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STATUTORY INSTRUMENTS

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**2005 No. 2060**

**The Fire (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005**

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Fire (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005.

(2) This Order shall come into force as follows:—

- (a) article 1 shall come into force on the day after the day on which this Order is made;
- (b) article 2(1), in so far as it relates to the entries in article 2(2) and (3), shall come into force on the later of the day after the day on which this Order is made or the day on which Chapter 3 of Part 2 of the Fire (Scotland) Act 2005(1) comes into force;
- (c) article 2(2) and (3) shall come into force on the later of the day after the day on which this Order is made or the day on which Chapter 3 of Part 2 of the Fire (Scotland) Act 2005 comes into force;
- (d) article 2(1), in so far as it relates to the entries in article 2(4) to (9), shall come into force on the day after the day on which this Order is made;
- (e) article 2(4) to (9) shall come into force on the day after the day on which this Order is made; and
- (f) article 3 and the Schedule shall come into force on the later of the day after the day on which this Order is made or the day on which Part 1 of the Fire (Scotland) Act 2005 comes into force.

(3) Subject to paragraph (4), this Order extends to Scotland only.

(4) This article extends to England and Wales, Scotland and Northern Ireland, and paragraphs 1 and 14 of the Schedule, and article 3 in so far as it relates to those paragraphs, have the same extent as the provisions modified.

**Amendment of the Fire (Scotland) Act 2005**

2.—(1) The Fire (Scotland) Act 2005 is amended as follows.

(2) In section 16 (power to make orders authorising relevant authorities to charge certain persons for certain actions taken by authorities), after subsection (6) insert—

“(7) The references in subsection (3) to “sea” include—

- (a) that part of the territorial sea of the United Kingdom which is not adjacent to Scotland; and
- (b) sea beyond the territorial sea of the United Kingdom.”.

(3) After section 16 insert—

**“Exercise of powers at sea: further provision**

**16A.**—(1) Subsection (2) applies where a relevant authority has power to act, or is required to act, at sea.

(2) The power may be exercised or the duty carried out—

(a) at sea in that part of the territorial sea of the United Kingdom which is not adjacent to Scotland; and

(b) at sea beyond the territorial sea of the United Kingdom.”.

(4) In section 61 (enforcing authorities), in subsection (9)—

(a) after “means—” insert—

“(za) in relation to relevant premises—

(i) for which a licence is required by virtue of section 1 of the Nuclear Installations Act 1965 (c. 57)(2) or for which a permit is required by virtue of section 2 of that Act;

(ii) for which such a licence or permit would be required but for the fact that the premises are used by, or on behalf of, the Crown;

(iii) which are a ship which is in the course of construction, reconstruction, conversion or repair by persons other than the ship’s master and crew (or by persons including the ship’s master and crew); or

(iv) which are a workplace which is, or is on, a construction site (as defined in regulation 2(1) of the Construction (Health, Safety and Welfare) Regulations 1996(3)) and to which those Regulations apply (other than a construction site to which regulation 33(1) of those Regulations applies),

the Health and Safety Executive;

(zb) in relation to relevant premises which are—

(i) occupied solely for the purposes of the armed forces of the Crown (other than premises such as are mentioned in paragraph (za)(iii));

(ii) occupied solely by any visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964 (c. 5); or

(iii) situated within premises occupied solely for the purposes of the armed forces of the Crown but which are not themselves so occupied (other than premises such as are mentioned in paragraph (za)(iii)),

the fire service maintained by the Secretary of State for Defence;”; and

(b) for paragraph (b) substitute—

“(b) in relation to relevant premises—

(i) in respect of which the Crown is subject to any of the Chapter 1 duties (other than premises such as are mentioned in paragraph (za)(ii), (iii) or (zb)); or

(ii) in respect of which the United Kingdom Atomic Energy Authority is subject to any of the Chapter 1 duties (other than premises such as are mentioned in paragraph (za)(ii)),

the person appointed under section 43(1)(a);”.

(5) In section 72 (offences)—

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(2) Section 1 was amended by S.I. 1974/2056 and 1990/1918.

(3) S.I. 1996/1592, to which there are amendments not relevant to this Order.

- (a) in subsection (5), at the beginning, insert “Subject to subsection (5A),”; and
- (b) after subsection (5) insert—
  - “(5A) Where a person is guilty of an offence under subsection (1), (3) or (4)(e) or (f) in respect of relevant premises which are—
    - (a) a ship;
    - (b) premises occupied solely for the purposes of the armed forces of the Crown;
    - (c) premises occupied solely by any visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964 (c. 5); or
    - (d) premises which are situated within premises occupied solely for the purposes of the armed forces of the Crown but which are not themselves so occupied,paragraph (a) of subsection (5) shall apply as if for “£20,000” there were substituted “level 5 on the standard scale”.”.
- (6) In section 77 (Crown application)—
  - (a) in subsection (1), at the beginning, insert “Subject to subsection (1A),”; and
  - (b) after subsection (1) insert—
    - “(1A) Where the enforcing authority in relation to relevant premises is the fire service maintained by the Secretary of State for Defence—
      - (a) sections 62 and 63 shall bind the Crown only in so far as they apply in relation to relevant premises owned by the Crown but not occupied by it; and
      - (b) sections 64 to 67 and 72 to 75 shall not bind the Crown; and
      - (c) subsection (2) shall not apply.”.
- (7) After section 77 insert—

**“Application to visiting forces etc.**

**77A** The provisions of this Part, and of regulations made under it, shall apply in relation to a visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964 (c. 5) to the same extent that they bind the Crown where the enforcing authority in relation to relevant premises is the fire service maintained by the Secretary of State for Defence.”.

- (8) In section 78 (meaning of “relevant premises”)—
  - (a) in subsection (2)—
    - (i) in paragraph (b) omit “ships and hovercraft,”;
    - (ii) after that paragraph insert—
      - “(ba) ships in respect of the normal ship-board activities of a ship’s crew which are carried out solely by the crew under the direction of the master,”; and
    - (iii) omit paragraphs (e) to (g);
  - (b) in subsection (3) after paragraph (b) insert—
    - “(ba) ships (other than as mentioned in subsection (2)(ba));
    - (bb) premises occupied solely for the purposes of the armed forces of the Crown;
    - (bc) premises occupied solely by any visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964 (c. 5);

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- (bd) premises which are situated within premises occupied solely for the purposes of the armed forces of the Crown but which are not themselves so occupied;” and
- (c) after subsection (5) insert–
- “(5A) In subsection (2)(ba) “normal ship-board activities” includes the repair of a ship (other than repair carried out in dry dock).”.
- (9) In section 79(1) (interpretation), after the definition of “relevant person”, insert–
- ““ship” includes every description of vessel used in navigation and hovercraft within the meaning of the Hovercraft Act 1968 (c. 59) (and, in section 61(9)(za)(iii), includes a ship belonging to Her Majesty which forms part of Her Majesty’s Navy);”.

### **Amendments**

- 3.** The modifications specified in Parts 1 and 2 of the Schedule to this Order shall have effect.

Scotland Office, Department for Constitutional  
Affairs, Dover House, London  
21st July 2005

*DAVID CAIRNS*  
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