

# **FIRE (SCOTLAND) ACT 2005**

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## **EXPLANATORY NOTES**

### **THE ACT – SECTION BY SECTION**

#### **Part 3 – Fire Safety**

##### ***Chapter 3 – Miscellaneous***

104. This chapter deals with a number of miscellaneous issues.

##### ***Section 68 – Prohibition on charging employees***

105. **Section 68** prohibits the charging of employees in respect of anything employers may do in pursuance of their Chapter 1 duties. This implements article 6(5) of the Framework Directive.

##### ***Section 69 – Civil liability for breach of statutory duty***

106. **Section 69** prevents civil proceedings being pursued in respect of failures to comply with the Chapter 1 duties. The exclusion does not, however, apply in relation to a breach of Chapter 1 duties by an employer that causes damage to an employee. This implements Article 4 of the Framework Directive which requires an effective legal remedy to be available to employees for breach by their employers of the obligations imposed by the Directive.

##### ***Section 70 – Consequential restriction of application of Part I of the Health and Safety at Work etc. Act 1974***

107. **Section 70** ensures that Part I of the 1974 Act, and regulations or orders made under that Part, do not apply in relation to devolved fire safety matters except where the enforcing authority is also an enforcing authority under Part I of the 1974 Act. At present, the 1974 Act and the regulations or orders made under it are capable of making provision for certain matters of general fire safety that are dealt with in the Act. It is therefore appropriate to disapply the 1974 Act in the context of creating a new devolved fire safety code.

##### ***Section 71 – Suspension of terms and conditions of licences dealing with same matters as this Part***

108. This section ensures that fire safety matters are dealt with under Part 3 (and related regulations) and not in licensing, certification or registration provisions in other enactments.