
STATUTORY INSTRUMENTS

1997 No. 1840

The Fire Precautions (Workplace) Regulations 1997

PART IV

ENFORCEMENT AND OFFENCES

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; 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⁽¹⁾; 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—
- (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.

(1) 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.