

# **FIRE (SCOTLAND) ACT 2005**

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## **EXPLANATORY NOTES**

### **THE ACT – SECTION BY SECTION**

#### **Part 3 – Fire Safety**

##### *Chapter 1 – Fire safety duties*

##### *Section 54 – Duties in relation to relevant premises*

81. *Section 54* provides that a person who has control of premises must carry out a risk assessment to identify fire safety risks to relevant persons in respect of harm caused by fire on the relevant premises. There is a definition of “relevant premises” in section 78. The person in control of the relevant premises would include the employer (where there is one), a person in control of the premises in connection with the carrying on of a trade, business or other undertaking, and the owner. For example, a shopkeeper who is a sole trader with no employees carrying out a business in leased premises would have duties under section 54 on the basis that the shopkeeper has control of the premises to an extent. In this example, the owner of the premises may also have section 54 duties. Other people, such as landlords or contractors who take responsibility for installation and maintenance of fire precautions or fire safety measures may be in a position to exercise varying degrees of control over premises and they may bear a relevant degree of responsibility under section 54.
82. The term “relevant person” is defined in section 79 and means persons who are or may be lawfully on the premises and persons in, or who may be in, the immediate vicinity of the premises whose safety would be at risk in the event of fire in the premises. Employees of fire and rescue authorities and joint boards are excluded from the definition when they are carrying out operational tasks (also defined in section 79). Where the person subject to the duty in section 54 is an employer their employees are excluded because they are already protected by the section 53 employer/employee duty. Following the risk assessment the obligation is to take such fire safety measures as would be reasonable for a person in that position to take to ensure the safety of relevant persons in respect of harm caused by fire in the premises, bearing in mind all the circumstances. Where the person in control of the premises is not the owner or a person carrying on an undertaking then the owner is also subject to the subsection (2) duties.
83. Subsection (4) imposes the subsection (2) duties on persons who have obligations under contracts or tenancies in relation to maintenance or repair or in relation to fire safety. The subsection (2) duty is imposed but only to the extent that those persons have such obligations. This would include for example contractors who take responsibility for installation and maintenance in relation to fire alarms.
84. Subsection (5) imposes an obligation on the persons subject to the subsection (2)(a) duty to review their risk assessment in line with the regulations made under section 57 and to take measures to ensure safety in line with their subsection (2)(b) duty.