

*These notes relate to the Fire (Scotland) Act 2005
(asp 5) which received Royal Assent on 1 April 2005*

FIRE (SCOTLAND) ACT 2005

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 3 – Fire Safety

Chapter 5 – General

Section 76 – Service of documents

115. This section sets out the methods by which documents issued under Part 3 may be served and subsection (6) further provides that the Scottish Ministers may make regulations as to the procedures to be followed in relation to the service of documents.

Section 77 – Crown application

116. This section provides that Part 3 and any regulations made under it shall bind the Crown. Subsection (2) ensures that instead of making the Crown criminally liable for any contravention, the Court of Session may declare unlawful any act or omission of the Crown which constitutes a contravention. The powers of entry conferred in Part 3 cannot be exercised in relation to Crown premises.

Section 78 – Meaning of “relevant premises”

117. This defines the meaning of relevant premises for the purposes of Part 3: most non-domestic premises used or operated by employers, the self-employed and the voluntary sector. It also applies under subsection (5) to houses licensed under the [Civic Government \(Scotland\) Act 1982 \(Licensing of Houses in Multiple Occupation\) Order 2000 \(S.S.I. 2000/177\)](#) (as amended), such as hostels. Other types of premises to which Part 3 applies are listed in subsection (5). These include premises used for the provision of a care home service, those used for the provision of a school care accommodation service, and those used for the provision of an independent health care service.
118. Types of premises which are not affected by Part 3 are certain means of transport, boreholes and fields, woods and agricultural land. There are special considerations associated with these areas and consequently separate safety regimes shall continue for the areas.
119. In addition, ships and hovercraft, mines and offshore installations are excluded from the definition. Fire safety on these premises is a reserved matter by virtue of Section H2 of Schedule 5 to the Scotland Act 1998 (as amended). Various defence premises are also excluded from the definition of “relevant premises” under subsections (2)(e) to (g) in consequence of the reservation of defence in paragraph 9 of Part I of Schedule 5 to the Scotland Act 1998, since fire safety on defence premises is regarded as being directly linked to the defence reservation and is regarded as having a direct impact on defence functions.

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120. Under subsections (8) and (9), Scottish Ministers have power by regulations to modify the definition of “relevant premises” to which Part 3 applies, and to modify the application of Part 3 to relevant premises when the subsection (8) power is exercised.