
STATUTORY INSTRUMENTS

2005 No. 1541

The Regulatory Reform (Fire Safety) Order 2005

PART 5

MISCELLANEOUS

Fire-fighters' switches for luminous tube signs etc.

37.—(1) Subject to paragraph (11), this article applies to apparatus consisting of luminous tube signs designed to work at a voltage normally exceeding the prescribed voltage, or other equipment so designed, and references in this article to a cut-off switch are, in a case where a transformer is provided to raise the voltage to operate the apparatus, references to a cut-off switch on the low-voltage side of the transformer.

(2) In paragraph (1) the “prescribed voltage” means—

- (a) 1000 volts AC or 1500 volts DC if measured between any two conductors; or
- (b) 600 volts AC or 900 volts DC if measured between a conductor and earth.

(3) No apparatus to which this article applies is to be installed unless it is provided with a cut-off switch.

(4) Subject to paragraph (5), the cut-off switch must be so placed, and coloured or marked as to satisfy such reasonable requirements as the fire and rescue authority may impose to secure that it must be readily recognisable by and accessible to fire-fighters.

(5) If a cut-off switch complies in position, colour and marking with the current regulations of the Institution of Electrical Engineers for a fire-fighter’s emergency switch⁽¹⁾, the fire and rescue authority may not impose any further requirements pursuant to paragraph (4).

(6) Not less than 42 days before work is begun to install apparatus to which this article applies, the responsible person must give notice to the fire and rescue authority showing where the cut-off switch is to be placed and how it is to be coloured or marked.

(7) Where notice has been given to the fire and rescue authority as required by paragraph (6), the proposed position, colouring or marking of the switch is deemed to satisfy the requirements of the fire authority unless, within 21 days from the date of the service of the notice, the fire and rescue authority has served on the responsible person a counter-notice stating that their requirements are not satisfied.

(8) Where apparatus to which this article applies has been installed in or on premises before the day on which this article comes into force, the responsible person must, not more than 21 days after that day, give notice to the fire and rescue authority stating whether the apparatus is already provided with a cut-off switch and, if so, where the switch is placed and how it is coloured or marked.

(1) The current regulations are the IEE Wiring Regulations, version 16 published in June 2001 (as amended by amendment 1 of 2002 published in February 2002) - BS 7671: 2001 (ISBN 058296 998 0). Copies may be obtained from any of the sales outlets operated by the British Standards Institute (BSI) or by post from the BSI at Milton Keynes.

(9) Subject to paragraph (10), where apparatus to which this article applies has been installed in or on premises before the day on which this article comes into force, the fire and rescue authority may serve on the responsible person a notice—

- (a) in the case of apparatus already provided with a cut-off switch, stating that they are not satisfied with the position, colouring or marking of the switch and requiring the responsible person, within such period as may be specified in the notice, to take such steps as will secure that the switch will be so placed or coloured or marked as to be readily recognisable by, and accessible to, fire-fighters in accordance with the reasonable requirements of the fire and rescue authority; or
- (b) in the case of apparatus not already provided with a cut-off switch, requiring him, within such period as may be specified in the notice, to provide such a cut-off switch in such a position and so coloured or marked as to be readily recognisable by, and accessible to, fire-fighters in accordance with the reasonable requirements of the fire and rescue authority.

(10) If a cut-off switch complies in position, colour and marking with the current regulations of the Institution of Electrical Engineers for a fire-fighter's emergency switch, the fire and rescue authority may not serve a notice in respect of it under paragraph (9).

(11) This article does not apply to—

- (a) apparatus installed or proposed to be installed in or on premises in respect of which a premises licence under the Licensing Act 2003⁽²⁾ has effect authorising the use of premises for the exhibition of a film, within the meaning of paragraph 15 of Schedule 1 to that Act; or
- (b) apparatus installed in or on premises before the day on which this article comes into force where, immediately before that date—
 - (i) the apparatus complied with section 10(2) and (3) (requirement to provide cut-off switch) of the Local Government (Miscellaneous Provisions) Act 1982⁽³⁾; and
 - (ii) the owner or occupier of the premises, as the case may be, had complied with either subsection (5) or subsection (7) (notice of location and type of switch) of section 10 of that Act.

Maintenance of measures provided for protection of fire-fighters

38.—(1) Where necessary in order to safeguard the safety of fire-fighters in the event of a fire, the responsible person must ensure that the premises and any facilities, equipment and devices provided in respect of the premises for the use by or protection of fire-fighters under this Order or under any other enactment, including any enactment repealed or revoked by this Order, are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair.

(2) Where the premises form part of a building, the responsible person may make arrangements with the occupier of any premises forming part of the building for the purpose of ensuring that the requirements of paragraph (1) are met.

(3) Paragraph (2) applies even if the other premises are not premises to which this Order applies.

(4) The occupier of the other premises must co-operate with the responsible person for the purposes of paragraph (2).

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

(2) 2003 c. 17.

(3) 1982 c. 30.

Civil liability for breach of statutory duty

39.—(1) Subject to paragraph (2), nothing in this Order is to be construed as conferring a right of action in any civil proceedings (other than proceedings for recovery of a fine).

(2) Notwithstanding section 86 of the Fires Prevention (Metropolis) Act 1774⁽⁴⁾, breach of a duty imposed on an employer by or under this Order, so far as it causes damage to an employee, confers a right of action on that employee in civil proceedings.

Duty not to charge employees for things done or provided

40. No employer may levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any requirement of this Order or of regulations made under it.

Duty to consult employees

41.—(1) In regulation 4A of the Safety Representatives and Safety Committees Regulations 1977⁽⁵⁾ (employer’s duty to consult and provide facilities and assistance), in paragraph (1)(b), for “or regulation 4(2)(b) of the Fire Precautions (Workplace) Regulations 1997” substitute “or article 13(3)(b) of the Regulatory Reform (Fire Safety) Order 2005”.

(2) In regulation 3 of the Health and Safety (Consultation with Employees) Regulations 1996⁽⁶⁾ (duty of employer to consult), in paragraph (b), for “or regulation 4(2)(b) of the Fire Precautions (Workplace) Regulations 1997” substitute “or article 13(3)(b) of the Regulatory Reform (Fire Safety) Order 2005”.

Special provisions in respect of licensed etc. premises

42.—(1) Subject to paragraph (2), where any enactment provides for the licensing of premises in relation to which this Order applies, or the licensing of persons in respect of any such premises—

- (a) the licensing authority must ensure that the enforcing authority for the premises has the opportunity to make representations before issuing the licence; and
- (b) the enforcing authority must notify the licensing authority of any action that the enforcing authority takes in relation to premises to which the licence relates; but no failure on the part of an enforcing authority to notify under this paragraph shall affect the validity of any such action taken.

(2) Paragraph (1) does not apply where the licensing authority is also the enforcing authority.

(3) In this article and article 43(1)(a)—

- (a) “licensing authority” means the authority responsible for issuing the licence; and
- (b) “licensing” includes certification and registration and “licence” is to be construed accordingly; and
- (c) references to the issue of licences include references to their renewal, transfer or variation.

Suspension of terms and conditions of licences dealing with same matters as this Order

43.—(1) Subject to paragraph (3), paragraph (2) applies if—

- (a) an enactment provides for the licensing of premises in relation to which this Order applies, or the licensing of persons in respect of any such premises;

(4) 1774 14 Geo 3 c. 78.

(5) S.I.1977/500. Regulation 4A was inserted by S.I. 1992/2051 and amended by S.I. 1997/1840 and 1999/3242.

(6) S.I. 1996/1513 amended by S.I. 1997/1840 and 1999/3242.

- (b) a licence is issued in respect of the premises (whether before or after the coming into force of this Order); and
- (c) the licensing authority is required or authorised to impose terms, conditions or restrictions in connection with the issue of the licences.

(2) At any time when this Order applies in relation to the premises, any term, condition or restriction imposed by the licensing authority has no effect in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under this Order.

(3) Paragraph (1) does not apply where the licensing authority is also the enforcing authority.

Suspension of byelaws dealing with same matters as this Order

44. Where any enactment provides for the making of byelaws in relation to premises to which this Order applies, then, so long as this Order continues to apply to the premises, any byelaw has no effect in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under this Order.

Duty to consult enforcing authority before passing plans

45.—(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, the local authority must, subject to paragraph (3), consult the enforcing authority before passing those 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, the authority must, subject to paragraph (3), consult with the enforcing authority before passing the plans.

(3) The duty to consult imposed by paragraphs (1) and (2)—

- (a) only applies in relation to buildings or parts of buildings to which this Order applies, or would apply following the erection, extension, structural alteration or change of use;
- (b) does not apply where the local authority is also the enforcing authority.

Other consultation by authorities

46.—(1) Where a government department or other public authority intends to take any action in respect of premises which will or may result in changes to any of the measures required by or under this Order, that department or authority must consult the enforcing authority for the premises before taking that action.

(2) Without prejudice to any power of the court to cancel or modify a notice served by a government department or other authority, no failure on the part of the department or authority to consult under paragraph (1) invalidates the action taken.

(3) In paragraph (1), “public authority” includes an approved inspector within the meaning of section 49 of the Building Act 1984⁽⁷⁾.

Disapplication of the Health and Safety at Work etc. Act 1974 in relation to general fire precautions

47.—(1) Subject to paragraph (2), the Health and Safety at Work etc. Act 1974⁽⁸⁾ and any regulations made under that Act shall not apply to premises to which this Order applies, in so far

(7) 1984 c. 55.

(8) 1974 c. 37.

as that Act or any regulations made under it relate to any matter in relation to which requirements are or could be imposed by or under this Order.

(2) Paragraph (1) does not apply—

- (a) where the enforcing authority is also the enforcing authority within the meaning of the Health and Safety at Work etc Act 1974⁽⁹⁾;
- (b) in relation to the Control of Major Accident Hazards Regulations 1999⁽¹⁰⁾.

Service of notices etc.

48.—(1) Any notice required or authorised by or by virtue of this Order 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 to him at that address.

(2) Any such notice may—

- (a) in the case of a body corporate, be served on or given to the secretary or clerk of that body; and
- (b) in the case of a partnership, be served on or given to a partner or a person having control or management of the partnership business.

(3) For the purposes of this article, and of section 7 of the Interpretation Act 1978⁽¹¹⁾ (service of documents by post) in its application to this Order, the proper address of any person is his last known address, except that—

- (a) in the case of a body corporate or their secretary or clerk, it is the address of the registered or principal office of that body;
- (b) in the case of a partnership or person having control or the management of the partnership business, it is the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is their principal office within the United Kingdom.

(4) If the person to be served with or given any such notice has specified an address in the United Kingdom other than his proper address as the one at which he or someone on his behalf will accept notices and other documents, that address is also to be treated for the purposes of this article and section 7 of the Interpretation Act 1978 as his proper address.

(5) Without prejudice to any other provision of this article, any such notice required or authorised to be served on or given to the responsible person in respect of any premises (whether a body corporate or not) may be served or given by sending it by post to him at those premises, or by addressing it by name to the person on or to whom it is to be served or given and delivering it to some responsible individual who is or appears to be resident or employed in the premises.

(6) If the name or the address of the responsible person on whom any such notice 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 “responsible person” for the premises (describing them) to which the notice relates, and by delivering it to some responsible individual 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.

(7) Any notice required or authorised to be given to or served on the responsible person or enforcing authority may be transmitted to that person or authority—

⁽⁹⁾ See section 18 and the Health and Safety (Enforcing Authority) Regulations 1998 (S.I. 1998/494).

⁽¹⁰⁾ S.I.1999/743 amended by the Greater London Authority Act 1999 (c. 29) and S.I.1999/2597 and 2002/2469.

⁽¹¹⁾ 1978 c. 30.

- (a) by means of an electronic communications network (within the meaning given by section 32 of the Communications Act 2003(12)); or
- (b) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.

(8) Where the recipient of the transmission is the responsible person, the transmission has effect as a delivery of the notice to that person only if he has indicated to the enforcing authority on whose behalf the transmission is made his willingness to receive a notice transmitted in the form and manner used.

(9) An indication to an enforcing authority for the purposes of paragraph (8)—

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

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

(11) An indication for the purposes of paragraph (10)—

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

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

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

(13) For the purposes of this article—

“notice” includes any document or information; and

“transmission” means the transmission referred to in paragraph (7).

Application to the Crown and to the Houses of Parliament

49.—(1) Subject to paragraphs (2) to (4), this Order, except for articles 29, 30 and 32 to 36, binds the Crown.

(2) Articles 27 and 31 only bind the Crown in so far as they apply in relation to premises owned by the Crown but not occupied by it.

(3) For the purposes of this article—

- (a) the occupation of any premises by the Corporate Officer of the House of Lords for the purposes of that House, by the Corporate Officer of the House of Commons for the purpose

of that House, or by those Corporate Officers acting jointly for the purposes of both Houses, is to be regarded as occupation by the Crown;

- (b) any premises in which either or both of those Corporate Officers has or have an interest which is that of an owner are to be regarded as premises owned by the Crown; and
- (c) in relation to premises specified in sub-paragraphs (a) and (b), the relevant Corporate Officer is the responsible person.

(4) Nothing in this Order authorises the entry of any premises occupied by the Crown.

(5) Nothing in this Order authorises proceedings to be brought against Her Majesty in her private capacity, and this paragraph shall be construed as if section 38(3) of the Crown Proceedings Act 1947⁽¹³⁾ (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Order.

Guidance

50.—(1) The Secretary of State must ensure that such guidance, as he considers appropriate, is available to assist responsible persons in the discharge of the duties imposed by articles 8 to 22 and by regulations made under article 24.

(2) In relation to the duty in paragraph (1), the guidance may, from time to time, be revised.

(3) The Secretary of State shall be treated as having discharged his duty under paragraph (1) where—

- (a) guidance has been made available before this article comes into force; and
- (b) he considers that the guidance is appropriate for the purpose mentioned in paragraph (1).

Application to visiting forces, etc.

51. This Order applies to a visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964⁽¹⁴⁾ only to the extent that it applies to the Crown.

Subordinate provisions

52.—(1) For the purposes of section 4(3) of the Regulatory Reform Act 2001⁽¹⁵⁾ (subordinate provisions) the following are designated as subordinate provisions—

- (a) article 1(3);
- (b) in article 2, the definition of “relevant local authority”;
- (c) article 9(6) and (7);
- (d) in article 10, the reference to “Part 3 of Schedule 1”;
- (e) article 11(2);
- (f) article 14(2);
- (g) article 16(1)(a) to (d);
- (h) article 16(4);
- (i) article 18(6) and (7);
- (j) article 25;
- (k) article 45(3);

⁽¹³⁾ 1947 c. 44.

⁽¹⁴⁾ 1964 c. 5.

⁽¹⁵⁾ 2001 c. 6.

(l) article 49; and

(m) Schedule 1.

(2) A subordinate provisions order⁽¹⁶⁾ made in relation to article 1(3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) A subordinate provisions order made in relation to any of the provisions mentioned in article 52(1)(b) to (m) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Repeals, revocations, amendments and transitional provisions

53.—(1) The enactments and instruments referred to in Schedules 2 and 3 are amended, repealed and revoked in accordance with those Schedules.

(2) The enactments and instruments specified in column 1 of Schedules 4 and 5 are repealed or revoked, as the case may be, to the extent specified in the corresponding entry in column 3.

(3) Any conditions imposed under section 20(2A) or (2C) of the London Building Acts (Amendment) Act 1939⁽¹⁷⁾ before the date when this Order comes into force and which relate to maintenance, shall cease to have effect from that date.

⁽¹⁶⁾ See section 4(4) of the Regulatory Reform Act 2001.

⁽¹⁷⁾ 1939 c. xcvi. Section 20(2A) and (2C) were inserted by S.I. 1985/1936 and subsequently amended by S.I. 1986/452.