relevant authority”, in relation to an electrical luminous tube sign, means the authority discharging in the area in which the sign is situated the functions of a relevant authority as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5);”.
- (11) In paragraph 3 of Schedule 2 (control of sex shops), after “Schedule” insert—
- ““appropriate relevant authority”, in relation to the area of a local authority, means the authority discharging in that area the functions of a relevant authority as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5);”.

The Cinemas Act 1985 (c.13)

8.—(1) The Cinemas Act 1985 is amended as follows.

- (2) In the provisions mentioned in sub-paragraph (3), for “fire authority” (in each place) substitute “appropriate relevant authority”.
- (3) The provisions are—
- in section 3 (grant, renewal and transfer of licence or consent), subsections (1)(b), (2) and (3);
 - section 7(1)(a) (exhibitions in premises used occasionally);
 - section 8(1)(b) (exhibitions in moveable buildings, etc); and
 - section 16(3) (appeals against decisions of licensing authority).

(a) Subsection (3) was amended by section 289G of the Criminal Procedure (Scotland) Act 1975 (c.21).

(4) in subsection (10) of section 3, after “appears” insert–

““appropriate relevant authority”, in relation to any premises, means the authority discharging in the area in which the premises are situated the functions under the Fire (Scotland) Act 2005 (asp 5) of a relevant authority (as defined in section 6 of that Act);”.

(5) In subsection (2) of section 8 (exhibitions in movable buildings etc.), after “above” insert–

““appropriate relevant authority”, in relation to any premises, means the authority discharging in the area in which the exhibition is to be given the functions under the Fire (Scotland) Act 2005 (asp 5) of a relevant authority (as defined in section 6 of that Act);”.

(6) In section 13 (powers of entry)–

- (a) in subsection (1), for “of the fire authority” substitute “an employee of the appropriate relevant authority”;
- (b) in subsection (2) for “authorised officer of the fire authority” substitute “employee of the appropriate relevant authority”; and
- (c) in subsection (4) for “of the fire authority” substitute “an employee of the appropriate relevant authority”.

(7) In subsection (1) of section 21 (interpretation), after “appears,–” insert–

““appropriate relevant authority” has the meaning given by section 3(10) above;”.

The Environment and Safety Information Act 1988 (c.30)

9. In the Schedule to the Environment and Safety Information Act 1988 (authorities with duties in relation to public registers), in the entry relating to the Fire Precautions Act 1971, for “A fire authority” substitute “An appropriate authority”.

The National Health Service and Community Care Act 1990 (c.19)

10. In paragraph 15(1) of Schedule 8 to the National Health Service and Community Care Act 1990 (transitional provisions)–

- (a) for “fire authority” where it firstly occurs, substitute “appropriate authority”; and
- (b) for “a fire authority” substitute “an appropriate authority”.

Capital Allowances Act 2001 (c.2)

11. In paragraph (a) of subsection (3) of section 29 of the Capital Allowances Act 2001 (expenditure incurred for fire safety), for “fire” (in both places) substitute “appropriate”.

The Budget (Scotland) Act 2005 (asp 4)

12.—(1) The Budget (Scotland) Act 2005 is amended as follows.

(2) In column 1 (purpose 6) of schedule 1 (The Scottish Administration)–

- (a) for “fire services” substitute “fire and rescue services”; and
- (b) for “Scottish Fire Service Training School” substitute “Scottish Fire Services College”.

(3) In Part 6 of schedule 2 (accruing resources of the Scottish Administration which may be used without individual limit) in the fourth entry–

- (a) in columns 1 and 2, for “Scottish Fire Service Training School” substitute “Scottish Fire Services College”; and
- (b) in column 1, for “school’s” substitute “college’s”.

SCHEDULE 2

Article 2(2)

REPEALS

<i>Enactment</i>	<i>Extent of repeal</i>
The Gaming Act 1968 (c.65)	In Schedule 2, in each of paragraphs 5(3)(d), 13(1)(d), 14(2) and 20(1)(d), the word “fire”.
The Fire Precautions Act 1971 (c.40)	Section 29. In section 43(1), the definition of “fire authority”.
The Civic Government (Scotland) Act 1982 (c.45)	In each of sections 8, 98(2) and paragraph 3 of Schedule 2, the definition of “fire authority”.
The Cinemas Act 1985 (c.13)	In each of sections 3(10), 8(2) and 21(1), the definition of “fire authority”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to and repeals provisions in primary legislation. These amendments and repeals are consequential for the purposes, or in consequence of, the Fire (Scotland) Act 2005 (asp 5).

Article 1 of the Order provides that the amendments and repeals will have effect from the day on which Part I of the Fire (Scotland) Act comes into force.

Article 2(1) and Schedule 1 set out amendments to primary legislation.

Article 2(2) and Schedule 2 set out repeals of primary legislation.

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