



# Smoke Detectors Act 1991

1991 CHAPTER 37

PROSPECTIVE

An Act to make provision with respect to the fitting of smoke detectors in new dwellings. [25th July 1991]

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:—

## Annotations:

### Modifications etc. (not altering text)

C1 Act: powers transferred (1.7.1999) by virtue of [S.I. 1999/672](#), [art. 2](#), [Sch. 1](#)

### Commencement Information

II Act not in force at Royal Assent see [s. 7\(2\)](#)

PROSPECTIVE

## 1 New dwellings to be fitted with smoke detectors.

- (1) A person who, in the course of a business carried on by him, constructs or arranges for the construction of a dwelling is guilty of an offence if the dwelling is not fitted with smoke detectors in accordance with the requirement mentioned in subsection (2) below.
- (2) The requirement referred to in subsection (1) above is that the dwelling is, before its construction is completed, fitted with one or more smoke detectors in such manner

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as to make adequate provision for the early detection of the outbreak of fire in the dwelling.

- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) This section does not apply to any dwelling whose construction is completed before the date on which this section comes into force.

## **2 Relaxation of requirement as to smoke detectors.**

- (1) Where, in relation to any dwelling—
  - (a) an application in writing for a direction under this subsection is made to the local authority for the area in which the dwelling is or is to be situated; and
  - (b) the authority consider it would be unreasonable for the dwelling to be fitted with smoke detectors in accordance with the requirement mentioned in section 1(2) above,

the authority may give a direction dispensing with or relaxing the requirement in relation to the dwelling.

- (2) Before giving a direction under subsection (1) above, a local authority (other than the Council of the Isles of Scilly) shall consult the fire authority for the area in which the dwelling is or is to be situated.
- (3) If a local authority refuse an application under subsection (1) above, the applicant may, by notice in writing, appeal to the Secretary of State within one month from the date on which the local authority notify the applicant of their refusal.
- (4) If within—
  - (a) a period of two months beginning with the date of an application; or
  - (b) such extended period as may at any time be agreed in writing between the applicant and the local authority,

the local authority do not notify the applicant of their decision on the application, subsection (3) above applies in relation to the application as if the local authority had refused the application and notified the applicant of their decision at the end of the period in question.

- (5) The notice of appeal shall set out the grounds of appeal and a copy of the notice of appeal shall be sent to the local authority.
- (6) The local authority, on receiving a copy of the notice of appeal, shall at once transmit to the Secretary of State a copy of the application and a copy of all the documents furnished by the applicant for the purposes of his application.
- (7) The local authority shall at the same time give to the Secretary of State in writing any representations that they desire to make as regards the appeal and shall send a copy to the applicant.
- (8) If the Secretary of State allows the appeal he shall give such directions dispensing with or relaxing the requirement mentioned in section 1(2) above as may be appropriate.

## **3 Guidance as to fitting of smoke detectors.**

- (1) The Secretary of State may—

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- (a) approve and issue any document which, in his opinion, is suitable for the purpose of providing practical guidance with respect to the fitting of smoke detectors in accordance with the requirement mentioned in section 1(2) above; and
  - (b) from time to time approve and issue a revision of the whole or any part of an approved document.
- (2) An approval under subsection (1) above takes effect on the date of issue of the document or revision concerned or on such date as may be specified in the document or revision.
- (3) A failure on the part of any person to comply with an approved document does not of itself render him liable to any criminal proceedings; but in any proceedings for an offence under section 1 above—
  - (a) a failure to comply with an approved document may be relied on as tending to establish liability; and
  - (b) proof of compliance with such a document may be relied on as tending to negative liability.
- (4) In any proceedings for an offence under section 1 above a document that appears to the court to be an approved document shall be taken to be such unless the contrary is proved.
- (5) References in this section to an approved document are references to that document as it has effect for the time being, regard being had to any revision of the whole or any part of it that has been approved under subsection (1)(b) above.

#### **4 Enforcement.**

- (1) It is the duty of local authorities to enforce the provisions of section 1 above in their areas.
- (2) Proceedings in respect of an offence under section 1 above shall not, without the written consent of the Attorney General, be taken by any person other than a party aggrieved or the local authority for the area in which the dwelling is situated.

#### **5 Effect of initial notice under Part II of Building Act 1984.**

- (1) This section applies where—
  - (a) an initial notice is in force in respect of any work [<sup>F1</sup>to which the notice relates] which consists of the construction of a dwelling (whether such work forms the whole or part of the work so specified); and
  - (b) the person who constructs the dwelling, or arranges for it to be constructed, does so in the course of a business carried on by him.
- (2) So long as the initial notice continues in force, the duty of enforcing the provisions of section 1 above that is conferred on a local authority by section 4 above is not exercisable in relation to the dwelling concerned, and accordingly a local authority may not take proceedings in respect of an offence committed under that section in relation to that dwelling.
- (3) Where, in respect of any work, an approved inspector is under a duty to give a final certificate to any person by virtue of section 51(1) of the 1984 Act (certificate of completion of work and discharge of functions), the approved inspector shall not

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give the certificate unless he has taken such steps as are reasonable to enable him to determine whether or not the requirement mentioned in section 1(2) above is complied with in relation to the dwelling concerned.

- (4) If the approved inspector is satisfied that the requirement so mentioned is complied with in relation to the dwelling—
- (a) he shall issue a certificate to that effect; and
  - (b) when he gives to any person the final certificate relating to the work consisting of the construction of that dwelling, he shall at the same time give to that person the certificate issued under this subsection.
- (5) Where—
- (a) an initial notice ceases by virtue of section 51(3) of the 1984 Act to apply in respect of any work (acceptance by local authority of final certificate); and
  - (b) the approved inspector has issued and given a certificate in accordance with subsection (4) above in respect of the dwelling concerned,
- subsection (2) above continues to apply, by virtue of this subsection, in relation to the dwelling as if the initial notice continued in force.
- (6) A person is guilty of an offence if—
- (a) he gives a certificate which purports to comply with subsection (4)(a) above and which contains a statement that he knows to be false or misleading in a material particular; or
  - (b) he recklessly gives a certificate which purports to comply with that subsection and which contains a statement that is false or misleading in a material particular.
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Annotations:

#### Amendments (Textual)

**F1** Words in s. 5(1)(a) substituted (14.10.1996) by S.I. 1996/1905, art. 3(11)

## 5 Effect of initial notice under Part II of Building Act 1984. **E+W**

- (1) This section applies where—
- (a) an initial notice is in force in respect of any work specified in the notice which consists of the construction of a dwelling (whether such work forms the whole or part of the work so specified); and
  - (b) the person who constructs the dwelling, or arranges for it to be constructed, does so in the course of a business carried on by him.
- (2) So long as the initial notice continues in force, the duty of enforcing the provisions of section 1 above that is conferred on a local authority by section 4 above is not exercisable in relation to the dwelling concerned, and accordingly a local authority may not take proceedings in respect of an offence committed under that section in relation to that dwelling.
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completion of work and discharge of functions), the approved inspector shall not give the certificate unless he has taken such steps as are reasonable to enable him to determine whether or not the requirement mentioned in section 1(2) above is complied with in relation to the dwelling concerned.

- (4) If the approved inspector is satisfied that the requirement so mentioned is complied with in relation to the dwelling—
- (a) he shall issue a certificate to that effect; and
  - (b) when he gives to any person the final certificate relating to the work consisting of the construction of that dwelling, he shall at the same time give to that person the certificate issued under this subsection.
- (5) Where—
- (a) an initial notice ceases by virtue of section 51(3) of the 1984 Act to apply in respect of any work (acceptance by local authority of final certificate); and
  - (b) the approved inspector has issued and given a certificate in accordance with subsection (4) above in respect of the dwelling concerned,
- subsection (2) above continues to apply, by virtue of this subsection, in relation to the dwelling as if the initial notice continued in force.
- (6) A person is guilty of an offence if—
- (a) he gives a certificate which purports to comply with subsection (4)(a) above and which contains a statement that he knows to be false or misleading in a material particular; or
  - (b) he recklessly gives a certificate which purports to comply with that subsection and which contains a statement that is false or misleading in a material particular.
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **6 Power to repeal or modify provisions of this Act.**

- (1) The Secretary of State may by order made by statutory instrument repeal or modify all or any of the provisions of this Act if it appears to him that all or any of those provisions are inconsistent with, or are unnecessary or require alteration in consequence of, any provision contained in or made under any enactment relating to building regulations.
- (2) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **7 Short title, interpretation, commencement and extent.**

- (1) This Act may be cited as the Smoke Detectors Act 1991.
- (2) In this Act—
- “the 1984 Act” means the <sup>M1</sup>Building Act 1984;
  - “approved inspector”, “final certificate” and “initial notice” have the same meanings as in Part II of the 1984 Act;
  - “construct” and “construction”, in relation to a dwelling, include providing a dwelling by reconstructing or converting a building or any part of a building;
  - “dwelling” means a house or flat used or intended for use as a private dwelling; and

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“local authority” means—

- (a) a district council;
  - (b) a London borough council;
  - (c) the Common Council of the City of London;
  - (d) the Sub-Treasurer of the Inner Temple;
  - (e) the Under-Treasurer of the Middle Temple;
  - (f) the Council of the Isles of Scilly.
- (3) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (4) This Act applies to England and Wales only.

**Annotations:**

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**Marginal Citations**

**M1** 1984 c. 55.

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**Changes and effects yet to be applied to :**

- s. 2(2) text amended by [2004 c. 21 Sch. 1 para. 74](#)

**Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:**

- Act repealed by [S.I. 2005/1541 Sch. 2 para. 47 Sch. 4](#)

**Commencement Orders yet to be applied to the Smoke Detectors Act 1991:**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2004/2304 art. 2](#) commences (2004 c. 21)
- [S.I. 2004/2917 art. 2](#) commences (2004 c. 21)