



Regulatory Reform Fire Safety Order

NEW FIRE SAFETY LEGISLATION - THE STORY SO FAR

The UK fire industry has been characterised by significant change in recent years, most notably with the introduction of the Regulatory Reform (Fire Safety) Order (RRO), which became law in England and Wales in October 2006. This is the most important piece of fire safety legislation since the Workplace Regulations of 1971 (which it replaces) and it changes the way we approach fire safety, both in its management and in the methods of enforcement. A decidedly similar risk assessment based approach has also been implemented in Scotland with the Fire Safety (Scotland) Regulations 2006 also becoming law in October. Northern Ireland is likely to implement similar legislation although this has been delayed by the restoration of devolution to the Northern Ireland Assembly.



Background to the RRO

Probably the most useful point to start in examining the repercussions of the new legislation thus far is to look at the aims of the RRO? The explanatory notes to the order itself offer a good insight:

‘The aim of the proposed reform is to reduce burdens on business that are caused by the existence of multiple, overlapping general fire safety regimes – and consequently overlap of the responsibilities of enforcing authorities. The proposed order would consolidate and rationalise much existing fire safety legislation (currently scattered across a large number of statutes and secondary legislation) into one order. In doing so it would reduce the number of enforcing authorities dealing with general fire safety matters. The reform would maintain and enhance the protection afforded to users of premises (and others who might be affected by a fire on the premises) by the existing legislation.’

In layman’s terms the RRO is intended to simplify fire legislation – an overhaul of some 118 pieces of fire safety related law - and in particular to remove the overlap between the Fire Precautions Act 1971 referred to already and the Fire Precautions (Workplace) Regulations 1997. The central aim of the Fire Precautions Act 1971 is to ensure that, in the event of a fire, the occupants can evacuate the premises safely, while the Fire Precautions (Workplace) Regulations 1997 requires employers to identify risks and take steps to remove or reduce them.

RRO Objectives

In particular the objectives of the RRO are to:

- Create a single regime, which can be better understood and administered by both businesses and the relevant authorities
- To create a regime clearly based on risk assessment and fire prevention and mitigation measures
- To increase compliance
- To focus resources for fire prevention on those premises which present the greatest risk
- To ensure that fire safety facilities and equipment (including fire alarms) are well maintained.

From the perspective of a building owner, the major transparent change under the new regime has been the removal of Fire Certificates and the Office of the Deputy Prime Minister (ODPM), now known as Communities and Local Government, estimated that this alone would save business £1.65M per year. In addition, ODPM believed that the new regime will promote greater compliance and more focus on fire prevention in high-risk properties. For example, it is estimated that a reduction in the number of fires in England and Wales of 5%, 10% and 15% would achieve annual savings of £39m, £79m and £118m respectively, not to mention the unquantifiable saving in terms of the human costs of fire outlined above.

The Responsible Person

The RRO places the onus of the fire safety in buildings on the shoulders of the Responsible Person. This person is:

- The employer (where there is one)
- The person in control of the premises in connection with the carrying on of a trade, business or other undertaking (for profit or not)
- The owner
- Any other person who to any extent exercises control over the place.

Under the RRO, the responsible person will be required to ensure that an assessment of the risk of, and from, fire is undertaken for the place and activity. Identified hazards will be removed or reduced so far as is reasonable and special consideration will be given to the risks posed by the presence of dangerous chemicals or substances and the risks that these pose in case of fire. Special consideration will also be given to any group of persons who may be especially at risk in case of fire, whether due to their location or any other factor.

All precautions provided will be subject to maintenance and will be installed and maintained by a 'competent person'. Under the RRO, a person is to be regarded as competent where he/she has sufficient training and experience or knowledge and other qualities to enable him/her properly to assist in undertaking the preventive and protective measures. For commercial buildings the main enforcing body will be the local fire and rescue authority.

The other major change with the RRO that is beginning to sink into the consciousness of all those involved with the fire safety of buildings is that the 'statutory bar' has been removed. That is if the risk assessment indicates that certain fire protection measures are required then these have to be implemented even if the

building did not require them under the Building Regulations regime in place at the time of its original construction.

Guidance Documents

The RRO is supported by a number of Guidance Documents that are building type specific and these should help the Responsible Person with regard to how risk assessments should be carried out for their particular type and size of building. All of these documents have now been issued and indeed have been joined by an extra one, namely the 'Supplementary Guide - Means of escape for disabled people'.

What is still awaited though is the 'Enforcers Guidance' for the RRO and it is believed that this is on its way. The main plea from the 'trade' with regard to this document is consistency, both with regard to enforcement and with the content of the Guidance Documents.

Fire Safety in Education

Also still awaited by the fire trade is the Department for Education and Skills (DfES) document BB100 'Designing and Managing Against the Risk of Fire in Schools'. Since the withdrawal of Building Bulletin 7 Fire and the design of educational buildings in November 1997 the DfES and its predecessors, has published a series of Building Bulletins providing design guidance on a range of issues in schools. Maintained school buildings are subject to normal building control procedures having lost their exemption from Building Regulations in April 2001.

The consultation period for BB100 closed during 2005 and to date all that has been seen publicly is a sprinkler risk assessment tool that was announced to a seminar in the Palace of Westminster on 26 February 2007 by Jim Knight, the Minister of State for Schools.

It is believed that BB100 has been passed from the DfES to the Fire and Risk Sciences part of the Building Research Establishment for final editing and that the final document should be available by the end of 2007 summer.

Fire Service Trading?

Perhaps a more contentious document that is currently being considered by the 'trade' is the CLG's consultation entitled 'Revision of Local Government (Best Value Authorities (Power to Trade) (England) Order 2004 which closes for comment in July 2007. This consultation seeks views on the options on what should happen with the transitory provisions in relation to trading by Fire and Rescue Authorities (FRAs) in England as set out in the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2004. The transitory provisions for FRAs are due to expire at midnight on 29th September 2007.

This latest consultation follows the 2004 ODPM consultation document entitled 'Charging by the Fire and Rescue Authorities' which raised much debate. Many views were offered in response to the document and in general the 'trade' felt that its views with regard to competence and competition were not given due consideration.

The 'trade' view on Fire and Rescue Authorities trading is that this raises a potential for conflict with their role as the enforcer under the RRO. For example what if the Responsible Person for a building can't produce a risk assessment? Does he or she then feel that they have little or no choice to turn to the trading 'arm' of the Fire and

Rescue Authority and get them to help with the production of this document as this will get the enforcer off their 'back'? Surely it is not best practice to enforce, even in part, on the very items upon which a related body is providing services? It must be remembered that Fire and Rescue Authorities have privileged information with regard to workplaces that is not available to trade suppliers; this privilege is not conducive to fair competition.

In the eyes of the public there may be a perception that Fire and Rescue Authorities and their personnel are competent with regard to all aspects of fire. In some cases this may be true but the 'trade' believes those companies and their personnel offering fire related services should be required to prove their competence via membership of an appropriate certification scheme. Thus any trading arms of Fire and Rescue Authorities should also be asked to prove their levels of competence.

Where to from here?

The remainder of 2007 and 2008 will see the 'bedding' in of the RRO, the advent of BB100 and a decision on the future on the trading activities of Fire and Rescue Authorities. Whatever the outcomes of these items the fire 'trade' will continue to strive to reduce both loss of life and loss of property, and business interruption due to fires in the UK's buildings.

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