



Domestic Fire Safety (Wales) Measure 2011

2011 nawm 3

1 Requirement to provide automatic fire suppression systems

- (1) Building work to which this Measure applies must, in respect of each residence to which it relates, comply with the requirements of subsection (4), when—
 - (a) that work is completed, or
 - (b) the residence is occupied as a residence,whichever is the earlier.
- (2) Subject to subsection (3), this Measure applies to building work in Wales which comprises or includes—
 - (a) constructing a building for use as a residence, or a number of residences,
 - (b) converting a building, or part of a building, to use as a residence, or a number of residences,
 - (c) subdividing one or more existing residences so as to create one or more new residences, or
 - (d) amalgamating existing residences so as to create a new residence or new residences.
- (3) This Measure does not apply to building work—
 - (a) carried out for the purpose of discharging any function of a Minister of the Crown, or
 - (b) if building regulations imposing requirements as to the provision of automatic fire suppression systems apply to that work, or would apply but for a direction under section 8 of the 1984 Act dispensing with such requirements.
- (4) The requirements of this subsection are that—
 - (a) each residence must be provided with an automatic fire suppression system,
 - (b) the system is operating effectively, and
 - (c) the system complies with such requirements as may be prescribed.

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- (5) References in subsection (4) to an automatic fire suppression system also include any supply of energy, water, or other substance, necessary for the effective functioning of the system.

Commencement Information

- I1** S. 1 partly in force; s. 1(4) in force for certain purposes at Royal Approval, see s. 9(2)(a).
I2 S. 1(1)-(3) in force at 30.4.2014 and 1.1.2016 for specified purposes by [S.I. 2013/2727](#), [art. 2\(1\)\(a\)\(2\)](#) (with [art. 2\(3\)](#))
I3 S. 1(4) in force at 30.4.2014 and 1.1.2016 for specified purposes by [S.I. 2013/2727](#), [art. 2\(1\)\(b\)\(2\)](#) (with [art. 2\(3\)](#))
I4 S. 1(5) in force at 30.4.2014 and 1.1.2016 for specified purposes by [S.I. 2013/2727](#), [art. 2\(1\)\(c\)\(2\)](#) (with [art. 2\(3\)](#))

PROSPECTIVE

2 Enforcement

- (1) Except as provided in subsection (3), it is the duty of a local authority to enforce the provisions of this Measure in relation to its area.
- (2) Schedule 1 makes provision in relation to enforcement by local authorities.
- (3) Subsection (1) has effect subject to the provisions of Schedule 2 (Building work supervised otherwise than by local authorities).

3 Provision of information

- (1) Where, in accordance with building regulations—
- notice is given to a local authority of a proposal to carry out building work to which this Measure applies, or
 - full plans of such work are deposited with a local authority,
- such notice or plans must include or be accompanied by such information as is required by subsection (2) and be accompanied by such fee as may be prescribed.
- (2) The information required by this subsection is such information for the purpose of demonstrating that the work is capable, when completed, of complying with the requirements of section 1(4), as is, whether in relation to form or to content, prescribed.
- (3) If, upon the giving of such notice or the deposit of such plans, information required by subsection (2)—
- is, in the opinion of the local authority, incomplete, or
 - does not, in the opinion of the local authority, demonstrate that the work is capable, when completed, of complying with the requirements of section 1(4),
- the authority must, within the relevant period, give notice in writing of that opinion to the person who gave that notice or, as the case may be, deposited those plans, setting out the reasons for that opinion.
- (4) A person to whom notice has been given under subsection (3) may revise the information to which that notice relates and submit it to the local authority and, in

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that event, the notice given under subsection (3) ceases to have effect and, subject to subsection (5), subsections (2) and (3) apply in relation to that information as if it had been included in, or accompanied, the notice or plans referred to in subsection (1).

- (5) If revised information is submitted under subsection (4), the relevant period referred to in subsection (3) runs from the date on which that information is received by the local authority.
- (6) For the purposes of this Measure, “the relevant period” (“y cyfnod perthnasol”) means five weeks or such extended period expiring not later than two months from—
- (a) the giving of such notice or the deposit of such plans, or
 - (b) where subsection (4) applies, the date on which the information is received by the local authority,
- as may before the expiration of the five weeks, be agreed in writing between the local authority and the person giving such notice or depositing such plans.
- (7) In any case where a question arises as to the correctness of the opinion of a local authority on which notice given under subsection (3) was based, the person to whom such notice was given may refer the question to the Welsh Ministers for determination and the Welsh Ministers may quash, vary or confirm that notice.
- (8) A reference to the Welsh Ministers under subsection (7) must be accompanied by such fee as may be prescribed.

Commencement Information

15 S. 3 partly in force; s. 3(1)(2) in force for certain purposes at Royal Approval, see s. 9(2)(a).

PROSPECTIVE

4 Authentication and service of documents

The provisions of the following sections of the 1984 Act apply in relation to documents authorised or required to be given, made, issued or served by or under this Measure, as they apply in relation to those given, made, issued or served under that Act—

- (a) section 93 (authentication of documents),
- (b) section 94 (service of documents), and
- (c) section 94A (electronic service of documents).

PROSPECTIVE

5 Prosecution of offences

Proceedings in respect of an offence created by or under this Measure may only be instituted by—

- (a) the local authority, or
- (b) the Welsh Ministers.

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6 Interpretation

(1) In this Measure—

- “the 1984 Act” (“Deddf 1984”) means the Building Act 1984 (c. 55),
- “the Assembly” (“y Cynulliad”) means the National Assembly for Wales,
- “authorised officer” (“swyddog awdurdodedig”) means an officer of a local authority authorised in writing by that authority, either generally or specially, to act in matters of a specified kind or in a specified matter,
- “building regulations” (“rheoliadau adeiladu”) means regulations made under section 1 of the 1984 Act,
- “building work” (“gwaith adeiladu”) means the erection, extension or alteration of a building,
- [^{F1} “dwelling-house” (“*tŷ annedd*”) has the meaning given in regulation 2(1) of the Building Regulations 2010
- “flat” (“*fflat*”) has the meaning given in regulation 2(1) of the Building Regulations 2010]
- “initial notice” (“hysbysiad cychwynnol”) has the same meanings as in Part 2 of the 1984 Act,
- “local authority” (“awdurdod lleol”) means a county council or county borough council in Wales,
- “owner” (“perchennog”) has the same meaning as in the 1984 Act,
- “prescribed” (“rhagnodwyd”) means prescribed by regulations made by the Welsh Ministers,
- “proper officer” (“swyddog priodol”), in relation to a purpose and to a local authority, means an officer appointed for that purpose by that authority,
- “public body's notice” (“hysbysiad corff cyhoeddus”) has the same meaning as in Part 2 of the 1984 Act, and
- “residence” (“preswylfa”) means any—
- (a) dwelling-house,
 - (b) flat,
 - [^{F2}(c) place in Wales at which a care home service within the meaning of the Regulation and Inspection of Social Care (Wales) Act 2016 is provided wholly or mainly to persons aged 18 or over,]
 - [^{F3}(d) hall of residence;]
 - [^{F3}(e) a room or suite of rooms, which is not a dwelling-house or a flat and which is used by one or more persons to live and sleep and includes a room in a hostel or a boarding house, but does not include—
 - (i) a room in an hotel;
 - (ii) a room in a hostel provided for temporary accommodation to those who are ordinarily resident elsewhere;
 - (iii) a room in a hospital or other similar establishment used for patient accommodation;
 - (iv) rooms in a prison or young offender institution;
 - (v) premises for the accommodation of persons remanded on bail;
 - (vi) premises for the accommodation of persons who may be required to reside there by a probation order, ^{F4}...]

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[^{F5}(ea) premises at which a secure accommodation service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) is provided, or;]

[^{F6}(f) place at which a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 is provided wholly or mainly to children, but not—

(i) an institution within the further education sector as defined by section 91(3) of the Further and Higher Education Act 1992;

(ii) a place at which accommodation is provided for the purposes of—

(aa) a holiday;

(bb) a leisure, recreational, sporting, cultural or educational activity;

unless a child is accommodated there for more than 28 days in any 12 month period; and]

where a building contains one or more residences, includes any part of that building intended to be used by those occupying that residence or those residences for purposes ancillary to that occupation in common with one another or with other users of the building.

[^{F7}(1A) In subsection (1), “child” means a person under the age of 18.]

(2) Subject to subsection (3), the Welsh Ministers may, by order, amend the definition of “residence” in subsection (1) by—

(a) adding a class of residential premises, or

(b) amending the description of an existing class of residential premises.

(3) In subsection (2), “residential premises” (“mangroedd preswyl”) has the same meaning as in—

(a) paragraph 7 of Part 1 of Schedule 7 to the Government of Wales Act 2006 (c. 32), when in force, or,

(b) until then, Matter 11.1 in Part 1 of Schedule 5 to that Act.

Textual Amendments

F1 Words in s. 6(1) inserted (30.4.2014) by [The Domestic Fire Safety \(Definition of Residence\) \(Wales\) Order 2013 \(No. 2723\)](#), arts. 1(2), **2(2)**

F2 Words in s. 6(1) substituted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), regs. 2(1), **44(2)(a)**

F3 Words in s. 6(1) substituted (30.4.2014) by [The Domestic Fire Safety \(Definition of Residence\) \(Wales\) Order 2013 \(No. 2723\)](#), arts. 1(2), **2(3)(a)**

F4 Word in s. 6(1) omitted (2.4.2018) by virtue of [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), regs. 2(1), **44(2)(b)**

F5 Words in s. 6(1) inserted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), regs. 2(1), **44(2)(c)**

F6 Words in s. 6(1) substituted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), regs. 2(1), **44(2)(d)**

F7 S. 6(1A) inserted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), regs. 2(1), **44(3)**

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7 Transitional and consequential provision etc

- (1) The Welsh Ministers may, by order, make such transitional, transitory, consequential, saving, incidental, supplementary and other provision as they think necessary or appropriate in connection with, or to give full effect to, this Measure.
- (2) Provision that may be made under this section includes, but is not limited to, provision that amends, repeals or otherwise modifies an enactment.
- (3) In this section, “enactment” includes, among other things, an Assembly Measure, an Act of the Assembly or an Act of Parliament, and subordinate legislation, and whether enacted before or after this section comes into force.

8 Regulations and orders

- (1) Regulations or orders made by the Welsh Ministers under this Measure—
 - (a) are to be made by statutory instrument,
 - (b) may make different provision for different cases, different classes of cases, and different purposes,
 - (c) may make such transitional, transitory, consequential, saving, incidental or supplementary provision as the Welsh Ministers think fit,
 - (d) may, in the case of regulations prescribing matters for the purposes of sections 1(4)(c), 3(1) or 3(2), only be made after the Welsh Ministers have undertaken such consultation as they consider appropriate,
 - (e) may only, in the case of—
 - (i) orders made under section 6(2), and
 - (ii) orders made under section 7(1) which amend, repeal or otherwise modify any Assembly Measure, Act of the Assembly or Act of Parliament,
 be made if a draft of the order has been laid before, and approved by resolution of, the Assembly, and
 - (f) with the exception of—
 - (i) those referred to in paragraph (e), and
 - (ii) those made under section 9(3),
 are subject to annulment in pursuance of a resolution of the Assembly.

9 Short title and commencement

- (1) This Measure may be cited as the Domestic Fire Safety (Wales) Measure 2011.
- (2) The following provisions of this Measure come into force on the day after Royal Approval—
 - (a) sections 1(4), 3(1) and 3(2), but only for the purpose of enabling matters to be prescribed under sections 1(4)(c), 3(1) and 3(2), respectively,
 - (b) sections 6, 7 and 8, and
 - (c) this section.
- (3) The remaining provisions of this Measure come into force on such day or days as the Welsh Ministers by order appoint.

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