

Fire Safety in Scotland

DRAFT REGULATIONS



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SCOTTISH EXECUTIVE

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SCOTTISH STATUTORY INSTRUMENTS

2005 No.

HEALTH AND SAFETY

FIRE SAFETY

The Fire Safety (Scotland) Regulations 2006

<i>Made</i> - - - -	2005
<i>Laid before the Scottish Parliament</i>	2005
<i>Coming into force</i> - -	2006

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The Scottish Ministers, in exercise of the powers conferred by sections 57, 58, 59(2), 61(8), 75(b), 76(6), 87(1) and 88(2) of the Fire (Scotland) Act 2005(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Fire Safety (Scotland) Regulations 2006 and shall come into force on 2006.

Interpretation

- 2.—(1) In these Regulations—

“the 2005 Act” means the Fire (Scotland) Act 2005;

“child” means a person who is not over school age, to be construed in accordance with section 31 of the Education (Scotland) Act 1980(b);

“competent” means that the person has sufficient training and experience or knowledge and other qualities to enable that person—

- (a) in relation to regulation 9(3)(b), properly to implement the measures referred to in that regulation;
- (b) in relation to regulation 11(1)(b), properly to implement the evacuation procedures referred to in that regulation; and
- (c) in relation to regulation 13(1), properly to assist in undertaking the fire safety measures;

“risk” means the risk to the safety of relevant persons from fire; and

“young person” means any person who has not attained the age of 18.

- (2) In these Regulations, any reference to a numbered section is, unless otherwise expressly provided, a reference to a section bearing that number in the 2005 Act.

- (3) In these Regulations, any reference to a numbered regulation is, unless otherwise expressly provided, a reference to a regulation bearing that number in these Regulations.

(a) 2005 asp 5.
(b) 1980 c.44.

PART II

ASSESSMENTS

Duty to review

3.—(1) A review of an assessment under section 53 or 54 must be carried out regularly so as to keep it up to date.

(2) A review of an assessment under section 53 or 54 must be carried out if—

- (a) there is reason to suspect that it is no longer valid; or
- (b) there has been a significant change in the matters to which it relates including when the relevant premises or organisation of the work undergo significant changes or extensions.

Duty in respect of young persons

4. An employer must not employ a young person unless he or she has, in relation to risks to young persons, carried out or reviewed an assessment in accordance with his or her duties under section 53 or 54 and these Regulations.

Assessment and review duty in respect of young persons

5. In carrying out or reviewing an assessment under section 53 an employer, before employing a young person, must take particular account of the following:—

- (a) the inexperience, lack of awareness of risks and immaturity of young persons;
- (b) the fitting-out and layout of the relevant premises;
- (c) the nature, degree and duration of exposure to physical and chemical agents;
- (d) the form, range, and use of work equipment, and the way in which it is handled;
- (e) the organisation of processes and activities;
- (f) the extent of the safety training provided or to be provided to young persons; and
- (g) risks from agents, processes and work listed in the Annex to Council Directive 94/33/EC^(a) on the protection of young people at work.

Duty to record information

6. As soon as practicable after an assessment has been carried out or reviewed, the person with duties under section 53 or 54 must record the information specified by regulation 7 where—

- (a) he or she employs five or more employees;
- (b) a licence, certification or registration under an enactment is required in relation to the relevant premises; or
- (c) an alterations notice requiring this by virtue of section 65(6)(a) is in force in relation to the relevant premises.

Specified information

7. The specified information is—

- (a) the significant findings of the assessment, including the measures which have been or will be taken by the person having duties under section 53 or 54 pursuant to the 2005 Act and these Regulations; and
- (b) any group of relevant persons identified by the assessment as being especially at risk.

(a) O.J. No L 216, 20.8.94, p.12.

PART III FIRE SAFETY

Fire safety arrangements

8.—(1) In carrying out duties to which a person is subject by virtue of section 53(2)(b), 53(3)(b), 54(2)(b) or 54(5)(b), a person must make and give effect to such arrangements as are appropriate, having regard to the size of his or her undertaking and the nature of its activities, for the effective planning, organisation, control, monitoring and review of the fire safety measures, as defined in schedule 2 to the 2005 Act.

- (2) That person must record the arrangements referred to in paragraph (1) where—
- (a) he or she employs five or more employees;
 - (b) a licence, certification or registration under an enactment is required in relation to the relevant premises; or
 - (c) an alterations notice requiring this by virtue of section 65(6)(b) is in force in relation to the relevant premises.

Means for fighting fire and means for giving warning in the event of fire

9.—(1) Where necessary (whether due to the features of the relevant premises, the activity carried on there, any hazard present or any other relevant circumstances) in order to ensure the safety of relevant persons in respect of harm caused by fire, a person with duties under section 53 or 54 must ensure that—

- (a) the relevant premises are, to the extent that it is appropriate, equipped with appropriate means for fighting fire and means for giving warning in the event of fire; and
- (b) any non-automatic fire-fighting equipment so provided is easily accessible, simple to use and indicated by signs.

(2) For the purposes of paragraph (1), what is appropriate is to be determined having regard to the dimensions and use of the relevant premises, the equipment contained in the relevant premises, the physical and chemical properties of the substances likely to be present and the maximum number of persons who may be present at any one time.

- (3) The person with duties under section 53 or 54 must, where necessary—
- (a) take measures for fighting fire in the relevant premises, adapted to the nature of the activities carried on there and the size of the undertaking and of the relevant premises concerned;
 - (b) nominate competent persons to implement those measures and ensure that the number of such persons, their training and the equipment available to them are adequate, taking into account the size of, and the specific hazards involved in, the relevant premises concerned; and
 - (c) arrange any necessary contacts with external emergency services, particularly as regards fire-fighting, rescue work, first-aid and emergency medical care.

Means of escape

10.—(1) Where necessary in order to ensure the safety of relevant persons in respect of harm caused by fire, the person with duties under section 53 or 54 must ensure that routes to emergency exits from relevant premises and the exits themselves are kept free from obstruction at all times.

(2) The following requirements must be complied with in respect of relevant premises where necessary (whether due to the features of the relevant premises, the activity carried on there, any hazard present or any other relevant circumstances) in order to ensure the safety of relevant persons in respect of harm caused by fire:—

- (a) emergency routes and exits must lead as directly as possible to a safe area beyond the relevant premises;
- (b) in the event of danger, it must be possible for persons to evacuate the relevant premises as quickly and as safely as possible;
- (c) the number, distribution and dimensions of emergency routes and exits must be adequate having regard to the use, equipment and dimensions of the relevant premises and the maximum number of persons who may be present there at any one time;
- (d) doors on the emergency route must open in the direction of escape;
- (e) sliding or revolving doors must not be used for exits specifically intended as emergency exits;
- (f) doors on the emergency route must 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; and
- (h) emergency routes and exits requiring illumination must be provided with emergency lighting of adequate intensity in the case of failure of their normal lighting.

Procedures for serious and imminent danger and for danger areas

11.—(1) A person with duties under section 53 or 54 must—

- (a) establish and, where necessary, give effect to appropriate procedures, including safety drills, to be followed in the event of serious and imminent danger to relevant persons;
- (b) nominate a sufficient number of competent persons to implement those procedures in so far as they relate to the evacuation of relevant persons from the relevant premises; and
- (c) ensure that no relevant person has access to any area to which it is necessary to restrict access on grounds of safety in respect of harm caused by fire, unless the person concerned has received adequate safety instruction.

(2) Without prejudice to the generality of paragraph (1)(a), the procedures referred to in that sub-paragraph must—

- (a) so far as is practicable, require any relevant persons who are exposed to serious and imminent danger to be informed of the nature of the hazard and of the steps taken or to be taken to protect them from it;
- (b) enable the relevant persons concerned (if necessary by taking appropriate steps in the absence of guidance or instruction and in the light of their knowledge and the technical means at their disposal) to stop work and immediately proceed to a safe area beyond the relevant premises in the event of their being exposed to serious, imminent and unavoidable danger; and
- (c) save in exceptional cases for reasons duly substantiated (which cases and reasons must be specified in those procedures), require the relevant persons concerned to be prevented from resuming work in any situation where there is still a serious and imminent danger.

Maintenance

12.—(1) Where necessary in order to ensure the safety of relevant persons in respect of harm caused by fire the person with duties under section 53 or 54 must ensure that the relevant premises and any facilities, equipment and devices provided in respect of the relevant premises under these Regulations or, subject to paragraph (5), under any other enactment, including any enactment repealed or revoked by the 2005 Act or by virtue of that Act, are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair.

(2) Where the relevant premises form part of a building, the person with duties under section 53 or 54 may make arrangements with the occupier of any premises forming part of the building for the purpose of ensuring that the requirements of paragraph (1) are met.

(3) Paragraph (2) applies even if the other premises are not relevant premises.

(4) Where the occupier of the other premises is not also the owner of those premises, the reference to the occupier in paragraph (2) is taken to be a reference to both the occupier and the owner.

(5) Paragraph (1) only applies to facilities, equipment and devices provided under other enactments where they are provided in connection with fire safety measures.

Safety assistance

13.—(1) The person with duties under section 53 or 54 must, subject to paragraphs (5) and (6), nominate one or more competent persons to assist him or her in undertaking the fire safety measures.

(2) Where the person with duties under section 53 or 54 nominates persons in accordance with paragraph (1), he or she must make arrangements for ensuring adequate co-operation between them.

(3) The person with duties under section 53 or 54 must ensure that the number of persons nominated under paragraph (1), the time available for them to fulfil their functions and the means at their disposal are adequate having regard to the size of the premises, the risks to which relevant persons are exposed and the distribution of those risks throughout the relevant premises.

(4) The person with duties under section 53 or 54 must ensure that—

- (a) any person nominated by him or her in accordance with paragraph (1) who is not in his or her employment is informed of the factors known by him or her to affect, or suspected by him or her of affecting, the safety in respect of harm caused by fire of any other person who may be affected by the carrying on by him or her (whether for profit or not) of an undertaking; and
- (b) any person nominated by him or her in accordance with paragraph (1) is given such information about any person working in his or her undertaking who is—
 - (i) employed by him or her under a fixed-term contract of employment, or
 - (ii) employed in an employment business,

as is necessary to enable that person properly to carry out the function specified in that paragraph.

(5) Paragraph (1) does not apply to a self-employed employer who is not in partnership with any other person, where he or she has sufficient training and experience or knowledge and other qualities properly to assist in undertaking the fire safety measures.

(6) Paragraph (1) does not apply to individuals who are employers and who are together carrying on business in partnership, where at least one of the individuals concerned has sufficient training and experience or knowledge and other qualities—

- (a) properly to undertake the fire safety measures; and
- (b) properly to assist his or her fellow partners in undertaking those measures.

(7) Where there is a competent person in the employment of a person with duties under section 53 or 54, that competent person must be nominated for the purposes of paragraph (1) in preference to a competent person not in his or her employment.

Provision of information to employees

14.—(1) An employer must provide his or her employees with comprehensible and relevant information on—

- (a) the risks to them identified by the assessment carried out or reviewed under section 53 and these Regulations;
- (b) the fire safety measures taken in accordance with section 53(2)(b) or section 53(3)(b);
- (c) the procedures referred to in regulation 11(1)(a);
- (d) the identities of those persons nominated by him or her in accordance with regulation 9(3)(b) or nominated in accordance with regulation 11(1)(b); and

(e) the risks notified to him or her in accordance with regulation 17(c).

(2) An employer must, before employing a child, provide a parent of the child with comprehensible and relevant information on–

- (a) the risks to that child identified by the assessment carried out or reviewed under section 53 and these Regulations;
- (b) the fire safety measures taken in accordance with section 53(2)(b) or section 53(3)(b); and
- (c) the risks notified to him or her in accordance with regulation 17(c),

and for the purposes of this paragraph, “parent of the child” includes a person with parental responsibilities, within the meaning of section 1(3) of the Children (Scotland) Act 1995(a), in relation to the child.

Provision of information to employers and the self-employed from outside undertakings

15.—(1) A person with duties under section 53 or 54 must ensure that the employer of any employees from an outside undertaking who are working in the relevant premises is provided with comprehensible and relevant information on–

- (a) the risks to those employees; and
- (b) the fire safety measures taken by the person with duties under section 53 or 54.

(2) A person with duties under section 53 or 54 must ensure that any person working in his or her undertaking who is not his or her employee is provided with appropriate instructions and comprehensible and relevant information regarding any risks to that person.

(3) A person with duties under section 53 or 54 must–

- (a) ensure that the employer of any employees from an outside undertaking who are working in the relevant premises is provided with sufficient information to enable that employer to identify any person nominated by the person with duties under section 53 or 54 in accordance with regulation 11(1)(b) to implement evacuation procedures as far as those employees are concerned; and
- (b) take all reasonable steps to ensure that any person from an outside undertaking who is working in the relevant premises receives sufficient information to enable that person to identify any person nominated by the person with duties under section 53 or 54 in accordance with regulation 11(1)(b) to implement evacuation procedures as far as they are concerned.

Training

16.—(1) An employer with duties under section 53 must ensure that his or her employees are provided with adequate safety training in respect of harm caused by fire–

- (a) at the time when they are first employed; and
- (b) on their being exposed to new or increased risks because of–
 - (i) their being transferred or given a change of responsibilities within the employer’s undertaking;
 - (ii) the introduction of new work equipment into, or a change respecting work equipment already in use within, the employer’s undertaking;
 - (iii) the introduction of new technology into the employer’s undertaking; or
 - (iv) the introduction of a new system of work into, or a change respecting a system of work already in use within, the employer’s undertaking.

(2) The training referred to in paragraph (1) must–

(a) 1995 c.36.

- (a) include suitable and sufficient instruction and training on the appropriate precautions and actions to be taken by the employee in order to safeguard himself or herself and other relevant persons on the premises;
- (b) be repeated periodically where appropriate;
- (c) be adapted to take account of any new or changed risks to the safety in respect of harm caused by fire of the employees concerned;
- (d) be provided in a manner appropriate to the risk identified by the assessment carried out or reviewed under section 53; and
- (e) take place during working hours.

Co-operation and co-ordination

17. Where two or more persons with duties under section 53 or 54 share, or have duties in respect of, relevant premises (whether on a temporary or a permanent basis) each such person must–

- (a) co-operate with the other persons concerned so far as is necessary to enable them to comply with the requirements and prohibitions imposed on them by or under these Regulations and the 2005 Act;
- (b) (taking into account the nature of his or her activities) take all reasonable steps to co-ordinate the measures he or she takes to comply with the requirements and prohibitions imposed on him or her by or under these Regulations and the 2005 Act with the measures the other persons are taking to comply with the requirements and prohibitions imposed on them by or under these Regulations and the 2005 Act; and
- (c) take all reasonable steps to inform the other persons with duties under section 53 or 54 concerned of the risks to relevant persons arising out of or in connection with the conduct by him or her of his or her undertaking.

Duties of employees

18. Each employee must, while at work, inform his or her employer or any other employee with specific responsibility for the safety in respect of harm caused by fire of his or her fellow employees–

- (a) of any work situation which a person with the first-mentioned employee's training and instruction would reasonably consider represented a serious and immediate danger to safety in respect of harm caused by fire; and
- (b) of any matter which a person with the first-mentioned employee's training and instruction would reasonably consider represented a shortcoming in the employer's protection arrangements for safety in respect of harm caused by fire,

in so far as that situation or matter either affects the safety in respect of harm caused by fire of that first-mentioned employee or arises out of or in connection with his or her own activities at work, and has not previously been reported to his or her employer or to any other employee of that employer in accordance with this regulation.

PART IV MISCELLANEOUS

Maintenance of measures provided in relevant premises for protection of fire-fighters

19.—(1) Where necessary in order to secure the safety of fire-fighters (whether employees of relevant authorities or otherwise) in the event of a fire in relevant premises, the person with duties under section 53 or 54 must ensure that the relevant premises and any facilities, equipment and devices provided in respect of the relevant premises for the use by or protection of fire-fighters

under these Regulations, the 2005 Act or under any other enactment, including any enactment repealed or revoked by the 2005 Act or by virtue of that Act, are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair.

(2) Where the relevant premises form part of a building, the person with duties under section 53 or 54 may make arrangements with the occupier of any premises forming part of the building for the purpose of ensuring that the requirements of paragraph (1) are met.

(3) Paragraph (2) applies even if the other premises are not relevant premises.

(4) Where the occupier of the other premises is not also the owner of those premises, the reference to the occupier in paragraph (2) is taken to be a reference to both the occupier and the owner.

Maintenance of measures provided in the common areas of private dwellings for protection of fire-fighters

20.—(1) The safeguarding provision at regulation 19 shall apply to the common areas of private dwellings, as if they were relevant premises, with the modifications specified in paragraph (2).

(2) The duty imposed by paragraph (1) shall apply to—

- (a) a person who has control to any extent of the common areas of private dwellings, to that extent; and
- (b) if a person falls within sub-paragraph (a) other than by virtue of—
 - (i) having control to any extent of the common areas of private dwellings in connection with the carrying on by the person (whether for profit or not) of an undertaking; or
 - (ii) owning the common areas of private dwellings,

the person or persons who own the common areas of private dwellings shall also comply with the duty.

(3) For the purposes of this regulation—

- (a) the references to relevant premises in section 61(9)(zb), (b) and (c), 62, 64, 77 and 77A shall be taken to include the common areas of private dwellings; and
- (b) the references to Chapter 1 duties in section 60(1) and (3), 61(1) and (9)(b), 62(2)(c), (4)(a), (6) and (7), 64(1), (2)(a), (3)(b) and (10) and 67(1)(a) shall be taken to include the application in paragraph (1) of the safeguarding provision to the common areas of private dwellings.

Arrangements with the Office of Rail Regulation

21. The Office of Rail Regulation is prescribed for the purposes of section 61(8).

Nominated person's act or omission not to afford employer defence

22.—(1) Persons of a description specified in paragraph (2), on whom duties have been imposed by virtue of section 58(1), are specified for the purposes of section 75(b).

(2) The persons are competent persons nominated under—

- (a) regulation 9(3)(b);
- (b) regulation 11(1)(b); and
- (c) regulation 13(1).

Service of documents: further provision

23.—(1) Without prejudice to section 76 or any other provision of this regulation, any document required or authorised to be served on a person with duties under section 53 or 54 in respect of any relevant premises (whether a body corporate or not) by virtue of Part 3 of the 2005 Act may be served by sending it by post to that person at those premises, or by addressing it by name to the

person on whom it is to be served and delivering it to some responsible individual who is or appears to be resident or employed in the relevant premises.

(2) If the name or the address of the person with duties under section 53 or 54 on whom any such document is to be served cannot after reasonable inquiry be ascertained by the person seeking to serve it, the document may be served by addressing it to the person on whom it is to be served by the description of “person with Chapter 1 duties” for the relevant premises (describing them) to which the document relates, and by delivering it to some responsible individual resident or appearing to be resident in the relevant premises or, if there is no such person to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the relevant premises.

(3) Any document required or authorised to be served on the person with duties under section 53 or 54 or enforcing authority may be transmitted to that person or authority—

- (a) by means of an electronic communications network (within the meaning given by section 32 of the Communications Act 2003^(a)); or
- (b) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.

(4) Where the recipient of the transmission is the person with duties under section 53 or 54, the transmission has effect as a delivery of the document to that person only if that person has indicated to the enforcing authority on whose behalf the transmission is made his or her willingness to receive a document transmitted in the form and manner used.

(5) An indication to an enforcing authority for the purposes of paragraph (4)—

- (a) must be given to the authority in any manner it requires;
- (b) may be a general indication or one that is limited to documents of a particular description;
- (c) must state the address to be used and must be accompanied by any other information which the authority requires for the making of the transmission;
- (d) may be modified or withdrawn at any time by a notification given to the authority in any manner it requires.

(6) Where the recipient of the transmission is the enforcing authority, the transmission has effect as a delivery of the document only if the enforcing authority has indicated its willingness to receive a document transmitted in the form and manner used.

(7) An indication for the purposes of paragraph (6)—

- (a) may be given in any manner the enforcing authority thinks fit;
- (b) may be a general indication or one that is limited to documents of a particular description;
- (c) must state the address to be used and must be accompanied by any other information which the person with duties under section 53 or 54 requires for the making of the transmission;
- (d) may be modified or withdrawn at any time in any manner the enforcing authority thinks fit.

(8) If the making or receipt of the transmission has been recorded in the computer system of the enforcing authority, it must be presumed, unless the contrary is proved, that the transmission—

- (a) was made to the person recorded in that system as receiving it;
- (b) was made at the time recorded in that system as the time of delivery;
- (c) contained the information recorded on that system in respect of it.

(9) For the purposes of this regulation, “transmission” means the transmission referred to in paragraph (3).

(a) 2003 c.21.

Disapplication of certain provisions

24.—(1) Regulations 4, 5 and 14(2) do not apply in relation to occasional work or short-term work involving work regulated as not being harmful, damaging, or dangerous to young people in a family undertaking.

(2) Without prejudice to section 55, regulation 10(2)(f) does not apply to any relevant premises constituting, or forming part of, a prison within the meaning of section 43 of the Prison (Scotland) Act 1989(a) or constituting, or forming part of, a remand centre or young offender institution provided by Scottish Ministers under section 19 of that Act or any part of any other relevant premises used for keeping persons in lawful custody or detention.

(3) Where paragraph (2) applies, the safety of relevant persons in respect of harm caused by fire must nevertheless be ensured so far as is possible.

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh

2005

(a) 1989 c.45. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). [?] Relevant amendments to section [19] are contained in [].



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