

Appendix Fifteen

Responsibilities under the Regulatory Reform (Fire Safety) Order 2005

Introduction

The Regulatory Reform (Fire Safety) Order 2005 ("Fire Safety Order") came into force on 1 October 2006.

The Order sets up a single scheme that replaces over 100 pieces of legislation in respect of fire safety, rationalising the existing law. The aim is to put a greater emphasis on fire prevention in all non-domestic premises for the protection of 'relevant persons', ie any person who is or may be lawfully on the premises or in the immediate vicinity of the premises and at risk from a fire on the premises.

Previous Fire Certificates no longer have any legal effect. New fire risk assessments must be carried out and kept up to date and which are designed to ensure that the fire precautions are adequate for the property.

The Fire Safety Order covers general fire precautions and other fire safety duties needed to protect employees and others who might lawfully be on premises. The Order applies to non-residential properties and to the common parts of residential flats and houses in multiple-occupation. This will include lifts, stairwells, entrance halls etc.

Responsibility for Compliance

Responsibility for compliance with the Order lies with the **Responsible Person**.

The Trust has appointed the Agent as the main **Responsible Person** for the Property on the grounds that the Agent generally has **control** over the Property.

The Trust acknowledges that there are duties concerning fire safety where the Agent does not have sole control, such as in the carrying out of repairs and alterations. This Appendix attempts to clarify and allocate as far as possible the respective responsibilities of the Trust and the Agent so as to minimise the risk that the enforcing authorities or the courts will hold one or other party to be the Responsible Person where this had not been anticipated.

Enforcement

The body in charge of enforcing most aspects of the regime is the Fire and Rescue Authority. They have the power to issue enforcement notices, prohibition notices and alteration notices. Inspectors appointed by the enforcing authorities have the power to enter any premises and do anything necessary for the purpose of carrying out the order.

It is possible to appeal notices issued under this Order. This appeal should be directed to the Magistrates Court within 28 days of the service of the notice. As a general rule the notice will then be suspended until a decision is reached, unless the notice is a prohibition notice, the suspension of which requires specific direction from the Magistrates Court.

It must be noted that the new regime creates a number of new criminal offences for failure to comply. It will be for the accused person to prove what was reasonably practicable to have done in the carrying out of their duties in compliance with the Order. The penalty for an offence is a maximum fine of £5000 if the case is heard in the Magistrates Court and an unlimited fine and imprisonment of up to two years if heard in the Crown Court.

Agent's Main Duties

In any **workplace** within the Property (such as an office) the Agent as employer is the sole Responsible Person. It is down to the Agent to ensure that all duties are complied with in respect of those premises.

In all parts of the Property that are **not a workplace**, the Agent as Responsible Person must ensure those duties are complied with **insofar as they relate to matters within the Agent's control**.

The Trust and the Agent have certain shared or interdependent duties in relation to maintenance and repair. While the Trust has generally appointed the Agent as Responsible Person, the Trust and the Agent must co-operate with each other to enable both to comply with the Order and take steps to as far as possible co-ordinate the measures being taken.

The main relevant duties on the Agent created by its appointment as Responsible Person under the Fire Safety Order are summarized briefly below.

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Risk Assessment

The Agent must make a 'suitable and sufficient' assessment of the risks to which employees and others on the premises might be exposed, for the purpose of identifying the general fire precautions that need to be taken. This should be reviewed regularly by the Agent who must ensure changes are made, as required. The Agent must notify the Trust of changes that the Trust may need to carry out, and co-operate with the Trust in implementing them.

General Fire Precautions

The Agent must take such general fire precautions as are reasonably practicable to ensure the safety of employees and others. General fire precautions include measures:

- To reduce the risk of fire and the spread of fire on the premises
- In relation to the means of escape from the premises including ensuring that the means of escape can be safely and effectively used
- In relation to fire fighting on the premises
- In relation to detecting fire on the premises and giving warning
- In relation to the instruction and training of employees
- To mitigate the effects of fire

The Agent should take account of the following principles:

- Avoiding risks

- Evaluating risks which cannot be avoided
- Combating risks at source
- Adapting to technical progress
- Replacing the dangerous with non-dangerous or less dangerous
- Developing an overall prevention policy
- Giving collective protection measures priority over individual protection measures
- Giving appropriate instructions to employees

Fire drills

The Agent is responsible for safety drills and for training competent individuals to implement evacuation procedures

Fire-Fighting

The Agent must take measures for fire-fighting on the premises and nominate competent (ie appropriately trained) persons to implement those measures, ensuring training to deal with specific hazards. Necessary contacts with external emergency services must also be established, in connection with fire-fighting, rescue work, first-aid and other emergency medical care. Any fire-fighting apparatus which the Agent has control of must be maintained in good repair and working order.

Emergency Routes and Exits

The Agent, involving the Trust as necessary where repairs or building alterations may be required, must ensure:

- The existence of routes to emergency exits from all parts of the premises
- That exits themselves are kept clear at all times
- That they lead as directly as possible to a place of safety
- That the number and dimensions of the exits are adequate having regard to the number of persons who will need to use them
- That emergency doors open in the direction of the escape (and must not be sliding or revolving doors)
- That emergency routes and exits are indicated by signs
- That emergency doors can be opened easily
- That exit routes are illuminated as necessary

Safety Assistance

The Agent must appoint one or more competent persons to assist the Agent in undertaking preventative and protective measures as required under the Order. This person should receive all relevant information and adequate training. If possible, this should be someone within the employment of the Agent.

Maintenance

Both the Agent and the Trust have responsibilities in relation to keeping in good repair and efficient working order all relevant devices and equipment, including means of fire detection and warning systems, emergency routes and exits.

Under Repairing Option 1 the Trust retains responsibility for inspecting, servicing and repairing all relevant **non-portable** devices and equipment. The Agent retains responsibility for reporting the need for repair to the Trust, and for inspecting, servicing and repairing all relevant **portable** devices.

Under Repairing Option 2 the Agent assumes responsibility for certain repairs that may affect fire safety, such as the repair of fire doors. However the Trust retains responsibility for inspecting, servicing and repairing all relevant non-portable devices and equipment.

Employees and Others

The Agent must provide employees, including temporary employees, with comprehensible and relevant information in respect of risks, the preventative and protective measures in place and the identity of the nominated competent persons, together with details of dangerous substances. The Agent must also provide adequate safety training.

The Agent must not employ a young person (under the age of 18 yrs) at the Property unless the Agent has made or reviewed a risk assessment in relation to risks to young persons.

Dangerous Substances

The Agent must not carry out work involving a dangerous substance unless a risk assessment has been made and measures implemented, as required.