

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Domestic Fire Safety (Wales) Measure 2011, Cross Heading: Alteration of offending work. (See end of Document for details)*

PROSPECTIVE

## SCHEDULE 1

### ENFORCEMENT

#### *Alteration of offending work*

- 3 (1) If any building work to which this Measure applies fails, at the time specified by section 1(1), to comply with the requirements of section 1(4), the local authority, without prejudice to its right to take proceedings for a fine in respect of the contravention, may, if the failure to comply with those requirements continues, by notice require the owner to effect such alterations to the work as may be necessary to make it comply with those requirements.
- (2) If any building work to which this Measure applies is carried out—
- (a) without the information required by section 3(1) having been given, or
  - (b) notwithstanding the fact that the local authority has given notice under section 3(3), which notice continues in effect,
- the authority may by notice to the owner require the owner to comply with any requirements specified in the notice, being requirements necessary to ensure that the work complies with the requirements of section 1(4).
- (3) If a person to whom a notice has been given under sub-paragraph (1) or (2) above fails to comply with the notice before the expiration of 28 days, or such longer period as a magistrates' court may, on an appeal by that person under paragraph 5, allow, the local authority may effect such alterations to the work as it deems necessary to ensure that it complies with the requirements of section 1(4) and may recover from that person the expenses reasonably incurred by the authority in doing so.
- (4) A notice under sub-paragraph (1) or (2) above (called a “paragraph 3 notice”)—
- (a) must be in such form, and must contain such information, as may be prescribed,
  - (b) must state that the person to whom it is given may, within the time fixed by paragraph 9, appeal against the notice to the magistrates' court under paragraph 5, and
  - (c) may not be given after the expiration of 12 months from the date of the completion of the work in question.
- (5) A paragraph 3 notice may not be given, in a case where the information required by section 3(1) was given to the authority and the work was carried out in accordance with that information, on the ground that the work contravenes the requirements of section 1(4), unless the authority gave notice under section 3(3) within the relevant period.
- (6) This paragraph does not affect the right of a local authority, the Welsh Ministers or any other person to apply for an injunction for the alteration of any work on the ground that it fails to comply with the requirements of section 1(4), but if—
- (a) information in respect of the work was provided to the local authority in accordance with section 3(1),

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(b) the authority did not give notice under section 3(3) within the relevant period,  
and

(c) the work has been carried out in accordance with that information,  
the court on granting an injunction has power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court must in accordance with rules of court cause the local authority, if not a party to the proceedings, to be joined as a party to them.

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