

Regulatory Reform (Fire Safety) Order 2005 Overview

The Regulatory Reform (Fire Safety) Order came into force on 1 October 2006, with the aim of consolidating and rationalising the pre-existing fire legislation. It abolished fire certificates (which no longer have any legal status) and created a single fire safety regime that applies to nearly all workplaces and other non-domestic premises in England and Wales. The new regime is based around the principle of risk assessment, and places a greater emphasis on fire prevention in all non-domestic premises, including the voluntary sector and the self-employed where they have premises separate from their homes. However, much of what the order requires was covered in the pre-existing legislation, and therefore there should not be any significant additional burden on employers if the requirements of the additional legislation were being met.

Responsibility for complying with the requirements of the Order falls to the 'responsible person' – which in workplaces is the employer and any other person who may have control over any part of the premises, such as the occupier or owner. In other premises, the person/people in control of the premises are responsible.

Note that with the Order:

- 'Relevant persons' means any person who is lawfully on the premises, such as contractors and members of the public, or who is in the immediate vicinity of the premises and may be at risk from a fire on the premises.
- 'General fire precautions' means measures that:
 - Reduce the risk of fire and the spread of fire on the premises;
 - Concern the means of escape from the premises;
 - Ensure that the means of escape can be safely and efficiently used;
 - Concern the means for fighting fire on the premises;
 - Concern the means for detecting fire on the premises and giving warning in case of fire; and
 - Concern the arrangements for action to be taken in the event of a fire, including instruction/training of employees and mitigation of the effects of a fire.

General fire precautions do not encompass those measures needed in connection with a work process, where the measures are designed to prevent/reduce the likelihood/intensity of a fire arising from the process, and are required under health and safety legislation.

Article 8: Duty to take general fire precautions

The responsible person must take such general fire precautions as will ensure, so far as is reasonable practicable, the safety of his employees and other relevant persons.

Article 9: Risk Assessment

The responsible person must carry out a suitable and sufficient assessment of the fire risks to which relevant persons are exposed, in order to identify the general fire precautions (as referred to above) required by the Order. Points to bear in mind are:

- The assessment will need to pay particular attention to any group of people that may be especially at risk, e.g. the disabled and young persons, and to any dangerous (i.e. flammable, explosive etc.) substances that may be on the premises.
- The assessment must be regularly reviewed to keep it up to date, and also reviewed where there is reason to suspect it is no longer valid or where there has been a significant change in the matters to which it relates.

- The significant findings of the assessment (and of any review), and any group of people identified as being especially at risk, must be recorded where:
 - The responsible person employs five or more people;
 - The premises is licenced; or
 - An alterations notice requires it.

Schedule 1 part 2 MATTERS TO BE TAKEN INTO PARTICULAR ACCOUNT IN RISK ASSESSMENT IN RESPECT OF YOUNG PERSONS

The matters are—

- the inexperience, lack of awareness of risks and immaturity of young persons;
- the fitting-out and layout of the premises;
- the nature, degree and duration of exposure to physical and chemical agents;
- the form, range, and use of work equipment and the way in which it is handled;
- the organisation of processes and activities;
- the extent of the safety training provided or to be provided to young persons; and
- risks from agents, processes and work covered in the Management of H&S at Work Regs on the protection of young people at work.

Schedule 1 Part 1 Measures to take into account when assessing dangerous substances

The matters are—

- the hazardous properties of the substance;
- information on safety provided by the supplier, including information contained in any relevant safety data sheet;
- the circumstances of the work including: the substances used and their possible interactions; the amount of the substance involved; where the work will involve more than one dangerous substance, the risk presented by such substances in combination; and the arrangements for the safe handling, storage and transport of dangerous substances and of waste containing dangerous substances;
- activities, such as maintenance, where there is the potential for a high level of risk;
- the effect of measures which have been or will be taken pursuant to this Order;
- the likelihood that an explosive atmosphere will occur and its persistence;
- the likelihood that ignition sources, including electrostatic discharges, will be present and become active and effective;
- the scale of the anticipated effects;
- any places which are, or can be connected via openings to, places in which explosive atmospheres may occur; and
- such additional safety information as the responsible person may need in order to complete the assessment.

Article 10: Principles of prevention to be applied

Where the responsible person implements any preventive and protective measures, this should be done in accordance with the stated principles which emphasise the need to avoid risks and evaluate the risks that cannot be avoided.

Schedule 1 Principles of Prevention

The principles are—

- avoiding risks;

- evaluating the risks which cannot be avoided;
- combating the risks at source;
- adapting to technical progress;
- replacing the dangerous by the non-dangerous or less dangerous;
- developing a coherent overall prevention policy which covers technology, organisation of work and the influence of factors relating to the working environment;
- giving collective protective measures priority over individual protective measures; and
- giving appropriate instructions to employees.

Article 11: Fire Safety arrangements

The responsible person must make arrangements for the effective planning, organisation, control, monitoring and review of the preventive and protective measures. The arrangements must be recorded where:

- The responsible person employs five or more people;
- The premises is licensed; or
- An alterations notice requires it.

Article 12: Elimination or reduction of risks from dangerous substances

The responsible person must, where reasonably practicable, eliminate the risks from dangerous substances by substituting them for alternative substances.

Where substitution is not reasonable practicable, or where after substitution some risk (albeit a lower risk) remains, the responsible person must, so far as is reasonably practicable, implement measures consistent with the risk assessment and appropriate to the nature of the activity or operation to:

- (a) control the risk, and
- (b) mitigate the detrimental effects of a fire.

The responsible person must arrange for the safe handling, storage and transport of dangerous substances and waste containing dangerous substances, and must ensure that the conditions needed for ensuring the elimination and reduction of risk are maintained.

Article 13: Fire-fighting and fire detection

Where necessary for the safety of relevant persons, the responsible person must ensure that:

- (a) Fire-fighting equipment, fire detectors and alarms are provided to the extent that is appropriate. Regard should be had to the following in determining what is appropriate:
 - The dimensions and use of the premises;
 - The equipment present;
 - The nature of the substance likely to be present; and
 - The maximum number of people that may be present at any one time.
- (b) Any non-automatic fire-fighting equipment provided (e.g. portable extinguishers) is easily accessible, simple to use and indicated by signs.

The responsible person must:

- (a) Take measures for fire-fighting, adapted to the nature of the activities carried out and the size of the undertaking and of the premises;
- (b) nominate a sufficient number of competent persons to implement the measures in (a), and provide them with adequate training and equipment taking into account the size of the premises and the hazards present; and
- (c) as necessary, contact the emergency services, for example to discuss fire-fighting, rescue work, first-aid and emergency medical care.

Article 14: Emergency routes and exits

Where necessary for the safety of relevant persons, emergency routes and exits must be kept clear at all times and, in addition:

- Lead as directly as possible to a place of safety;
- Allow a quick and safe evacuation;
- Be adequate in terms of numbers, distribution and dimensions;
- Emergency doors must open in the direction of escape;
- Sliding and revolving doors must not be used as emergency exits;
- Emergency doors must be capable of being opened easily and immediately in an emergency;
- Be indicated by suitable signs; and to be provided with emergency lighting where they require illumination.

Article 15: Procedures for serious and imminent danger and for danger areas

The responsible must:

- (a) Establish and, where necessary, give effect to appropriate procedures, including safety drills, to be followed in the event of serious and imminent danger to relevant persons. The procedures must:

- So far as is practicable, require relevant persons who are exposed to serious and imminent danger to be informed of the nature of the hazard and the precautions in place or planned;
- Enable the persons concerned to stop work and immediately proceed to a place of safety in the event of serious, imminent and unavoidable danger; and
- Save in exceptional cases, require the persons concerned to be prevented from resuming work in any situation where there is still a serious and imminent danger;

- (b) nominate a sufficient number of competent persons to implement those procedures in relation to the evacuation of relevant persons from the premises; and

- (c) ensure no relevant person has access to areas where access is restricted on safety grounds, unless the person concerned has received adequate safety instruction.

Article 16: Additional emergency measures in respect of dangerous substances

For the safety of relevant persons arising from an accident, incident or emergency related to a dangerous substance (unless the risk assessment shows that because of the quantity of

dangerous substances present there is only a slight risk and that the measures taken to control it the responsible person must:

- Make information available and emergency arrangements, including:
 - Details of relevant work hazards and hazard identification arrangements; and
 - Specific hazards likely to arise at the time of an accident, incident or emergency;
- Establish suitable warning (including where necessary visual and audible alarms) and other communication systems;
- Provide and maintain escape facilities, if the risk assessment shows this to be necessary;
- Make information on the procedures for serious and imminent danger and on the emergency measures in respect of dangerous substances, available to the accident and emergency services, and display it at the premises unless the risk assessment indicates this to be unnecessary;
- Ensure immediate steps are taken to mitigate the effects of a fire, restore the situation to normal and inform those who may be affected; and
- Ensure that all but essential personnel (i.e. those who have to deal with an incident) are excluded from the affected area, and that such personnel are provided with appropriate protective clothing and equipment.

Article 17: Maintenance

The responsible person must ensure that the premises and any fire related facilities, equipment and devices provided are:

- Subject to a suitable system of maintenance; and
- Are maintained in an efficient state, efficient working order and in good repair.

Where the premises form part of a building, the responsible person may make arrangements with the occupier of any other premises in the building to ensure compliance with the above requirements. The occupier of the other premises is obliged to cooperate.

Article 18: Safety assistance

The responsible person must appoint one or more competent persons to assist him in undertaking the preventive and protective measures (note: this requirement does not apply to a self-employed employer where he has the necessary competence, or to individuals who are employers and who operate as a partnership, where at least one of the individuals has the necessary competence and can assist his fellow partners in undertaking the preventive and protective measures).

Arrangements must be in place for ensuring that the competent persons cooperate with each other. If appointed from outside the organisation, competent persons must be informed of any factors that may affect safety, and have access to information on any dangerous substances present.

To be a 'competent', a person must have sufficient training and experience or knowledge and other qualities to enable him properly to assist in undertaking the preventive and protective measures.

Article 19: Provision of information to employees

The responsible person must provide his employees with comprehensible and relevant information on:

- The risks to them identified by the risk assessment;
- The 'preventive and protective measures;
- The procedures and measures for dealing with serious and imminent danger, and danger areas;
- The identity of the competent persons nominated to fight fires or appointed to implement the evacuation procedures; and
- The risks notified to him by other responsible persons who share the premises.

Additional information must be provided to:

- The parents of any children the responsible person is intending to employ; and
- Employees, in relation to any dangerous substances present.

Article 20: Provision of information to employees and the self-employed from outside undertakings

If the responsible person has another employer's employees working at the premises, he must ensure that the employer is provided with comprehensible and relevant information on:

- The risks to those employees;
- The preventive and protective measure being taken; and
- The identity of any competent person nominated to implement the evacuation procedures.

Any persons working in the responsible person's undertaking who is not his employee must be provided with appropriate instructions and comprehensible and relevant information on any fire risks to that person. The responsible person must also take all reasonable steps to ensure that any person from an outside undertaking who is working at the premises receives sufficient information on the identity of any competent person nominated to implement the evacuation procedures.

Article 21: The responsible person must ensure his employees are provided with adequate safety training:

- when they are first employed, and
- if they are exposed to new or increased risks.

The training must:

- cover the relevant precautions and actions to be taken;
- be repeated periodically where appropriate;
- be adapted as necessary;
- be provided in a manner appropriate to the risk; and
- take place during working hours.

Article 22: Cooperation and coordination

Where two or more responsible persons share, or have duties in respect of, premises (whether on a temporary or permanent basis) each responsible must:

- cooperate with the other responsible person to ensure the requirements of the Order are complied with;
- take all reasonable steps to coordinate the measures he takes to comply with the requirements of the Order, with those taken by the other responsible person/s; and

- (c) take all reasonable steps to inform the other responsible persons of the risk to relevant persons arising from the conduct of his undertaking.

Where two or more responsible persons share a workplace where an explosive atmosphere may occur, the responsible person with overall responsibility for the workplace must coordinate the implementations of the measures required by the Order to control the risk.

Article 23: General duties of employees at work

Every employee must:

- (a) take reasonable care for the safety of himself and other relevant persons;
- (b) cooperate with his employer to enable any duty or requirement imposed on his employer under the Order to be performed/complied with; and
- (c) inform his employer or any other employee with specific responsibility for the safety of his fellow employees of dangerous work situations and any shortcomings in the employer's protection arrangements.

Article 24: Power (of the Secretary of State) to make regulations about fire precautions

The Secretary of State has the power to make regulations with regard to the precautions required to control the risk to relevant persons.

Article 25: Enforcing authorities

At most premises, the Order is enforced by the local fire and rescue authority. The exceptions to this are:

- Nuclear installations, construction sites and ships under repair or construction: HSE enforces in these areas;
- Crown owned/occupied premises: fire inspectors appointed by the crown enforce;
- Premises with armed forces establishments: the fire service maintained by the Secretary of State enforces;
- Sports grounds and stands that require local authority safety certificates: the local authority enforces.

Article 26: Enforcement of Order

Enforcing authorities are required to enforce the Order, and in doing so must have regard to any guidance issued by the Secretary of State.

Article 27: Powers of inspectors

Inspectors enforcing the Order have a range of powers, including that of entering and inspecting premises to which the Order applies.

Article 28: Exercise on behalf of fire inspectors, etc., of their powers by officers of fire brigades

The powers of fire inspectors or of others authorised by the Secretary of State are also exercisable by employees of the fire and rescue authority when authorised by such an inspector for the purpose of reporting relevant matters to him.

Article 29: Alterations notices

For premises that constitute a serious risk or have the potential to do so, the enforcing authority (EA) may serve an alterations notice requiring the responsible person to notify the EA of any planned alterations to the premises or to how the premises is used.

Article 30: Enforcement notices

If the EA is of the opinion that the responsible person has failed to comply with any provision of the Order or of any regulations made under it, the EA may serve an enforcement notice on that person requiring action to be taken within a specified period of time (not less than 28 days) to remedy that failure.

Article 31: Prohibition notices

If the EA is of the opinion that the use of premises involves (or will involve) a serious risk, it can serve a prohibition notice thereby prohibiting or restricting the use of the premises.

Article 32: Offences

It is an offence to fail to comply with any of the requirements of the Order, or to fail to comply with any notice issued by the EA.

Note: The Order also contains additional, miscellaneous duties.

Fire Safety (Employee' Capabilities) (England) Regulations 2010

These regulations require employers to take into account their employee' health and safety capabilities in relation to fire safety, when allocating tasks to them. The Regulations apply to England only.