

The Regulatory Reform (Fire Safety) Order 2005

The Regulatory Reform (Fire Safety) Order 2005 abolished the old regime of fire certificates prescribed by the Fire Precautions Act 1971 and the Fire Precautions (Workplace) Regulations 1997 and instead imposes a system of continuous risk assessment.

The Order applies to all employers, owners, occupiers, managers and supervisors of business premises and also affects the common parts of residential developments and houses in multiple occupation.

The Government's objectives in making the Order were to streamline the previous fire safety legislation, reduce the burden on businesses, and to improve safety by allowing fire brigades to concentrate on dealing with premises which they view as high risk.

The Order makes fire safety the responsibility of the "Responsible Person". The Responsible Person of the workplace is likely to be the employer, or any person who has control of the premises.

Control means having an obligation to maintain and repair either a part or the whole of the premises. For example, a person who has obligations under a lease or other contract in respect of the maintenance or safety of premises, such as the managing agent is the person likely to be deemed to have control of the premises for the purposes of the Order. In multi-let buildings, there is clearly going to be more than one person responsible, so this requires the landlord, tenants and managing agents to cooperate with each other to identify and comply with their respective duties under the Order.

It is the duty of the Responsible Person to comply with the Order and protect anyone who may be lawfully on the premises, by taking general fire precautions. The general precautions required under the Order include the following:

- Taking steps to reduce the risk of fire or the spread of fire
- Securing and maintaining adequate means of fire escape
- Ensuring that there is adequate equipment for fighting fire
- Ensuring that there are adequate means to detect fire, and that appropriate response and evacuation arrangements are in place in such an event, which includes training employees

The Responsible Person must also conduct an assessment of the risks to which those using the premises are exposed which must be kept up to date at all times.

There is a further requirement for the Responsible Person to appoint one or more “competent persons” to assist them in taking preventative measures. The competent person must have sufficient training and knowledge for this purpose.

In most cases the enforcing authority will be the local fire and rescue authority. They have the power to:-

- issue an alterations notice specifying changes to be made to the premises,
- issue an enforcement notice stating that the Responsible Person has failed to comply with the requirements of the Order, and requiring them to take action to remedy the failure(s) within a specified period, or
- issue a prohibition notice prohibiting the use of the premises until appropriate remedial action has been taken.

The fire authorities have the right to carry out spot checks and failure to comply with the Order or a notice issued under it is an offence. This could result in a fine of up to £5,000 in the Magistrates’ Court or an unlimited fine and up to two years’ imprisonment in the County Court.

The fire risk assessment must be an ongoing process and all documentation must be updated at regular intervals.

It is worth noting that the duties under the 2005 Order also apply to vacant buildings.

We recommend that anyone occupying or having an interest in business premises of whatever type, take steps to assess the extent and degree of their responsibilities under the Order.