

Status: Point in time view as at 09/05/1991.

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SCHEDULES

SCHEDULE 1

Sections 1 and 53.

EXISTING ENACTMENTS WHICH ARE RELEVANT STATUTORY PROVISIONS

Modifications etc. (not altering text)

C1 Sch. 1 amended (E.W.S) (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 10(1)(b)(3)**; S.I. 1996/218, **art. 2**

Chapter	Short title	Provisions which are relevant statutory provisions
1875 c. 17.	The Explosives Act 1875.	The whole Act except sections 30 to 32, 80 and 116 to 121.
1882 c. 22.	The Boiler Explosions Act 1882.	The whole Act.
1890 c. 35.	The Boiler Explosions Act 1890.	The whole Act.
1906 c. 14.	The Alkali, &c. Works Regulation Act 1906.	The whole Act.
1909 c. 43.	The Revenue Act 1909.	Section 11.
1919 c. 23.	The Anthrax Prevention Act 1919.	The whole Act.
1920 c. 65.	The Employment of Women, Young Persons and Children Act 1920.	The whole Act.
1922 c. 35.	The Celluloid and Cinematograph Film Act 1922.	The whole Act.
1923 c. 17.	The Explosives Act 1923.	The whole Act.
1926 c. 43.	The Public Health (Smoke Abatement) Act 1926.	The whole Act.
1928 c. 32.	The Petroleum (Consolidation) Act 1928.	The whole Act.
1936 c. 22.	The Hours of Employment (Conventions) Act 1936.	The whole Act except section 5.
1936 c. 27.	The Petroleum (Transfer of Licences) Act 1936.	The whole Act.

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1937 c. 45.	The Hydrogen Cyanide (Fumigation) Act 1937.	The whole Act.
1945 c. 19.	The Ministry of Fuel and Power Act 1945.	Section 1(1) so far as it relates to maintaining and improving the safety, health and welfare of persons employed in or about mines and quarries in Great Britain.
1946 c. 59.	The Coal Industry Nationalisation Act 1946.	Section 42(1) and (2).
1948 c. 37.	The Radioactive Substances Act 1948.	Section 5(1)(a).
1951 c. 21.	The Alkali, &c. Works Regulation (Scotland) Act 1951.	The whole Act.
1951 c. 58.	The Fireworks Act 1951.	Sections 4 and 7.
1952 c. 60.	The Agriculture (Poisonous Substances) Act 1952.	The whole Act.
1953 c. 47.	The Emergency Laws (Miscellaneous Provisions) Act 1953.	Section 3.
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1954 c. 70.	The Mines and Quarries Act 1954.	The whole Act except section 151.
1956 c. 49.	The Agriculture (Safety, Health and Welfare Provisions) Act 1956.	The whole Act.
1961 c. 34.	The Factories Act 1961.	The whole Act except section 135.
1961 c. 64.	The Public Health Act 1961.	Section 73.
1962 c. 58.	The Pipe-lines Act 1962.	Sections 20 to 26, 33, 34 and 42, Schedule 5.
1963 c. 41.	The Offices, Shops and Railway Premises Act 1963.	The whole Act.
1965 c. 57.	The Nuclear Installations Act 1965.	Sections 1, 3 to 6, 22 and [F ² 24A], Schedule 2.
1969 c. 10.	The Mines and Quarries (Tips) Act 1969.	Sections 1 to 10.
1971 c. 20.	The Mines Management Act 1971.	The whole Act.

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1972 c. 28.	The Employment Medical Advisory Service Act 1972.	The whole Act except sections 1 and 6 and Schedule 1.
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Textual Amendments

- F1** Entry inserted by [Sex Discrimination Act 1975 \(c. 65\)](#), **Sch. 5 para. 3** and repealed by [Sex Discrimination Act 1986 \(c. 59, SIF 106:1\)](#), s. 9(2), **Sch. Pt. III**
- F2** Word substituted by [Atomic Energy Act 1989 \(c. 7, SIF 8\)](#), **s. 6(3)**

SCHEDULE 2

Section 10.

ADDITIONAL PROVISIONS RELATING TO CONSTITUTION
ETC. OF THE COMMISSION AND EXECUTIVE*Tenure of office*

- 1 Subject to paragraphs 2 to 4 below, a person shall hold and vacate office as a member or as chairman or deputy chairman in accordance with the terms of the instrument appointing him to that office.
- 2 A person may at any time resign his office as a member or as chairman or deputy chairman by giving the Secretary of State a notice in writing signed by that person and stating that he resigns that office.
- 3 (1) If a member becomes or ceases to be the chairman or deputy chairman, the Secretary of State may vary the terms of the instrument appointing him to be a member so as to alter the date on which he is to vacate office as a member.
- (2) If the chairman or deputy chairman ceases to be a member he shall cease to be chairman or deputy chairman, as the case may be.
- 4 (1) If the Secretary of State is satisfied that a member—
- has been absent from meetings of the Commission for a period longer than six consecutive months without the permission of the Commission; or
 - has become bankrupt or made an arrangement with his creditors; or
 - is incapacitated by physical or mental illness; or
 - is otherwise unable or unfit to discharge the functions of a member,
- the Secretary of State may declare his office as a member to be vacant and shall notify the declaration in such manner as the Secretary of State thinks fit; and thereupon the office shall become vacant.
- (2) In the application of the preceding sub-paragraph to Scotland for the references in paragraph (b) to a member's having become bankrupt and to a member's having

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made an arrangement with his creditors there shall be substituted, respectively references to sequestration of a member's estate having been awarded and to a member's having made a trust deed for behoof of his creditors or a composition contract.

Remuneration etc. of members

- 5 The Commission may pay to each member such remuneration and allowances as the Secretary of State may determine.
- 6 The Commission may pay or make provision for paying, to or in respect of any member, such sums by way of pension, superannuation allowances and gratuities as the Secretary of State may determine.
- 7 Where a person ceases to be a member otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Commission may make to him a payment of such amount as the Secretary of State may determine.

Proceedings

- 8 The quorum of the Commission and the arrangements relating to meetings of the Commission shall be such as the Commission may determine.
- 9 The validity of any proceedings of the Commission shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

Staff

- 10 It shall be the duty of the Executive to provide for the Commission such officers and servants as are requisite for the proper discharge of the Commission's functions; and any reference in this Act to an officer or servant of the Commission is a reference to an officer or servant provided for the Commission in pursuance of this paragraph.
- 11 The Executive may appoint such officers and servants as it may determine with the consent of the Secretary of State as to numbers and terms and conditions of service.
- 12 The Commission shall pay to the Minister for the Civil Service, at such times in each accounting year as may be determined by that Minister subject to any directions of the Treasury, sums of such amounts as he may so determine for the purposes of this paragraph as being equivalent to the increase during that year of such liabilities of his as are attributable to the provision of pensions, allowances or gratuities to or in respect of persons who are or have been in the service of the Executive in so

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far as that increase results from the service of those persons during that accounting year and to the expense to be incurred in administering those pensions, allowances or gratuities.

Performance of functions

- 13 The Commission may authorise any member of the Commission or any officer or servant of the Commission or of the Executive to perform on behalf of the Commission such of the Commission's functions (including the function conferred on the Commission by this paragraph) as are specified in the authorisation.

Accounts and reports

- 14 (1) It shall be the duty of the Commission—
- (a) to keep proper accounts and proper records in relation to the accounts;
 - (b) to prepare in respect of each accounting year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and
 - (c) to send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of the month of November next following the accounting year to which the statement relates.
- (2) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this Schedule and shall lay copies of each statement and of his report before each House of Parliament.

- 15 It shall be the duty of the Commission to make to the Secretary of State, as soon as possible after the end of each accounting year, a report on the performance of its functions during that year; and the Secretary of State shall lay before each House of Parliament a copy of each report made to him in pursuance of this paragraph.

Supplemental

- 16 The Secretary of State shall not make a determination or give his consent in pursuance of paragraph 5, 6, 7 or 11 of this Schedule except with the approval of the Minister for the Civil Service.

Modifications etc. (not altering text)

C2 Sch. 2 para. 16: transfer of functions (1.4.1995) by virtue of S.I. 1995/269, art. 3, Sch. para. 10

- 17 The fixing of the common seal of the Commission shall be authenticated by the signature of the secretary of the Commission or some other person authorised by the Commission to act for that purpose.

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- 18 A document purporting to be duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.
- 19 In the preceding provisions of this Schedule—
- (a) “accounting year” means the period of twelve months ending with 31st March in any year except that the first accounting year of the Commission shall, if the Secretary of State so directs, be such period shorter or longer than twelve months (but not longer than two years) as is specified in the direction; and
 - (b) “the chairman”, “a deputy chairman” and “a member” mean respectively the chairman, a deputy chairman and a member of the Commission.
- 20 (1) The preceding provisions of this Schedule (except paragraphs 10 to 12 and 15) shall have effect in relation to the Executive as if—
- (a) for any reference to the Commission there were substituted a reference to the Executive;
 - (b) for any reference to the Secretary of State in paragraphs 2 to 4 and 19 and the first such reference in paragraph 7 there were substituted a reference to the Commission;
 - (c) for any reference to the Secretary of State in paragraphs 5 to 7 (except the first such reference in paragraph 7) there were substituted a reference to the Commission acting with the consent of the Secretary of State;
 - (d) for any reference to the chairman there were substituted a reference to the director, and any reference to the deputy chairman were omitted;
 - (e) in paragraph 14(1)(c) for the words “Secretary” to “following” there were substituted the words “Commission by such data as the Commission may direct after the end of”.
- (2) It shall be the duty of the Commission to include in or send with the copies of the statement sent by it as required by paragraph 14(1)(c) of this Schedule copies of the statement sent to it by the Executive in pursuance of the said paragraph 14(1)(c) as adapted by the preceding sub-paragraph.
- (3) The terms of an instrument appointing a person to be a member of the Executive shall be such as the Commission may determine with the approval of the Secretary of State and the Minister for the Civil Service.

SCHEDULE 3

Section 15.

SUBJECT-MATTER OF HEALTH AND SAFETY REGULATIONS

- 1 (1) Regulating or prohibiting—
- (a) the manufacture, supply or use of any plant;
 - (b) the manufacture, supply, keeping or use of any substance;
 - (c) the carrying on of any process or the carrying out of any operation.

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- (2) Imposing requirements with respect to the design, construction, guarding, siting, installation, commissioning, examination, repair, maintenance, alteration, adjustment, dismantling, testing or inspection of any plant.
 - (3) Imposing requirements with respect to the marking of any plant or of any articles used or designed for use as components in any plant, and in that connection regulating or restricting the use of specified markings.
 - (4) Imposing requirements with respect to the testing, labelling or examination of any substance.
 - (5) Imposing requirements with respect to the carrying out of research in connection with any activity mentioned in subparagraphs (1) to (4) above.
- 2
- (1) Prohibiting the importation into the United Kingdom or the landing or unloading there of articles or substances of any specified description, whether absolutely or unless conditions imposed by or under the regulations are complied with.
 - (2) Specifying, in a case where an act or omission in relation to such an importation, landing or unloading as is mentioned in the preceding sub-paragraph constitutes an offence under a provision of this Act and of [^{F3}the Customs and Excise Acts 1979] the Act under which the offence is to be punished.

Textual Amendments

F3 Words substituted by [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 12](#) Table Pt. I

- 3
- (1) Prohibiting or regulating the transport of articles or substances of any specified description.
 - (2) Imposing requirements with respect to the manner and means of transporting articles or substances of any specified description, including requirements with respect to the construction, testing and marking of containers and means of transport and the packaging and labelling of articles or substances in connection with their transport.
- 4
- (1) Prohibiting the carrying on of any specified activity or the doing of any specified thing except under the authority and in accordance with the terms and conditions of a licence, or except with the consent or approval of a specified authority.
 - (2) Providing for the grant, renewal, variation, transfer and revocation of licences (including the variation and revocation of conditions attached to licences).
- 5
- Requiring any person, premises or thing to be registered in any specified circumstances or as a condition of the carrying on of any specified activity or the doing of any specified thing.
- 6
- (1) Requiring, in specified circumstances, the appointment (whether in a specified capacity or not) of persons (or persons with specified qualifications or experience, or both) to perform specified functions, and imposing duties or conferring powers on persons appointed (whether in pursuance of the regulations or not) to perform specified functions.
 - (2) Restricting the performance of specified functions to persons possessing specified qualifications or experience.

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- 7 Regulating or prohibiting the employment in specified circumstances of all persons or any class of persons.
- 8 (1) Requiring the making of arrangements for securing the health of persons at work or other persons, including arrangements for medical examinations and health surveys.
- (2) Requiring the making of arrangements for monitoring the atmospheric or other conditions in which persons work.
- 9 Imposing requirements with respect to any matter affecting the conditions in which persons work, including in particular such matters as the structural condition and stability of premises, the means of access to and egress from premises, cleanliness, temperature, lighting, ventilation, overcrowding, noise, vibrations, ionising and other radiations, dust and fumes.
- 10 Securing the provision of specified welfare facilities for persons at work, including in particular such things as an adequate water supply, sanitary conveniences, washing and bathing facilities, ambulance and first-aid arrangements, cloakroom accommodation, sitting facilities and refreshment facilities.
- 11 Imposing requirements with respect to the provision and use in specified circumstances of protective clothing or equipment, including clothing affording protection against the weather.
- 12 Requiring in specified circumstances the taking of specified precautions in connection with the risk of fire.
- 13 (1) Prohibiting or imposing requirements in connection with the emission into the atmosphere of any specified gas, smoke or dust or any other specified substance whatsoever.
- (2) Prohibiting or imposing requirements in connection with the emission of noise, vibrations or any ionising or other radiations.
- (3) Imposing requirements with respect to the monitoring of any such emission as is mentioned in the preceding sub-paragraphs.
- 14 Imposing requirements with respect to the instruction, training and supervision of persons at work.
- 15 (1) Requiring in specified circumstances, specified matters to be notified in a specified manner to specified persons.
- (2) Empowering inspectors in specified circumstances to require persons to submit written particulars of measures proposed to be taken to achieve compliance with any of the relevant statutory provisions.
- 16 Imposing requirements with respect to the keeping and preservation of records and other documents, including plans and maps.
- 17 Imposing requirements with respect to the management of animals.
- 18 The following purposes as regards premises of any specified description where persons work, namely—
- (a) requiring precautions to be taken against dangers to which the premises or persons therein are or may be exposed by reason of conditions (including natural conditions) existing in the vicinity;
- (b) securing that persons in the premises leave them in specified circumstances.

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- 19 Conferring, in specified circumstances involving a risk of fire or explosion, power to search a person or any article which a person has with him for the purpose of ascertaining whether he has in his possession any article of a specified kind likely in those circumstances to cause a fire or explosion, and power to seize and dispose of any article of that kind found on such a search.
- 20 Restricting, prohibiting or requiring the doing of any specified thing where any accident or other occurrence of a specified kind has occurred.
- 21 As regards cases of any specified class, being a class such that the variety in the circumstances of particular cases within it calls for the making of special provision for particular cases, any of the following purposes, namely—
- (a) conferring on employers or other persons power to make rules or give directions with respect to matters affecting health or safety;
 - (b) requiring employers or other persons to make rules with respect to any such matters;
 - (c) empowering specified persons to require employers or other persons either to make rules with respect to any such matters or to modify any such rules previously made by virtue of this paragraph; and
 - (d) making admissible in evidence without further proof, in such circumstances and subject to such conditions as may be specified, documents which purport to be copies of rules or rules of any specified class made under this paragraph.
- 22 Conferring on any local or public authority power to make byelaws with respect to any specified matter, specifying the authority or person by whom any byelaws made in the exercise of that power need to be confirmed, and generally providing for the procedure to be followed in connection with the making of any such byelaws.

Interpretation

- 23 (1) In this Schedule “specified” means specified in health and safety regulations.
- (2) It is hereby declared that the mention in this Schedule of a purpose that falls within any more general purpose mentioned therein is without prejudice to the generality of the more general purpose.

SCHEDULE 3A

OFFENCES: MODE OF TRIAL AND MAXIMUM PENALTY

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^{F5}SCHEDULE 4

Textual Amendments

F5 Sch. 4 repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)

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F⁶SCHEDULE 5

Textual Amendments

F6 Ss. 61, 62, 63(5)(6)(7), 64–69, 70(2)–(8), 71–74, 76, Sch. 5 and Sch. 6 repealed by [Building Act 1984](#) (c. 55, SIF 15), s. 133(2), [Sch. 7](#)

F⁷SCHEDULE 6

Textual Amendments

F7 Ss. 61, 62, 63(5)(6)(7), 64–69, 70(2)–(8), 71–74, 76, Sch. 5 and Sch. 6 repealed by [Building Act 1984](#) (c. 55, SIF 15), s. 133(2), [Sch. 7](#)

X¹SCHEDULE 7

Section 75

AMENDMENTS OF M¹BUILDING (SCOTLAND) ACT 1959

Editorial Information

X1 The text of ss. 75, 77, 78(1)–(3)(5)–(9), 83, Sch. 7, Sch. 9 para. 1, and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Marginal Citations

M1 1959 c. 24.

- 1 In section 3 (building standards regulations)—
- (a) in subsection (2), after the words “health, safety” there shall be inserted the word “welfare”, and at the end there shall be added the words “and for furthering the conservation of fuel and power” ;
 - (b) in subsection (3), there shall be added the words—
 - “(d) be framed to any extent by reference to a document published by or on behalf of the Secretary of State or any other person.”
 - (c) at the end of the section there shall be added the following subsection—
 - “(7) The Secretary of State may by order made by statutory instrument repeal or modify any enactment to which this subsection applies if it appears to him that the enactment is inconsistent with, or is

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unnecessary or requires alteration in consequence of, any provision contained in the building standards regulations.

This subsection applies to any enactment contained in any Act passed before or in the same Session as the Health and Safety at Work etc. Act 1974 other than an enactment contained in the Building (Scotland) Act 1959.”

- 2 In section 4 (relaxation of building standards regulations)—
- (a) for subsection (5) there shall be substituted the following subsections—
- “(5) A direction under subsection (1)(b) above—
- (a) shall, if it so provides, cease to have effect at the end of such period as may be specified in the direction ;
- (b) may be varied or revoked by a subsequent direction of the Secretary of State.
- (5A) If at any time a direction under subsection (1)(b) above ceases to have effect by virtue of subsection (5)(b) above, that fact shall not affect the continued operation of the direction (with any directions specified therein) in any case in which that time an application for a warrant in connection with the construction or change of the use of a building, part or all of which is of the class to which the direction relates, was, in accordance with the regulations made under section 2 of this Act, lodged with a buildings authority.”;
- (b) in subsections (6) and (7), after the words “subsection (1)(b)” there shall be inserted the words “or (5)(b)”;
- (c) after subsection (7) there shall be inserted the following subsection—
- “(7A) A person making an application under subsection (1)(b) above shall pay to the Secretary of State such fee as may be prescribed ; and regulations made by virtue of this subsection may prescribe different fees for different cases :
- Provided that the Secretary of State may in any particular case remit the whole or part of any fee payable by virtue of this subsection.”.
- 3 After subsection 4A, there shall be inserted the following section—
- “4B Power of Secretary of State to approve types of buildings, etc.**
- (1) The following provisions of this section shall have effect with a view to enabling the Secretary of State, either on an application made to him in that behalf or of his own accord, to approve any particular type of building as conforming, either generally or in any class of case, to particular provisions of the building standards regulations.
- (2) An application for the approval under this section of a type of building shall be made in the prescribed manner.

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- (3) Where under subsection (1) above the Secretary of State approves a type of building as conforming to particular provisions of the building standards regulations either generally or in any class of case, he may issue a certificate to that effect specifying—
- (a) the type of building to which the certificate relates ;
 - (b) the provisions of the building standards regulations to which the certificate relates ; and
 - (c) where applicable, the class or classes of case to which the certificate applies.
- (4) A certificate under this section shall, if it so provides, cease to have effect at the end of such period as may be specified in the certificate.
- (5) If, while a certificate under this section is in force, it is found, in any particular case involving a building of the type to which the certificate relates, that the building in question is of that type and the case is one to which the certificate applies, that the building in that particular case be deemed to conform to the provisions of the building standards regulations to which the certificate relates.
- (6) The Secretary of State may from time to time vary a certificate under this section either on an application made to him in that behalf or of his own accord ; but in the case of certificate issued on an application made by a person under subsection (1) above, the Secretary of State, except where he varies it on the application of that person, shall before varying it give that person reasonable notice that he proposes to do so.
- (7) A person making an application under subsection (1) or (6) above shall pay to the Secretary of State such fee as may be prescribed ; and regulations made by virtue of this subsection may prescribe different fees for different cases :
- Provided that the Secretary of State may in any particular case remit the whole or part of any fee payable by virtue of this subsection .
- (8) The Secretary of State may at any time revoke a certificate issued under this section, but before doing so shall give the person, if any, on whose application the certificate the issued reasonable notice that he proposes to do so.
- (9) Where the Secretary of State issues a certificate under this section or varies or revokes a certificate so issued, he shall publish notice of that fact in such manner as he thinks fit.
- (10) If at any time a certificate under this section ceases to have effect by virtue of subsection (4) above or is varied or revoked under the preceding provisions of this section, that fact shall not affect the continued operation of subsection (5) above by virtue of that certificate in any case in which before that time an application for a warrant in connection with the construction of a type of building to which the certificate relates was, in accordance with regulations made under section 2 of this Act, lodged with a building authority.
- (11) For the purposes of subsection (3) above or any variation of a certificate under subsection (6) above, a class of case may be framed in any way that the Secretary of State thinks fit.”

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- 4 In section 6 (application of building standards regulations and building operations regulations to construction or demolition, and to change of use, of buildings)—
- (a) after subsection (3) there shall be inserted the following subsection—
- “(3A) Notwithstanding that a buildings authority are not satisfied that the information submitted to them with an application for a warrant for the construction of a building is sufficient in respect of such stage in the construction as may be prescribed to show that the building when constructed will not fail to conform to the building standards regulations, they may grant a warrant for the construction of the building but subject to the condition that work on such prescribed stage shall not be proceeded with until such further information relating to that stage as they may require is submitted to them and until they have made an amendment to the terms of the warrant authorising such work to proceed:
- Provided that they shall, subject to subsection (8) of this section, make such an amendment on application being made therefor in the prescribed manner only if they are satisfied that nothing in the information submitted to them in respect of the prescribed stage shows that that stage when constructed will fail to conform to the building standards regulations.”
- (b) in subsection (10), after the words “any such” there shall be inserted the words “prescribed stage as is mentioned in subsection (3A) of this section and any such”.
- 5 In section 9 (certificates of completion)—
- (a) in subsection (2), for the words “but only if, they are satisfied that” there shall be substituted the words “, so far as they are able to ascertain after taking all reasonable steps in that behalf,” ;
- (b) in subsection (3), for the words “be satisfied as mentioned in the last foregoing subsection” there shall be substituted the words “grant a certificate of completion” ;
- (c) after subsection (3) there shall be inserted the following subsection—
- “(3A) In respect of so much of a building as consists of such an installation as may be prescribed, not being an electrical installation, a buildings authority shall not grant a certificate of completion unless there is produced to them a certificate granted by a person of such class as may be prescribed certifying that the installation complies with such of the said conditions as relate to it :
- Provided that this subsection shall not apply in a case where it is shown to the satisfaction of the buildings authority that for some reasonable cause such a certificate cannot be produced.”;
- (d) in subsection (4) for the words “the last foregoing subsection” there shall be substituted the words “subsection (3) or (3A) above”.
- 6 In section 11(1)(b) (power of local authorities to require buildings to conform to building standards regulations), after the words “health, safety” there shall be

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inserted the words “welfare”, and after the word “generally” there shall be inserted the words “and for furthering the conservation of fuel and power”.

7 In section 19 (penalties), for the words “ten pounds” and “one hundred pounds”, wherever they occur, there shall be substituted respectively the words “£50” and “£400”.

8 After section 19 there shall be inserted the following section—

“19A Civil liability

(1) Subject to the provisions of this section, a breach to which this section applies shall, so far as it causes damage, be actionable except in so far as may be otherwise prescribed ; and in any action brought by virtue of this subsection such defence as may be prescribed shall be available.

(2) This section applies to the following breaches—

- (a) failure to comply with the terms or conditions of a warrant for the construction, demolition or change of use of a building or with any order under this Act relating to the construction of a building ;
- (b) contravention of any provision of the building operations regulations ;
- (c) construction a building without a warrant otherwise than in accordance with the building standards regulations ;
- (d) changing the use of a building without a warrant where after the change of use the building does not conform to so much of the building standards regulations as become applicable, or apply more onerously, to the building be reason of change of use.

(3) Subsection (1) above and any defence provided for in regulations made by virtue thereof shall not apply in the case of a breach to which this section applies in connection with a building erected before the date on which that subsection comes into force unless the breach arises in relation to the change of use, extension, alteration, demolition, repair, maintenance or fitting of such a building.

(4) Nothing in this section shall be construed as affecting the extent (if any) to which breach to which this subsection applies is actionable in a case to which subsection (1) above does not apply, or as prejudicing any right of action which exists apart from the provisions of this section.

(5) In this section “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).”

9 In section 26 (Crown rights)—

- (a) in subsection (1) after the words “Crown and” there shall be inserted the words “subject to the provisions of this section” ;
- (b) after subsection (2) there shall be inserted the following subsection—

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- “(2A) The building standards regulations shall, except in so far as they otherwise prescribe, apply to a Crown building as they would apply if the building were not a Crown building.
- (2B) A Crown building to which the building standards regulations apply shall be constructed in accordance with those regulations.
- (2C) Any extension or alteration of a Crown building to which the building standards regulations apply or would apply on the extension or alteration of the building shall not cause the building as extended or altered, as a direct result of the extension or, as the case may be, the alteration—
- (a) if it conformed to the building standards regulations immediately before the date of commencement of the operations, to fail to conform to them ; or
 - (b) if it failed to conform to the building standards regulations immediately before that date, to fail to conform to them to a greater degree than to which it failed to conform immediately before that date ;
- and any change of use of a Crown building shall not cause the building after the change of use to fail to conform to so much of the building standards regulations as will become applicable, or will apply more onerously, to the building by reason of the change of use.
- (2D) Section 19A of this Act shall apply to a Crown building as it applies to a building other than a Crown building, but as for subsection (2) there were substituted the following subsection:—
- “(2) A breach to which this section applies is a failure to comply with subsection (2B) or (2C) of section 26 of this Act or a contravention of any provision of the building operations regulations”.
- (2E) Without prejudice to any case to which proviso (a) to subsection (1) above is applicable, the Secretary of State shall have the like powers of dispensing with or relaxing the provisions of the building standards regulations in relation to a Crown building as he has under section 4(1) of this Act in relation to a building other than a Crown building ; and subsections (3), (4), (5), (5A) and (9) of the said section 4 shall apply for the purposes of this section as if—
- (a) in subsection (4), the words “or, as the case may be, the buildings authority” were omitted ;
 - (b) in subsection (5A), for the words from “an application” to the end there were substituted the words “the construction or change of use of a building, part or all of which is of the class to which the direction relates, was begun” ;
 - (c) in subsection (9), the words “or section 4A(3) of this Act” were omitted.
- (2F) Without prejudice to any case to which the said proviso is applicable, in the application of section 4B of this Act to a Crown building, subsection (10) shall have effect as if for the words from

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“an application” to the end there were substituted the words “the construction of a building, part or all of which is of the type to which the certificate relates, was begun”.”

SCHEDULE 8

Section 78.

M2M3 TRANSITIONAL PROVISIONS WITH RESPECT TO FIRE CERTIFICATES UNDER FACTORIES ACT 1961 OR OFFICES, SHOPS AND RAILWAY PREMISES ACT 1963

Marginal Citations

- M2** 1961 c. 34.
M3 1963 c. 41.

1 In this Schedule—

- “the 1971 Act” means the ^{M4}Fire Precautions Act 1971;
 “1971 Act certificate” means a fire certificate within the meaning of the 1971 Act;
 “Factories Act certificate” means a certificate under section 40 of the ^{M5}Factories Act 1961 (means of escape in case of fire-certification by fire authority);
 “Offices Act certificate” means a fire certificate under section 29 of the ^{M6}Offices, Shops and Railway Premises Act 1963.

Marginal Citations

- M4** 1971 c. 40.
M5 1961 c. 34.
M6 1963 c. 41.

- 2 (1) Where by virtue of an order under section 1 of the 1971 Act a 1971 Act certificate becomes required in respect of any premises at a time when there is in force in respect of those premises a Factories Act certificate or an Offices Act certificate (“the existing certificate”), the following provisions of this paragraph shall apply.
- (2) The existing certificate shall continue in force (irrespective of whether the section under which it was issued remains in force) and—
- (a) shall as from the said time be deemed to be a 1971 Act certificate validly issued with respect to the premises with respect to which it was issued and to cover the use or uses to which those premises were being put at that time; and
 - (b) may (in particular) be amended, replaced or revoked in accordance with the 1971 Act accordingly.
- (3) Without prejudice to sub-paragraph (2)(b) above, the existing certificate, as it has effect by virtue of sub-paragraph (2) above, shall as from the said time be treated

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as imposing in relation to the premises the like requirements as were previously imposed in relation thereto by the following provisions, that is to say—

- (a) if the existing certificate is a Factories Act certificate, the following provision of the Factories Act 1961, namely sections 41(1), 48 (except subsections (5), (8) and (9)), 49(1), 51(1) and 52(1) and (4) and, so far as it relates to a proposed increase in the number of persons employed in any premises, section 41(3);
- (b) if the existing certificate is an Offices Act certificate the following provisions of the Offices, Shops and Railway Premises Act 1963, namely section 30(1), 33, 34(1) and (2), 36(1) and 38(1) and, so far as it relates to a proposed increase in the number of persons employed to work in any premises at any one time, section 30(3).

- 3 Any application for a Factories Act certificate or an Offices Act certificate with respect to any premises which is pending at the time when by virtue of an order under section 1 of the 1971 Act a 1971 Act certificate becomes required in respect of those premises shall be deemed to be an application for a 1971 Act certificate in respect of them duly made in accordance with the 1971 Act and may be proceeded with accordingly; but (without prejudice to section 5(2) of the 1971 Act) the fire authority may, as a condition of proceeding with such an application, require the applicant to specify any matter or give them any information which would ordinarily have been required by section 5(1) of that Act.

SCHEDULE 9

Section 83.

MINOR AND CONSEQUENTIAL AMENDMENTS

The ^{M7}Coroners (Amendment) Act 1926

Marginal Citations

M7 1926 c. 59.

- [^{F8}1 In section 1392)(c) of the Coroners (Amendment) Act 1926 (by virtue of which an inquest must be held with a jury in case of death from certain causes of which notice is required to be given to any inspector or other officer of a government department), after the words “of a government department” there shall be inserted the words “or to an inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974.”.]

Textual Amendments

F8 Sch. 9 para. 1 repealed (E.W.) by Coroners Act 1987 (c. 13, SIF 33), s. 36(2), Sch. 4

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Modifications etc. (not altering text)

C3 The text of ss. 75, 77, 78(1)–(3)(5)–(9), 83, Sch. 7, Sch. 9 para. 1, and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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Textual Amendments

F9 Sch. 9 para. 2 repealed by House of Commons Disqualification Act 1975 (c. 24), s. 10, **Sch. 3**

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Textual Amendments

F10 Sch. 9 para. 3 repealed by Parliamentary and Health Service Commissioners Act 1987 (c. 39, SIF 89), s. 10(2), **Sch. 2**

SCHEDULE 10

Section 83.

REPEALS

Modifications etc. (not altering text)

C4 The text of ss. 75, 77, 78(1)–(3)(5)–(9), 83, Sch. 7, Sch. 9 para. 1, and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Chapter	Short Title	Extent of repeal
[^{F11} 26 Geo. 5 & 1 Edw. 8. c. 49,]	[^{F11} The Public Health Act 1936]	[^{F11} Section 53.]
		[^{F11} Section 64(4) and (5).]
		[^{F11} In section 67, the words from “and the Secretary of State’s decision” to the end of the section.]
		[^{F11} Section 71.]

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		[^{F11} In section 343(1), the definition of “building regulations”.]
7 & 8 Geo. 6. c. 31.	The Education Act 1944.	Section 63(1).
[^{F11} 10 & 11 Geo. 6. c. 51.]	[^{F11} The Town and Country Planning Act 1947.]	[^{F11} In Schedule 8, the amendment of section 53 of the Public Health Act 1936.]
[^{F11} 2 & 3 Eliz. 2. c. 32.]	[^{F11} The Atomic Energy Authority Act 1954.]	[^{F11} Section 5(5).]
4 & 5 Eliz. 2. c. 52.	The Clean Air Act 1956.	Section 24.
[^{F11} 9 & 10 Eliz. 2. c. 64.]	[^{F11} The Public Health Act 1961.]	[^{F11} In section 4, subsection (1) and, in subsection (4), the words from “and building” to the end of the subsection.]
		[^{F11} In section 6, in subsection (4), the words “as may be prescribed by building regulations” and the word “so”, and subsection (8).]
		[^{F11} Section 7(3) to (6).]
		[^{F11} Section 10(1) and (2).]
		[^{F11} In Schedule 1, in Part III, the amendments of sections 53, 61, 62 and 71 of the Public Health Act 1936 and, in the amendments of the Clean Air Act 1956, the amendment of section 24 and the word “twenty-four” in the last paragraph.]
[^{F11} 1965 c. 16]	[^{F11} The Airports Authority Act 1965]	[^{F11} In section 19(3), the words from “and section 71” to “regulations)” and the words “and the proviso to the said section 71”.]
1971 c. 40.	The Fire Precautions Act 1971.	In section 2, paragraphs (a) to (c). Section 11. In section 17(1)(i), the word “and” where last occurring.

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		In section 43(1), the definition of “building regulations”.
[^{F11} 1971 c. 75.]	[^{F11} The Civil Aviation Act 1971.]	[^{F11} In Schedule 5, in paragraph 2(1), the words from “and section 71” to “regulations)” and the words “and the proviso to the said section 71”.]
1972 c. 28.	The Employment Medical Advisory Service Act 1972.	Sections 1 and 6. Schedule 1.
1972 c. 58.	The National Health Service (Scotland) Act 1972.	In Schedule 6, paragraph 157.
⋮ F12	⋮ F12	⋮ F12
1973 c. 32.	The National Health Service Reorganisation Act 1973.	In Schedule 4, paragraph 137.
1973 c. 50.	The Employment and Training Act 1973.	In Schedule 3, paragraph 14.
1973 c. 64.	The Maplin Development Act 1973.	In Schedule 2, in paragraph 2(1), the words from “and section 71” to “regulations)”.

Textual Amendments

F11 Sch. 10 entries repealed (E.W.) by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

F12 Sch. 10 entry repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

Status:

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