



# Fire Precautions Act 1971

## 1971 CHAPTER 40

An Act to make further provision for the protection of persons from fire risks; and for purposes connected therewith. [27th May 1971]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Premises for which fire certificates are required*

#### **1 Uses of premises for which fire certificate is compulsory**

- (1) A certificate issued under this Act by the fire authority (in this Act referred to as a "fire certificate") shall, subject to any exemption conferred by or under this Act, be required in respect of any premises which are put to a use for the time being designated under this section (in this Act referred to as a "designated use").
- (2) For the purposes of this section the Secretary of State may by order designate particular uses of premises, but shall not so designate any particular use unless it falls within at least one of the following classes of use, that is to say—
  - (a) use as, or for any purpose involving the provision of, sleeping accommodation;
  - (b) use as, or as part of, an institution providing treatment or care;
  - (c) use for purposes of entertainment, recreation or instruction or for purposes of any club, society or association;
  - (d) use for purposes of teaching, training or research ;
  - (e) use for any purpose involving access to the premises by members of the public, whether on payment or otherwise.
- (3) An order under this section may provide that a fire certificate shall not by virtue of this section be required for premises of any description specified in the order, notwithstanding that they are or form part of premises which are put to a designated use.

- (4) For the purposes of any provision made in an order under this section by virtue of subsection (3) above a description of premises may be framed by reference to the purpose for which premises are used or the frequency of their use for any purpose or by reference to any other circumstances whatsoever; and different provision may be made in pursuance of that subsection in relation to different designated uses.
- (5) An order under this section may include such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient for the purposes of the order.
- (6) An order under this section may be varied or revoked by a subsequent order thereunder.
- (7) The power to make orders under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Without prejudice to any exemption conferred by or under this Act, where premises consisting of a part of a building are put to a designated use, any other part of the building which is occupied together with those premises in connection with that use of them shall for the purposes of this Act be treated as forming part of the premises put to that use.

## **2 Premises exempt from s. 1**

No fire certificate shall by virtue of section 1 of this Act be required in respect of premises of any of the following descriptions, that is to say—

- (a) office premises, shop premises or railway premises within the meaning of the Offices, Shops and Railway Premises Act 1963, or premises which are deemed to be such premises for the purposes of that Act;
- (b) any premises constituting, or forming part of, a factory within the meaning of the Factories Act 1961 or to which any provisions of that Act apply by virtue of section 124 (institutions) or section 125 (docks, etc.) thereof;
- (c) any premises which for the purposes of the Mines and Quarries Act 1954 are deemed to form part of a mine or quarry;
- (d) any premises appropriated to, and used solely or mainly for, public religious worship ;
- (e) any premises consisting of or comprised in a house which is occupied as a single private dwelling.

## **3 Power of fire authority to make fire certificate compulsory for use of certain premises as a dwelling**

- (1) This section applies to any premises not for the time being excluded by subsection (2) below which have been, are being or are to be used as a dwelling if—
  - (a) the premises consist of or comprise a room which has been, is being or is to be used as living accommodation and which—
    - (i) is below the ground floor of the building which constitutes or comprises the premises; or
    - (ii) is two or more floors above the ground floor of that building ; or
    - (iii) is a room of which the floor is six metres or more above the surface of the ground on any side of that building; or

- (b) explosive or highly flammable materials of any prescribed kind have been, are being or are to be kept anywhere under, in or on the building which constitutes or comprises the premises in a quantity or aggregate quantity greater than the quantity prescribed for the purposes of this paragraph as the maximum in relation to materials of that kind.
- (2) This section does not apply to—
  - (a) any premises consisting of or comprised in a house which is occupied as a single private dwelling; or
  - (b) any premises consisting of or comprised in a house which is occupied by persons who do not form a single household.
- (3) If in the case of any premises it appears to the fire authority that they are premises to which this section applies, the authority may serve a notice under this section relating to those premises on either—
  - (a) the occupier of the premises ; or
  - (b) the owner of the premises ; or
  - (c) a person (whether the occupier or owner of the premises or not) having the overall management of the building constituting or comprising the premises.
- (4) A notice under this section shall be in the prescribed form and shall—
  - (a) specify the premises to which it relates; and
  - (b) give particulars of the facts by reason of which it appears to the fire authority that this section applies to the premises; and
  - (c) specify one of the positions mentioned in subsection (3) above and state that the person on whom the notice is served is being served with it as the occupier of that position; and
  - (d) indicate that on the coming into force of the notice a fire certificate will, in the circumstances mentioned in subsection (6) below, be required in respect of the premises to which the notice relates ; and
  - (e) state the right of appeal against the notice conferred by section 4 of this Act and the time within which such an appeal may be brought.
- (5) Before a fire authority serve a notice under this section relating to any premises, they shall, if they are not the local authority for the area in which the premises are situated, consult that local authority.
- (6) A fire certificate shall be required in respect of any premises which, while this section applies to them and there is in force a notice under this section relating to them, are used as a dwelling.
- (7) Where, in the case of any premises, there is in force a notice under this section relating to them and it appears to the fire authority that the notified person has ceased to occupy the specified position, they may serve a fresh notice under this section in respect of the premises; and on the coming into force of a notice served by virtue of this subsection, the previous notice relating to the premises shall cease to have effect.
- (8) In this Act—
  - (a) " the notified persons ", in relation to any premises in respect of which a notice under this section is in force, means the person on whom that notice was served; and

- (b) " the specified position ", in relation to a notice served under this section, means the position specified in the notice in pursuance of subsection (4)(c) above.

#### **4 Right of appeal against, and coming into force of, notices under s. 3**

- (1) Where a notice under section 3 of this Act is served in respect of any premises, the person on whom it is served may within twenty-one days from the service of the notice appeal to the court on either or both of the following grounds, that is to say—
  - (a) that the premises to which the notice relates are not premises to which section 3 applies; or
  - (b) that he does not occupy the specified position.
- (2) On an appeal under this section the court, if satisfied as to either of the grounds mentioned in subsection (1) above, shall by order cancel the notice, but shall otherwise by order confirm it.
- (3) A notice served under section 3 of this Act shall come into force only if it does so by virtue of subsection (4) below.
- (4) A notice served under section 3 of this Act shall, unless previously withdrawn by the fire authority, come into force—
  - (a) where no appeal under this section is brought against it within the time mentioned in subsection (1) above, at the end of twenty-one days from the expiration of that time;
  - (b) where such an appeal is so brought but is withdrawn or dismissed for want of prosecution, at the end of twenty-one days from the date of withdrawal or dismissal of the appeal;
  - (c) where such an appeal is so brought, is not withdrawn or dismissed as aforesaid, and is finally determined by the confirmation of the notice, at the end of twenty-one days from the date of the final determination of the appeal.

#### *Fire certificates*

#### **5 Application for, and issue of, fire certificate**

- (1) An application for a fire certificate with respect to any premises must be made to the fire authority in the prescribed form and—
  - (a) must specify the particular use or uses of the premises which it is desired to have covered by the certificate; and
  - (b) must give such information as may be prescribed about the premises and any prescribed matter connected with them; and
  - (c) if the premises consist of part of a building, must, in so far as it is available to the applicant, give such information as may be prescribed about the rest of the building and any prescribed matter connected with it.
- (2) On receipt of an application for a fire certificate with respect to any premises the fire authority may require the applicant within such time as they may specify—
  - (a) to furnish them with such plans of the premises as they may specify; and

- (b) if the premises consist of part of a building, to furnish them, in so far as it is possible for him to do so, with such plans of such other part or parts of the building as they may specify ;

and if the applicant fails to furnish the required plans within that time or such further time as the authority may allow, the application shall be deemed to have been withdrawn at the end of that time or further time, as the case may be.

- (3) Where an application for a fire certificate with respect to any premises has been duly made and all such plans (if any) as are required to be furnished under subsection (2) above in connection with it have been duly furnished, it shall be the duty of the fire authority to cause to be carried out an inspection of the relevant building (including any part of it which consists of premises to which any exemption conferred by or under this Act applies), and if the fire authority are satisfied as regards any use of the premises which is specified in the application that—

- (a) the means of escape in case of fire with which the premises are provided : and
- (b) the means (other than means for fighting fire) with which the relevant building is provided for securing that the means of escape with which the premises are provided can be safely and effectively used at all material times; and
- (c) the means for fighting fire (whether in the premises or affecting the means of escape) with which the relevant building is provided for use in case of fire by persons in the building; and
- (d) the means with which the relevant building is provided for giving to persons in the premises warning in case of fire,

are such as may reasonably be required in the circumstances of the case in connection with that use of the premises, the authority shall issue a certificate covering that use.

- (4) Where the fire authority, after causing to be carried out under subsection (3) above an inspection of the relevant building, are, as regards any use of the premises specified in the application, not satisfied that the means mentioned in that subsection are such as may reasonably be required in the circumstances of the case in connection with that use, they shall by notice served on the applicant—

- (a) inform him of that fact and of the steps which would have to be taken (whether by way of making alterations to any part of the relevant building or of otherwise providing that building or, as the case may be, the premises with any of those means) to satisfy them as aforesaid as regards that use ; and
- (b) notify him that they will not issue a fire certificate covering that use unless those steps are taken (whether by the applicant or otherwise) within a specified time;

and if at the end of that time or such further time as may be allowed by the authority or by any order made by a court on, or in proceedings arising out of, an appeal under section 9 of this Act against the notice, a certificate covering that use has not been issued, it shall be deemed to have been refused.

## **6 Contents of fire certificate**

- (1) Every fire certificate issued with respect to any premises shall specify—

- (a) the particular use or uses of the premises which the certificate covers; and
- (b) the means of escape in case of fire with which the premises are provided ; and
- (c) the means (other than means for fighting fire) with which the relevant building is provided for securing that the means of escape with which the premises are provided can be safely and effectively used at all material times; and

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*Status: This is the original version (as it was originally enacted).*

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- (d) the type, number and location of the means for fighting fire (whether in the premises or affecting the means of escape) with which the relevant building is provided for use in case of fire by persons in the building; and
  - (e) the type, number and location of the means with which the relevant building is provided for giving to persons in the premises warning in case of fire,

and may, where appropriate, do so by means of or by reference to a plan.
- (2) A fire certificate issued with respect to any premises may impose such requirements as the fire authority consider appropriate in the circumstances—
  - (a) for securing that the means of escape in case of fire with which the premises are provided are properly maintained and kept free from obstruction;
  - (b) for securing that the means with which the relevant building is provided as mentioned in subsection (1)(c) to (e) above are properly maintained ;
  - (c) for securing that persons employed to work in the premises receive appropriate instruction or training in what to do in case of fire, and that records are kept of instruction or training given for that purpose ;
  - (d) for limiting the number of persons who may be in the premises at any one time ; and
  - (e) as to other precautions to be observed in the relevant building in relation to the risk, in case of fire, to persons in the premises.
- (3) Any requirements imposed by virtue of subsection (2) above by a fire certificate issued with respect to any premises—
  - (a) may, in so far as they apply to the premises, be framed either so as to apply to the whole of the premises or so as to apply to one or more parts of them ; and
  - (b) where the premises do not constitute the whole of the relevant building, may (where appropriate) be framed either so as to apply to the whole of the rest of that building or so as to apply to one or more parts of the rest of it,

and different requirements may, in either case, be imposed in relation to different parts; and a fire certificate covering more than one use of the premises to which it relates may by virtue of subsection (2) above impose different requirements in relation to different uses of the premises or of any part of the premises.
- (4) For the purposes of this Act a fire certificate issued with respect to any premises shall be treated as requiring every matter specified in the certificate in accordance with subsection (1)(b), (c), (d) or (e) above to be kept in accordance with its specification in the certificate; and references in this Act to requirements imposed by a fire certificate shall be construed accordingly.
- (5) In so far as a requirement imposed by a fire certificate issued with respect to any premises requires anything to be done or not to be done to or in relation to any part of the relevant building, the person responsible for any contravention thereof shall (subject to any provision included in the certificate in pursuance of this subsection) be the occupier of that part; but if as regards any such requirement, in so far as it requires anything to be done or not to be done to or in relation to any part of the relevant building, the fire authority consider it appropriate in the circumstances to provide that some other person or persons shall be responsible for any contravention thereof instead of, or in addition to, the occupier of that part, they may so provide in the certificate and, if the certificate covers more than one use of the premises, may in pursuance of this subsection make different provision therein in relation to different uses of the premises.

- (6) Subject to subsection (7) below, a fire authority—
- (a) shall not issue a fire certificate which would have the effect of making a person responsible under or by virtue of subsection (5) above for contraventions of a requirement imposed by the certificate, or make in a fire certificate any amendment which would have that effect, unless (in either case) they have previously consulted the person in question about his proposed responsibility for contraventions of the requirement; and
  - (b) shall not amend a fire certificate so as to vary any requirement imposed by it, in a case where any person already responsible under or by virtue of subsection (5) above for contraventions of that requirement is to continue to be so responsible when the variation takes effect, unless they have previously consulted that person about the proposed variation ;
- but, without prejudice to any right of appeal conferred by section 9 of this Act, a fire certificate shall not be invalidated by any failure of the fire authority by whom it is issued to comply with the requirements of this subsection.
- (7) Where a fire authority propose to issue a new fire certificate with respect to any premises as an alternative to amending an existing fire certificate, and the new certificate would have the effect of reimposing without variation a requirement imposed by the existing certificate and of making any person who is responsible under or by virtue of subsection (5) above for contraventions of the existing requirement continue to be so responsible for contraventions of it as reimposed, the authority shall not be required under subsection (6) above to consult that person by reason only of that fact.
- (8) A fire certificate issued with respect to any premises other than premises in relation to which a notice under section 3 of this Act is in force shall be sent to the occupier of the premises and shall be kept in the premises so long as it is in force.
- (9) A fire certificate issued with respect to any premises in relation to which a notice under section 3 of this Act is in force shall be sent to the notified person and, if that person is not the occupier of the premises, a copy of the certificate shall be sent to the occupier of the premises; and so long as the certificate is in force—
- (a) the certificate shall be kept in the relevant building; and
  - (b) where a copy of the certificate is by this subsection required to be sent to the occupier of the premises, the copy shall be kept in the premises.

## **7 Offences in relation to foregoing provisions**

- (1) Subject to subsection (3) below and section 9(3) of this Act, if any premises are at any time put to a designated use, being premises such that, where they are put to that use, a fire certificate is by virtue of section 1 of this Act required in respect of them, then, if no fire certificate covering that use is at that time in force in respect of the premises, the occupier of the premises shall be guilty of an offence.
- (2) Subject to subsection (3) below and section 9(3) of this Act, if any premises are used as a dwelling at any time while section 3 of this Act applies to them and a notice under that section relating to them is in force, then, if no fire certificate covering that use is at that time in force in respect of the premises, the notified person shall, unless he proves that at that time he no longer occupied the specified position, be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (1) or (2) above by reason of any premises being put to a designated use or used as a dwelling at a time after an

application for a fire certificate with respect to them covering that use has been duly made and before the certificate is granted or refused.

- (4) Subject to section 9(4) and (5) of this Act, if, while a fire certificate is in force in respect of any premises, any requirement imposed thereby is contravened by reason of anything done or not done to or in relation to any part of the relevant building, every person who under or by virtue of section 6(5) of this Act is responsible for that contravention shall be guilty of an offence:

Provided that a person shall not be convicted of an offence under this subsection unless it is proved that his responsibility for contraventions of the requirement in question had been made known to him before the occurrence of the contravention in respect of which he is charged.

- (5) A person guilty of an offence under subsection (1), (2) or (4) above shall be liable—
- (a) on summary conviction, to a fine not exceeding £400 ;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.
- (6) In the event of a contravention of subsection (8) of section 6 of this Act in the case of a fire certificate required by that subsection to be kept in any premises or of a contravention of subsection (9) of that section in the case of a copy of a fire certificate required by subsection (9)(b) of that section to be kept in any premises, the occupier of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.
- (7) If, while there is in force a notice under section 3 of this Act relating to any premises, there occurs a contravention of subsection (9) of section 6 of this Act in the case of a fire certificate issued with respect to those premises and required by paragraph (a) of that subsection to be kept in the relevant building, the notified person shall, unless he proves that at the material time he no longer occupied the specified position, be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

## **8 Change of conditions affecting adequacy of certain matters specified in fire certificate, etc.**

- (1) So long as a fire certificate is in force with respect to any premises, the fire authority may cause any part of the relevant building to be inspected at any reasonable time for the purpose of ascertaining whether there has been a change of conditions by reason of which any of the matters mentioned in section 6(1)(b) to (e) of this Act have become inadequate in relation to any use of the premises covered by the certificate; but where a building or part of a building is used as at dwelling or consists of premises of any other description prescribed for the purposes of this subsection, an inspection of the building or, as the case may be, of such a part shall not be made under this subsection as of right unless twenty-four hours' notice has been given to the occupier of the building or, as the case may be, of the part in question.

For the purposes of this subsection a description of premises may be framed in any of the ways mentioned in section 1(4) of this Act.

- (2) If, while a fire certificate is in force with respect to any premises—
- (a) it is proposed to make a material extension of, or material structural alteration to, the premises; or



- (b) it is proposed to make a material alteration in the internal arrangement of the premises or in the furniture or equipment with which the premises are provided; or
- (c) the occupier of the premises proposes to begin to keep explosive or highly flammable materials of any prescribed kind anywhere under, in or on the relevant building in a quantity or aggregate quantity greater than the quantity prescribed for the purposes of this paragraph as the maximum in relation to materials of that kind,

the occupier shall, before the carrying out of the proposals is begun, give notice of the proposals to the fire authority; and if the carrying out of the proposals is begun without such notice having been given, the occupier shall be guilty of an offence.

- (3) If, while a fire certificate is in force with respect to any premises not constituting the whole of the relevant building, any person who as occupier of any other part of that building is under section 6(5) of this Act responsible for contraventions of any requirement imposed by the certificate proposes to begin to keep explosive or highly flammable materials of any prescribed kind anywhere under, in or on that building in a quantity or aggregate quantity greater than the quantity prescribed for the purposes of this subsection as the maximum in relation to materials of that kind, that person shall, before the carrying out of the proposals is begun, give notice of the proposals to the fire authority; and if the carrying out of the proposals is begun without such notice having been given, that person shall be guilty of an offence.
- (4) If the fire authority are satisfied, as regards any premises with respect to which a notice under subsection (2) above has been given to them, that the carrying out of the proposals notified would result in any of the matters mentioned in section 6(1)(b) to (e) of this Act becoming inadequate in relation to any use of the premises covered by the relevant fire certificate, they may by notice served on the occupier within two months from the receipt of the notice under subsection (2)—
  - (a) inform the occupier of the steps which would have to be taken in relation to the relevant building (whether by way of making alterations to any part of the relevant building or otherwise) to prevent the matters in question from becoming in their opinion inadequate in relation to that use in the event of the proposals being carried out; and
  - (b) give him such directions as the fire authority consider appropriate for securing, as regards any of the proposals which may be specified in the directions, that that proposal, or any stage of it which may be so specified, is not carried out until such of those steps as may be so specified in relation to that proposal or stage have been taken (whether by him or otherwise);and if those steps are duly taken in connection with the carrying out of the proposals, the fire authority shall amend the fire certificate or issue a new one.
- (5) If the fire authority are satisfied (whether as a result of an Inspection made under subsection (1) above or otherwise) that, as regards any premises with respect to which a fire certificate is in force, any of the matters mentioned in section 6(1)(b) to (e) of this Act has, in consequence of a change of conditions, become inadequate in relation to any use of the premises covered by the certificate, they may by notice served on the occupier—
  - (a) inform him of that fact and of the steps which would have to be taken in relation to the relevant building (whether by way of making alterations to any part of the relevant building or otherwise) to make the matter in question adequate in their opinion in relation to that use; and

- (b) notify him that if those steps are not taken (whether by him or otherwise) within such period as may be specified in the notice, the fire certificate may be cancelled;

and if those steps are duly taken, the fire authority shall, if necessary, amend the fire certificate or issue a new one.

- (6) If the fire authority consider (whether as a result of an inspection made under subsection (1) above or otherwise) that, as regards any premises with respect to which a fire certificate is in force, it would, in consequence of a change of conditions or of the coming into force of any regulations made under section 12 of this Act, be appropriate to amend the certificate for any of the following purposes, that is to say—
  - (a) to vary or revoke any requirement which the certificate imposes by virtue of section 6(2) of this Act; or
  - (b) to add to the requirements which the certificate so imposes; or
  - (c) to alter the effect of the certificate as to the person or persons responsible under or by virtue of section 6(5) of this Act for contraventions of any requirement imposed (whether by virtue of section 6(2) or otherwise) by the certificate,
 the authority may, subject to section 6(6) of this Act, make such amendments in the certificate as they think appropriate for that purpose or issue a new certificate embodying those amendments.
- (7) If any person contravenes a direction given to him in pursuance of subsection (4) (b) above, he shall be guilty of an offence; and the fire authority may cancel the fire certificate issued with respect to any premises if they are satisfied that there has been such a contravention as aforesaid by the occupier, whether or not proceedings are brought in respect of the contravention.
- (8) A person guilty of an offence under subsection (2), (3) or (7) above shall be liable—
  - (a) on summary conviction, to a fine not exceeding £400 ;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.
- (9) Where a notice has been served under subsection (5) above in connection with any premises and the steps mentioned in it in accordance with paragraph (a) of that subsection are not taken within the period specified in the notice in accordance with paragraph (b) of that subsection or such longer period as may be allowed by the fire authority or by any order made by a court on, or in proceedings arising out of, an appeal under section 9 of this Act against the notice, the fire authority may cancel the fire certificate in force with respect to the premises or, if it covers two or more uses of the premises, may either cancel it or amend it so as to remove from those uses one or more of them (and in that case may make in it all such amendments as they think appropriate in connection with the removal of the use or uses in question).
- (10) Where there is in force a notice under section 3 of this Act relating to any premises, the foregoing provisions of this section shall apply to them subject to the following modifications, that is to say—
  - (a) in subsection (2), the first reference to the occupier shall be read as a reference to the occupier or the notified person, the second reference to the occupier shall be read as a reference to the occupier or the notified person, as the case may be, and the third reference to the occupier shall be read as a reference to the person required by that subsection to give notice of the proposals;

- (b) in subsections (4) and (7), references to the occupier shall, if the notice under subsection (2) was given by the notified person, be read as references to that person ; and
  - (c) in subsection (5), references to the occupier shall be read as references to the notified person.
- (11) Where the fire authority are satisfied, as regards any premises with respect to which a notice under subsection (2) above has been given to them, that the carrying out of the proposals notified would not result in any of the matters mentioned in section 6(1)(b) to (e) of this Act becoming inadequate, they shall, on production of the fire certificate in force with respect to the premises, cause to be attached to it a copy of the notice together with a written statement that they are so satisfied.
- (12) Where in pursuance of this section the fire authority amend a fire certificate of which by virtue of section 6(9) of this Act a copy is required to be kept in the premises to which the certificate relates, they shall cause the copy to be similarly amended; and where in pursuance of subsection (11) above the fire authority cause any document to be attached to such a fire certificate, they shall cause the like document to be attached to the copy of the certificate required to be kept in the premises to which the certificate relates.

## **9 Right of appeal as regards matters arising out of ss. 5 to 8**

- (1) A person who is aggrieved—
- (a) by anything mentioned in a notice served under section 5(4) of this Act as a step which would have to be taken as a condition of the issue of a fire certificate with respect to any premises, or by the period allowed by such a notice for the taking of any steps mentioned in it; or
  - (b) by the refusal of the fire authority to issue a fire certificate with respect to any premises; or
  - (c) by the inclusion of anything in, or the omission of anything from, a fire certificate issued with respect to any premises by the fire authority; or
  - (d) by the refusal of the fire authority to cancel or to amend a fire certificate issued with respect to any premises; or
  - (e) by any direction given in pursuance of section 8(4)(6) of this Act; or
  - (f) by anything mentioned in a notice served under section 8(5) of this Act with respect to any premises as a step which must be taken if the fire authority are not to become entitled to cancel the fire certificate relating to the premises, or by the period allowed by such a notice for the taking of any steps mentioned in it; or
  - (g) by the amendment or cancellation in pursuance of section 8(6), (7) or (9) of this Act of a fire certificate issued with respect to any premises,
- may, within twenty-one days from the relevant date, appeal to the court; and on any such appeal the court may make such order as it thinks fit.
- (2) In this section " the relevant date " means—
- (a) in relation to a person aggrieved by any such refusal, direction, cancellation or amendment as is mentioned in subsection (1) above or by any matter mentioned in paragraph (a) or (f) of that subsection, the date on which he was first served by the fire authority with notice of the refusal, direction, cancellation, amendment or matter in question ;

- (b) in relation to a person aggrieved by the inclusion of anything in, or the omission of anything from, a fire certificate issued with respect to any premises, the date on which the inclusion or omission was first made known to him;

and for the purposes of paragraph (b) above a person who is served with a fire certificate or a copy of, or of any part of, a fire certificate shall be taken to have had what the certificate or that part of it does and does not contain made known to him at the time of the service on him of the certificate or copy.

- (3) Where an appeal is brought under this section against the refusal of the fire authority to issue a fire certificate with respect to any premises or the cancellation or amendment in pursuance of section 8(7) or (9) of this Act of a fire certificate issued with respect to any premises, a person shall not be guilty of an offence under section 7(1) or (2) of this Act by reason of the premises in question being put to a designated use or used as a dwelling at a time between the relevant date and the final determination of the appeal.
- (4) Where an appeal is brought under this section against the inclusion in a fire certificate of anything which has the effect of making the certificate impose a requirement, a person shall not be guilty of an offence under section 7(4) of this Act by reason of a contravention of that requirement which occurs at a time between the relevant date and the final determination of the appeal.
- (5) Where an appeal is brought under this section against—
  - (a) the inclusion in a fire certificate, in pursuance of subsection (5) of section 6 of this Act, of a provision making any person responsible for contraventions of any requirement imposed by the certificate; or
  - (b) the omission from a fire certificate of a provision which, if included in pursuance of that subsection, would prevent any person from being, as the occupier of any premises, responsible under that subsection for contraventions of any requirement imposed by the certificate,

that person shall not be guilty of an offence under section 7(4) of this Act by reason of a contravention of that requirement which occurs at a time between the relevant date and the final determination of the appeal.

*Premises involving excessive risk to persons in case of fire*

**10 Court's power to prohibit or restrict use of certain premises until excessive risk to persons in case of fire is reduced**

- (1) This section applies to—
  - (a) any premises which are being or are proposed to be put to a use (whether designated or not) which falls within at least one of the classes of use mentioned in section 1(2) of this Act, other than premises of any description falling within section 2 of this Act; and
  - (b) any premises to which section 3 of this Act for the time being applies.
- (2) If as regards any premises to which this section applies the fire authority are satisfied that the risk to persons in case of fire is so serious that, until steps have been taken to reduce the risk to a reasonable level, the use of the premises ought to be prohibited or restricted, the authority may make a complaint or, in Scotland, a summary application to the court; and the court on being similarly satisfied may by order prohibit or restrict, to the extent appropriate in the circumstances of the case, the use of the premises until

such steps have been taken as, in the opinion of the court, are necessary to reduce the risk to a reasonable level.

- (3) As regards premises in Scotland any reference in subsection (2) above to the fire authority includes a reference to an inspector appointed by the authority under section 18 of this Act and duly authorised by a general resolution of the authority to act for the purposes of this section.

*Building and other regulations about fire precautions*

**11 Building regulations as to provision of means of escape in case of fire etc., and related power to amend local Acts**

- (1) The power of the Secretary of State under section 4 of the Public Health Act 1961 to make building regulations for all or any of the matters set out in sections 61 and 62 of the Public Health Act 1936 shall include power to impose requirements as to the provision of means of escape from buildings in case of fire and means (other than means for fighting fire) for securing that such means of escape can be safely and effectively used at all material times.
- (2) Section 62 of the Public Health Act 1936 (application of regulations under certain provisions of section 61(1) of that Act to existing buildings) shall apply to regulations made by virtue of subsection (1) above as it applies to regulations made under section 61(1)(a) to (c) of that Act; and the reference in section 4(1) of the Public Health Act 1961 to matters set out in the said section 62 shall be construed accordingly.
- (3) The Secretary of State may by order repeal or amend any provision—
- (a) in any local Act passed before this Act, or in any Act passed before this Act and confirming a provisional order; or
  - (b) in any order or other instrument made under an Act of Parliament before the passing of this Act,
- where it appears to him that that provision is inconsistent with, or has become unnecessary in consequence of, the foregoing provisions of this section; and subsections (4) and (5) of section 82 (power to amend local Acts) of the Public Health Act 1961 shall apply to orders under this section as they apply to orders under that.
- (4) The definition of " building " in section 43(1) of this Act shall not apply for the purposes of this section.
- (5) This section does not extend to Scotland, and does not apply to any part of Greater London other than the outer London boroughs.

**12 Power of Secretary of State to make regulations about fire precautions**

- (1) In the case of any particular use of premises which he has power to designate under section 1 of this Act the Secretary of State may by regulations make provision as to the precautions which, as regards premises put to that use, or any specified class of such premises, are to be taken or observed in relation to the risk to persons in case of fire, but so that nothing in any regulations made under this section shall apply to premises of any description falling within any paragraph of section 2 of this Act other than paragraph (d).

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- (2) The Secretary of State may by regulations make provision as to the precautions which are to be taken or observed in relation to the risk to persons in case of fire as regards premises which, while section 3 of this Act applies to them and a notice under that section is in force in relation to them, are used as a dwelling, or any specified class of such premises.
- (3) Without prejudice to the generality of the powers conferred on the Secretary of State by subsections (1) and (2) above, regulations made by him under this section may in particular, as regards any premises to which they apply, impose requirements—
- (a) as to the provision, maintenance and keeping free from obstruction of means of escape in case of fire ;
  - (b) as to the provision and maintenance of means for securing that any means of escape can be safely and effectively used at all material times ;
  - (c) as to the provision and maintenance of means for fighting fire and means for giving warning in case of fire;
  - (d) as to the internal construction of the premises and the materials used in that construction ;
  - (e) for prohibiting altogether the presence or use in the premises of furniture or equipment of any specified description, or prohibiting its presence or use unless specified standards or conditions are complied with;
  - (f) for securing that persons employed to work in the premises receive appropriate instruction or training in what to do in case of fire;
  - (g) for securing that, in specified circumstances, specified numbers of attendants are stationed in specified parts of the premises ; and
  - (h) as to the keeping of records of instruction or training given, or other things done, in pursuance of the regulations.
- (4) Regulations under this section—
- (a) may impose requirements on persons other than occupiers of premises to which they apply; and
  - (b) may, as regards any of their provisions, make provision as to the person or persons who are to be responsible for any contravention thereof; and
  - (c) may provide that if any specified provision of the regulations is contravened, the person or each of the persons who under the regulations is or are responsible for the contravention shall be guilty of an offence under this section.
- (5) It shall be the duty of the Secretary of State, before making any regulations under this section, to consult with such persons or bodies of persons as appear to him requisite.
- (6) A person guilty of an offence under this section by virtue of subsection (4)(c) above shall be liable—
- (a) on summary conviction, to a fine not exceeding £400 ;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.
- (7) While there are in force under this section any regulations applying to premises put to a particular use, or to any specified class of such premises, a fire authority—
- (a) in determining under subsection (3) of section 5 of this Act whether to issue a fire certificate covering that use with respect to any premises to which the regulations apply, shall proceed on the footing that, as regards any

- matter mentioned in paragraphs (a) to (d) of that subsection about which provision is made in the regulations, no more can reasonably be required in the circumstances of the case than is required by the regulations ; and
- (b) shall not in any fire certificate covering that use issued with respect to any premises to which the regulations apply impose in pursuance of section 6(2) of this Act in relation to that use any requirement as to any matter about which provision is made in the regulations which is more onerous than the requirements of the regulations as to that matter.
- (8) Where there are in force under this section any regulations applying to premises put to a particular use, or to any specified class of such premises, and a fire certificate covering that use is in force with respect to any premises to which the regulations apply, then—
- (a) so long as the requirements as to any matter which are imposed by the fire certificate in relation to that use are complied with, no person shall be guilty of an offence under the regulations by reason of any contravention of a requirement of the regulations as to that matter;
- (b) if as a result of an inspection made under section 8(1) of this Act it appears to the fire authority that any of the matters mentioned in section 6(1)(b) to (e) of this Act is not in conformity with any provision made in the regulations about that matter, the authority shall by notice served on the occupier—
- (i) inform him of that fact and of the steps which would have to be taken in relation to the relevant building (whether by way of making alterations to any part of the relevant building or otherwise) to bring the matter in question into conformity with that provision; and
- (ii) notify him that if those steps are not taken (whether by himself or otherwise) within such period as may be specified in the notice, the fire certificate may be cancelled;
- and if those steps are duly taken, the fire authority shall, if necessary, amend the fire certificate or issue a new one.
- (9) Where there is in force a notice under section 3 of this Act relating to any premises, subsection (8)(b) above shall apply to them subject to the modification that the first reference to the occupier shall be read as a reference to the occupier or the notified person, and the other references to the occupier shall be read as references to the occupier or the notified person, as the case may be.
- (10) Sections 8(9) and 9 of this Act shall (with the necessary modifications) have effect in a case where a notice is served under subsection (8)(b) above with respect to any premises as they have effect in a case where a notice is served under section 8(5); and where in pursuance of this section the fire authority amend a fire certificate of which by virtue of section 6(9) of this Act a copy is required to be kept in the premises to which the certificate relates, they shall cause the copy to be similarly amended.
- (11) No regulations shall after the coming into operation of this subsection be made by virtue of section 2(1)(a) of the Cinematograph Act 1952 under the Cinematograph Act 1909; but any regulations so made which are in force when this subsection comes into operation shall have effect as if made under this section, and may be amended or revoked accordingly.
- (12) In consequence of subsection (11) above—
- (a) the following provisions of the Cinematograph Act 1952 (which relate to the power of the Secretary of State to make safety regulations) are hereby

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repealed, that is to say section 2(1)(a) and, in section 5(1), paragraph (c) from the words " and regulations " onwards, paragraph (d) from the word " except" onwards, and the proviso; and

- (b) in section 4(2) of that Act (control of cinematograph exhibitions for children), after the word " 1909 " there shall be inserted the words " and any regulations made or having effect as if made under section 12 of the Fire Precautions Act 1971. "

### **13 Exercise of certain powers of fire authority in England and Wales where building regulations as to means of escape apply**

- (1) Where an application is made for a fire certificate with respect to any premises and—

- (a) the relevant building is a building to which at the time of its erection building regulations imposing requirements as to means of escape in case of fire applied; and
- (b) in connection with the erection of that building plans were, in accordance with building regulations, deposited with a local authority,

the fire authority shall not in pursuance of section 5(4) of this Act make the issue of a certificate conditional on the making to the building of structural or other alterations relating to escape from the premises unless—

- (i) there are in force under section 12 of this Act regulations applying to the premises in relation to any use of the premises specified in the application, being regulations which impose requirements as to means of escape in case of fire or means for securing that any means of escape can be safely and effectively used at all material times, and the fire authority are satisfied that alterations to the relevant building are necessary to bring the premises into compliance with the regulations in respect of those requirements; or
- (ii) the fire authority are satisfied that the means of escape in case of fire with which the premises are provided or the means of the sort mentioned in section 5(3)(b) of this Act with which the relevant building is provided are inadequate in relation to any use of the premises so specified by reason of matters or circumstances of which particulars were not required by or under the building regulations to be supplied to the local authority in connection with the deposit of plans.

- (2) Where an application is made for a fire certificate with respect to any premises in the circumstances described in subsection (1)(a) and (b) above and since the erection of the building plans have, in accordance with building regulations, been deposited with a local authority in connection with any proposals relating to the building, subsection (1) above shall have effect in relation to that application as if in paragraph (ii) the reference to the deposit of plans included a reference to the deposit of plans in connection with those proposals.

- (3) Where, while a fire certificate is in force with respect to any premises, the fire authority receive notice under subsection (2) of section 8 of this Act of any proposals falling within that subsection to which building regulations imposing requirements as to means of escape in case of fire apply, and in connection with those proposals plans have, in accordance with building regulations, been deposited with a local authority, the fire authority shall not in pursuance of subsection (4) of that section make the carrying out of those proposals conditional on the making to the relevant building of structural or other alterations relating to escape from the premises unless—



- (a) there are in force under section 12 of this Act regulations applying to the premises in relation to any use of the premises covered by the certificate, being regulations which impose requirements such as are mentioned in subsection (1)(i) above, and the fire authority are satisfied that the carrying out of the proposals in compliance with the requirements of the building regulations will not of itself ensure that, when the proposals have been carried out, the premises will comply with the regulations under section 12 in respect of the requirements such as are mentioned in subsection (1)(i) above which the regulations under section 12 impose; or
  - (b) the fire authority are satisfied that, by reason of matters or circumstances of which particulars are not required by or under the building regulations to be supplied to the local authority in connection with the deposit of plans, the carrying out of the proposals in compliance with the requirements of the building regulations will not of itself ensure that, when the proposals have been carried out, the means of escape in case of fire with which the premises will then be provided and the means of the sort mentioned in section 5(3)(b) of this Act with which the relevant building will then be provided will be adequate in relation to every use of the premises covered by the certificate.
- (4) In this section " structural or other alterations relating to escape from the premises", in relation to any such premises as are mentioned in this section, means structural or other alterations directly connected with the provision of the premises with adequate means of escape in case of fire or the provision of the relevant building with adequate means of the sort mentioned in section 5(3)(b) of this Act.
- (5) References in this section to building regulations shall, in any particular case in relation to which there is in force a direction under section 6 of the Public Health Act 1961 dispensing with or relaxing any requirement in such regulations, be construed as references to building regulations as they apply in that case.
- (6) This section does not extend to Scotland.

#### **14 Exercise of certain powers of fire authority in Scotland where building standards regulations as to means of escape apply**

- (1) Subject to subsection (2) below, where—
- (a) building standards regulations imposing requirements as to means of escape in case of fire apply to any building ; or
  - (b) the sheriff, on an appeal to him under section 16 of the Building (Scotland) Act 1959—
    - (i) against an order under section 10 of that Act requiring the execution of operations necessary to make a building conform to a provision of building standards regulations with respect to requirements of the means of escape in case of fire, or
    - (ii) against an order under section 11 of that Act requiring the building to be made to conform to such a provision,
- has varied the order by determining that such operations shall be executed as are necessary to make the building conform to a different standard, or, as the case may be, that the building should conform to a different standard, and the fire authority are satisfied that the building so conforms, then the fire authority shall not, for the purposes of section 5 or 8 of this Act, specify any alterations

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in respect of that building to a standard higher than that of the said regulations or, as the case may be, than that determined by the sheriff.

- (2) The restrictions imposed on the fire authority by the foregoing subsection shall not apply where—
- (a) there are in force under section 12 of this Act regulations applying to the building in relation to any use of the building, being regulations which impose requirements as to means of escape from fire or means for securing that any means of escape can be safely and effectively used at all material times, and the fire authority are satisfied that alterations to the building are necessary to bring the building into compliance with the regulations in respect of those requirements; or
  - (b) the fire authority are satisfied that the means of escape in case of fire with which the building is provided or the means of the sort mentioned in section 5 (3) (b) of this Act with which the building is provided are inadequate in relation to any use of the building by reason of matters or circumstances of which particulars were not required by or under the building standards regulations.
- (3) In this section " building standards regulations " has the same meaning as in the Building (Scotland) Act 1959.

*Consultation between fire and other authorities*

**15 Duty of local authority to consult fire authority before dispensing with or relaxing certain requirements of building regulations**

- (1) Where, in the case of any requirement as to structural fire precautions contained in building regulations or any requirement imposed by such regulations by virtue of section 11 of this Act, the power to dispense with or relax that requirement conferred by section 6(1) of the Public Health Act 1961 is by virtue of section 6(2) of that Act exercisable by a local authority, then, before exercising that power in relation to any premises or proposed premises, the local authority, if they are not the fire authority, shall consult the fire authority.
- (2) This section does not extend to Scotland.

**16 Duty of local authority to consult fire authority in certain cases before passing plans**

- (1) Where it is proposed to erect a building or to make any extension of or structural alteration to a building and, in connection with the proposals, plans are, in accordance with building regulations, deposited with a local authority, then, if it appears to the local authority likely—
- (a) that the first use to which any premises constituting or comprised in the building or, as the case may be, the building as extended will be put after the proposals are carried out will be a use which at the time of the deposit of the plans was a designated use ; or
  - (b) that the first use to which any such premises will be put after the proposals are carried out will be use as a dwelling, and that one or more of the conditions set out in section 3(1)(a) and (b) of this Act will then be fulfilled as regards those premises,

the local authority, if they are not the fire authority, shall consult the fire authority before passing the plans.

- (2) Where it is proposed, to change the use to which a building or part of a building is put and, in connection with that proposal, plans are, in accordance with building regulations, deposited with a local authority, then, if it appears to the local authority likely—

- (a) that the first use to which any premises constituting or comprised in the building will be put after the time when that change of use occurs will be a use which at the time of the deposit of the plans was a designated use; or
- (b) that the first use to which any such premises will be put after the time when that change of use occurs will be use as a dwelling, and that one or more of the conditions set out in section 3(1)(a) and (b) of this Act will then be fulfilled as regards those premises,

the local authority, if they are not the fire authority, shall consult the fire authority before passing the plans.

- (3) This section does not extend to Scotland.

## **17 Duty of fire authorities to consult other authorities before requiring alterations to buildings**

- (1) Before a fire authority—

- (a) serve on the applicant for a fire certificate with respect to any premises a notice under section 5(4) of this Act informing him that they will not issue a certificate unless alterations are made to the relevant building ; or
- (b) serve in respect of any premises a notice under section 8(4) or (5) or section 12(8)(b) of this Act mentioning as a step which would have to be taken anything involving the making of alterations to the relevant building,

the authority shall—

- (i) if the premises are situated in England or Wales (else where than in Greater London) or in an outer London borough and the fire authority are not the local authority for the area in which the premises are situated, consult that local authority ; and
- (ii) if the premises are situated in Scotland, consult the buildings authority (within the meaning of section 1 of the Building (Scotland) Act 1959) for the area in which the premises are situated.

- (2) For the avoidance of doubt it is hereby declared that a local authority or buildings authority who have in accordance with this section been consulted by a fire authority proposing to serve any such notice as is mentioned in subsection (1) above may be a person aggrieved within the meaning of section 9 of this Act.

### *Enforcement*

## **18 Enforcement of Act**

It shall be the duty of every fire authority to enforce within their area the provisions of this Act and of regulations made under this Act, and for that purpose to appoint inspectors; but nothing in this section shall be taken to authorise a fire authority in Scotland to institute proceedings for any offence.

## 19 Powers of inspectors

- (1) Subject to the provisions of this section, any of the following persons (in this section referred to as "inspectors ") namely an inspector appointed under section 18 of this Act and a fire inspector, may do anything necessary for the purpose of carrying this Act and regulations thereunder into effect and, in particular, shall, so far as may be necessary for that purpose, have power to do at any reasonable time any of the following things, namely—
  - (a) to enter any such premises as are mentioned in subsection (2) below, and to inspect the whole or any part thereof and anything therein ;
  - (b) to make such inquiry as may be necessary for any of the purposes mentioned in subsection (3) below;
  - (c) to require the production of, and to inspect, any fire certificate in force with respect to any premises or any copy of any such certificate;
  - (d) to require any person having responsibilities in relation to any such premises as are referred to in paragraph (a) above (whether or not the owner or occupier of the premises or a person employed to work therein) to give him such facilities and assistance with respect to any matters or things to which the responsibilities of that person extend as are necessary for the purpose of enabling the inspector to exercise any of the powers conferred on him by this subsection.
- (2) The premises referred to in subsection (1)(a) above are the following, namely—
  - (a) any premises requiring a fire certificate or to which any regulations made under section 12 of this Act apply;
  - (b) any premises such as are mentioned in section 10(1)(a) of this Act;
  - (c) any premises to which section 3 of this Act for the time being applies;
  - (d) any premises not falling within any of the foregoing paragraphs which form part of a building comprising any premises so falling; and
  - (e) any premises which the inspector has reasonable cause to believe to be premises falling within any of the foregoing paragraphs.
- (3) The purposes referred to in subsection (1)(b) above are the following, namely—
  - (a) to ascertain, as regards any premises, whether they fall within any of paragraphs (a) to (d) of subsection (2) above;
  - (b) to identify the owner or occupier of any premises falling within any of those paragraphs;
  - (c) to ascertain whether, in the case of any premises to which section 3 of this Act for the time being applies, any person has the overall management of the building constituting or comprising the premises and, if so, to identify that person;
  - (d) to ascertain, as regards any premises falling within any of the said paragraphs (a) to (d), whether the provisions of this Act and regulations made under section 12 thereof are complied with, and, where a fire certificate is in force in respect of any such premises, whether the requirements imposed by the certificate are complied with.
- (4) An inspector shall, if so required when visiting any premises in the exercise of powers conferred by this section, produce to the occupier of the premises some duly authenticated document showing his authority.

- (5) In the case of premises used as a dwelling or premises of any other description prescribed for the purposes of this subsection, no power of entry conferred by subsection (1) above shall be exercised as of right unless twenty-four hours' notice has been given to the occupier; and for the purposes of this subsection a description of premises may be framed in any of the ways mentioned in section 1(4) of this Act.
- (6) A person who—
- (a) intentionally obstructs an inspector in the exercise or performance of his powers or duties under this Act; or
  - (b) without reasonable excuse fails to comply with any requirement imposed by an inspector under subsection (1)(d) above,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

## **20 Exercise on behalf of fire inspectors of their powers by officers of fire brigades**

- (1) The like powers as are in relation to any premises conferred by section 19 of this Act on a fire inspector shall be exercisable by an officer of the fire brigade maintained by the fire authority when authorised in writing by such an inspector for the purpose of reporting to him on any matter falling within his duties under this Act; and subsections (4) and (6) of that section shall, with the necessary modifications, apply accordingly.
- (2) A fire inspector shall not authorise an officer of a fire brigade under this section except with the consent of the fire authority who maintain that brigade.

## **21 Restriction on disclosure of information**

If a person discloses (otherwise than in the performance of his duty or for the purposes of any legal proceedings, including an arbitration, or for the purposes of a report of any such proceedings) any information obtained by him in any premises entered by him in the exercise of powers conferred by this Act, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

### *Offences, penalties and legal proceedings*

## **22 Falsification of documents, false statements etc.**

- (1) If a person—
- (a) with intent to deceive, forges a fire certificate or makes or has in his possession a document so closely resembling a fire certificate as to be calculated to deceive; or
  - (b) for the purpose of procuring the issue of a fire certificate, makes any statement or gives any information which he knows to be false in a material particular or recklessly makes any statement or gives any information which is so false ; or
  - (c) in purported compliance with any obligation to give information to which he is subject under or by virtue of this Act, or in response to any inquiry made by virtue of section 19(1)(b) of this Act, gives any information which he knows to be false in a material particular or recklessly gives any information which is so false ; or

- (d) makes in any register, book, notice or other document required by or by virtue of regulations made under this Act to be kept, served or given, an entry which he knows to be false in a material particular,  
he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.
- (2) If a person with intent to deceive pretends to be—
  - (a) an inspector within the meaning of section 19 of this Act, or
  - (b) a person by whom the powers conferred by that section on a fire inspector are exercisable by virtue of section 20 of this Act,he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- (3) In this section in its application to England and Wales the expression " forges " has the same meaning as in the Forgery Act 1913.

## **23 Offences by bodies corporate**

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

## **24 Offences due to fault of other person**

Where the commission by any person of an offence under this Act or any regulations made thereunder is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

## **25 Defence available to persons charged with offences**

In any proceedings for an offence under this Act or under regulations made thereunder, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

## **26 Appeals to magistrates' courts**

- (1) Where any provision of this Act provides for an appeal to a magistrates' court, the procedure shall be by way of complaint for an order, and the Magistrates' Courts Act 1952 shall apply to the proceedings.
- (2) For the purposes of any such provision of this Act the making of the complaint shall be deemed to be the bringing of the appeal.

## **27 Appeal from order made on complaint**

- (1) A person aggrieved by an order made by a magistrates' court on determining a complaint under this Act may appeal therefrom to the Crown Court; and for the avoidance of doubt it is hereby declared that a fire authority or local authority may be a person aggrieved within the meaning of this section.
- (2) Before the coming into force of section 3 of the Courts Act 1971 subsection (1) above shall have effect as if for the reference to the Crown Court there were substituted a reference to a court of quarter sessions.

## **28 Power of county court or sheriff, where notice under s. 3 is in force, to modify agreements and leases and apportion expenses**

- (1) Where there is in force a notice under section 3 of this Act relating to any premises (in this section referred to as "the relevant premises"), this section shall apply to any premises consisting of or comprised in the relevant building.
- (2) A person who, by reason of the terms and conditions of an agreement or lease relating to any premises to which this section applies, is prevented from carrying out or doing with respect to the premises any structural or other alterations or other thing whose carrying out or doing is requisite—
  - (a) as being a step mentioned in a notice served in connection with the relevant premises under any of the following provisions of this Act, namely sections 5(4), 8(4), 8(5) and 12(8)(b); or
  - (b) in order to secure compliance with a requirement imposed by a fire certificate issued with respect to the relevant premises; or
  - (c) in order to secure compliance with a provision of regulations under section 12 of this Act which is, or will become, applicable to the premises by virtue of there being in force a notice under section 3 of this Act relating to the relevant premises,

may apply to the county court within whose jurisdiction the premises are situated, and the court may make such an order setting aside or modifying any of the terms and conditions of the agreement or lease as the court considers just and equitable in the circumstances of the case.

References in this subsection to the terms and conditions of an agreement or lease relating to any premises include references to the terms and conditions on or subject to which by virtue of section 12 of the Rent Act 1968 a statutory tenant retains possession of any premises.

- (3) Where, in the case of any premises to which this section applies, the carrying out or doing with respect to those premises of any structural or other alterations or other thing whose carrying out or doing is requisite as mentioned in subsection (2) above involves a person having an interest in the premises in expense or in increased expense, and he alleges that the whole or part of the expense or, as the case may be, the increase, ought to be borne by some other person having an interest in the premises, the first-mentioned person may apply to the county court within whose jurisdiction the premises are situated, and the court may by order give such directions—
  - (a) with respect to the persons by whom the expense or increase is to be borne, and the proportions in which it is to be borne by them ; and
  - (b) if need be, for modification of the terms of any agreement or lease relating to the premises so far as concerns rent payable in respect of the premises,

as the court considers just and equitable in the circumstances of the case:

Provided that on an application under this subsection the court shall not direct the whole or any part of the expense or increase to be borne by a person other than the applicant by reason only of that other person being a statutory tenant of the premises or any part of the premises.

(4) In this section "statutory tenant" has the same meaning as in the Rent Act 1968.

(5) In the application of this section to Scotland—

- (a) for references to the county court there shall be substituted references to the sheriff;
- (b) in subsection (2), for the reference to section 12 of the Rent Act 1968 there shall be substituted a reference to section 12 of the Rent (Scotland) Act 1971;
- (c) "statutory tenant" has the same meaning as in section 133(1) of the Rent (Scotland) Act 1971;
- (d) subsection (4) shall be omitted:

Provided that until the said Act of 1971 comes into force this subsection shall have effect as if in paragraph (b) for the reference to section 12 of the Rent (Scotland) Act 1971 there were substituted a reference to sections 15(1) and 16(2) of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920, and in paragraph (c) for the reference to section 133(1) of the Rent (Scotland) Act 1971 there were substituted a reference to section 39(1) of the Housing (Repairs and Rents) (Scotland) Act 1954.

#### *Amendments of other Acts*

### **29 Extension of ss. 24 and 33 of Fire Services Act 1947**

In sections 24 and 33(1) of the Fire Services Act 1947 (which authorise the appointment of inspectors and the holding of inquiries for obtaining information as to the performance by fire authorities of their functions under that Act) the references to that Act shall be read as including references to this Act.

### **30 Provisions as to ss. 59 and 60 of Public Health Act 1936 and certain similar enactments**

(1) Where building regulations imposing requirements as to the provision of means of escape in case of fire are applicable to a proposed building or proposed extension of a building or would be so applicable but for a direction under section 6 of the Public Health Act 1961 dispensing with such requirements, none of the following provisions shall apply in relation thereto, that is to say—

- (a) subsection (1) of section 59 (exits, entrances etc. in the case of certain public, and other, buildings) of the Public Health Act 1936 ;
- (b) section 60 (means of escape from fire in the case of certain high buildings) of that Act; and
- (c) any provision of a local Act which has effect in place of any of the provisions mentioned in paragraphs (a) and (b) above.

(2) So long as a fire certificate is in force with respect to any premises, any provision of a local Act which apart from this subsection would apply in the case of those premises shall not apply in their case in so far as it relates to any matter in relation to which



requirements are imposed by that certificate; and so long as any regulations made under section 12 of this Act apply to any premises, any provision of a local Act which apart from this subsection would apply in the case of those premises shall not apply in their case in so far as it relates to any matter about which provision is made in the regulations.

- (3) While this subsection applies to any premises, none of the following provisions shall apply to the premises, that is to say—
- (a) subsections (2) to (4) of section 59 of the Public Health Act 1936;
  - (b) section 60 of that Act;
  - (c) section 35 (means of escape in buildings in inner London) of the London Building Acts (Amendment) Act 1939; and
  - (d) any provision of a local Act which is for the time being designated for the purposes of this paragraph under subsection (5) below.
- (4) Subsection (3) above applies to—
- (a) any premises in respect of which a fire certificate is for the time being in force ;
  - (b) any premises to which a notice for the time being in force under section 3 of this Act relates ; and
  - (c) any premises to which any regulations made under section 12 of this Act apply.
- (5) Where it appears to the Secretary of State, as regards any provision contained in a local Act, that it is unnecessary or would be impracticable for that provision to apply to premises while they are premises to which subsection (3) above applies, he may by order designate that provision for the purposes of subsection (3)(d) above.
- (6) An order under subsection (5) above may be varied or revoked by a subsequent order thereunder.
- (7) The power to make orders under subsection (5) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) This section does not extend to Scotland.

### **31      Suspension of terms and conditions of licences dealing with same matters as fire certificates or regulations**

- (1) Where any enactment provides for the licensing of premises of any class or description and the authority responsible for issuing licences thereunder is required or authorised to impose terms, conditions or restrictions in connection with the issue of such licences, then, in the case of any premises of that class or description—
- (a) so long as there is in force with respect to the premises a fire certificate covering the use of the premises by reason of which a licence under that enactment is required, any term, condition or restriction imposed in connection with the issue under that enactment of any licence with respect to those premises shall be of no effect in so far as it relates to any matter in relation to which requirements are or could be imposed by that certificate; and
  - (b) without prejudice to paragraph (a) above, so long as there are in force under section 12 of this Act any regulations applying to the premises in respect of that use, any term, condition or restriction imposed as aforesaid shall be of no effect in so far as it relates to any matter about which provision is made in the regulations.

- (2) References in this section to the issue of licences include references to their renewal, transfer or variation.

### **32 Provision for securing exercise of local Act powers in conformity with this Act**

A person required by or under a local Act to do any thing in relation to any premises shall not be treated as having acted in contravention of that Act by reason of his failure to do that thing in so far as the failure is attributable to the fact that remedying it would involve a contravention of this Act or of regulations made under section 12 thereof.

### **33 Amendment of Offices, Shops and Railway Premises Act 1963**

- (1) Section 29 of the Offices, Shops and Railway Premises Act 1963 (which provides for the issue of fire certificates under that section and which, with section 30 of that Act, enables the appropriate authority in that connection to stipulate for the making of specified alterations to premises) shall be amended as follows:—

- (a) after subsection (9) there shall be inserted as subsection (9A)—

“(9A) In the case of premises consisting of or comprised in a building to which building regulations (within the meaning of section 4 of the Public Health Act 1961) imposing requirements as to means of escape in case of fire apply, the appropriate authority shall not for the purposes of this or the next following section specify any structural alterations in respect of those premises beyond such as may be necessary to bring the premises into compliance with the regulations in respect of those requirements.”;

- (b) for subsection (10), there shall be substituted the following—

“(10) In the case of premises consisting of or comprised in a building to which building standards regulations (within the meaning of the Building (Scotland) Act 1959) imposing requirements as to means of escape in case of fire apply, the appropriate authority shall not for the purposes of this or the next following section specify any structural alterations in respect of those premises to a standard higher than that of the said regulations.”;

- (c) after subsection (11) there shall be added as subsection (12)—

“(12) References in subsection (9A) above to building regulations shall, in any particular case in relation to which there is in force a direction under section 6 of the Public Health Act 1961 dispensing with or relaxing any requirement in such regulations, be construed as references to building regulations as they apply in that case.”

- (2) In subsection (3) of section 83 of the Offices, Shops and Railway Premises Act 1963 (application to Crown), after the words " sections 29(2) to (8)" there shall be inserted the word " (9A) ".

### **34 Modification of Rent Act 1968 and corresponding Scottish Acts**

The provisions of Part I of the Schedule to this Act shall have effect for purposes of the modification, in connection with certain provisions of this Act, of the Rent Act 1968 ; the provisions of Part II of that Schedule shall have effect until the Rent (Scotland)

Act 1971 comes into force for purposes of the modification, in connection with those provisions, of the enactments applicable to Scotland which correspond to the Rent Act 1968 ; and the provisions of Part III of that Schedule shall have effect after the Rent (Scotland) Act 1971 comes into force for purposes of the modification, in connection with certain provisions of this Act, of the said Act of 1971.

*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.

**36 Power of local authorities to make loans to meet expenditure on certain alterations to buildings occasioned by this Act**

- (1) Where there is in force a notice under section 3 of this Act relating to any premises, any person proposing to incur expenditure in making to any part of the relevant building any structural or other alterations the making of which is requisite as being a step mentioned in a notice served in connection with those premises under section 5(4), 8(5) or 12(8)(b) of this Act, may apply for a loan to the local authority in whose area the premises are situated.
- (2) Subject to this section, if the local authority consider that the applicant—
  - (a) can reasonably be expected to meet obligations assumed by him in pursuance of this section in respect of a loan of the amount of the expenditure to which the application relates; or
  - (b) cannot reasonably be expected to meet obligations so assumed by him in respect of a loan of that amount, but can reasonably be expected to meet obligations so assumed by him in respect of a loan of a smaller amount,

the local authority may, if they think fit, offer to enter into a contract with the applicant for a loan by the local authority to the applicant of the appropriate amount, to be secured to the local authority by a mortgage of the applicant's interest in the relevant building or the part of it to which the application relates.

In this subsection " the appropriate amount ", in a case falling within paragraph (a) above, means the amount of the expenditure to which the application relates, and in a case falling within paragraph (b) above means the smaller amount there referred to.

- (3) The local authority shall not make an offer under the foregoing provisions of this section unless they are satisfied—
  - (a) that the applicant's interest in the relevant building or the part of it to which the application relates amounts to an estate in fee simple absolute in possession or an estate for a term of years absolute which will not expire before the date for final repayment of the loan; and
  - (b) that, according to a valuation made on behalf of the local authority, the amount of the principal of the loan does not exceed the value which it is estimated the mortgaged security will bear when the proposed alterations have been carried out.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Subject to subsection (5) of this section, every loan under this section shall bear interest at the rate which, on the date of the contract to make the loan, is the rate for the time being determined by the Treasury in accordance with section 5 of the National Loans Act 1968 in respect of local loans made on the security of local rates on that date and for the same period as that loan.

In this subsection " local loans " and " made on the security of local rates " have the same meanings as in section 6(2) of the National Loans Act 1968.

- (5) Where, on the date of a contract for a loan under this section, there are two or more rates of interest for the time being determined by the Treasury as mentioned in subsection (4) above, the reference in that subsection to the rate so determined shall be read as a reference to such one of those rates as may be specified in a direction given by the Treasury for the purposes of this section.
- (6) The Treasury shall cause any direction given under subsection (5) above to be published in the London and Edinburgh Gazettes as soon as may be after giving it.
- (7) Subject to the foregoing provisions of this section, the contract offered by the local authority under this section shall require proof of title and shall contain such other reasonable terms as the local authority may specify in their offer.
- (8) The local authority's offer may in particular include any such terms as are described in section 43(3)(c) of the Housing (Financial Provisions) Act 1958 (repayment of principal and interest), and provision for the advance being made by instalments from time to time as the alterations progress.
- (9) In its application to Scotland this section shall have effect subject to the following modifications—
- (a) in subsection (2), for the words " mortgage of " there shall be substituted the words " heritable security over ", and at the end there shall be inserted the words " and ' heritable security ' means any security capable of being constituted over any interest in land by disposition or assignation of that interest in security of any debt and of being recorded in the Register of Sasines ";
  - (b) in subsection (3)(a), for the words from " an estate in fee simple " to " years absolute " there shall be substituted the words " ownership or a lease ";
  - (c) in subsection (3)(b), for the words " mortgaged security " there shall be substituted the words " security subjects ";
  - (d) in subsection (8), for the words " 43(3)(c) of the Housing (Financial Provisions) Act 1958 " there shall be substituted the words " 49(3)(c) of the Housing (Financial Provisions) (Scotland) Act 1968 ".

### **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.

### **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 section 26 of the Interpretation Act 1889 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.

### **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, 6 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, 10, 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 Prison Act 1952 or constituting, or forming part of, a remand centre, detention centre or Borstal institution provided by the Secretary of State under section 43 of that Act;

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*Status: This is the original version (as it was originally enacted).*

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- (b) any premises constituting, or forming part of, a prison within the meaning of the Prisons (Scotland) Act 1952 or constituting, or forming part of, a remand centre, detention centre, Borstal institution or young offenders institution provided by the Secretary of State under section 31 of that Act;
  - (c) any premises constituting, or forming part of, a special hospital within the meaning of the Mental Health Act 1959 or a State hospital within the meaning of the Mental Health (Scotland) Act 1960 ;
  - (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 fire 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 officer of the fire brigade maintained by the fire 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 officer of a fire brigade under this subsection except with the consent of the fire authority who maintain that brigade.
- (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 £100.
- (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 officer of the fire brigade maintained by the fire authority there were substituted a reference to any person.
- (7) Section 341 of the 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.
- (10) This Act shall apply to premises in Scotland occupied by a Regional Hospital Board or the Board of Management of a hospital or group of hospitals 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 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 Visiting Forces Act 1952.

#### **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 fire 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 officer of the fire brigade maintained by the fire authority there shall be substituted a reference to any person.

#### **42 Powers of Parliament of Northern Ireland**

Notwithstanding anything in the Government of Ireland Act 1920 the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of any of the following provisions of this Act, that is to say section 40 and so much of section 35 as relates to vessels.

#### **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;

" building regulations " means regulations under section 4 of the Public Health Act 1961;

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

" the court ", except in section 28 of this Act and the Schedule thereto, 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;

" 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 Fire Services Act 1947;

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

" fire inspector " means an inspector or assistant inspector appointed under section 24 of the Fire Services Act 1947;

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

" local authority " means—

(a) as respects England and Wales, the council of a county borough, London borough or county district, the Common Council of the City of London or the Council of the Isles of Scilly ;

(b) as respects Scotland, the council of a county or the town council of a burgh;

" 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 "—

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*Status: This is the original version (as it was originally enacted).*

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- (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 ; " 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.
- (2) Except in so far as this Act otherwise expressly provides, the provisions of this Act shall not be construed as affecting any requirement or restriction imposed by or under any other enactment, whether contained in a public general Act or in a local or private Act.
- (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.

#### **44 Short title, extent and commencement**

- (1) This Act may be cited as the Fire Precautions Act 1971.
- (2) This Act, except section 42, 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.



## SCHEDULE

Section 34.

### MODIFICATION OF RENT ACT 1968 AND CORRESPONDING SCOTTISH ACTS

#### PART I

##### MODIFICATIONS OF RENT ACT 1968

###### *Steps mentioned in certain notices under this Act to count as improvements for certain purposes of Rent Act 1968*

- 1 (1) The following provisions of this paragraph apply where a dwelling which is the subject of a regulated or controlled tenancy consists of or is comprised in premises with respect to which there has been issued a fire certificate covering (in whatever terms) the use of the dwelling as a dwelling.
- (2) Subject to the following provisions of this paragraph, the amount of any expenditure incurred by the landlord or a superior landlord in taking in relation to the relevant building a step mentioned in a notice served in connection with the premises under section 5(4), 8(4) or (5) or 12(8)(b) of this Act shall for the purposes of the Rent Act 1968 be treated (whether or not apart from this paragraph it would be so treated) as expenditure incurred by the landlord or superior landlord on an improvement effected in the dwelling.
- (3) If from the taking in relation to the relevant building of any such step as is referred to in sub-paragraph (2) above there accrues benefit not only to the dwelling but also to other premises of the landlord or superior landlord comprised in the relevant building, the amount to be treated as mentioned in that sub-paragraph shall be so much only of the expenditure as may be determined, by agreement in writing between the landlord and the tenant or by the county court, to be properly apportionable to the dwelling, having regard to the benefit accruing, from the taking of the step, to the dwelling and to the other premises.
- (4) Any apportionment made by the county court under sub-paragraph (3) above shall be final and conclusive.
- (5) For the purposes of this paragraph the amount of any expenditure shall be treated as diminished by the amount of any grant paid in respect of that expenditure under any enactment.
- (6) Any such step as is referred to in sub-paragraph (2) above shall for the purposes of the following provisions, namely—
- (a) sections 25(3) and 59 of the Rent Act 1968 (right of tenant in certain cases to challenge amount of expenditure on improvements); and
  - (b) section 53 of the Housing Act 1969 (by virtue of which the provisions of sections 21(5) and 25(1) of the Rent Act 1968, as to the effect of improvements on the limit of rent before registration do not apply to improvements with respect to which a grant under Part I of the Housing Act 1969, is payable or has been paid),
- be treated (whether or not apart from this paragraph it would be so treated) as an improvement; but no application shall be made under section 25(3) or 59 of the Rent Act 1968 on the ground that an improvement consisting of such a step was unnecessary.

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*Status: This is the original version (as it was originally enacted).*

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- (7) The power of the Lord Chancellor under section 106 of the Rent Act 1968 to make rules and give directions for the purpose of giving effect to certain provisions of that Act shall extend to the provisions of this paragraph.
  - (8) Expressions used in this paragraph and in the Rent Act 1968 have the same meaning in this paragraph as in that Act.
- 2 (1) In relation to a dwelling-house consisting of or comprised in premises—
- (a) with respect to which there has been issued a fire certificate covering (in whatever terms) the use of the dwelling-house as a dwelling ; or
  - (b) which are the subject of an application for a fire certificate specifying as a use of the premises which it is desired to have covered by the certificate a use such that, if a certificate covering that use were issued, it would cover (in whatever terms) the use of the dwelling-house as a dwelling,
- section 45 of, and Schedule 7 to, the Rent Act 1968 (which relate to certificates of fair rent) shall have effect as if in subsection (1)(a) of that section the reference to making improvements in the dwelling-house included a reference to taking in relation to the relevant building any steps mentioned in a notice served, in connection with the premises under section 5(4), 8(4) or (5) or 12(8)(b) of this Act; and any step mentioned in such a notice shall for the purposes of the said section 45 and Schedule 7, in their application to such a dwelling-house, be treated (whether or not apart from this paragraph it would be so treated) as an improvement.
- (2) In this paragraph " dwelling-house " has the same meaning as in the Rent Act 1968.

*Modification of Rent Act 1968 in cases where rent  
is increased by virtue of section 28(3)(b) of this Act*

- 3 (1) Where, in the case of any premises consisting of a dwelling-house let on a protected tenancy which is a regulated tenancy, the rent payable in respect of the premises is increased by an order of a court made by virtue of section 28(3)(b) of this Act and that increase takes effect while a rent for the dwelling-house is registered under Part IV of the Rent Act 1968, being a rent that was so registered before the completion of the alterations or other things falling within section 28(3) of this Act of which the expense was taken into account by the court in making the order, then—
- (a) the contractual rent limit for any contractual period beginning while the registration of that rent continues to have effect shall be what it would be for that period under section 20(2) of that Act if the rent so registered had been simultaneously increased by the same amount (and the reference in section 47(3)(a) of that Act to the limit imposed by section 20(2) shall be construed accordingly); and
  - (b) if the regulated tenancy of the dwelling-house becomes a statutory tenancy, section 22(2) of that Act (limit of rent during statutory periods of regulated tenancy, and provision for increase up to that limit) shall have effect, in relation to any statutory period of that tenancy beginning while the registration of that rent continues to have effect, as if the rent so registered had been simultaneously increased by the same amount.
- (2) Where, in the case of any premises consisting of a dwelling-house let on a protected tenancy which is a regulated tenancy, the rent payable in respect of the premises is increased by an order of a court made by virtue of section 28(3)(b) of this Act and that increase takes effect while no rent for the dwelling-house is registered under Part IV of the Rent Act 1968, then for any contractual period for which the contractual

rent limit is that specified in section 20(3) of that Act, the contractual rent limit shall be increased by an amount equal to the increase effected by the order in the rent payable for that period.

- (3) Where, in the case of any premises consisting of a dwelling-house let on a protected tenancy which is a regulated tenancy, the rent payable in respect of the premises is increased by an order of a court made by virtue of section 28(3)(b) of this Act, the contractual rent limit shall not be increased under section 21(5) of the Rent Act 1968 by reference to any expenditure taken into account by the court in making the order.
  - (4) Part III of the Rent Act 1968 (rents under regulated tenancies) shall be amended by the insertion of the words "and paragraph 3 of Part I of the Schedule to the Fire Precautions Act 1971 —
    - (a) in section 20 (limit of rent during contractual periods), after the words "section 47(3) of this Act" in subsection (2), and after the word "below" in subsection (3); and
    - (b) in section 22 (limit of rent during statutory periods), after the words "section 47(3) of this Act" in subsection (2).
  - (5) Expressions used in this paragraph and in Part III of the Rent Act 1968 have the same meaning in this paragraph as in that Part.
- 4
- (1) Where, in the case of any premises consisting of a dwelling let on a protected tenancy which is a controlled tenancy, the rent payable in respect of the premises is increased by an order of a court made by virtue of section 28(3)(b) of this Act then—
    - (a) the rent limit under any controlled tenancy of the dwelling for any rental period beginning with or after the date on which that increase takes effect shall be increased by an amount per annum equal to the amount per annum of the increase effected by the order in the rent payable in respect of the dwelling ; and
    - (b) the increase effected by the order in the rent payable in respect of the dwelling for any rental period shall, notwithstanding anything in section 53 of the Rent Act 1968 (procedure for increasing rents under controlled tenancies) be recoverable without the service of any notice of increase.
  - (2) Where, in the case of any premises consisting of a dwelling let on a protected tenancy which is a controlled tenancy, the rent payable in respect of the premises is increased by an order of a court made by virtue of section 28(3)(b) of this Act, the rent limit shall not be increased under section 56 of the Rent Act 1968 by reference to any expenditure taken into account by the court in making the order.
  - (3) In section 52(3) of the Rent Act 1968 (which mentions the provisions of that Act under which the rent limit is subject to adjustment), after the word "below" there shall be inserted the words " and paragraph 4(1) of Part I of the Schedule to the Fire Precautions Act 1971 ".
  - (4) Expressions used in this paragraph and in Part V of the Rent Act 1968 (rents under controlled tenancies) have the same meaning in this paragraph as in that Part.

## PART II

### MODIFICATIONS OF ACTS APPLICABLE TO SCOTLAND WHICH CORRESPOND TO THE RENT ACT 1968 UNTIL THE RENT (SCOTLAND) ACT 1971 COMES INTO FORCE

*Steps mentioned in certain notices under this Act to count as improvements  
for certain purposes of Acts applicable to Scotland which correspond to  
the Rent Act 1968 until the Rent (Scotland) Act 1971 comes into force*

- 1 (1) The following provisions of this paragraph apply where a dwelling-house which is let on or subject to a regulated or an existing controlled tenancy consists of or is comprised in premises with respect to which there has been issued a fire certificate covering (in whatever terms) the use of the dwelling-house as a dwelling.
- (2) Subject to the following provisions of this paragraph, the amount of any expenditure incurred by the landlord in taking in relation to the relevant building a step mentioned in a notice served in connection with the premises under section 5(4), 8(4) or (5) or 12(8)(b) of this Act shall be treated (whether or not apart from this paragraph it would be so treated)—
  - (a) in the case of a dwelling-house let on or subject to an existing controlled tenancy, as expenditure on the improvement or structural alteration of the dwelling-house for the purposes of section 2(1)(a) of the Act of 1920, and
  - (b) in the case of a dwelling-house let on or subject to a regulated tenancy, as an amount expended on an improvement effected in the dwelling-house for the purposes respectively of sections 4(5) and 6(6) of the Rent Act 1965.
- (3) If from the taking in relation to the relevant building of any such step as is referred to in sub-paragraph (2) above there accrues benefit not only to the dwelling-house but also to other premises of the landlord comprised in the relevant building, the amount to be treated as mentioned in that sub-paragraph shall be so much only of the expenditure as may be determined, by agreement in writing between the landlord and the tenant or by the sheriff, to be properly apportionable to the dwelling-house, having regard to the benefit accruing, from the taking of the step, to the dwelling-house and to the other premises.
- (4) Any apportionment made by the sheriff under sub-paragraph (3) above shall be final and conclusive.
- (5) For the purposes of this paragraph the amount of any expenditure shall be treated as diminished by the amount of any grant paid in respect of that expenditure under any enactment.
- (6) Any such step as is referred to in sub-paragraph (2) above shall for the purposes of the following provisions, namely—
  - (a) section 6(7) of the Rent Act 1965 (right of tenant of regulated tenancy to challenge amount of expenditure on improvements on ground that expenditure was unnecessary or unreasonable);
  - (b) section 54 of the Housing (Scotland) Act 1969 (by virtue of which the provisions of sections 4(5) and 6(6) of the Rent Act 1965 as to the effect of improvements on the limit of rent before registration do not apply to improvements with respect to which a grant under Part II of the Housing (Financial Provisions) (Scotland) Act 1968 is payable),

be treated (whether or not apart from this paragraph it would be so treated) as an improvement; but no application shall be made under section 6(7) of the Rent Act 1965 on the ground that an improvement consisting of such a step was unnecessary.

(7) No step such as is referred to in sub-paragraph (2) above shall be treated as an improvement or structural alteration for the purposes of the proviso to section 2(1) (a) of the Act of 1920 (right of tenant of existing controlled tenancy to challenge amount of expenditure on ground that expenditure was unnecessary).

(8) The power of the Court of Session under section 17(1) as read with section 18 of the Act of 1920 to make an act of sederunt and give directions for the purpose of giving effect to the provisions of that Act shall extend to the provisions of this paragraph.

2 In relation to a dwelling-house consisting of or comprised in premises—

- (a) with respect to which there has been issued a fire certificate covering (in whatever terms) the use of the dwelling-house as a dwelling ; or
- (b) which are the subject of an application for a fire certificate specifying as a use of the premises which it is desired to have covered by the certificate a use such that, if a certificate covering that use were issued, it would cover (in whatever terms) the use of the dwelling-house as a dwelling,

Schedule 4 to the Rent Act 1965 (which relates to certificates of fair rent) shall have effect as if in paragraph 1(a) of that Schedule the reference to making improvements in the dwelling-house included a reference to taking in relation to the relevant building any steps mentioned in a notice served in connection with the premises under section 5(4), 8(4) or (5) or 12(8)(b) of this Act; and any step mentioned in such a notice shall, for the purposes of the said Schedule 4, in its application to such a dwelling-house, be treated (whether or not apart from this paragraph it would be so treated) as an improvement.

*Modification of Acts applicable to Scotland which correspond to the Rent Act 1968 until the Rent (Scotland) Act 1971 comes into force in cases where rent is increased by virtue of section 28(3)(b) of this Act*

3 (1) Where, in the case of any premises consisting of a dwelling-house let on a regulated tenancy, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act and that increase takes effect while a rent for the dwelling-house is registered under Part II of the Rent Act 1965, being a rent that was so registered before the completion of the alterations or other things falling within section 28(3) of this Act of which the expense was taken into account by the sheriff in making the order, then—

- (a) the contractual rent limit for any contractual period beginning while the registration of that rent continues to have effect shall be what it would be for that period under section 3(2) of that Act if the rent so registered had been simultaneously increased by the same amount (and the reference in section 28(2) of that Act to the limit imposed by section 3(2) shall be construed accordingly); and
- (b) if the regulated tenancy of the dwelling-house becomes a statutory tenancy, section 7 of that Act (limit of rent during statutory periods of regulated tenancy, and provision for increase up to that limit) shall have effect, in relation to any statutory period of that tenancy beginning while the registration of that rent continues to have effect, as if the rent so registered had been simultaneously increased by the same amount.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Where, in the case of any premises consisting of a dwelling-house let on a regulated tenancy, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act and that increase takes effect while no rent for the dwelling-house is registered under Part II of the Rent Act 1965, then for any contractual period for which the contractual rent limit is that specified in section 3(3) of that Act, the contractual rent limit shall be increased by an amount equal to the increase effected by the order in the rent payable for that period.
  - (3) Where, in the case of any premises consisting of a dwelling-house let on a regulated tenancy, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act, the contractual rent limit shall not be increased under section 4(5) of the Rent Act 1965 by reference to any expenditure taken into account by the sheriff in making the order.
  - (4) The Rent Act 1965 shall be amended as follows—
    - (a) in section 3 (limit on contractual rent)
      - (i) at the beginning of subsection (2) there shall be inserted the words "Subject to paragraph 3 of Part II of the Schedule to the Fire Precautions Act 1971
      - (ii) in subsection (3) after the words " section 4 of this Act " there shall be inserted the words " and paragraph 3 of Part II of the Schedule to the Fire Precautions Act 1971 ";
    - (b) at the beginning of section 7 (effect of registration of rent recoverable for statutory purposes) there shall be inserted the words " Subject to paragraph 3 of Part II of the Schedule to the Fire Precautions Act 1971 ".
  - (5) In this paragraph, "contractual rent limit" means the limit of rent specified in subsection (2) or, as the case may be, subsection (3) of section 3 of the Rent Act 1965 which is payable for any contractual period of a regulated tenancy of a dwelling-house.
- 4 (1) Where, in the case of any premises consisting of a dwelling-house let on an existing controlled tenancy, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act then—
- (a) the rent limit under any existing controlled tenancy of the dwelling-house for any rental period beginning with or after the date on which that increase takes effect shall be increased by an amount per annum equal to the amount per annum of the increase effected by the order in the rent payable in respect of the dwelling-house ; and
  - (b) the increase effected by the order in the rent payable in respect of the dwelling-house for any rental period shall, notwithstanding anything in section 3(2) of the Act of 1920 (procedure for increasing rents under existing controlled tenancies), be recoverable without the service of any notice of increase.
- (2) Where, in the case of any premises consisting of a dwelling-house let on an existing controlled tenancy, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act, the rent limit shall not be increased under section 2(1)(a) of the Act of 1920 by reference to any expenditure taken into account by the sheriff in making the order.

### *Interpretation of Part II*

- 5 Expressions used in this Part of this Schedule and in the Rent Act 1965 have the same meaning in this Part as in that Act.

## **PART III**

### **MODIFICATIONS OF RENT (SCOTLAND) ACT 1971**

#### *Steps mentioned in certain notices under this Act to count as improvements for certain purposes of Rent (Scotland) Act 1971*

- 1 (1) The following provisions of this paragraph apply where a dwelling-house which is let on or subject to a regulated or a controlled tenancy consists of or is comprised in premises with respect to which there has been issued a fire certificate covering (in whatever terms) the use of the dwelling-house as a dwelling.
- (2) Subject to the following provisions of this paragraph, the amount of any expenditure incurred by the landlord in taking in relation to the relevant building a step mentioned in a notice served in connection with the premises under section 5(4), 8(4) or (5) or 12(8)(b) of this Act shall be treated (whether or not apart from this paragraph it would be so treated)—
- (a) in the case of a dwelling-house let on or subject to a controlled tenancy, as expenditure on the improvement or structural alteration of the dwelling-house for the purposes of paragraph 1(3)(a) of Schedule 8 to the Act of 1971, and
  - (b) in the case of a dwelling-house let on or subject to a regulated tenancy, as an amount expended on an improvement effected in the dwelling-house for the purposes respectively of sections 20(5) and 24(1) of the Act of 1971.
- (3) If from the taking in relation to the relevant building of any such step as is referred to in sub-paragraph (2) above there accrues benefit not only to the dwelling-house but also to other premises of the landlord comprised in the relevant building, the amount to be treated as mentioned in that sub-paragraph shall be so much only of the expenditure as may be determined, by agreement in writing between the landlord and the tenant or by the sheriff, to be properly apportionable to the dwelling-house, having regard to the benefit accruing, from the taking of the step to the dwelling-house and to the other premises.
- (4) Any apportionment made by the sheriff under sub-paragraph (3) above shall be final and conclusive.
- (5) For the purposes of this paragraph the amount of any expenditure shall be treated as diminished by the amount of any grant paid in respect of that expenditure under any enactment.
- (6) Any such step as is referred to in sub-paragraph (2) above shall, for the purposes of section 24(3) of the Act of 1971 (right of tenant of regulated tenancy in certain circumstances to challenge amount of expenditure on improvements), be treated (whether or not apart from this paragraph it would be so treated) as an improvement; but no application shall be made under the said section 24(3) on the ground that an improvement consisting of such a step was unnecessary.

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*Status: This is the original version (as it was originally enacted).*

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- (7) No application shall be made under the proviso to paragraph 1(3)(a) of Schedule 8 to the Act of 1971 on the ground that the expenditure on such a step as is referred to in sub-paragraph (2) above was unnecessary.
  - (8) The power of the Court of Session under section 124 of the Act of 1971 to make an act of sederunt and give directions for the purpose of giving effect to the provisions of that Act shall extend to the provisions of this paragraph.
  - (9) Expressions used in this paragraph and in the Act of 1971 have the same meaning in this paragraph as in that Act.
- 2      In relation to a dwelling-house consisting of or comprised in premises—
- (a) with respect to which there has been issued a fire certificate covering (in whatever terms) the use of the dwelling-house as a dwelling; or
  - (b) which are the subject of an application for a fire certificate specifying as a use of the premises which it is desired to have covered by the certificate a use such that, if a certificate covering that use were issued, it would cover (in whatever terms) the use of the dwelling-house as a dwelling,
- section 41 of, and Schedule 7 to, the Act of 1971 (which relate to certificates of fair rent) shall have effect as if in subsection (1)(a) of that section the reference to making improvements in the dwelling-house included a reference to taking in relation to the relevant building any steps mentioned in a notice served in connection with the premises under section 5(4), 8(4) or (5) or 12(8)(b) of this Act; and any step mentioned in such a notice shall, for the purposes of the said section 41 and Schedule 7, in their application to such a dwelling-house, be treated (whether or not apart from this paragraph it would be so treated) as an improvement.
- Modification of Rent (Scotland) Act 1971 in cases where  
rent is increased by virtue of section 28(3)(b) of this Act*
- 3      (1) Where, in the case of any premises consisting of a dwelling-house let on a regulated tenancy, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act and that increase takes effect while a rent for the dwelling-house is registered under Part IV of the Act of 1971, being a rent that was so registered before the completion of the alterations or other things falling within section 28(3) of this Act of which the expense was taken into account by the sheriff in making the order, then—
- (a) the contractual rent limit for any contractual period beginning while the registration of that rent continues to have effect shall be what it would be for that period under section 19(2) of that Act if the rent so registered had been simultaneously increased by the same amount (and the reference in section 43(3)(a) of that Act to the limit imposed by section 19(2) shall be construed accordingly); and
  - (b) if the regulated tenancy of the dwelling-house becomes a statutory tenancy, section 21(2) of that Act (limit of rent during statutory periods of regulated tenancy, and provision for increase up to that limit) shall have effect, in relation to any statutory period of that tenancy beginning while the registration of that rent continues to have effect, as if the rent so registered had been simultaneously increased by the same amount.
- (2) Where, in the case of any premises consisting of a dwelling-house let on a regulated tenancy, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act and that increase takes effect



while no rent for the dwelling-house is registered under Part IV of the Act of 1971, then for any contractual period for which the contractual rent limit is that specified in section 19(3) of that Act, the contractual rent limit shall be increased by an amount equal to the increase effected by the order in the rent payable for that period.

- (3) Where, in the case of any premises consisting of a dwelling-house let on a regulated tenancy, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act, the contractual rent limit shall not be increased under section 20(5) of the Act of 1971 by reference to any expenditure taken into account by the sheriff in making the order.
  - (4) Part III of the Act of 1971 (rents under regulated tenancies) shall be amended by the insertion of the words " and paragraph 3 of Part III of the Schedule to the Fire Precautions Act 1971 " —
    - (a) in section 19 (limit of rent during contractual periods), after the words " section 43(3) of this Act" in subsection (2), land after the word " below " in subsection (3) ;
    - (b) in section 21 (limit of rent during statutory periods), after the words " section 43(3) of this Act" in subsection (2).
  - (5) Expressions used in this paragraph and in Part III of the Act of 1971 have the same meaning in this paragraph as in that Part.
- 4
- (1) Where, in the case of any premises consisting of a dwelling-house let on a controlled tenancy, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act then—
    - (a) the rent limit under any controlled tenancy of the dwelling-house for any rental period beginning with or after the date on which that increase takes effect shall be increased by an amount per annum equal to the amount per annum of the increase effected by the order in the rent payable in respect of the dwelling-house; and
    - (b) the increase effected by the order in the rent payable in respect of the dwelling-house for any rental period shall, notwithstanding anything in section 58 of the Act of 1971 (notice of increase of rent), be recoverable without the service of any notice of increase.
  - (2) Where, in the case of any premises consisting of a dwelling-house let on a controlled tenancy, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act, the rent limit Shall not be increased under paragraph 1(3)(a) of Schedule 8 to the Act of 1971 by reference to any expenditure taken into account by the sheriff in making the order.
  - (3) Expressions used in this paragraph and in Part V of the Act of 1971 (rents under controlled tenancies) have the same meaning in this paragraph as in that Part.

*Meaning of " the Act of 1971"*

- 5           In this Part of this Schedule, " the Act of 1971 " means the Rent (Scotland) Act 1971.