
STATUTORY INSTRUMENTS

1999 No. 1877

**FIRE PRECAUTIONS
HEALTH AND SAFETY**

**The Fire Precautions (Workplace)
(Amendment) Regulations 1999**

Made - - - - *29th June 1999*
Laid before Parliament *7th July 1999*
Coming into force - - *1st December 1999*

The Secretary of State, being designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the minimum health and safety requirements for the workplace that relate to fire safety, in exercise of the powers conferred by that section and by sections 35, 40(8) and 43(1)⁽³⁾ of the Fire Precautions Act 1971⁽⁴⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Fire Precautions (Workplace) (Amendment) Regulations 1999 and shall come into force on 1st December 1999.

(2) These Regulations extend to Great Britain.

Interpretation

2. In these Regulations, “the principal Regulations” means the Fire Precautions (Workplace) Regulations 1997⁽⁵⁾.

Amendment of the principal Regulations

3. The principal Regulations shall be amended as specified in regulations 4 to 16 below.

4. In regulation 2(1) (interpretation), after the definition of “fire authority” there shall be inserted—

(1) S.I.1992/1711.
(2) 1972 c. 68.
(3) See definition of “prescribed”.
(4) 1971 c. 40.
(5) S.I. 1997/1840.

““mine” has the same meaning as in the Mines and Quarries Act 1954(6);”.

5. In regulation 3 (application of Part II)–

(a) for paragraph (1) there shall be substituted–

“(1) Every employer shall ensure that the requirements of this Part of these Regulations are complied with in respect of every workplace, other than an excepted workplace, which is to any extent under his control.”;

(b) in paragraph (2), after the words “Every person” there shall be inserted the words “, other than the employer referred to in paragraph (1),”; and

(c) in paragraph (5)–

(i) sub-paragraphs (a) to (c) shall be omitted;

(ii) for sub-paragraph (e) there shall be substituted–

“(e) any workplace which is or is in or on a ship within the meaning of section 313(1) of the Merchant Shipping Act 1995(7) other than a ship which is–

(i) in the course of construction; or

(ii) in the course of repair by persons who include persons other than the master and crew of the ship;”;

(iii) sub-paragraph (f) shall be omitted; and

(iv) for sub-paragraph (g) there shall be substituted–

“(g) any workplace which forms part of a mine, other than any building on the surface at a mine;”.

6. In regulation 4(1) (fire-fighting and fire detection), for the words “by the dimensions and use of the building housing the workplace, the equipment it contains” there shall be substituted the words “having regard to the dimensions and use of the buildings at the workplace, the equipment they contain”.

7. In regulation 9(2) (disapplication of the Health and Safety at Work etc. Act 1974), for sub-paragraph (a) there shall be substituted–

“(a) Part II of these Regulations except in so far as that Part applies to–

(i) any workplace which is or is in or on a ship within the meaning of section 313(1) of the Merchant Shipping Act 1995 when such a ship is in the course of construction or is in the course of repair by persons who include persons other than the master and crew of the ship;

(ii) any workplace, other than a building on the surface at a mine, to the extent that it comprises premises to which the Fire Certificates (Special Premises) Regulations 1976(8) apply; and”.

8. In regulation 10 (enforcement), paragraphs (3), (4) and (5) shall be omitted.

9. In regulation 11 (serious cases: offence)–

(a) in paragraph (1), for the words following sub-paragraph (a) there shall be substituted–

“and

(6) 1954 c. 70; see section 180(1), as substituted by regulation 41(2) of, and Schedule 3 to, the Management and Administration of Safety and Health at Mines Regulations 1993 (S.I. 1993/1897).

(7) 1995 c. 21.

(8) S.I. 1976/2003.

- (b) that failure places one or more employees at risk of death or serious injury in case of fire.”; and
- (b) after paragraph (2) there shall be inserted–
 - “(2A) In any proceedings for an offence under this regulation it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.”.
- 10.** In regulation 12(1) (serious cases: prohibition notices), for sub-paragraphs (a) and (b) there shall be substituted–
 - “(a) tents and other movable structures (other than vessels);
 - (b) places of work in the open air; and
 - (c) vessels remaining moored or remaining on dry land.”.
- 11.** In regulation 13 (serious cases: enforcement notices)–
 - (a) for the heading there shall be substituted “Enforcement notices”;
 - (b) in paragraph (1)–
 - (i) sub-paragraph (b) and the word “and” immediately preceding it shall be omitted; and
 - (ii) in sub-paragraph (iv), the words from “and that the bringing” to the end shall be omitted;
 - (c) paragraphs (3), (4) and (7) shall be omitted;
 - (d) in paragraph (5)–
 - (i) after the word “building” there shall be inserted the words “or structure”; and
 - (ii) after sub-paragraph (a) there shall be inserted–
 - “(aa) in the case of a building or structure in England or Wales in relation to all or any part of which an initial notice given under section 47 of the Building Act 1984(9) is in force, the approved inspector who gave that initial notice;
 - (ab) in the case of a workplace which is, includes or forms part of–
 - (i) a designated sports ground, or
 - (ii) a sports ground at which there is a regulated stand, the local authority, and in this sub-paragraph “sports ground”, “designated sports ground” and “local authority” have the same meaning as in the Safety of Sports Grounds Act 1975(10) and “regulated stand” has the same meaning as in the Fire Safety and Safety of Places of Sport Act 1987(11);”;
 - (e) in paragraph (8), for sub-paragraphs (a) to (d) there shall be substituted “consult under paragraph (2) or (5)”.
- 12.** In regulation 14 (enforcement notices: right of appeal)–
 - (a) in paragraph (2), for the words “Subject to paragraph (3), on” there shall be substituted the word “On”;
 - (b) paragraph (3) shall be omitted; and

(9) 1984 c. 55.

(10) 1975 c. 52; see section 17(1).

(11) 1987 c. 27; see section 26(5).

- (c) in paragraph (4), the word “not” shall be omitted and for the words from “unless” to the end there shall be substituted “until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.”.

13. Regulation 16 (enforcement orders) shall be omitted.

14. In regulation 17(4) (application of the Fire Precautions Act 1971), after the words “fire certificate” there shall be inserted the words “issued under the 1971 Act or”.

15. After regulation 17 there shall be inserted—

“Disapplication of safety certificates for sports grounds

17A. A safety certificate issued under the Safety of Sports Grounds Act 1975 or under Part III of the Fire Safety and Safety of Places of Sport Act 1987 shall not have effect to the extent that it would require a person to contravene any provision of the workplace fire precautions legislation.”.

16. In regulation 18 (application to the Crown)—

- (a) in paragraph (1), for “16” there shall be substituted “15”; and

- (b) after paragraph (5) there shall be inserted—

- “(5A) For the purposes of this regulation—

- (a) the occupation of any premises by the Corporate Officer of the House of Lords for the purposes of that House, by the Corporate Officer of the House of Commons for the purpose of that House, or by those Corporate Officers acting jointly for the purposes of both Houses shall be regarded as occupation by the Crown; and

- (b) any premises in which either or both of those Corporate Officers has or have an interest which is that of an owner shall be regarded as premises owned by the Crown.”.

17. Part IV of the principal Regulations, as amended by these Regulations, is set out in the Schedule to these Regulations.

Existing enforcement orders

18. An enforcement order made under regulation 16 of the principal Regulations before 1st December 1999 shall, for the purposes of regulation 15 of those Regulations, have effect on and after that date as if it were an enforcement notice served under regulation 13 of those Regulations.

Home Office
29th June 1999

George Howarth
Parliamentary Under-Secretary of State

SCHEDULE

Regulation 17

PART IV OF THE PRINCIPAL REGULATIONS AS AMENDED

PART IV

ENFORCEMENT AND OFFENCES

Disapplication of the 1974 Act

9.—(1) For the purposes of sections 16 to 24, 26, 28, 33 to 40, 42, 46 and 47 of the 1974 Act, the provisions of the workplace fire precautions legislation shall be deemed (to the extent they would otherwise be so regarded) not to be provisions of health and safety regulations or provisions forming part of the relevant statutory provisions.

(2) In these Regulations “the workplace fire precautions legislation” means—

(a) Part II of these Regulations except in so far as that Part applies to—

- (i) any workplace which is or is in or on a ship within the meaning of section 313(1) of the Merchant Shipping Act 1995⁽¹²⁾ when such a ship is in the course of construction or is in the course of repair by persons who include persons other than the master and crew of the ship;
- (ii) any workplace, other than a building on the surface at a mine, to the extent that it comprises premises to which the Fire Certificates (Special Premises) Regulations 1976⁽¹³⁾ apply; and

(b) regulations 1 to 4, 6 to 10 and 11(2) and (3) of the 1992 Management Regulations (as amended by Part III of these Regulations), in so far as those regulations—

- (i) impose requirements concerning general fire precautions to be taken or observed by an employer; and
- (ii) have effect in relation to a workplace in Great Britain other than an excepted workplace, and for this purpose “general fire precautions” means measures which are to be taken or observed in relation to the risk to the safety of employees in case of fire in a workplace, other than any special precautions in connection with the carrying on of any manufacturing process.

(3) In this regulation “health and safety regulations” and “the relevant statutory provisions” have the meanings given to them by the 1974 Act⁽¹⁴⁾.

Enforcement

10.—(1) It shall be the duty of every fire authority to enforce within their area the workplace fire precautions legislation.

(2) A fire authority may perform their functions under these Regulations through inspectors appointed by them pursuant to section 18(1) of the 1971 Act.

...

(6) In sections 24 and 33(1) of the Fire Services Act 1947⁽¹⁵⁾ (which authorise the appointment of inspectors and the holding of inquiries for obtaining information as to the performance by fire

⁽¹²⁾ 1995 c. 21.

⁽¹³⁾ S.I. 1976/2003.

⁽¹⁴⁾ See section 53 of the 1974 Act.

⁽¹⁵⁾ 1947 c. 41.

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authorities of their functions under that Act) the references to that Act shall be read as including references to these Regulations.

(7) Nothing in this regulation shall be taken to authorise a fire authority in Scotland to institute proceedings for any offence.

Serious cases: offence

11.—(1) A person shall be guilty of an offence if—

- (a) being under a requirement to do so, he fails to comply with any provision of the workplace fire precautions legislation; and
- (b) that failure places one or more employees at risk of death or serious injury in case of fire.

(2) Any person guilty of an offence under this regulation shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or both.

(2A) In any proceedings for an offence under this regulation it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) A person is not guilty of an offence under this regulation in respect of any failure to comply with the workplace fire precautions legislation which is the subject of an enforcement notice.

Serious cases: prohibition notices

12.—(1) Sections 10 to 10B of the 1971 Act⁽¹⁶⁾ (special procedure in case of serious risk: prohibition notices) shall apply to—

- (a) tents and other movable structures (other than vessels);
- (b) places of work in the open air; and
- (c) vessels remaining moored or remaining on dry land, which are relevant workplaces.

(2) For the purposes of paragraph (1), a relevant workplace is a workplace other than an excepted workplace.

Enforcement notices

13.—(1) Where a fire authority are of the opinion that—

- (a) a person, being under an obligation to do so, has failed to comply with any provision of 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,

...

the authority may serve on that person a notice (in these Regulations referred to as “an enforcement notice”) which—

- (i) states that they are of that opinion and why;
- (ii) specifies what steps they consider are necessary to remedy that failure;
- (iii) requires that person to take steps to remedy the failure within such period from the date of service of the notice (not being less than 21 days) as may be specified in the notice; and

⁽¹⁶⁾ Section 10 was substituted, and sections 10A and 10B inserted, by section 9 of the Fire Safety and Safety of Places of Sport Act 1987 (c. 27).

- (iv) explains how, where, within what period and on what grounds an appeal may be brought against the enforcement notice.

(2) Where a fire authority are of the opinion that a person's failure to comply with the workplace fire precautions legislation also extends to a workplace, or employees who work in a workplace, situated outside the area for which they perform the functions of fire authority, the notice served by them under paragraph (1) may include requirements concerning that workplace or those employees; but before including any such requirements the authority shall consult the fire authority for the area in which the workplace is situated.

...

(5) Before serving an enforcement notice which would oblige a person to make an alteration to a building or structure, 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 the proposed enforcement notice had been an improvement notice proposed to be issued under section 9D of that Act⁽¹⁷⁾;
- (aa) in the case of a building or structure in England or Wales in relation to all or any part of which an initial notice given under section 47 of the Building Act 1984⁽¹⁸⁾ is in force, the approved inspector who gave that initial notice;
- (ab) in the case of a workplace which is, includes or forms part of—
 - (i) a designated sports ground, or
 - (ii) a sports ground at which there is a regulated stand, the local authority, and in this subparagraph “sports ground”, “designated sports ground” and “local authority” have the same meaning as in the Safety of Sports Grounds Act 1975⁽¹⁹⁾ and “regulated stand” has the same meaning as in the Fire Safety and Safety of Places of Sport Act 1987⁽²⁰⁾; and
- (b) any other person whose consent to the alteration would be required by or under any enactment.

(6) Where an enforcement notice has been served—

- (a) the fire authority may withdraw the notice at any time before the end of the period specified in the notice; and
- (b) if an appeal against the notice is not pending, the fire authority may extend or further extend the period specified in the notice.

...

(8) Without prejudice to the power of the court to cancel or modify an enforcement notice under regulation 14, no failure on the part of a fire authority to consult under paragraph (2) or (5) shall make an enforcement notice void.

Enforcement notices: rights of appeal

14.—(1) A person on whom an enforcement notice is served may, within 21 days from the day on which the enforcement notice is served, appeal to the court.

⁽¹⁷⁾ Section 9D of the 1971 Act was introduced, and section 17 of that Act was amended, by section 7 of the Fire Safety and Safety of Places of Sport Act 1987; section 17 was also amended by the Health and Safety at Work etc. Act 1974, section 78.

⁽¹⁸⁾ 1984 c. 55.

⁽¹⁹⁾ 1975 c. 52; see section 17(1).

⁽²⁰⁾ 1987 c. 27; see section 26(5).

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(2) On an appeal under this regulation the court may either cancel or affirm the enforcement notice, and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.

...

(4) Where an appeal is brought under this regulation against an enforcement notice, the bringing of the appeal shall have the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.

(5) In this regulation “the court” means—

- (a) in England and Wales, a magistrates' court acting for the petty sessions area in which any relevant workplace is situated; and
- (b) in Scotland, the sheriff within whose jurisdiction any relevant workplace is situated, and for this purpose a “relevant workplace” is a workplace in respect of which the enforcement notice was served, other than a workplace covered by the notice by virtue of regulation 13(2).

(6) An appeal to the sheriff under this regulation shall be by summary application.

Enforcement notices: offence

15.—(1) It is an offence for a person to contravene any requirement imposed by an enforcement notice.

(2) Any person guilty of an offence under paragraph (1) shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or both.

(3) In any proceedings for an offence under this regulation it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

...

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Fire Precautions (Workplace) Regulations 1997 (“the principal Regulations”). The Regulations, other than regulation 10, give further effect in Great Britain to article 8(1) and (2) of Council Directive [89/391/EEC](#) on the introduction of measures to encourage improvements in the safety and health of workers at work (OJNo. L 183, 29.6.89, p. 1) and article 6 of, and paragraphs 4 and 5 of each of the annexes to, Council Directive [89/654/EEC](#) concerning the minimum safety and health requirements for the workplace (OJ No. L 393, 30.12.89, p. 1) in so far as those provisions relate to fire precautions and in so far as more specific legislation does not make appropriate provision. Regulation 10 amends regulation 12 of the principal Regulations to extend sections 10 to 10B of the Fire Precautions Act 1971 in respect of places of work in certain vessels.

Regulations 1 and 2 deal with preliminary matters and interpretation.

Regulations 3 to 16 deal with the amendments to the principal Regulations. Apart from minor drafting amendments, the changes are as follows.

Regulation 5 amends regulation 3 of the principal Regulations (application of Part II). The amendments to regulation 3 are two-fold. First, paragraphs (1) and (2) are amended in order to place the duty to comply with the requirements of Part II of the principal Regulations on the employer. It is the employer who has to ensure that the requirements are complied with. Where some other person has control of a workplace to any extent, he is also under a duty to ensure that the requirements of the Regulations are complied with, so far as relates to matters within his control. Secondly, Part II of the principal Regulations will now apply to the workplaces described in regulation 3(5)(a), (b), (c) and (f) of those Regulations. Further, amendments are made to regulation 3(5)(e) and (g) which have the effect of bringing ships in the course of construction or repair, and buildings at the surface of mines, within the scope of Part II of the principal Regulations. Regulation 4 makes a consequential amendment to regulation 2 of the principal Regulations.

Regulations 7 to 13 amend the enforcement provisions of the principal Regulations. Regulation 7 makes an amendment to regulation 9 of the principal Regulations (disapplication of the Health and Safety at Work etc. Act). The amendment has the effect of removing the workplaces referred to in sub-paragraphs (a)(i) and (ii) from the definition of “workplace fire precautions legislation” and consequently from the disapplication of regulation 9(1) of the principal Regulations, making the provisions, so far as they relate to those workplaces, health and safety regulations enforced under the Health and Safety at Work etc. Act 1974.

Regulations 8 and 11 remove the requirement for enforcing authorities to give a written opinion explaining any breach of the Regulations and to give a written notice of intent before enforcement action is taken under the Regulations. Regulation 11 of the principal Regulations is amended to remove the requirement that a person’s failure to comply with any provision of the workplace fire precautions legislation must be intentional or due to his recklessness in order for him to commit an offence under that regulation, to remove the requirement that such failure must place employees at risk of death or serious injury “which is likely to materialise”, and to introduce a defence of due diligence. Regulation 13 of the principal Regulations is also amended so as to impose further obligations on the fire authority to consult before serving an enforcement notice in certain cases. Regulation 14 of the principal Regulations is amended so that, where an appeal is brought against an enforcement notice, the operation of the notice is suspended until the appeal is finally disposed of. Regulation 16 of the principal Regulations (which made provision for enforcement orders) is revoked but, by virtue of regulation 18, any enforcement order already made may be enforced as if it were an enforcement notice. The enforcement provisions, as amended, are set out in the Schedule to the Regulations.

Regulation 10 makes an amendment to regulation 12 of the principal Regulations (serious cases: prohibition notices). Sections 10 to 10B of the Fire Precautions Act 1971 (which enable a fire authority to serve a prohibition notice to close down an unsafe building or part of a building used as a place of work) have been extended to allow prohibition notices to be served in respect of places of work in vessels remaining moored or on dry land.

Regulation 14 amends regulation 17(4) of the principal Regulations as a consequence of regulation 5 of these Regulations, so that a fire certificate issued under the Fire Precautions Act in respect of premises covered by the principal Regulations does not have effect to the extent that it would require a person to contravene any provision of those Regulations. Regulation 15 makes similar provision in respect of safety certificates issued under the Safety of Sports Grounds Act 1975 or the Fire Safety and Safety of Places of Sport Act 1987.

Regulation 16 amends regulation 18 of the principal Regulations (application to the Crown) to extend it to the corporate officers of the Houses of Parliament.

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A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Home Office Fire Policy Unit, Horseferry House, Dean Ryle Street, London SW1P 2AW. A copy has been placed in the library of each House of Parliament.