



ASTONLARK

RISK MANAGEMENT

The Regulatory Reform

INTRODUCTION

The Regulatory Reform (Fire Safety) Order 2005 amends or replaces numerous pieces of legislation and removes the need, where previously applicable, for a fire certificate to be obtained from the Fire and Rescue Service; fire certificates will cease to have legal status and will no longer be issued. Where legislation was previously based on a prescriptive approach, the Order seeks by a process of risk assessment to prevent a fire from starting in the first place, and to eliminate, reduce or control the risks identified.

The Order came into force on 1st October 2006, and applies only to England and Wales. In replacing or amending numerous pieces of legislation, notably the repeal of the Fire Precautions Act 1971 and revocation of the Fire Precautions (Workplace) Regulations 1997 as amended, the new Order retains and develops many of the principles of the 1997 Regulations.

PREMISES APPLICABLE

The Order applies to the majority of premises and workplaces in England and Wales but not to dwellings; the underground parts of mines; anything that floats, flies or runs on wheels; offshore installations; building sites or the military.

WHO IS RESPONSIBLE?

The person who must ensure compliance with the Fire Safety Duties is defined as the Responsible Person. This means:

1. The employer, if the workplace is to any extent under his control, or if this does not apply:

2. The person who has control of the premises (as occupier or otherwise) in connection with carrying on a business (whether or not for profit), or

3. The owner, where the above do not apply.

Where two or more Responsible Persons share responsibility (e.g. tenant/landlord, multiple tenancy building or adjacent premises) they must co-operate, share information and collaborate to provide preventive and protective measures.

DUTIES

The Responsible Person must carry out a "suitable and sufficient" fire risk assessment which must address the safety in case of fire of all "relevant persons", i.e. anyone who is lawfully on or in the vicinity of the premises, including those at special risk such as the disabled and those with special needs. The fire risk assessment will assist in identifying, removing or reducing the risks and in deciding the nature and extent of the precautions needed to protect people against the remaining risks.

The Responsible Person must also appoint at least one Safety Assistant, who must be competent, i.e. has sufficient training or knowledge and other qualities, to enable them to assist in undertaking the preventive and protective measures. There must be sufficient of them and they must be allowed sufficient time to do their job. The competent person may be an employee, but if not, the Responsible Person must ensure all relevant factors, which may affect their employees' safety, are made known to them.

A self-employed person (not a partner) does not have to appoint a Safety Assistant if they have sufficient training

and experience or knowledge and other qualities. Similarly where a partner in a partnership has these attributes and is able to deal with the preventative and protective measures, there is no requirement to appoint a Safety Assistant.

The main fire safety measures for which the Responsible Person is accountable may be summarised as:

- Measures to reduce the risk of fire occurring and spreading
- Detection and warning in case of fire
- Provision and protection of means of escape
- Maintenance of facilities, equipment and devices necessary to safeguard human safety
- Consideration of dangerous substances
- Action to be taken in the case of fire, including staff training and measures to mitigate the effects of fire
- Firefighting measures
- Provision of information to employees

Employees also have duties under the Order, and must:

- Take reasonable care for the safety of himself and others
- Cooperate with the employer to enable the employer to comply with the requirements of the order
- Inform the employer of a work situation presenting a serious and immediate danger or shortcoming in the employer's protection arrangements for safety

WHAT IS A SUITABLE AND SUFFICIENT FIRE RISK ASSESSMENT?

The legislation itself does not define this because it will vary according to the size and nature of the workplace. For most organisations, following the recognised five step plan for fire risk assessment will result in a suitable and sufficient assessment:

1. Identify the fire risks arising from or in connection with work
2. Identify the location of people at significant risk in case of fire
3. Evaluate the risks
4. Record findings and action taken
5. Keep the assessment under review

The fire risk assessment must be reviewed if it is suspected it is no longer valid, or if there have been significant changes such as new work processes, extensions or conversions to the premises.

It is a requirement that where five or more persons are employed the fire risk assessment must be recorded; it is however good practice to record it even where there are fewer than five employees.

COMPLIANCE AND GUIDANCE

Provision is made for guidance to be available to the Responsible Person and Safety Assistant to assist them in complying with the preventive and protective measures "as the Secretary of State considers appropriate to meet these regulations". This takes the form of eleven guidance documents produced by the ODPM with the intention of providing information on carrying out suitable and sufficient risk assessments for the business sectors noted below. They are written so that a responsible person, with limited formal training or experience, should be able to carry out a fire risk assessment. Expert advice should however be sought if, upon reading the guide, it is decided you are unable to apply the guidance.

1. Offices and shops
 2. Premises providing sleeping accommodation
 3. Residential care premises
 4. Small and medium places of assembly
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5. Large places of assembly
6. Factories and warehouses
7. Theatres and cinemas
8. Educational premises
9. Healthcare premises
10. Transport interchanges
11. Open air events

ENFORCEMENT

The enforcing authority for most premises will be the local Fire and Rescue authority, or in the case of sports grounds and stadia, the Local Authority. Some specialist situations such as nuclear installations, ships undergoing construction or repair, and construction sites will fall under the authority of the Health and Safety Executive.

Traditionally, Crown premises continue to be under the control of the fire service inspectorate.

Enforcement of the Order will be by the authorities' inspectors, who may:

- Enter the premises for the purpose of carrying out the Order
- Make enquiries regarding compliance with the Order or identity of the Responsible Person
- Require the production of records to inspect
- Require assistance from the Responsible Person (or another with relevant authority)
- Take samples to ascertain flammability or fire resistance
- Have an article dismantled or tested if a danger to relevant persons

Inspectors may also issue Notices:

Alterations Notice if the enforcing authority is of the opinion that the premises either do or will (following a change to them) constitute a serious risk to the relevant persons.

The matters in question will be specified and the Responsible Person must consult

the authority before carrying out any of the proposed changes.

Enforcement Notice may be issued if the Responsible Person fails to comply with any provisions of the Order. It will specify the matters concerned and stipulate a period of time within which they must be rectified. Solutions to the problem areas should be offered.

Prohibition Notice may be issued if it is suspected that there is so serious a risk to relevant persons that the use of the premises should be prohibited or restricted. It will specify the matters concerned and require that they be rectified before the prohibition/restriction is withdrawn. Directions or guidance may be given on how to rectify the problems.

PENALTIES

Conviction of failure to comply with the main provisions outlined above (Articles 8 to 21 of the Order) can result in a fine, or term of imprisonment not exceeding two years.

MORE INFORMATION

Fire risk assessment guidance documents:

www.gov.uk/government/collections/fire-safety-law-and-guidance-documents-for-business



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