STATUTORY INSTRUMENTS

1976 No. 2007

HEALTH AND SAFETY

FIRE PRECAUTIONS

The Fire Precautions Act 1971 (Modifications) Regulations 1976

Made - - - -	*26th November* 1976
Laid before Parliament	*6th December* 1976
Coming into Operation	*1st January* 1977

In exercise of the powers conferred on me by section 80(1) and (4) of the Health and Safety at Work etc. Act 1974**(a)**, as amended by section 116 of and paragraph 19 of Schedule 15 to the Employment Protection Act 1975**(b)**, and by section 82(3)(*a*) of the said Act of 1974, and having consulted such bodies as appear to me to be appropriate, I hereby make the following Regulations:—

1. These Regulations may be cited as the Fire Precautions Act 1971 (Modifications) Regulations 1976 and shall come into operation on 1st January 1977.

2.—(1) In these Regulations, unless the context otherwise requires,—

"the 1971 Act" means the Fire Precautions Act 1971**(c)**;

"covered market place" shall be construed generally and not as limited to a place where a market is held by virtue of a grant from the Crown or of prescription or under statutory authority;

"factory premises" means premises constituting, or forming part of, a factory within the meaning of the Factories Act 1961**(d)** and premises to which sections 123(1) and 124 of that Act (application to electrical stations and institutions, respectively) apply;

"fire certificate", "owner" and "premises" have the meanings assigned to those expressions by the 1971 Act, as modified by these Regulations;

"office premises", "shop premises" and "railway premises" mean premises to which the Offices, Shops and Railway Premises Act 1963**(e)** applies and premises which are deemed to be such premises for the purposes of that Act, other than premises which are deemed to form part of a mine for the purposes of the Mines and Quarries Act 1954**(f)** or which consist of a covered market place wherein shop premises are aggregated.

(2) A reference in these Regulations to any enactment shall be construed as a reference to that enactment as amended, modified or replaced by or under any other enactment.

(3) The Interpretation Act 1889**(g)** shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(a) 1974 c. 37.
(b) 1975 c. 71.
(c) 1971 c. 40.
(d) 1961 c. 34.
(e) 1963 c. 41.
(f) 1954 c. 70.
(g) 1889 c. 63.

3.—(1) The premises to which this Regulation applies are factory premises, office premises, shop premises and railway premises being (in each case) premises in respect of which a fire certificate is required and either—

(*a*) the premises are held under a lease or an agreement for a lease or under a licence and consist of part of a building all parts of which are in the same ownership; or

(*b*) the premises consist of part of a building in which different parts are owned by different persons.

(2) In relation to premises to which this Regulation applies—

(*a*) for the references to the applicant in section 5 of the 1971 Act and for the references to the occupier (whether express or implied) in sections 6(5), 7(1), 8(2) (except in paragraph (*c*)), 8(4), 8(5), 8(7) and 9(5)(*b*) of the 1971 Act there shall be substituted—

(i) in the case of premises to which paragraph (1)(*a*) above applies, references to the owner of the building;

(ii) in the case of premises to which paragraph (1)(*b*) above applies, references to the persons who between them own the building;

(*b*) (i) sections 6(8) and 7(6) of the 1971 Act shall be modified by substituting for the words "a fire certificate" in each place where those words occur the words "a copy of the fire certificate";

(ii) section 6(8) of the 1971 Act shall be modified by inserting at the end of the subsection the words "and the fire certificate shall be sent to the owner of the building or, as the case may be, the person who owns the part of the building of which the premises consist.";

(*c*) section 8(2) of the 1971 Act shall be modified by inserting after the words "fire authority;" the words "and the occupier shall, before the carrying out of the proposals is begun, furnish to the persons responsible for giving notice of the proposals to the fire authority any information in his possession which is relevant thereto;".

(3) In the modifications in paragraph (2)(*a*) above of sections 7(1) and 8(7) and of the words after the last semi-colon in section 8(2) of the 1971 Act the expressions "owner of the building" and "the persons who between them own the building" do not include the Crown.

4. In relation to factory premises section 6(1) of the 1971 Act shall be modified by inserting after paragraph (*e*) the following paragraph:—

"(*f*) in the case of factory premises, particulars as to any explosive or highly flammable materials which may be stored or used in the premises.".

5. In relation to factory premises section 8 of the 1971 Act shall be modified as follows:—

(*a*) for paragraph (*c*) of subsection (2) there shall be substituted the following paragraph—

"(*c*) in the case of factory premises the occupier of the premises proposes to begin to store or use explosive or highly flammable materials in the premises or materially to increase the extent of such storage or use,";

(*b*) in subsection (3)—

(i) for the words "any premises" there shall be substituted the words "any factory premises", and

(ii) for the words from "keep explosive" to "that kind" there shall be substituted the words "store or use explosive or highly flammable materials in the premises or materially to increase the extent of such storage or use".

6.—(1) Section 9A(2)(*a*) of the 1971 Act shall be modified by inserting after the word "applies" the following words:—

"other than premises which are deemed to form part of a mine for the purposes of the Mines and Quarries Act 1954 or which consist of a covered market place (which expression shall be construed generally and not as limited to a place where a market is held by virtue of a grant from the Crown or of prescription or under statutory authority) wherein shop premises are aggregated".

(2) For the reference to the occupier of the premises in section 9A(4) of the 1971 Act—

(*a*) where the premises are held under a lease or an agreement for a lease or under a licence and consist of part of a building all parts of which are in the same ownership, there shall be substituted a reference to the owner of the building;

(*b*) where the premises consist of part of a building in which different parts are owned by different persons there shall be substituted a reference to the persons who between them own the building.

(3) In the modifications in paragraph (2) above of section 9A(4) of the 1971 Act the expressions "owner of the building" and "the persons who between them own the building" do not include the Crown.

7. In relation to factory premises, office premises, shop premises and railway premises, section 28 of the 1971 Act shall have effect subject to the following modifications, that is to say—

(*a*) for subsection (1) there shall be substituted the following subsection:—

"(1) This section applies to—

(*a*) premises constituting, or forming part of, a factory within the meaning of the Factories Act 1961 and premises to which sections 123(1) and 124 of that Act (application to electrical stations and institutions, respectively) apply;

(*b*) premises to which section 9A of this Act applies;

in this section referred to as "the relevant premises".";

(*b*) for paragraph (*c*) of subsection (2) there shall be substituted the following paragraph:—

"(*c*) in order to secure compliance with section 9A of this Act or with a provision of regulations made under section 12 of this Act,".

8. Where a licence issued under the Explosives Act 1875**(a)** or the Petroleum (Consolidation) Act 1928**(b)** is in force with respect to factory premises, office premises, shop premises or railway premises, section 31 of the 1971 Act shall not have effect in relation to any term, condition or restriction imposed in connection with the issue, renewal, transfer or variation of such licence.

9. Section 40 of the 1971 Act shall be modified by inserting after subsection (10A) the following subsection:—

"(10B) This Act shall apply to premises occupied by the National Radiological Protection Board as if they were premises occupied by the Crown.".

10. Where immediately before a fire certificate becomes required by or under the 1971 Act in respect of any premises a fire certificate issued or deemed to be issued under regulations made under the Health and Safety at Work etc. Act 1974 ("1974 Act certificate") was in force in respect of those premises, the 1974 Act certificate shall continue in force and shall be deemed to be a fire certificate within the meaning of the 1971 Act 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 immediately before a fire certificate becomes required by or under the 1971 Act in respect of those premises; and without prejudice to the generality of the foregoing the 1974 Act certificate—

(*a*) may be amended, replaced or revoked in accordance with the provisions of the 1971 Act; and

(*b*) shall be treated as imposing in relation to the premises the like requirements as were previously imposed in relation thereto.

Merlyn Rees,
One of Her Majesty's Principal Secretaries of State.

Home Office,
Whitehall.

26th November 1976.

(a) 1875 c. 17. **(b)** 1928 c. 32.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations modify the Fire Precautions Act 1971 in relation to factory premises, office premises, shop premises and railway premises ("the premises") in consequence of or in connection with the Factories Act 1961 etc. (Repeals) Regulations 1976 (S.I. 1976/2004) and the Offices, Shops and Railway Premises Act 1963 etc. (Repeals) Regulations 1976 (S.I. 1976/2005) which are made under Part I of the Health and Safety at Work etc. Act 1974. The Regulations preserve the effect of certain provisions of the Factories Act 1961 and the Offices, Shops and Railway Premises Act 1963 which are repealed by the 1976 Regulations. Where the premises form part of a building which is in single or plural ownership, Regulations 3 and 6 modify certain provisions of the 1971 Act by, in particular, substituting references to the owner of the building for references to the occupier of the premises. The provisions modified by Regulation 3(2)(*a*) and (*c*) relate to fire certificates—applications for, notices concerning, and contravention of requirements of, such certificates. The provisions modified by Regulation 3(2)(*b*) concern the issue of fire certificates. The provision modified by Regulation 6(2) relates to criminal liability for failing to provide suitable means of escape in case of fire. Regulations 3(3) and 6(3) exclude the Crown from criminal liability as owner of a building. Regulations 4 and 5 make provision concerning the storage or use of explosive or highly flammable materials in factory premises. Regulation 7 extends the powers of a county court or sheriff to modify agreements and leases and to apportion expenses in relation to the premises. Regulation 8 preserves the effect of terms and conditions of licences issued under the Explosives Act 1875 and the Petroleum (Consolidation) Act 1928 with respect to the premises. Regulation 9 extends the provisions of section 40 of the 1971 Act (application to the Crown) to premises occupied by the National Radiological Protection Board. For the purposes of fire certification under the 1971 Act, Regulation 10 provides that fire certificates issued or deemed to be issued under regulations made under the 1974 Act are treated as having been issued under the 1971 Act.

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