



# Fire Precautions Act 1971 (repealed)

## 1971 CHAPTER 40

### *Miscellaneous and general*

#### **35 Power to apply Act to vessels and movable structures.**

The Secretary of State may by regulations apply any of the provisions of this Act, subject to such modifications as may be prescribed, to—

- (a) vessels remaining moored or on dry land for such periods or in such circumstances as may be prescribed; and
- (b) tents and other movable structures of any prescribed description. [<sup>F1</sup>; and
- (c) places of work in the open air of any prescribed description.]

#### **Textual Amendments**

- F1** S. 35(c) and “; and” inserted by [Fire Safety and Safety of Places of Sport Act 1987 \(c. 27, SIF 50\)](#), s. 17

PROSPECTIVE

#### **<sup>F2</sup>36 Power of local authorities to make loans to meet expenditure on certain alterations to buildings occasioned by this Act.**

#### **Textual Amendments**

- F2** Act repealed (E.W.) (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), Sch. 2 para. 8, [Sch. 4](#) (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), [arts. 1\(1\), 2](#)); (S.) (1.10.2006) by [Fire \(Scotland\) Act 2005 \(Consequential Modifications and Savings\) Order 2006 \(S.S.I. 2006/475\)](#), art. 1, [Sch. 2](#) (with arts. 3, 4)

*Status: Point in time view as at 10/11/2004. This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Fire Precautions Act 1971 (repealed), Cross Heading: Miscellaneous and general. (See end of Document for details)*

### 37 General provisions as to regulations.

- (1) Any power of the Secretary of State to make regulations under this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power conferred by this Act to make regulations includes power to make different provision in relation to different circumstances.
- (3) Regulations made under this Act may grant or provide for the granting of exemptions from any of the provisions of the regulations, either unconditionally or subject to conditions.

#### Subordinate Legislation Made

- P1** [S.37](#):for exercises of this power see Index to Government Orders.
- P2** [S. 12\(1\)](#) (with [SS. 12\(3\)\(4\),37\(2\)\(3\)](#) and [40\(1\)](#)) power exercised by [S.I. 1991/259](#).

### 38 Service of documents.

- (1) Any notice or other document required or authorised by or by virtue of this Act to be served on any person may be served on him either by delivering it to him or by leaving it at his proper address or by sending it by post.
- (2) Any notice or other document so required or authorised to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.
- (3) For the purposes of this section, and of [<sup>F3</sup>section 7 of the <sup>M1</sup>Interpretation Act 1978] in its application to this section, the proper address of any person, in the case of the secretary or clerk of a body corporate, shall be that of the registered or principal office of that body, in the case of a partner of a firm, shall be that of the principal office of the firm, and in any other case shall be the last known address of the person to be served.
- (4) If the name or the address of any owner or occupier of premises on whom any such notice or other document as aforesaid 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 “owner” or “occupier” of the premises (describing them) to which the notice relates, and by delivering it to some responsible person resident or appearing to be resident on the 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 premises.

#### Textual Amendments

- F3** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#) (1.1.1979) for words from “section 26” to “1889”

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

- C1** [S. 38](#) applied (with modifications) (1.12.1997) by [S.I. 1997/1840, reg. 17\(1\)\(2\)](#)

#### Marginal Citations

- M1** [1978 c. 30 \(115:1\)](#)

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### 39 Expenses.

There shall be paid out of moneys provided by Parliament any expenditure incurred by the Secretary of State under or by virtue of this Act and any increase attributable to any provision of this Act in the sums payable under any other enactment out of moneys so provided.

### 40 Application to Crown, etc.

- (1) Subject to the provisions of this section—
  - (a) the following provisions of this Act, namely sections 1, 2, 3 (except subsection (5)), 4 [F45(2A), 5A, 5B,], 6 [F5, F6, 9A (except subsections (3) and (4)), 9B and 9C] and 12(1) to (3) and (4)(a) and (b), shall apply to premises occupied by the Crown; and
  - (b) the following provisions of this Act, namely sections 1, 2, 3 (except subsection (5)), 4 to 8 [F78A, 8B,], [F89A][F79B, 9C, 9D, 9F,] 10, [F710B] 12, 19 to 21 and 32, shall apply to premises owned by the Crown but not occupied by it.
- (2) No fire certificate shall by virtue of subsection (1) above be required in respect of premises of any of the following descriptions, that is to say—
  - (a) any premises constituting, or forming part of, a prison within the meaning of the M2 Prison Act 1952 or constituting, or forming part of, a remand centre, detention centre or [F9 youth custody centre] provided by the Secretary of State under section 43 of that Act;
  - (b) any premises constituting, or forming part of, a prison within the meaning of the M3 Prisons (Scotland) Act 1952 or constituting, or forming part of, a remand centre, . . . F10, Borstal institution or young offenders institution provided by the Secretary of State under section 31 of that Act;
  - [F11](c) any premises constituting, or forming part of, a special hospital within the meaning of the M4 Mental Health Act 1959 or a State hospital within the meaning of the M5 [F12 Mental Health (Scotland) Act 1984 ] ; ]
  - (d) any premises occupied solely for purposes of the armed forces of the Crown.
- (3) Any provision of this Act which, by virtue of subsection (1) above, applies to premises occupied or owned by the Crown shall, in its application to any such premises, have effect with the substitution, for any reference to the [F13 fire authority [F13 fire and rescue authority]], of a reference to a fire inspector or any person authorised by the Secretary of State to act for the purposes of this section.
- (4) As regards any premises falling within subsection (1)(a) above, any power exercisable by virtue of subsection (3) above by a fire inspector shall be exercisable also by an [F14 officer of the fire brigade maintained by the fire authority [F14 employee of the fire and rescue authority]] if and so far as he is authorised in writing by such an inspector to exercise that power; but a fire inspector shall not authorise an [F15 officer of a fire brigade [F15 employee of a fire and rescue authority]] under this subsection except with the consent [F16 of the fire authority who maintain that brigade [F16 of the fire and rescue authority]].
- (5) If a person with intent to deceive pretends to be a person by whom any powers exercisable by a fire inspector by virtue of subsection (3) above are exercisable by virtue of subsection (4) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [F17 level 3 on the standard scale].

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- (6) In relation to any premises falling within subsection (1)(b) above section 20(1) of this Act shall have effect as if for the reference to an <sup>F18</sup>officer of the fire brigade maintained by the fire authority [<sup>F18</sup>employee of the fire and rescue authority]] there were substituted a reference to any person.
- <sup>F19</sup>(7) Section 341 of the <sup>M6</sup> Public Health Act 1936 (power to apply provisions of that Act to Crown Property) shall have effect as if sections 11 and 15 of this Act were contained in that Act. ]
- (8) To such extent, if any, as they so provide, regulations under section 35 of this Act shall bind the Crown.
- (9) Nothing in this Act shall be taken to authorise the entry of premises occupied by the Crown.
- <sup>F11</sup>(10) This Act shall apply to premises in Scotland occupied by a [<sup>F20</sup>Health Board] as if they were premises occupied by the Crown.]
- <sup>F21</sup>(10A) . . . . .
- <sup>F22</sup>(10B) This Act shall apply to premises occupied by the National Radiological Protection Board as if they were premises occupied by the Crown.]
- (11) Any premises used for the purposes of a visiting force or of a headquarters or defence organisation designated for the purposes of the <sup>M7</sup>International Headquarters and Defence Organisations Act 1964 shall be exempt from the operation of this Act to the extent to which the premises would be exempt therefrom if the premises were occupied by the Crown solely for purposes of the armed forces of the Crown.
- In this subsection “visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the <sup>M8</sup>Visiting Forces Act 1952.

#### Subordinate Legislation Made

- P3** S.40: for exercises of this power see Index to Government Orders.
- P4** S. 40(1): S. 12(1) (with ss. 12(3)(4), 37(2)(3) and 40(1)) power exercised (12.2.1991) by S.I. 1991/259.

#### Textual Amendments

- F4** Words inserted by [Fire Safety and Safety of Places of Sport Act 1987 \(c. 27, SIF 50\)](#), **ss. 18(2)**, 50(2)
- F5** Words inserted by [Health and Safety at Work etc. Act 1974 \(c. 37\)](#), **s. 78(1)(8)(a)**
- F6** Words substituted by [Fire Safety and Safety of Places of Sport Act 1987 \(c. 27, SIF 50\)](#), **ss. 18(2)**, 50(2)
- F7** Words inserted by [Fire Safety and Safety of Places of Sport Act 1987 \(c. 27, SIF 50\)](#), **ss. 18(3)**, 50(2)
- F8** Word inserted by [Health and Safety at Work etc. Act 1974 \(c. 37\)](#), **s. 78(1)(8)(b)**
- F9** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 29**
- F10** Words repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 170(2), Sch. 8 para. 16, **Sch. 16** (the repeal being in force (S.) on 1.11.1988 by S.I. 1988/1817, **art. 2 Sch.**)
- F11** S. 40(2)(c)(10) repealed (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(2), **Sch. 10**
- F12** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), **s. 25(2)** (1.1.1979) for words from “section 26” to “1889”

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- F13** Words in s. 40(3) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 31\(2\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F14** Words in s. 40(4) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 31\(3\)\(a\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F15** Words in s. 40(4) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 31\(3\)\(b\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F16** Words in s. 40(4) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 31\(3\)\(c\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F17** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)
- F18** Words in s. 40(6) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 31\(4\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F19** S. 40(7) repealed (E.W.) by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), [Sch. 7](#)
- F20** Words substituted by Health and Safety at Work etc. Act 1974 (c. 37), [s. 78\(1\)\(8\)\(c\)](#)
- F21** S. 40(10A) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), [Sch.3](#) (with s. 4(1), [Sch. 2 paras. 6, 16](#))
- F22** S. 40(10B) inserted by [Fire Safety and Safety of Places of Sport Act 1987 \(c. 27, SIF 50\)](#), [s. 18\(4\)](#)

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

- C2** S. 40 modified (17.7.1992) by [S.I. 1992/1732](#), [art. 5](#)  
S. 40 extended (6.5.1999) by [S.I. 1999/677](#), [art. 5\(1\)](#)
- C3** References to a youth offender institution substituted (E.W.) for references to a detention centre and to a youth custody centre by virtue of [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 123(6), [Sch. 8 Pt. I para. 1](#)

#### Marginal Citations

- M2** 1952 c. 52.  
**M3** 1952 c. 61.  
**M4** 1959 c. 72.  
**M5** 1984 c. 36 (85)  
**M6** 1936 c. 49 (100:1)  
**M7** 1964 c. 5.  
**M8** 1952 c. 67.

## 41 Application to premises occupied by U.K. Atomic Energy Authority.

Sections 17, 18, 30, 31 and 36 of this Act shall not apply to any premises occupied by the United Kingdom Atomic Energy Authority, and in the application of other provisions of this Act to any such premises—

- (a) for any reference to the [<sup>F23</sup>fire authority [<sup>F23</sup>fire and rescue authority]] there shall be substituted a reference to a fire inspector or any person authorised by the Secretary of State to act for the purposes of this section; and
- (b) for the reference in section 20(1) to an [<sup>F24</sup>officer of the fire brigade maintained by the fire authority [<sup>F24</sup>employee of the fire and rescue authority]] there shall be substituted a reference to any person.

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**Textual Amendments**

- F23** Words in s. 41(a) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 32\(a\)](#); S.I. 2004/2304, art. 2, S.I. 2004/2917, art. 2
- F24** Words in s. 41(b) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 32\(b\)](#); S.I. 2004/2304, art. 2, S.I. 2004/2917, art. 2

**42** ..... <sup>F25</sup>

**Textual Amendments**

- F25** S. 42 repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), s. 42(1), [Sch. 6 Pt. I](#)

**43 Interpretation.**

(1) In this Act—

“building” includes a temporary or movable building and also includes any permanent structure and any temporary structure other than a movable one;  
..... <sup>F26</sup>

“contravention” includes failure to comply, and “contravene” has a corresponding meaning;

“the court”, except in section 28 of this Act . . . <sup>F27</sup>, means, in relation to premises in England or Wales, a magistrates’ court acting for the petty sessions area in which they are situated and, in relation to premises in Scotland, the sheriff within whose jurisdiction they are situated;

“designated use” has the meaning assigned by section 1(1) of this Act;

[<sup>F28</sup> “escape ” has the meaning assigned to it by section 5(5) of this Act and “ means of escape ” is to be construed in accordance with that subsection; ]

[<sup>F29</sup> “ fire authority ”, in relation to any premises or proposed premises, means the authority discharging in the area in which the premises are or are to be situated the functions of fire authority under the <sup>M9</sup> Fire Services Act 1947;]

[<sup>F29</sup> “ fire and rescue authority ”, in relation to any premises or proposed premises, means the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the premises are or are to be situated;]

“fire certificate” has the meaning assigned by section 1(1) of this Act;

“fire inspector” means an inspector or assistant inspector appointed under [<sup>F29</sup>section 24 of the <sup>M10</sup>Fire Services Act 1947 [<sup>F29</sup>section 28 of the Fire and Rescue Services Act 2004]];

“furniture” includes furnishings (including wall-coverings and ceiling-coverings of all sorts, as well as floor-coverings);

“local authority” means—

(a) as respects England <sup>F30</sup> . . . , the council of a . . . <sup>F31</sup> London borough or . . . <sup>F31</sup> district, the Common Council of the City of London or the Council of the Isles of Scilly;

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[<sup>F32</sup>(aa) as respects Wales, the council of a county or county borough;]

(b) as respects Scotland, [<sup>F33</sup>except in section 17, the [<sup>F34</sup>council for a local government area]];

“notice” means a notice in writing;

“the notified person” and “the specified position” have the meanings assigned by section 3(8) of this Act;

“owner”—

(a) as respects England and Wales, means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the premises were let at a rackrent; and

(b) as respects Scotland, means the person for the time being entitled to receive or who would, if the same were let, be entitled to receive, the rents of the premises in connection with which the word is used and includes a trustee, factor, tutor or curator, and in the case of public or municipal property, applies to the persons to whom the management thereof is entrusted;

“premises” means building or part of a building;

“prescribed” means prescribed by regulations made under this Act by the Secretary of State;

[<sup>F35</sup> “prohibition notice” has the meaning assigned by section 10(2) of this Act; ]

“the relevant building”, in relation to—

(a) any premises in relation to which a notice under section 3 of this Act is in force; or

(b) any premises which are the subject of an application for a fire certificate; or

(c) any premises with respect to which a fire certificate is in force,

means the building constituting or comprising the premises in question.

[<sup>F36</sup>“work” has the same meaning as it has for the purposes of Part I of the <sup>M11</sup>Health and Safety at Work etc. Act 1974].

(2) ..... <sup>F37</sup>

(3) Except in so far as the context otherwise requires, any reference in this Act to any enactment is a reference to it as amended, and includes a reference to it as applied, by or under any other enactment, including this Act.

#### Textual Amendments

**F26** Definition of “building regulations” repealed by Health and Safety at Work etc. Act 1974 (c. 37) , **Sch. 10**

**F27** Words repealed by Fire Safety and Safety of Places of Sport Act 1987 (c. 27, SIF 50) , ss. 16(3)(b) , 49 , **Sch. 4**

**F28** Definition inserted by Fire Safety and Safety of Places of Sport Act 1987 (c. 27, SIF 50) , **s. 4(3)**

**F29** Words in s. 43(1) substituted (E.W.) (7.9.2004 for specified purposes except in relation to W.; 1.10.2004 for remaining purposes except in relation to W., 10.11.2004 for W.) by Fire and Rescue

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Services Act 2004 (c. 21) , s. 61 , **Sch. 1 para. 33** ; S.I. 2004/2304 , art. 2 (with art. 3) , S.I. 2004/2917 , art. 2

- F30** Words in s. 43(1) in para. (a) of the definition of “local authority” repealed (1.4.1996) by 1994 c. 19 , ss. 22(3) , 66(8) , **Sch. 9 para. 8** , **Sch.18** (with ss. 54(5)(7) , 66(7) , **Sch. 17 paras. 22(1) , 23(2)** ) ; S.I. 1996/396 , art. 4 , **Sch.2**
- F31** Words repealed by S.I. 1974/595 , **Sch. 1**
- F32** In s. 43(1) in the definition of “local authority” para. (aa) inserted (1.4.1996) by 1994 c. 19 , s. 22(3) , **Sch. 9 para.8** (with ss. 54(5)(7) , 66(7) , **Sch. 17 paras. 22(1) , 23(2)** ) ; S.I. 1996/396 , art. 4 , **Sch.2**
- F33** Words substituted by Local Government (Scotland) Act 1973 (c. 65) , **Sch. 27 Pt. II para. 200**
- F34** Words in s. 43(1) in para. (b) of the definition of “local authority” substituted (S.) (1.4.1996) by 1994 c. 39 , s. 180(1) , **Sch. 13 para.87** ; S.I. 1996/323 , **art.4(1)(c)**
- F35** Definition inserted by Fire Safety and Safety of Places of Sport Act 1987 (c. 27, SIF 50) , **s. 9(3)**
- F36** Definition added by Health and Safety at Work etc. Act 1974 (c. 37) , **s. 78(1)(9)**
- F37** S. 43(2) repealed by Fire Safety and Safety of Places of Sport Act 1987 (c. 27, SIF 50) , ss. 12(2) , 49 , **Sch. 4**

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

- C4** S. 43 applied (with modifications) (1.12.1997) by S.I. 1997/1840 , **reg. 17(1)(2)(3)(d)**

#### Marginal Citations

- M9** 1947 c. 41 .
- M10** 1947 c. 41 .
- M11** 1974 c. 37 .

## 44 Short title, extent and commencement.

- (1) This Act may be cited as the Fire Precautions Act 1971.
- (2) This Act, . . . <sup>F38</sup> does not extend to Northern Ireland.
- (3) This Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different dates may be appointed under this subsection for different purposes.

#### Textual Amendments

- F38** Words repealed by Northern Ireland Constitution Act 1973 (c. 36), s. 42(1), **Sch. 6 Pt. I**

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

- C5** Power of appointment conferred by s. 44(3) not fully exercised



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**Changes to legislation:**

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