
STATUTORY INSTRUMENTS

1997 No. 1840

**FIRE PRECAUTIONS
HEALTH AND SAFETY**

The Fire Precautions (Workplace) Regulations 1997

Made - - - - - *28th July 1997*
Laid before Parliament *29th July 1997*
Coming into force - - - *1st December 1997*

The Secretary of State, being designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the minimum health and safety requirements for the workplace that relate to fire safety, in exercise of the powers conferred by that section and by sections 35, 40(8) and 43(1)⁽³⁾ of the Fire Precautions Act 1971⁽⁴⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**PART I
PRELIMINARY**

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Fire Precautions (Workplace) Regulations 1997 and shall come into force on 1st December 1997.

(2) These Regulations extend to Great Britain.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1971 Act” means the Fire Precautions Act 1971;

“the 1974 Act” means the Health and Safety at Work etc. Act 1974⁽⁵⁾;

(1) S.I. 1992/1711.
(2) 1972 c. 68.
(3) See definition of “prescribed”.
(4) 1971 c. 40 (see regulations 12 and 18(1) and (2)).
(5) 1974 c. 37.

“the 1992 Management Regulations” means the Management of Health and Safety at Work Regulations 1992(6);

“domestic premises” has the meaning given to it by section 53(1) of the 1974 Act;

“employee” means a person who is or is treated as an employee for the purposes of the 1992 Management Regulations;

“employer” means a person who is or is treated as an employer for the purposes of the 1992 Management Regulations;

“enforcement notice” has the meaning given to it by regulation 13(1);

“excepted workplace” has the meaning given to it by regulation 3(5);

“fire authority” means an authority discharging the functions of fire authority under the Fire Services Act 1947(7);

“premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel, aircraft or hovercraft;
- (b) any installation on land (including the foreshore and other land intermittently covered by water), any offshore installation, and any other installation (whether floating, or resting on the seabed or the subsoil thereof, or resting on other land covered with water or the subsoil thereof), and
- (c) any tent or movable structure;

“public road” means (in England and Wales) a highway maintainable at public expense within the meaning of section 329 of the Highways Act 1980(8) and (in Scotland) a public road within the meaning of section 151 of the Roads (Scotland) Act 1984(9);

“workplace” means any premises or part of premises, not being domestic premises, used for the purposes of an employer’s undertaking and which are made available to an employee of the employer as a place of work and includes—

- (a) any place within the premises to which such employee has access while at work; and
- (b) any room, lobby, corridor, staircase, road or other place—
 - (i) used as a means of access to or egress from that place of work; or
 - (ii) where facilities are provided for use in connection with that place of work; other than a public road; and

“the workplace fire precautions legislation” has the meaning given to it by regulation 9(2).

(2) Unless the context otherwise requires, any reference in these Regulations to—

- (a) a numbered regulation is a reference to the regulation in these Regulations so numbered;
- (b) a numbered paragraph is a reference to the paragraph in the regulation in which the reference appears; and
- (c) a numbered sub-paragraph is a reference to the sub-paragraph in the paragraph in which the reference appears.

(6) S.I. 1992/2051, as amended by the Health and Safety (Young Persons) Regulations 1997 (S.I. 1997/135); there are other amendments not relevant to these Regulations.

(7) 1947 c. 41.

(8) 1980 c. 66.

(9) 1984 c. 54.

PART II

FIRE PRECAUTIONS IN THE WORKPLACE

Application of Part II

3.—(1) Every employer shall ensure that he complies with the requirements of this Part of these Regulations in respect of every workplace, other than an excepted workplace, which is to any extent under his control, so far as the requirements relate to matters within his control.

(2) Every person who has, to any extent, control of a workplace, other than an excepted workplace, shall ensure that, so far as relates to matters within his control, the workplace complies with any applicable requirement of this Part of these Regulations.

(3) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to—

- (a) the maintenance or repair of any workplace; or
- (b) the safety of any workplace,

that person shall be treated, for the purposes of paragraph (2), as being a person who has control of the workplace to the extent that his obligation so extends.

(4) Any reference in this regulation to a person having control of any workplace is a reference to a person having control of the workplace in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

(5) For the purposes of these Regulations, an “excepted workplace” is—

- (a) any workplace to the extent that it comprises premises for which a fire certificate is in force or for which an application for a fire certificate is pending under the 1971 Act (other than a fire certificate deemed to have been issued under that Act by virtue of paragraph 2 of Schedule 8 to the 1974 Act);
- (b) any workplace to the extent that it comprises premises—
 - (i) in respect of which there is in force a safety certificate under the Safety of Sports Grounds Act 1975⁽¹⁰⁾ or under Part III of the Fire Safety and Safety of Places of Sport Act 1987⁽¹¹⁾; and
 - (ii) which are in use for the activity or activities specified in the certificate;
- (c) any workplace to the extent that it comprises premises to which the Fire Precautions (Sub-surface Railway Stations) Regulations 1989⁽¹²⁾ apply;
- (d) any workplace which is or is on a construction site within the meaning of regulation 2(1) of the Construction (Health, Safety and Welfare) Regulations 1996⁽¹³⁾ and to which those Regulations apply;
- (e) any workplace which is or is in or on a ship within the meaning of regulation 2(1) of the Docks Regulations 1988⁽¹⁴⁾, including any such ship which is in the course of construction or repair;
- (f) any workplace to the extent that it comprises premises to which the Fire Certificates (Special Premises) Regulations 1976⁽¹⁵⁾ apply;

⁽¹⁰⁾ 1975 c. 52.

⁽¹¹⁾ 1987 c. 27.

⁽¹²⁾ S.I. 1989/1401, as amended.

⁽¹³⁾ S.I. 1996/1592.

⁽¹⁴⁾ S.I. 1988/1655.

⁽¹⁵⁾ S.I. 1976/2003.

- (g) any workplace which is deemed to form part of a mine for the purposes of the Mines and Quarries Act 1954⁽¹⁶⁾;
 - (h) any workplace which is or is in or on an offshore installation within the meaning of regulation 3 of the Offshore Installations and Pipelines Works (Management and Administration) Regulations 1995⁽¹⁷⁾;
 - (i) any workplace which is or is in or on an aircraft, locomotive or rolling stock, trailer or semi-trailer used as a means of transport or a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994⁽¹⁸⁾ or a vehicle exempted from duty under that Act; and
 - (j) any workplace which is in fields, woods or other land forming part of an agricultural or forestry undertaking but which is not inside a building and is situated away from the undertaking's main buildings.
- (6) The requirements of this Part of these Regulations shall not have effect to the extent that they would prevent—
- (a) any member of the armed forces of the Crown or of any visiting force (within the meaning of regulation 19);
 - (b) any constable or any member of a police force not being a constable; or
 - (c) any member of any emergency service,

from carrying out their duties.

(7) Without prejudice to paragraph (6), regulation 5(2)(f) shall not apply to any premises falling within the scope of section 40(2)(a) or (b) of the 1971 Act (prisons) or any part of any other premises used for keeping persons in lawful custody or detention.

(8) Where paragraph (6) or (7) applies, the safety of employees in case of fire shall nevertheless be ensured so far as is possible.

Fire-fighting and fire detection

4.—(1) Where necessary (whether due to the features of a workplace, the activity carried on there, any hazard present there or any other relevant circumstances) in order to safeguard the safety of employees in case of fire—

- (a) a workplace shall, to the extent that is appropriate, be equipped with appropriate fire-fighting equipment and with fire detectors and alarms; and
- (b) any non-automatic fire-fighting equipment so provided shall be easily accessible, simple to use and indicated by signs⁽¹⁹⁾,

and for the purposes of sub-paragraph (a) what is appropriate is to be determined by the dimensions and use of the building housing the workplace, the equipment it contains, the physical and chemical properties of the substances likely to be present and the maximum number of people that may be present at any one time.

(2) An employer shall, where necessary in order to safeguard the safety of his employees in case of fire—

- (a) take measures for fire-fighting in the workplace, adapted to the nature of the activities carried on there and the size of his undertaking and of the workplace concerned and taking into account persons other than his employees who may be present;

⁽¹⁶⁾ 1954 c. 70.

⁽¹⁷⁾ S.I. 1995/738.

⁽¹⁸⁾ 1994 c. 22.

⁽¹⁹⁾ See the Health and Safety (Safety Signs and Signals) Regulations 1996 (S.I. 1996/341), which impose requirements in relation to fire safety signs.

- (b) nominate employees to implement those measures and ensure that the number of such employees, their training and the equipment available to them are adequate, taking into account the size of, and the specific hazards involved in, the workplace concerned; and
- (c) arrange any necessary contacts with external emergency services, particularly as regards rescue work and fire-fighting.

Emergency routes and exits

5.—(1) Where necessary in order to safeguard the safety of employees in case of fire, routes to emergency exits from a workplace and the exits themselves shall be kept clear at all times.

(2) The following requirements must be complied with in respect of a workplace where necessary (whether due to the features of the workplace, the activity carried on there, any hazard present there or any other relevant circumstances) in order to safeguard the safety of employees in case of fire—

- (a) emergency routes and exits shall lead as directly as possible to a place of safety;
- (b) in the event of danger, it must be possible for employees to evacuate the workplace quickly and as safely as possible;
- (c) the number, distribution and dimensions of emergency routes and exits shall be adequate having regard to the use, equipment and dimensions of the workplace and the maximum number of persons that may be present there at any one time;
- (d) emergency doors shall open in the direction of escape;
- (e) sliding or revolving doors shall not be used for exits specifically intended as emergency exits;
- (f) emergency doors shall not be so locked or fastened that they cannot be easily and immediately opened by any person who may require to use them in an emergency;
- (g) emergency routes and exits must be indicated by signs⁽²⁰⁾; and
- (h) emergency routes and exits requiring illumination shall be provided with emergency lighting of adequate intensity in the case of failure of their normal lighting.

Maintenance

6. Where necessary in order to safeguard the safety of employees in case of fire, the workplace and any equipment and devices provided in respect of the workplace under regulations 4 and 5 shall be subject to a suitable system of maintenance and be maintained in an efficient state, in efficient working order and in good repair.

PART III

AMENDMENT OF THE MANAGEMENT OF HEALTH AND SAFETY AT WORK REGULATIONS 1992

Amendment of the 1992 Management Regulations: general provisions

7. Subject to regulation 9, the provisions of the 1992 Management Regulations amended by this Part of these Regulations shall continue to be regarded (if they would not otherwise continue to be so regarded) as provisions of health and safety regulations within the meaning of the 1974 Act⁽²¹⁾.

⁽²⁰⁾ See the Health and Safety (Safety Signs and Signals) Regulations 1996 (S.I. 1996/341), which impose requirements in relation to fire safety signs.

⁽²¹⁾ See section 53 of the 1974 Act.

Amendment of the 1992 Management Regulations

8.—(1) The words “and by Part II of the Fire Precautions (Workplace) Regulations 1997” shall be inserted into the following provisions of the 1992 Management Regulations, as follows—

- (a) in regulation 1(2) (interpretation), at the end of the definition of “the preventive and protective measures”;
- (b) in regulation 3 (risk assessment), at the end of paragraph (1);
- (c) in regulation 6 (health and safety assistance), at the end of paragraph (1);
- (d) in regulation 9 (co-operation and co-ordination), in paragraph (1)(a) after the words “the relevant statutory provisions”; and
- (e) in regulation 10 (persons working in host employers' undertakings), in paragraph (1)(b) after the words “the relevant statutory provisions”.

(2) In regulation 8(1) of the 1992 Management Regulations (information for employees)⁽²²⁾—

- (a) the words “and the measures referred to in regulation 4(2)(a) of the Fire Precautions (Workplace) Regulations 1997” shall be inserted at the end of sub-paragraph (c); and
- (b) the words “and regulation 4(2)(b) of the Fire Precautions (Workplace) Regulations 1997” shall be inserted at the end of sub-paragraph (d).

(3) In regulation 9 of the 1992 Management Regulations (co-operation and co-ordination), the following shall be substituted for paragraph (1)(b)—

- “(b) (taking into account the nature of his activities) take all reasonable steps to co-ordinate the measures he takes to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions and by Part II of the Fire Precautions (Workplace) Regulations 1997 with the measures the other employers concerned are taking to comply with the requirements and prohibitions imposed upon them by that legislation;”.

(4) The words “(except in so far as it refers to Part II of the Fire Precautions (Workplace) Regulations 1997)” shall be inserted after the words “Paragraph (1)” in regulations 9(2) and 10(2) of the 1992 Management Regulations.

PART IV

ENFORCEMENT AND OFFENCES

Disapplication of the 1974 Act

9.—(1) For the purposes of sections 16 to 24, 26, 28, 33 to 40, 42, 46 and 47 of the 1974 Act, the provisions of the workplace fire precautions legislation shall be deemed (to the extent they would otherwise be so regarded) not to be provisions of health and safety regulations or provisions forming part of the relevant statutory provisions.

(2) In these Regulations “the workplace fire precautions legislation” means—

- (a) Part II of these Regulations; and
- (b) regulations 1 to 4, 6 to 10 and 11(2) and (3) of the 1992 Management Regulations (as amended by Part III of these Regulations), in so far as those regulations—
 - (i) impose requirements concerning general fire precautions to be taken or observed by an employer; and

(22) As substituted by the Health and Safety (Young Persons) Regulations 1997 (S.I. 1997/135).

(ii) have effect in relation to a workplace in Great Britain other than an excepted workplace,

and for this purpose “general fire precautions” means measures which are to be taken or observed in relation to the risk to the safety of employees in case of fire in a workplace, other than any special precautions in connection with the carrying on of any manufacturing process.

(3) In this regulation “health and safety regulations” and “the relevant statutory provisions” have the meanings given to them by the 1974 Act⁽²³⁾.

Enforcement

10.—(1) It shall be the duty of every fire authority to enforce within their area the workplace fire precautions legislation.

(2) A fire authority may perform their functions under these Regulations through inspectors appointed by them pursuant to section 18(1) of the 1971 Act.

(3) Subject to paragraph (4), where such an inspector, or an officer of a fire brigade acting under section 20 of the 1971 Act as applied by regulation 17, expresses to a relevant person any opinion to the effect that that person or (as the case may be) his employer or principal is in breach of the workplace fire precautions legislation in respect of any workplace, then, if that person requests that such an opinion be put in writing, the inspector or (as the case may be) officer shall, as soon as practicable, give to that person or (where the opinion concerns his employer or principal) his employer or principal a written opinion which explains—

- (a) the breach of the workplace fire precautions legislation; and
- (b) what action could be taken to remedy it.

(4) No written opinion need be given under paragraph (3) if a written notice of intent under regulation 13(3) or 16(2), or an enforcement notice under regulation 13(1), is issued in respect of the relevant breach.

(5) For the purposes of paragraph (3), a “relevant person” is—

- (a) an employer who has, by virtue of regulation 3(1), obligations in respect of the workplace in question under Part II of these Regulations;
- (b) an employee given responsibility for fire safety matters in the workplace in question by such an employer;
- (c) a person who has, by virtue of regulation 3(2), obligations in respect of the workplace in question under Part II of these Regulations; and
- (d) any person who is an employee or agent of such a person as is referred to in sub-paragraph (c).

(6) 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 these Regulations.

(7) Nothing in this regulation shall be taken to authorise a fire authority in Scotland to institute proceedings for any offence.

Serious cases: offence

11.—(1) A person shall be guilty of an offence if—

(23) See section 53 of the 1974 Act.

(a) being under a requirement to do so, he fails to comply with any provision of the workplace fire precautions legislation;

(b) that failure places one or more employees at serious risk in case of fire; and

(c) that failure is intentional or is due to his being reckless as to whether he complies or not, and for this purpose “at serious risk” means being subject to a risk of death or serious injury which is likely to materialise.

(2) Any person guilty of an offence under this regulation shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or both.

(3) A person is not guilty of an offence under this regulation in respect of any failure to comply with the workplace fire precautions legislation which is the subject of an enforcement notice.

Serious cases: prohibition notices

12.—(1) Sections 10 to 10B of the 1971 Act⁽²⁴⁾ (special procedure in case of serious risk: prohibition notices) shall apply to—

- (a) tents and other movable structures; and
- (b) places of work in the open air,

which are relevant workplaces.

(2) For the purposes of paragraph (1), a relevant workplace is a workplace other than an excepted workplace.

Serious cases: enforcement notices

13.—(1) Where a fire authority are of the opinion that—

- (a) a person, being under an obligation to do so, has failed to comply with any provision of the workplace fire precautions legislation in respect of a workplace, or employees who work in a workplace, situated in the area for which they perform the functions of fire authority; and
- (b) the failure places one or more employees at serious risk (within the meaning of regulation 11(1)) in the case of fire,

the authority may serve on that person a notice (in these Regulations referred to as “an enforcement notice”) which—

- (i) states that they are of that opinion and why;
- (ii) specifies what steps they consider are necessary to remedy that failure;
- (iii) requires that person to take steps to remedy the failure within such period from the date of service of the notice (not being less than 21 days) as may be specified in the notice; and
- (iv) explains how, where, within what period and on what grounds an appeal may be brought against the enforcement notice and that the bringing of the appeal does not have the effect of suspending the operation of the notice, unless, on application, the court so directs.

(2) Where a fire authority are of the opinion that a person’s failure to comply with the workplace fire precautions legislation also extends to a workplace, or employees who work in a workplace, situated outside the area for which they perform the functions of fire authority, the notice served by them under paragraph (1) may include requirements concerning that workplace or those employees;

⁽²⁴⁾ Section 10 was substituted, and sections 10A and 10B inserted, by section 9 of the Fire Safety and Safety of Places of Sport Act 1987.

but before including any such requirements the authority shall consult the fire authority for the area in which the workplace is situated.

(3) Unless the risk to employees in case of fire is so serious that the service of an enforcement notice cannot be delayed, a fire authority shall, before serving an enforcement notice on a person—

- (a) give him a written notice of intent stating—
 - (i) that the authority are proposing to serve the enforcement notice and the reasons why they are proposing to serve it;
 - (ii) what steps they consider are necessary to remedy his failure to comply with the workplace fire precautions legislation;
 - (iii) (where the authority propose to serve an enforcement notice which requires any alteration to a building) whether the authority have consulted or are consulting any person under paragraph (5) and, if so, the identity of that person and the reason for the consultation; and
 - (iv) that he may, within a period specified in the notice of intent, make written representations to the authority or, if he so requests, make oral representations to a person nominated by the authority;
- (b) afford him an opportunity to make representations in accordance with the notice of intent (where he so requests making and giving effect to arrangements for him to make oral representations); and
- (c) consider any representations which are duly made and not withdrawn.

(4) Where, having considered any representations made by a person under paragraph (3), the authority decide to serve an enforcement notice on him, they shall give him a written statement of the reasons for their decision (which may be provided as part of the enforcement notice or as a separate document).

(5) Before serving an enforcement notice which would oblige a person to make an alteration to a building, the fire authority shall consult—

- (a) such persons as they would have been required to consult under section 17 of the 1971 Act (duty of fire authorities to consult other authorities before requiring alterations to buildings) if the proposed enforcement notice had been an improvement notice proposed to be issued under section 9D of that Act⁽²⁵⁾; and
- (b) any other person whose consent to the alteration would be required by or under any enactment.

(6) Where an enforcement notice has been served—

- (a) the fire authority may withdraw the notice at any time before the end of the period specified in the notice; and
- (b) if an appeal against the notice is not pending, the fire authority may extend or further extend the period specified in the notice.

(7) Where a fire authority are of the opinion that the risk to employees in case of fire is so serious that the service of an enforcement notice on a person cannot be delayed and accordingly do not serve a written notice of intent on him under paragraph (3), they shall, as soon as practicable, give to him a written statement of their reasons for being of that opinion (which may be provided as part of the enforcement notice or as a separate document).

(8) Without prejudice to the power of the court to cancel or modify an enforcement notice under regulation 14, no failure on the part of a fire authority to—

⁽²⁵⁾ Section 9D of the 1971 Act was introduced, and section 17 of that Act was amended, by section 7 of the Fire Safety and Safety of Places of Sport Act 1987; section 17 was also amended by the Health and Safety at Work etc. Act 1974, section 78.

- (a) issue a written notice of intent or receive or consider representations under paragraph (3);
 - (b) give reasons under paragraph (4) or (7);
 - (c) consult under paragraph (2) or (5); or
 - (d) give a written opinion under regulation 10(3),
- shall make an enforcement notice void.

Enforcement notices: rights of appeal

14.—(1) A person on whom an enforcement notice is served may, within 21 days from the day on which the enforcement notice is served, appeal to the court.

(2) Subject to paragraph (3), on an appeal under this regulation the court may either cancel or affirm the enforcement notice, and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.

(3) Where a fire authority have served an enforcement notice on a person without having first given him an opportunity to make representations under regulation 13(3), the court shall cancel the enforcement notice if it is of the view that—

- (a) no reasonable fire authority could have concluded that the risk to employees in case of fire was so serious that the issuing of an enforcement notice could not be delayed; and
- (b) the person on whom the notice has been served has been materially prejudiced by the failure to afford him the opportunity to make representations.

(4) Where an appeal is brought under this regulation against an enforcement notice, the bringing of the appeal shall not have the effect of suspending the operation of the notice unless, on the application of the appellant, the court so directs (and then only from the giving of the direction).

(5) In this regulation “the court” means—

- (a) in England and Wales, a magistrates' court acting for the petty sessions area in which any relevant workplace is situated; and
- (b) in Scotland, the sheriff within whose jurisdiction any relevant workplace is situated,

and for this purpose a “relevant workplace” is a workplace in respect of which the enforcement notice was served, other than a workplace covered by the notice by virtue of regulation 13(2).

(6) An appeal to the sheriff under this regulation shall be by summary application.

Enforcement notices: offence

15.—(1) It is an offence for a person to contravene any requirement imposed by an enforcement notice.

(2) Any person guilty of an offence under paragraph (1) shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or both.

(3) In any proceedings for an offence under this regulation 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 the offence.

Enforcement orders

16.—(1) Where—

- (a) it appears to a fire authority that a person has failed to comply with any requirement imposed on him by the workplace fire precautions legislation in respect of a workplace, or employees who work in a workplace, situated in the area for which they perform the functions of fire authority; and
- (b) the court is satisfied, on the application of the fire authority, that that person is obliged to take any action in order to comply with the requirement, either in respect of such a workplace or such a workplace and other workplaces,

the court may, subject to paragraph (7), order that person to take that action.

(2) Before making an application to the court under this regulation, a fire authority shall—

- (a) give the person against whom they are proposing to proceed a written notice of intent stating—
 - (i) that the authority are proposing to make the application and the reasons why they are proposing to do so;
 - (ii) what steps they consider are necessary to remedy his failure to comply with the workplace fire precautions legislation;
 - (iii) (where the authority propose to seek an enforcement order which requires any alteration to a building) whether the authority have consulted or are consulting any person under paragraph (5) and, if so, the identity of that person and the reason for the consultation; and
 - (iv) that he may, within a period specified in the notice of intent, make written representations to the authority or, if he so requests, make oral representations to a person nominated by the authority;
- (b) afford that person an opportunity to make representations in accordance with the notice of intent (where he so requests making and giving effect to arrangements for him to make oral representations); and
- (c) consider any representations which are duly made and not withdrawn.

(3) Where, having considered any representations made under paragraph (2), the authority decide to apply for an enforcement order against a person, they shall give him a written statement of the reasons for their decision.

(4) Where a fire authority have served a written notice of intent under regulation 13(3) and have received representations made in response to that notice by the person concerned but consider, in the light of those representations or for any other reason, that it is appropriate to proceed by way of an application for an enforcement order rather than by way of an enforcement notice, the authority need not serve a written notice of intent under paragraph (2).

(5) Before making any application to the court for an enforcement order which would oblige a person to make an alteration to a building, the fire authority shall consult—

- (a) such persons as they would have been required to consult under section 17 of the 1971 Act (duty of fire authorities to consult other authorities before requiring alterations to buildings) if, instead of intending to apply for an enforcement order, they had been proposing to issue an improvement notice under section 9D of that Act; and
- (b) any other person whose consent to the alteration would be required by or under any enactment.

(6) No failure on the part of a fire authority to—

- (a) issue a written notice of intent or receive or consider representations under paragraph (2);
- (b) give reasons under paragraph (3);
- (c) consult under paragraph (5); or

(d) give a written opinion under regulation 10(3), shall make an application under this regulation void.

(7) Where a fire authority have made an application to the court under this regulation without having first given the person proceeded against an opportunity to make representations, either under paragraph (2) or regulation 13(3), the court shall reject the application if it is of the view that that person has been materially prejudiced by the failure.

(8) In this regulation “the court” means:

- (a) in England and Wales, a county court; and
- (b) in Scotland, the sheriff.

(9) An application to the sheriff under this regulation shall be by summary application.

PART V

FURTHER, CONSEQUENTIAL AND MISCELLANEOUS PROVISIONS

Application of the 1971 Act

17.—(1) Subject to paragraph (3), the sections of the 1971 Act⁽²⁶⁾ listed in paragraph (2) shall have effect in relation to these Regulations as if—

- (a) the requirements of the workplace fire precautions legislation were requirements of regulations made under section 12 of that Act; and
- (b) any reference (however expressed) in those sections to—
 - (i) “premises” included a reference to a workplace, other than an excepted workplace;
 - (ii) premises to which regulations made under section 12 of that Act apply included a reference to a workplace in connection with which obligations are imposed by the workplace fire precautions legislation;
 - (iii) an “owner” or “occupier” of premises included a reference to an employer or other person on whom obligations are imposed under the workplace fire precautions legislation in respect of a workplace; and
 - (iv) the 1971 Act included a reference to the workplace fire precautions legislation.

(2) The sections of the 1971 Act referred to in paragraph (1) are—

16	(duty of local authority to consult fire authority in certain cases before passing plans);
19	(powers of inspectors);
20	(exercise on behalf of fire inspectors of their powers by officers of fire brigades);
21	(restrictions on disclosure of information);
22(1)	(falsification of documents, false statements etc.);
23	(offences by bodies corporate);

⁽²⁶⁾ As amended in relevant respects by the Fire Safety and Safety of Places of Sport Act 1987 (in the case of sections 21, 22 and 27A); the Criminal Justice Act 1982 (c. 48) (in the case of section 21); the Magistrates' Courts Act 1980 (c. 43) (in the case of section 26); and the Building Act 1984 (c. 55) (in the case of section 30).

25	(defence available to persons charged with offences);
26	(appeals to magistrates' courts);
27	(appeal from order made on complaint);
27A	(civil and other liability);
30	(provisions as to sections 59 and 60 of Public Health Act 1936 and certain similar enactments);
32	(provision for securing exercise of local Act powers in conformity with the 1971 Act);
38	(service of documents); and
43	(interpretation).

(3) The following sections of the 1971 Act referred to in paragraph (2) shall have effect for the purposes of these Regulations with the following modifications—

- (a) section 16 shall have effect as if the references therein to “a designated use” included a reference to use as a workplace to which Part II of these Regulations applies;
- (b) section 22(1) shall have effect as if paragraphs (a) and (b) were omitted;
- (c) section 25 shall only have effect in connection with sections 21 and 22(1) of the 1971 Act as applied by this regulation; and
- (d) section 43 shall have effect only for the purposes of the provisions of the 1971 Act applied by this regulation.

(4) A fire certificate deemed to have been issued under the 1971 Act by virtue of paragraph 2 of Schedule 8 to the 1974 Act shall not have effect to the extent that it would require a person to contravene any provision of the workplace fire precautions legislation; and the fire authority may amend the certificate to the extent necessary to prevent the certificate requiring such contravention.

(5) Where an amendment under paragraph (4) is made on the application of any person affected by the certificate and is confined to requirements of the kind referred to in section 6(1) of the 1971 Act, the applicant shall pay to the authority such fee as the authority may determine, not exceeding an amount which represents the cost to the authority of the work reasonably done by them for the purposes of the amendment of the certificate (other than the cost of any inspection of the premises).

Application to the Crown

18.—(1) Subject to paragraphs (2) to (7), these Regulations, other than regulations 10, 11 and 13 to 16, shall bind the Crown.

(2) Section 10 of the 1971 Act, to the extent it is extended by regulation 12, shall only bind the Crown in so far as it applies to premises and workplaces owned by the Crown but not occupied by it.

(3) Regulation 17 shall only bind the Crown to the extent that it applies sections 19, 21 and 32 of the 1971 Act and then only in so far as those sections apply to premises and workplaces owned by the Crown but not occupied by it.

(4) To the extent that they apply to the Crown, these Regulations, together with any provision of the 1971 Act applied by these Regulations, shall have effect with the substitution, for any reference to a fire authority, of—

- (a) in the case of workplaces occupied solely for the purposes of the armed forces of the Crown, a reference to the fire service maintained by the Secretary of State for Defence; and

(b) in any other case, a reference to a fire inspector or any person authorised by the Secretary of State to act for the purposes of this regulation.

(5) Any power exercisable by virtue of paragraph (4) by a fire inspector shall be exercisable also by any person 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 paragraph except with the consent of the fire authority who maintain that brigade.

(6) In this regulation “fire inspector” means an inspector or assistant inspector appointed under section 24 of the Fire Services Act 1947.

(7) Nothing in these Regulations shall be taken to authorise the entry of any premises occupied by the Crown.

Application to visiting forces, etc.

19.—(1) These Regulations shall apply to a visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(27)—

- (a) only to the extent that they apply to the Crown; and
- (b) with the substitution, for any reference in these Regulations (and in any provision of the 1971 Act applied by these Regulations) to a fire authority, of a reference to the fire service maintained by the Secretary of State for Defence.

(2) In paragraph (1) “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(28).

Application to premises occupied by the UK Atomic Energy Authority

20. Regulation 10 and section 30 of the 1971 Act as applied by regulation 17 shall not apply to any workplace over which the United Kingdom Atomic Energy Authority has control; and in the application of the remaining provisions of these Regulations to such a workplace—

- (a) for any reference to a fire authority in these Regulations (and in any provision of the 1971 Act applied by these Regulations) there shall be substituted a reference to a fire inspector (within the meaning of regulation 18(6)) or any person authorised by the Secretary of State to act for the purposes of this regulation; and
- (b) for the reference in section 20(1) of the 1971 Act as applied by regulation 17 to an officer of the fire brigade maintained by the fire authority there shall be substituted a reference to any person.

Employee consultation

21.—(1) The Safety Representatives and Safety Committees Regulations 1977(29) shall be amended by the insertion of the words “or regulation 4(2)(b) of the Fire Precautions (Workplace) Regulations 1997” at the end of regulation 4A(1)(b).

(2) The Health and Safety (Consultation with Employees) Regulations 1996(30) shall be amended by the insertion of the words “or regulation 4(2)(b) of the Fire Precautions (Workplace) Regulations 1997” at the end of regulation 3(b).

(27) 1964 c. 5.

(28) 1952 c. 67.

(29) S.I. 1977/500; regulation 4A was inserted by regulation 17 of, and the Schedule to, the 1992 Management Regulations, S.I. 1992/2051.

(30) S.I. 1996/1513.

(3) The provisions of the Safety Representatives and Safety Committees Regulations 1977 amended by this regulation shall continue to be regarded (to the extent that they would otherwise be so regarded) as provisions of health and safety regulations within the meaning of the 1974 Act.

Disapplication of section 9A of the 1971 Act

22. In section 9A of the 1971 Act (duty as to means of escape and for fighting fire) there shall be inserted, at the end of subsection (2), the words “but this section does not apply where Part II of the Fire Precautions (Workplace) Regulations 1997 applies”.

Home Office
28th July 1997

George Howarth
Parliamentary Under-Secretary of State

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations (“the Regulations”) give effect in Great Britain to:

- (a) article 8(1) and (2) of Council Directive [89/391/EEC](#) on the introduction of measures to encourage improvements in the safety and health of workers at work (OJNo. L 183, 29.6.89, p. 1) (“the Framework Directive”); and
- (b) article 6 of, together with paragraphs 4 and 5 of each of the annexes to, Council Directive [89/654/EEC](#) concerning the minimum safety and health requirements for the workplace (OJ No. L 393, 30.12.89, p. 1) (“the Workplace Directive”),

in so far as those provisions relate to fire precautions and in so far as more specific legislation does not make appropriate provision. In this note, those provisions, in so far as they relate to fire precautions, are referred to as “the substantive provisions”.

The Regulations also give effect to certain other articles of the Framework Directive, in so far as they concern the substantive provisions (including article 10(1) and (2) of that Directive).

Part I

Part I of the Regulations makes preliminary provision.

Regulation 2 provides for the interpretation of the Regulations.

Part II

Part II of the Regulations sets out the requirements of the substantive provisions.

Regulation 3 provides that Part II applies to—

- (a) an employer, in respect of every workplace, other than an excepted workplace, to the extent it is under his control; and
- (b) every person who has control of a workplace, other than an excepted workplace, to the extent of his control.

The excepted workplaces are listed in regulation 3(5) and comprise workplaces for which more specific fire safety requirements exist or which are excluded from the Directives.

Regulation 4 makes provision for fire-fighting and fire detection (implementing paragraph 5 of each of the annexes to the Workplace Directive and article 8(1) and (2) of the Framework Directive (in so far as they relate to fire precautions)).

Regulation 5 makes provision for emergency routes and exits in case of fire (implementing the first indent of article 6 of, and paragraph 4 of each of the annexes to, the Workplace Directive (in so far as they relate to fire precautions)).

Regulation 6 makes provision for maintenance of the workplace and safety devices (implementing the second and fourth indents of article 6 of the Workplace Directive (in so far as they relate to fire precautions)).

Part III

Part III of the Regulations amends the Management of Health and Safety at Work Regulations 1992 (S.I.1992/2051) so as to extend certain of their requirements to encompass Part II of the Regulations.

The Management of Health and Safety at Work Regulations 1992 implement, for Great Britain, much of the Framework Directive. The following provisions of those Regulations, which derive from provisions of the Framework Directive which are ancillary to the substantive provisions, are extended directly, or (through an amendment to a definition) indirectly, so as to encompass Part II of the Regulations: regulations 3 (risk assessment), 4 (health and safety arrangements), 6 (health and safety assistance), 8 (information for employees), 9 (co-operation and co-ordination) and 10 (persons working in host employers' undertakings).

Part IV

Part IV of the Regulations makes provision for enforcement and offences.

Under regulation 10 fire authorities are given responsibility not only for enforcing the provisions of Part II of the Regulations but also a number of provisions of the Management of Health and Safety at Work Regulations 1992 so far as they extend to general fire precautions (as defined) in non-excepted workplaces. Together these provisions are referred to in the Regulations as “the workplace fire precautions legislation”. The relevant provisions of the Management of Health and Safety at Work Regulations 1992 not only include those amended by Part III of the Regulations but also certain other provisions which extend to general fire precautions and implement provisions of the Framework Directive, namely regulations 7 (procedures for serious and imminent danger and for danger areas) and 11(2) and (3) (training). Regulation 9 disapples the enforcement regime of the Health and Safety at Work etc. Act 1974 from these provisions of the Management of Health and Safety at Work Regulations 1992, to the extent fire authorities are given responsibility for them under the present Regulations.

Part IV distinguishes between serious breaches of the workplace fire precautions legislation and other breaches. Regulation 11 makes an intentional or reckless serious breach of that legislation a criminal offence. Regulation 13 enables a fire authority to issue enforcement notices in respect of serious breaches; regulation 14 provides for appeals against such enforcement notices; and regulation 15 makes breach of an enforcement notice a criminal offence. In the case of any breach (whether serious or not), regulation 16 enables a fire authority to apply to a court for an order requiring an employer to remedy the breach.

Regulation 12 extends section 10 of the Fire Precautions Act 1971—which presently enables a fire authority to serve a prohibition notice to immediately close down an unsafe building or part of a building used as a place of work—to allow such notices to be issued in respect of places of work in movable structures and in the open air.

Part V

Part V of the Regulations makes further, consequential and miscellaneous provision.

Regulation 17 makes further and miscellaneous provision by applying a number of sections of the Fire Precautions Act 1971 for the purposes of the Regulations. These include: sections 21 and 22 (which create offences respectively of unauthorised disclosure of information and the making of false statements); and section 19 (conferring powers on inspectors).

Regulations 18, 19 and 20 make special provision for the application of the Regulations respectively to the Crown; to visiting forces, etc.; and to premises occupied by the UK Atomic Energy Authority. Regulation 21 amends two sets of Regulations dealing with employee consultation so as to extend them to cover certain requirements of Part II of the Regulations. Regulation 22 makes a consequential amendment to section 9A of the Fire Precautions Act 1971, so as to disapply it where Part II of the Regulations applies.

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