



# Fire (Scotland) Act 2005

## 2005 asp 5

### PART 3

#### FIRE SAFETY

### CHAPTER 2

#### ENFORCEMENT

#### 64 Enforcement notices

- (1) Where an enforcing authority considers that a person has failed to comply with any of the Chapter 1 duties, the authority may serve an enforcement notice on the person.
- (2) An enforcement notice is a notice—
  - (a) stating that the enforcing authority considers that the person on whom the notice is served has failed to comply with the Chapter 1 duty specified in the notice;
  - (b) specifying why the authority considers that the person has failed to comply with the duty in question; and
  - (c) requiring the person, before the expiry of the period specified in the notice (being a period of at least 28 days), to take the action so specified.
- (3) Where—
  - (a) an enforcing authority (the “first enforcing authority”) proposes to serve an enforcement notice on a person; and
  - (b) the first enforcing authority considers that the person has failed to comply with any of the Chapter 1 duties in relation to—
    - (i) a workplace in relation to which some other authority is the enforcing authority; or
    - (ii) employees who work in such a workplace,any enforcement notice served by the first enforcing authority may include requirements relating to that workplace or those employees.

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Section 64. (See end of Document for details)*

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- (4) Before serving an enforcement notice including a requirement such as is mentioned in subsection (3) the first enforcing authority shall consult the other enforcing authority.
- (5) Before serving an enforcement notice including a requirement to make an alteration to relevant premises, the enforcing authority shall consult—
- (a) subject to subsection (6), the person appointed under section 7(1) of the Building (Scotland) Act 2003 (asp 8) as verifier in relation to those premises;
  - (b) if the notice relates to a workplace in relation to which the authority responsible to any extent for enforcing Part I of the Health and Safety at Work etc. Act 1974 (c. 37) and the existing statutory provisions is—
    - (i) the Health and Safety Executive; or
    - (ii) by virtue of Part I of that Act or the existing statutory provisions, any other authority,
 the Executive or, as the case may be, that other authority; and
  - (c) any other person whose consent to the alteration would be required by virtue of any enactment.
- (6) If the local authority in whose area the relevant premises are situated is also in relation to those premises—
- (a) the enforcing authority; and
  - (b) the person appointed under section 7(1) of the Building (Scotland) Act 2003 (asp 8) as verifier,
- the enforcing authority need not consult the local authority.
- (7) Failure to comply with subsection (4) or (5) shall not affect the validity of an enforcement notice.
- (8) Where an enforcing authority serves an enforcement notice on a person, the authority may—
- (a) before the expiry of the period specified in the notice, by notice in writing to the person withdraw the enforcement notice;
  - (b) except where an application under section 66 has been made and not determined, extend, or further extend, the period specified in the enforcement notice.
- (9) In subsection (5)(b), “existing statutory provisions” has the meaning given by section 53(1) of the Health and Safety at Work etc. Act 1974 (c. 37).
- (10) For the purposes of this section, “Chapter 1 duties” does not include the duty imposed by section 56.

**Modifications etc. (not altering text)**

- C1 S. 64 modified (1.10.2006) by [The Fire Safety \(Scotland\) Regulations 2006 \(S.S.I. 2006/456\)](#), [reg. 24\(3\)\(a\)\(iii\)](#)
- C2 S. 64(1) modified (1.10.2006) by [The Fire Safety \(Scotland\) Regulations 2006 \(S.S.I. 2006/456\)](#), [reg. 24\(3\)\(b\)\(iv\)](#)
- C3 S. 64(2)(a) modified (1.10.2006) by [The Fire Safety \(Scotland\) Regulations 2006 \(S.S.I. 2006/456\)](#), [reg. 24\(3\)\(b\)\(iv\)](#)
- C4 S. 64(3)(b) modified (1.10.2006) by [The Fire Safety \(Scotland\) Regulations 2006 \(S.S.I. 2006/456\)](#), [reg. 24\(3\)\(b\)\(iv\)](#)

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**C5** S. 64(10) modified (1.10.2006) by [The Fire Safety \(Scotland\) Regulations 2006 \(S.S.I. 2006/456\)](#), **reg. 24(3)(b)(iv)**

**Changes to legislation:**

There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Section 64.