

EXECUTIVE NOTE

DRAFT: The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (“the draft Order”) SSI/2006/

Introduction

1. The draft order is to be made in exercise of the powers conferred by section 87 of the Fire (Scotland) Act 2005 (“the 2005 Act”). It is subject to affirmative resolution procedure under s88(4)(b) of the 2005 Act.

Policy Objectives

2. The policy objective of the order is to make the necessary consequential amendments and repeals to primary legislation considered appropriate in consequence of Part 3 of the 2005 Act.

Background

3. Schedule 1 of the draft order sets out a number of minor and consequential amendments to primary legislation and schedule 2 repeals enactments to the extent specified therein. The modifications and amendments that the order makes require to come into force at the same time as Part 3 of the 2005 Act, which is intended to come into force on 1st October. Section 87 of the Fire (Scotland) Act 2005 (“the 2005 Act”) enables Scottish Ministers to make by order such incidental, supplementary, consequential, transitory, transitional or saving provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, the 2005 Act or any provision of it. Such an order may modify any enactment, instrument, or document.

4. The 2005 Act was passed on 23 February and Royal Assent gained on 1 April 2005. The main provisions of the Act (Parts 1, 2, 4 and 5 and schedules 1, 3 and 4) have already commenced, with the provisions in Part 3 and schedule 2, which relate to fire safety, being the only provisions still to be commenced.

5. Part 3 of the 2005 Act introduces a new fire safety regime for non-domestic premises and licensed houses in multiple occupation in Scotland. The new regime is based on the principles of risk assessment (similar to some existing fire safety legislation).

6. The changes detailed in the draft Order include repeals to current fire safety legislation (primarily The Fire Precautions Act 1971) and references to it in UK and Scottish primary legislation. The order also sets out changes to terminology currently used within UK and Scottish legislation, to reflect Part 3 of the 2005 Act. Current legislation refers to the fire and rescue authorities/joint fire and rescue boards (sometimes known as “relevant authorities”) which requires to be changed to reflect that enforcement of Part 3 of the 2005 Act in some premises is not the responsibility of the local fire and rescue authority/joint fire and rescue board. Section 61(9) of the 2005 Act lists the other enforcing authorities (the Health and Safety Executive, the Defence Fire Service, or the local authority) and the premises for which they have responsibility for enforcing duties under Part 3 of the 2005 Act.

Consultation

7. The relevant policy leads in the Scottish Executive and the relevant Whitehall Departments have been consulted in respect of their interests.

Financial Effects

8. It is not anticipated that there will be any financial implications for the Scottish Executive, fire and rescue authorities or joint fire and rescue boards.

Scottish Executive
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