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## 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

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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.

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.