
STATUTORY INSTRUMENTS

1997 No. 1840

The Fire Precautions (Workplace) Regulations 1997

PART IV

ENFORCEMENT AND OFFENCES

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- (c) consider any representations which are duly made and not withdrawn.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.