

GUIDANCE FROM THE HEALTH & SAFETY COMMITTEE

Fire Regulations and Enforcement - Are You Ready?

The Regulatory Reform (Fire Safety) Order 2005 (RRO) in England and Wales is the biggest overhaul of fire safety legislation in decades. The proposed sweeping reform will affect employers and virtually all those responsible for non-domestic premises and was approved by Parliament on 7 June 2005, and will become law on 1 October 2006. It will attempt to simplify, rationalise and consolidate more than 70 sets of fire safety regulations, by replacing existing legislation with a single Fire Safety Act based on the principles of risk assessment.

With such a large number of fire safety-related legislation, it is inevitable that overlapping and confusing inconsistencies arise in existing fire safety provisions. These can bewilder the professional, never mind the lay person. The RRO proposals aim to remove multiple and overlapping fire safety provisions and replace them with a single fire safety regime, which will hopefully reduce the burden of complexity.

Fire safety law is changing in October 2006 - *what are the major changes?*

Before 1997 fire safety legislation and supporting technical guidance was generally prescriptive in content. It was also the responsibility of the enforcing authority to assess designated premises and stipulate the type and level of fire safety provisions necessary, as well as advising the responsible person of those requirements and inspect any subsequent works. For many workplaces this would result in a Fire Certificate under the Fire Precautions Act 1971.

The introduction of the Fire Precautions (Workplace) Regulations 1997 ended this tradition by placing responsibility for compliance substantially with the employer. These Regulations also heralded the introduction of the fire risk assessment as the main tool for assessing the safety of persons in a place of work.

Since the introduction of the Workplace Regulations (as amended), both items of legislation have run concurrently, although these are based on two different principles, fire certification and risk assessment, respectively. What this amounts to is that many premises are subject to legislation based on two totally different philosophies: prescriptive or risk-based.

Fire safety legislation will evolve by way of the Regulatory Reform (Fire Safety) Order 2005 and it is proposed that issuing fire certificates under the Fire Precautions Act 1971 will cease. The reform of fire safety-related legislation will be based on the principle of risk management, which has already been established under the Fire Precautions

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(Workplace) Regulations (as amended). So the regime will be based on risk assessment with responsibility for fire safety resting with the person responsible for the premises.

It covers 'general fire precautions' and other fire safety duties which are needed to protect 'relevant persons' in case of fire in and around most 'premises'. The Order requires fire precautions to be put in place "where necessary" and to the extent that it is reasonable and practicable in the circumstances of the case. The new law will:-

- Emphasise preventing fires and reducing risk;
- Make it your responsibility to ensure the safety of everyone who uses your premises and in the immediate vicinity;
- Do away with the need for fire certificates.

A set of guidance notes, (downloadable from www.firesafetylaw.communities.gov.uk) has been developed to tell you what you have to do to comply with fire safety law, help you to carry out a fire risk assessment and identify the general fire precautions you need to have in place. The guides are designed so that a responsible person, with limited formal training or experience, should be able to carry out a fire risk assessment.

It is clear that fire safety will rely less on fire safety professionals. This means that employers, building owners and occupiers will have to acquire a greater understanding of fire protection systems installed in their properties. With more responsibility placed on employers, building owners and occupiers, together with the obligation to adopt a risk-based approach to fire safety.

Completing a fire risk assessment will go a long way towards meeting basic legal responsibilities. But sometimes it is necessary to take one step further and carry out a complete review of the premises, safety systems and equipment to ensure that they are still appropriate for the risks that are present. The result could help define how the building is actually constructed and how this interacts with fire safety equipment and systems. A clear fire safety strategy can then be detailed and implemented for the building's future use and also clearly demonstrates to all concerned parties that all potential hazards and risks have been given due consideration and that safe, acceptable and substantiated solutions have been provided.

Conclusion

With the imminent and revolutionary changes in fire safety legislation fast approaching, there is no doubt that building owners, occupiers and employers will have to bear more responsibility for fire safety matters. While many will be familiar with the fire risk assessment process, it may prove beneficial to prepare a fire safety strategy to fully understand buildings and the fire safety systems and the equipment they contain. Where the enforcing authority are not satisfied that the fire precautions are adequate, rather than stipulate exactly what the responsible person must do, it will be for the enforcing authority to advise him or her where the law has not been complied with, why they are of

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that opinion and, where necessary, require them to take action. This is in line with existing health and safety law.

Frequently Asked Questions

- So what will I have to do?

"We won't know the final requirements until the order has parliamentary approval, but you should already have carried out a fire risk assessment under The Workplace Regulations and indeed reviewed your fire risk assessments at least annually, or after any changes. This should go a long way towards satisfying the act's requirements. However, it is quite likely that, although the main focus will be people safety, you will need to go some way further than just a fire risk assessment. Other requirements could include taking steps to reduce risk. Specific measures that may be made under the new legislation might include the prevention of fire spread and firefighter safety. An important part of the proposals relates to the definition of 'responsible person', which will be along the lines of corresponding definitions in other health and safety legislation. Rather than rely on the fire service to determine the necessary fire precautions, the person responsible for the premises will be accountable for the safety of people present in the building or buildings and will have to decide how to deal with fire risks".

- I already have a fire certificate; doesn't that mean that my premises are safe enough?

"Possibly, but how long have you had this certificate? If it dates from the beginning then the provisions made could be more than thirty years old. Do you carry out regular checks, testing, servicing and maintenance? The wiring on a fire alarm system has a life of ten to 15 years, which may be extended if there is regular testing and maintenance. Fire doors in everyday use become worn and distorted; smoke seals erode or become torn or broken; intumescent strips are painted over; closers wear down. The use to which the building is put, as well as layout and occupancy, are all likely to have changed over thirty years so it is probable that some of your fire certificate's provisions no longer apply, or at least need updating".

- Who will enforce this new legislation and how will they do so?

"Monitoring and enforcement will generally be carried out by the fire service. There has been much debate about the training necessary for the fire brigade to carry out this role and how they can ensure a consistent approach. It is intended that enforcement will be carried out in a similar way to other health and safety legislation.

Under the Fire Precautions Act, the Fire Officer would tell you what was needed to be done to make fire precautions adequate. Under the new order they will tell you that the law has not been complied with and why. This is in line with existing health and safety law".



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- I already have a fire risk assessment under the 'Workplace Regulations'. Won't this do?

"It depends on what additional requirements have been stipulated in the new fire safety order. But it's likely that your fire risk assessment will need to be reviewed and extra items considered".

- Will fire precautions have to be improved? / Will it cost me anything?

"Yes and No! (Answer for both). If you are already fully complying with existing legislation then it should be fairly simple. If you have not kept your fire precautions up to date there may be some additional areas to look at".

Fire regulations in England are changing and all businesses must ensure they comply. Will you be ready? Download or buy the appropriate guide for your business and ensure you comply with the new regulations by October 2006.

www.firesafetylaw.communities.gov.uk