

Fire Sprinklers in Residential Premises (Scotland) Bill

[AS INTRODUCED]

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Fire Sprinklers in Residential Premises (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to require the provision of fire sprinkler systems in houses in multiple occupation and sheltered housing; to enable the Scottish Ministers to extend these provisions to other categories of residential premises; and for connected purposes.

PART 1

GENERAL PURPOSE

5

1 Provision of fire sprinkler systems in houses in multiple occupation and sheltered housing

The provision of fire sprinkler systems is required—

10

- (a) in houses in multiple occupation, except in circumstances which do not result in the commission of an offence under section 3, and
- (b) in sheltered housing, to which Part 3 applies,

and the Scottish Ministers may, in accordance with section 10, extend the requirement for fire sprinkler systems to other categories of residential premises.

PART 2

HOUSES IN MULTIPLE OCCUPATION

15

2 Houses to which this Part applies

This Part applies to any house which is, or is intended to be, in multiple occupation unless it falls within any of the categories of house specified in schedule 1.

3 Offence of giving permission for house to be in multiple occupation without fire sprinkler system

20

- (1) A person who—
 - (a) is the owner of a house to which this Part applies, or

(b) acts as an agent for such an owner,

shall not knowingly give permission for the house to be in multiple occupation unless it is provided with a fire sprinkler system.

- 5 (2) Permission for a house to be in multiple occupation is given on each occasion that a person mentioned in subsection (1) permits its occupation by one of several multiple occupiers.
- (3) A person does not give permission for the purpose of subsection (1) by reason only of becoming the owner of a house in multiple occupation or an agent for such an owner.
- 10 (4) Permission given before the commencement of this Act shall not by reason of its continuing to have effect after that date be deemed to be permission for the purpose of subsection (1).
- (5) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- 15 (6) Where an officer of a licensing authority or a constable has reasonable grounds to suspect that the occupation of a house involves the commission of an offence under this section, that officer or constable may require any agent of the owner of that house to disclose the name and address of that owner.
- (7) A person who without reasonable excuse fails to comply with a requirement made by virtue of subsection (6) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 20

4 Meaning of “house in multiple occupation”

- (1) In this Part, “house in multiple occupation” means a house occupied by more than two qualifying persons where those qualifying persons are not all members either of the same family or of one or other of two families.
- 25 (2) For the purposes of this Part a person is a member of the same family as another person if—
- (a) those persons are married to each other or live together as a couple, or
- (b) one of them is the parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the other.
- 30 (3) For the purposes of subsection (2)(b)—
- (a) a relationship by marriage shall be treated as a relationship by blood,
- (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
- (c) the stepchild of a person shall be treated as his or her child,
- 35 (d) the foster child of a person shall be treated as that person's child,
- (e) a person brought up or treated by another person as if the person were the child of the other person is to be treated as that person's child.

5 Meaning of “qualifying person”

- (1) In this Part “qualifying person” means a person whose only or principal residence is the house in multiple occupation.
- 40

(2) For the purposes of subsection (1) a person undertaking a full time course of further or higher education who resides during term time in a house shall, during the period of that person's residence, be regarded as residing there as the person's only or principal residence.

5 (3) Where a house is occupied by—

(a) any person with a heritable right of ownership in the house, or

(b) any such person together with any person who is a member of the same family as that person,

10 those persons shall be disregarded in calculating the number of qualifying persons for the purpose of section 4(1).

PART 3

SHELTERED HOUSING

6 Sheltered housing to which this Part applies

15 This Part applies to sheltered housing that is constructed, or results from a conversion made, pursuant to a building warrant granted after the commencement of this Part.

7 Use as sheltered housing treated as conversion

The use or occupation as sheltered housing of any building that—

20 (a) has not been constructed as sheltered housing pursuant to a building warrant granted under section 9 of the 2003 Act (as having effect in accordance with this Part), and

(b) was not so used or occupied immediately before the commencement of this Part, shall require a building warrant under section 8(1)(b) of the 2003 Act.

8 Application of Building (Scotland) Act 2003

(1) The following is inserted after section 1(5) of the 2003 Act—

25 “(5A) In this Act, unless the context otherwise requires, any reference to the building regulations shall be treated as including a reference to section 1 of the Fire Sprinklers in Residential Premises (Scotland) Act 2003 (asp 00) as applying to sheltered housing.”

30 (2) Whenever the conditions to which a building warrant is subject under section 13(1) of the 2003 Act are stated on the face of a building warrant relating to sheltered housing, the statement shall include express reference to section 1 as applying to sheltered housing.

9 Modification of 2003 Act

Schedule 2 makes modifications of the 2003 Act in consequence of this Act.

PART 4

MISCELLANEOUS

10 Extension of requirements for fire sprinkler systems

The Scottish Ministers may by order—

- 5 (a) amend schedule 1 by inserting, omitting or altering the description of any category of house,
- (b) extend the provisions of section 1 so far as it applies to sheltered housing and Part 3 so as to require the provision of fire sprinkler systems in any category of residential premises.

11 Ancillary provision

10 The Scottish Ministers may by order make such incidental, supplemental, transitional, transitory or saving provision as they consider necessary or expedient for the purposes or in consequence of this Act or any order made under section 10.

12 Orders

- 15 (1) Any order under this Act shall be made by statutory instrument.
- (2) An order under this Act may—
- (a) make different provision for different purposes,
- (b) modify any enactment (including any provision of this Act) or any instrument or document.
- 20 (3) A statutory instrument containing an order under section 11 (except where subsection (4) applies) is subject to annulment in pursuance of a resolution of the Parliament.
- (4) No order under section 10, and no other order under this Act containing provisions which add to, replace or omit any part of the text of an Act, is to be made unless a draft of the order has been laid before, and approved by resolution of, the Parliament.
- 25 (5) Before laying before the Parliament under subsection (4) a draft order made under section 10, the Scottish Ministers shall consult—
- (a) every fire authority,
- (b) such associations representing officers of fire authorities as the Scottish Ministers think fit,
- 30 (c) such associations representing local authorities as the Scottish Ministers think fit, and
- (d) such other persons and bodies as they consider likely to be affected by, or otherwise to have an interest in, the draft order,
- and the Scottish Ministers shall take into account any representations made to them in the course of such consultation and shall make such changes to the draft order as they consider appropriate.
- 35

13 Offences by bodies corporate, etc.

Where an offence under this Act committed by—

- (a) a body corporate other than a local authority, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
- (i) is a director, manager or secretary of the body corporate, or
 - (ii) purports to act in any such capacity,
- 5 (b) a local authority, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
- (i) is an officer or member of the authority, or
 - (ii) purports to act in any such capacity,
- 10 (c) a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
- (i) is a partner, or
 - (ii) purports to act in that capacity, or
- 15 (d) an unincorporated association other than a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
- (i) is concerned in the management or control of the association, or
 - (ii) purports to act in the capacity of a person so concerned,

20 the person (as well as the body corporate or as the case may be the local authority, Scottish partnership or unincorporated association) is guilty of the offence and is liable to be proceeded against and punished accordingly.

14 Meaning of “house”

- (1) In this Act “house” means (subject to subsection (2)) any part of a building, being a part which is occupied as a separate dwelling, and includes a flat.
- (2) Houses comprised within a building which, although otherwise separate, share use of—
- 25 (a) a sanitary convenience, or
 - (b) personal washing facilities, or
 - (c) cooking facilities,

shall be taken to form part of a single house.

15 Interpretation

30 In this Act—

“the 2003 Act” means the Building (Scotland) Act 2003 (asp 8),

“building” means any structure or erection which is a building within the meaning of section 55 of the 2003 Act,

“building warrant” means a warrant granted under section 9 of the 2003 Act,

35 “British Standard” means a standard published by the British Standards Institute,

“construct” includes alter, erect and extend, and “construction” and related expressions are to be construed accordingly,

“conversion”, in relation to a building, means the making of such change in the occupation or use of the building as building regulations may specify or as is described in section 7,

5 “European Standard” means a standard adopted by a European standardisation body and made available to the public,

“European standardisation body” means a body referred to in Annex I to EC Directive 98/34/EC as amended from time to time,

“fire authority” means any authority discharging, in any area in Scotland, the functions of a fire authority under the Fire Services Acts 1947 to 1959,

10 “fire sprinkler system” means, in relation to any system, an automatic fixed pressure water spraying system for extinguishing or containing fires the design, installation and maintenance of which complies with any British Standard, or if none exists BS EN 12845:2003 or any other European Standard, in either case being a standard which is applicable to such systems for use in residential premises and current at the time the system is installed,

15 “foster child” means a child for whom a local authority is providing accommodation under section 25 of the Children (Scotland) Act 1995 (c.36) by placing the child with a family, relative or other suitable person in accordance with section 26(1)(a) of that Act,

20 “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39),

“licensing authority” means the authority which, under section 2 of the Local Government (Scotland) Act 1982 (c.45), is the authority responsible for the administration of the licensing of houses in multiple occupation,

25 “owner” means a person having a heritable interest in the house which is capable of being recorded in the General Register of Sasines or registered in the Land Register (established by section 1 of the Land Registration (Scotland) Act 1979 (c.33)); and “owned” and “ownership” shall be construed accordingly,

30 “sheltered housing” means any house or group of houses which, having regard to design, size and other features, is particularly suitable for occupation by people who are elderly, disabled or infirm or in some other way vulnerable, and which, for the purposes of such occupation—

(a) is provided with facilities substantially different from those of ordinary houses, and

35 (b) shares with other such houses or groups of houses services that cater for the special needs of such occupiers,

“verifier” means a person appointed in pursuance of section 7(1)(a) of the 2003 Act.

16 Short title and commencement

40 (1) This Act may be cited as the Fire Sprinklers in Residential Premises (Scotland) Act 2003.

(2) Parts 1, 2 and 3 and sections 13 and 14 come into force at the end of the period of 12 months beginning with the date of Royal Assent.

SCHEDULE 1
(introduced by section 2)

EXEMPT CATEGORIES OF HOUSE

Exempt categories

- 5 1 The categories of house mentioned in section 2 are—
- (a) sheltered housing as defined in section 15,
 - (b) housing which is provided as part of—
 - (i) a care home service,
 - (ii) an independent health care service,
 - 10 (iii) a school care accommodation service, or
 - (iv) a secure accommodation service,
registered under the Regulation of Care (Scotland) Act 2001 (asp 8),
 - (c) housing which is, or is part of, a hall of residence provided predominantly for the
accommodation of students, and which—
 - 15 (i) is owned and managed by an institution within the meaning of paragraph
5(4) of Schedule 1 to the Local Government Finance Act 1992 (c.14), or
 - (ii) is the subject of an agreement allowing such an institution to nominate
persons to occupy all the accommodation so provided,
 - (d) housing which comprises—
 - 20 (i) an employee residence,
 - (ii) a hostel for homeless persons,
 - (iii) a women’s refuge, or
 - (iv) occupied by a religious community whose principal occupation is prayer,
contemplation, education or the relief of suffering,
 - (e) housing which is occupied only—
 - 25 (i) by qualifying persons, each of whom has a heritable right of ownership in
the house, or
 - (ii) by a person who is a member of the same family as such a qualifying
person,
 - 30 (f) housing which is owned by a co-ownership body, and
 - (g) housing in respect of which a control order under section 178 of the Housing
(Scotland) Act 1987 (c.26) is in force.

Definitions for schedule 1

- 2 In this schedule—
- 35 “co-ownership body” means a co-operative housing association within the
meaning of section 300(1)(b) of the Housing (Scotland) Act 1987 (c.26), the
management of which is undertaken by general meeting,

“employee residence” means a house provided by an employer for occupation by any employee,

“hostel for homeless persons” means a building managed by a local authority, a registered social landlord or a voluntary organisation in which is provided for homeless persons residential accommodation (otherwise than in separate and self-contained houses) and either board or common facilities for the preparation of adequate food to the needs of those persons, or both,

“registered social landlord” means a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10),

“voluntary organisation” means a body, other than a public or local authority, the activities of which are not carried on for profit,

“women's refuge” means a house managed by a voluntary organisation and used wholly or principally for the temporary accommodation of persons who have left their homes as a result of—

- (a) physical violence or mental abuse, or
- (b) threats of such violence or abuse,

from persons to whom they are or were married or with whom they are or were co-habiting.

For the purposes of the definition of “hostel for homeless persons” in paragraph 2, a person is homeless who comes within any of the descriptions of persons who are homeless or threatened with homelessness in section 24 of the Housing (Scotland) Act 1987 (c.26).

SCHEDULE 2

(introduced by section 9)

MODIFICATIONS OF BUILDING (SCOTLAND) ACT 2003

The Building (Scotland) Act 2003 (asp 8) is amended as follows.

In section 2(1), after “purposes of” insert “the Fire Sprinklers in Residential Premises (Scotland) Act 2003 (asp 00) or”.

In section 8—

- (a) in subsection (8), at the beginning insert “Subject to subsection (8A),”,
- (b) after subsection (8) insert—

“(8A) Building regulations may not by virtue of subsection (8) affect the operation of subsection (1) as respects any building to which the Fire Sprinklers in Residential Premises (Scotland) Act 2003 (asp 00) applies.”.

In section 9(3)—

- (a) after “demolition” in the first place where it occurs insert “or, in the case of a building to which Part 3 of the Fire Sprinklers in Residential Premises (Scotland) Act 2003 (asp 00) applies, conversion”,
- (b) after “demolition” in the second place where it occurs insert “or, as the case may be, conversion”, and
- (c) after “constructed” insert “or converted”.

5 In section 9(4), after “demolition” insert “or, in the case of a building to which Part 3 of the Fire Sprinklers in Residential Premises (Scotland) Act 2003 (asp 00) applies, conversion”.

6 In section 25—

5 (a) in subsection (1), after “regulations” in the second place where it occurs insert “or the Fire Sprinklers in Residential Premises (Scotland) Act 2003 (asp 00)”,

(b) in subsection (2), “of the regulations” is repealed,

(c) in subsection (3), after “building regulations” where it first occurs insert “or the Fire Sprinklers in Residential Premises (Scotland) Act 2003 (asp 00)”, and

10 (d) in subsection (3)(a), “of the regulations” is repealed.

7 In section 27(1)(a), after “8(1)(a)” insert “or, in the case of sheltered housing as defined in section 15 of the Fire Sprinklers in Residential Premises (Scotland) Act 2003 (asp 00), section 8(1)(b)”.

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An Act of the Scottish Parliament to require the provision of fire sprinkler systems in houses in multiple occupation and sheltered housing; to enable the Scottish Ministers to extend these provisions to other categories of residential premises; and for connected purposes.

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