

## THE FIRE SAFETY ORDER

### Introduction

From 1<sup>st</sup> October, new legislation was introduced which affects all employers, managers, occupiers and owners of offices and shops. The following information tells you about how you might comply with fire safety law and identify the general fire precautions you will need to have in place to accommodate the changes.

This article has been written to provide guidance for a responsible person to help them carry out a risk assessment in less complex offices and shops. If you decide that you are unable to apply the guidance, then you should seek expert advice from a competent person. More complex premises will probably need to be assessed by a person who has comprehensive training or experience in fire risk assessment. However, this information can be used for multi-occupied buildings to address fire safety issues within their individual occupancies.

It may also be useful for:

- Employees
- Employee-elected representatives
- Trade union-appointed health and safety representatives
- Enforcing authorities and
- All other people who have a role in ensuring fire safety in offices and shops.

Fire safety is only one of many safety issues with which management must concern themselves to minimise the risk of injury or death to staff or the public. Unlike most of the other safety concerns, **fire has the potential to injure or kill large numbers of people very quickly**. This guidance is concerned only with fire safety, but many of the measures discussed here will impact upon other safety issues and vice versa. It is recognised that these various differing safety demands can sometimes affect one another and management should consult other interested agencies (e.g. Health & Safety Executive HSE) where necessary, to confirm that they are not contravening other legislation /guidance.

### Previous General Fire Safety Legislation

The Order<sup>1</sup> replaces previous fire safety legislation. Any fire certificate issued under the Fire Precautions Act 1971<sup>2</sup> will cease to have any effect. If a fire certificate has been issued in respect of your premises or the premises were built to recent building regulations, as long as you have made no material alterations and all the physical fire precautions have been properly maintained, then it is unlikely you will need to make any significant improvements to your existing physical fire protection arrangements to comply with the Order<sup>1</sup>. However, you must still carry out a fire risk assessment and keep it up to date to ensure that all the fire precautions in your premises remain current and adequate.

If you have previously carried out a fire risk assessment under the Fire Precautions (Workplace) Regulations 1997<sup>3</sup>, as amended 1999<sup>o</sup> and this assessment has been regularly reviewed then all you will need to do now is revise that assessment taking account of the wider scope of the Order<sup>1</sup> as described in this guide.

## Background

The Order<sup>1</sup> applies in England and Wales. 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.

Responsibility for complying with the Order<sup>1</sup> rests with the 'responsible person'. In a workplace, this is the employer and any other person who may have control of any part of the premises, e.g. the occupier or owner. In all other premises the person or people in control of the premises will be responsible. If there is more than one responsible person in any type of premises (e.g. a multi-occupied complex), all must take all reasonable steps to co-operate and co-ordinate with each other.

If you are the responsible person you must carry out a fire risk assessment which must focus on the safety in case of fire of all 'relevant persons'. It should pay particular attention to those at special risk, such as disabled people, those who you know have special needs and young persons and must include consideration of any dangerous substance liable to be on the premises. Your fire risk assessment will help you identify risks that can be removed or reduced and to decide the nature and extent of the general fire precautions you need to take.

If your organisation employs five or more people, your premises are licensed or an alterations notice is in force, you must record the significant findings of the assessment. It is good practice to record your significant findings in any case.

There are some other fire safety duties you need to comply with:

- **You must** appoint one or more competent persons, depending on the size and use of your premises, to carry out any of the preventive and protective measures required by the Order<sup>1</sup> (you can nominate yourself for this purpose). A competent person is someone with enough training and experience or knowledge and other qualities to be able to implement these measures properly.
- **You must** provide your employees with clear and relevant information on the risks to them identified by the fire risk assessment, about the measures you have taken to prevent fires, and how these measures will protect them if a fire breaks out.
- **You must** consult your employees (or their elected representatives) about nominating people to carry out particular roles in connection with fire safety and about proposals for improving the fire precautions.
- **You must**, before you employ a child, provide a parent with clear and relevant information on the risks to that child identified by the risk assessment, the measures you have put in place to prevent/protect them from fire and inform any other responsible person of any risks to that child arising from their undertaking.
- **You must** inform non-employees, such as temporary or contract workers, of the

relevant risks to them, and provide them with information about who are the nominated competent persons, and about the fire safety procedures for the premises.

- **You must** co-operate and co-ordinate with other responsible persons who also have premises in the building, inform them of any significant risks you find and how you will seek to reduce/control those risks which might affect the safety of their employees.
- **You must** provide the employer of any person from an outside organisation who is working in your premises (e.g. an agency providing temporary staff) with clear and relevant information on the risks to those employees and the preventive and protective measures taken. You must also provide those employees with appropriate instructions and relevant information about the risks to them.
- If you are not the employer but have any control of premises which contain more than one workplace, **you are also responsible** for ensuring that the requirements of the Order<sup>1</sup> are complied with in those parts over which you have control.
- **You must** consider the presence of any dangerous substances and the risk this presents to relevant persons from fire.
- **You must** establish a suitable means of contacting the emergency services and provide them with any relevant information about dangerous substances.
- **You must** provide appropriate information, instruction and training to your employees, during their normal working hours, about the fire precautions in your workplace, when they start working for you, and from time to time throughout the period they work for you.
- **You must** ensure that the premises and any equipment provided in connection with firefighting, fire detection and warning, or emergency routes and exits are covered by a suitable system of maintenance and are maintained by a competent person in an efficient state, in efficient working order and in good repair.
- **Your employees must** co-operate with you to ensure the workplace is safe from fire and its effects, and must not do anything that will place themselves or other people at risk.

The above examples outline some of the main requirements of the Order<sup>1</sup>. The rest of this guide will explain how you might meet these requirements.

### **Who enforces the Fire Safety Order?**

The local fire and rescue authority (the fire and rescue service) will enforce the Order<sup>1</sup> in most premises.

The enforcing authority will have the power to inspect your premises to check that you are complying with your duties under the Order<sup>1</sup>. They will look for evidence that you have carried out a suitable fire risk assessment and acted upon the significant findings of that assessment. If you are required to record the outcome of the assessment they will expect to see a copy.

If the enforcing authority is dissatisfied with the outcome of your fire risk assessment or the action you have taken, they may issue an enforcement notice that requires you to

make certain improvements or, in extreme cases, a prohibition notice that restricts the use of all or part of your premises until improvements are made.

If your premises are considered by the enforcing authority to be or have potential to be high risk, they may issue an alterations notice that requires you to inform them before you make any changes to your premises or the way they are used.

Failure to comply with any duty imposed by the Order<sup>1</sup> or any notice issued by the enforcing authority is an offence. You have a right of appeal to a magistrate's court against any notice issued. Where you agree that there is a need for improvements to your fire precautions but disagree with the enforcing authority on the technical solution to be used (e.g. what type of fire alarm system is needed) you may agree to refer this for independent determination.

If having read this guide you are in any doubt about how fire safety law applies to you, contact the fire safety office at your local fire and rescue service. If your premises were in use before 2006, then they may have been subject to the Fire Precautions Act<sup>2</sup> and the Fire Precautions (Workplace) Regulations<sup>3</sup> °. Where the layout (means of escape) and other fire precautions have been assessed by the fire and rescue service to satisfy the guidance that was then current, then it is likely that your premises already conform to many of the recommendations here, providing you have undertaken a fire risk assessment as required by the Fire Precautions (Workplace) Regulations<sup>3</sup> °.

New buildings or significant building alterations should be designed to satisfy current building regulations (which address fire precautions). However, you will still need to carry out a fire risk assessment, or review your existing assessment (and act on your findings), to comply with the Order<sup>1</sup>.

<sup>1</sup> Regulatory Reform (Fire Safety) Order 2005, SI 2005/1541.

<sup>2</sup> Fire Precautions Act 1971 ( c40)

<sup>3</sup> Fire Precautions (Workplace) Regulations 1997, SI 1997/1840.

° Fire Precautions (Workplace) (Amendment) Regulations 1999, SI 1999/1877.

The link below accesses a downloadable pdf document for full information

[http://www.communities.gov.uk/embedded\\_object.asp?id=1500403](http://www.communities.gov.uk/embedded_object.asp?id=1500403)