

SCOTTISH STATUTORY INSTRUMENTS

2006 No. 456

The Fire Safety (Scotland) Regulations 2006

PART IV

MISCELLANEOUS

Maintenance of measures provided in relevant premises for protection of fire fighters

23.—(1) Where necessary in order to secure the safety of fire fighters (whether employees of [^{F1}the Scottish Fire and Rescue Service] or otherwise) in the event of a fire in relevant premises, the person with duties under section 53 or 54 must ensure that the relevant premises and any facilities, equipment and devices provided in respect of the relevant premises for the use by or protection of fire fighters under these Regulations, the 2005 Act or under any other enactment, including any enactment repealed or revoked by, under, or by virtue of, the 2005 Act, are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair.

(2) Where the relevant premises form part of a building, the person with duties under section 53 or 54 may make arrangements with the occupier of any premises forming part of the building for the purpose of ensuring that the requirements of paragraph (1) are met.

(3) Paragraph (2) applies even if the other premises are not relevant premises.

(4) Where the occupier of the other premises is not also the owner of those premises, the reference to the occupier in paragraph (2) is taken to be a reference to both the occupier and the owner.

F1 Words in [reg. 23](#) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, [sch. 2 para. 23\(2\)](#)

Commencement Information

I1 Reg. 23 in force at 1.10.2006, see [reg. 1](#)

Maintenance of measures provided in the common areas of private dwellings for protection of fire-fighters

24.—(1) Regulation 23 shall apply to the common areas of private dwellings as if they were relevant premises, with the modifications specified in paragraphs (2) and (3).

(2) The duty imposed by paragraph (1) shall apply to—

(a) a person who has control to any extent of the common areas of private dwellings, to that extent; and

(b) if a person falls within sub-paragraph (a) other than by virtue of—

(i) having control to any extent of the common areas of private dwellings in connection with the carrying on by the person (whether for profit or not) of an undertaking; or

(ii) owning the common areas of private dwellings,

the person or persons who own the common areas of private dwellings shall also comply with the duty.

- (3) For the purposes of this regulation the following modifications are made:—
- (a) the references to “relevant premises” in—
- (i) section 61(9)(zb)(1)^{F2} and (b)] (enforcing authorities);
 - (ii) section 62 (powers of enforcement officers);
 - (iii) section 64 (enforcement notices);
 - (iv) section 77 (Crown application)⁽²⁾; and
 - (v) section 77A (application to visiting forces etc.)⁽³⁾,
- shall be taken to include the common areas of private dwellings;
- (b) any references to “Chapter 1 duties” in—
- (i) section 60(1) and (3) (special case: temporary suspension of Chapter 1 duties);
 - (ii) section 61(1)^{F3} ... (enforcing authorities);
 - (iii) section 62(2)(c), (4)(a), (6) and (7) (powers of enforcement officers);
 - (iv) section 64(1), (2)(a), (3)(b) and (10) (enforcement notices); and
 - (v) section 67(1)(a) (determination of disputes),
- shall be taken to include the application in paragraph (1) of the safeguarding provision to the common areas of private dwellings; and
- (c) for the purposes of section 72(3)(a), this regulation is deemed to be one to which a person is subject by virtue of regulations made under section 58.

- F2** Words in [reg. 24\(3\)\(a\)\(i\)](#) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, [sch. 2 para. 23\(3\)\(a\)](#)
- F3** Words in [reg. 24\(3\)\(b\)\(ii\)](#) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, [sch. 2 para. 23\(3\)\(b\)](#)

Commencement Information

- I2** Reg. 24 in force at 1.10.2006, see [reg. 1](#)

Arrangements with the ^{F4}Office of Rail and Road]

- 25.** The ^{F5}Office of Rail and Road] is prescribed for the purposes of section 61(8).

- F4** Words in [reg. 25](#) heading substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), [reg. 1\(2\)](#), [Sch. para. 11\(a\)](#)
- F5** Words in [reg. 25](#) substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), [reg. 1\(2\)](#), [Sch. para. 11\(a\)](#)

Commencement Information

- I3** Reg. 25 in force at 1.10.2006, see [reg. 1](#)

(1) Section 61(9)(zb) was inserted by S.I. 2005/2060.
 (2) Section 77 was amended by S.I. 2005/2060.
 (3) Section 77A was inserted by S.I. 2005/2060.

Nominated person's act or omission not to afford employer defence

26.—(1) Persons of a description specified in paragraph (2), on whom duties have been imposed by virtue of section 58(1), are specified for the purposes of section 75(b).

(2) The persons are competent persons nominated under—

- (a) regulation 12(3)(b);
- (b) regulation 14(1)(b); and
- (c) regulation 17(1).

Commencement Information

I4 Reg. 26 in force at 1.10.2006, see [reg. 1](#)

Service of documents: further provision

27.—(1) Without prejudice to section 76 or any other provision of this regulation, any document required or authorised to be served on a person with duties under section 53 or 54 in respect of any relevant premises (whether a body corporate or not) by virtue of Part 3 of the 2005 Act may be served by sending it by post to that person at those premises, or by addressing it by name to the person on whom it is to be served and delivering it to some responsible individual who is or appears to be resident or employed in the relevant premises.

(2) If the name or the address of the person with duties under section 53 or 54 on whom any such document is to be served cannot after reasonable inquiry be ascertained by the person seeking to serve it, the document may be served by addressing it to the person on whom it is to be served by the description of “person with Chapter 1 duties” for the relevant premises (describing them) to which the document relates, and by delivering it to some responsible individual residing or appearing to be residing in the relevant premises or, if there is no such person to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the relevant premises.

(3) Any document required or authorised to be served on the person with duties under section 53 or 54 or enforcing authority may be transmitted to that person or authority—

- (a) by means of an electronic communications network (within the meaning given by section 32 of the Communications Act 2003⁽⁴⁾); or
- (b) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.

(4) Where the recipient of the transmission is the person with duties under section 53 or 54, the transmission has effect as a delivery of the document to that person only if that person has indicated to the enforcing authority on whose behalf the transmission is made his or her willingness to receive a document transmitted in the form and manner used.

(5) An indication to an enforcing authority for the purposes of paragraph (4)—

- (a) must be given to the authority in any manner it requires;
- (b) may be a general indication or one that is limited to documents of a particular description;
- (c) must state the address to be used and must be accompanied by any other information which the authority requires for the making of the transmission;
- (d) may be modified or withdrawn at any time by a notification given to the authority in any manner it requires.

(4) 2003 c. 21.

(6) Where the recipient of the transmission is the enforcing authority, the transmission has effect as a delivery of the document only if the enforcing authority has indicated its willingness to receive a document transmitted in the form and manner used.

(7) An indication for the purposes of paragraph (6)–

- (a) may be given in any manner the enforcing authority thinks fit;
- (b) may be a general indication or one that is limited to documents of a particular description;
- (c) must state the address to be used and must be accompanied by any other information which the person with duties under section 53 or 54 requires for the making of the transmission;
- (d) may be modified or withdrawn at any time in any manner the enforcing authority thinks fit.

(8) If the making or receipt of the transmission has been recorded in the computer system of the enforcing authority, it must be presumed, unless the contrary is proved, that the transmission–

- (a) was made to the person recorded in that system as receiving it;
- (b) was made at the time recorded in that system as the time of delivery;
- (c) contained the information recorded on that system in respect of it.

(9) For the purposes of this regulation, “transmission” means the transmission referred to in paragraph (3).

Commencement Information

15 Reg. 27 in force at 1.10.2006, see [reg. 1](#)

Disapplication of certain provisions

28.—(1) Regulations 4, 5 and 18(2) do not apply in relation to occasional work or short-term work involving work regulated as not being harmful, damaging, or dangerous to young people in a family undertaking.

(2) Regulations 6, 11, 15, 18(3) and 21(2) do not apply in relation to the use of means of transport by land, water or air where the use of means of transport is regulated by international agreements and the European Community directives giving effect to them and in so far as the use of means of transport falls within the disapplication in article 1.2(e) of Council Directive [1999/92/EC](#) on minimum requirements for improving the safety and health of workers potentially at risk from explosive atmospheres⁽⁵⁾, except for any means of transport intended for use in a potentially explosive atmosphere.

(3) Without prejudice to section 60, regulation 13(2)(f) does not apply to any relevant premises constituting, or forming part of, a prison within the meaning of section 43 of the Prison (Scotland) Act 1989⁽⁶⁾ or constituting, or forming part of, a remand centre or young offenders institution provided within the meaning of section 19 of that Act⁽⁷⁾ or any part of any other relevant premises used for keeping persons in lawful custody or detention.

(4) Where paragraph (3) applies, the safety of relevant persons in respect of harm caused by fire must nevertheless be ensured so far as is possible.

⁽⁵⁾ O.J. No. L 23, 28.1.00, p.57.

⁽⁶⁾ 1989 c. 45.

⁽⁷⁾ Section 19(1)(b) was amended by the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), section 23(1).

Changes to legislation: *There are currently no known outstanding effects for the The Fire Safety (Scotland) Regulations 2006, PART IV. (See end of Document for details)*

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Commencement Information

I6 Reg. 28 in force at 1.10.2006, see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Fire Safety (Scotland) Regulations 2006, PART IV.