

Regulatory Reform (Fire Safety) Order

July 2006

debrief

What you need to know about the Fire Safety Order



Robert White, partner and joint head
of building surveying at Gerald Eve

In this issue of **debrief**, we summarise the key requirements laid down in the forthcoming Regulatory Reform (Fire Safety) Order which will come into effect on 1 October 2006 in England and Wales.

The order was due to come into force on 1 April 2006, but was delayed to give fire experts and businesses more time to familiarise themselves with the legislation.

The changes have practical implications for occupiers, investors and landlords. This is a practical briefing to help guide businesses through the issues they need to address.

One of the main features of the legislation, for instance, is that it requires occupiers or landlords to be much more proactive than before. The days of the fire officer dictating what is required have well and truly disappeared.

I hope you find our review of these regulations timely and useful. We have been providing clients with fire safety advice for over 15 years. If you would like further information please contact me on **020 7333 6208** or **rwhite@geraldeve.com**

Finally, if you would like us to add a colleague to the **debrief** subscription list, simply email debrief@geraldeve.com or call Clair Laidlaw on 020 7333 6252.

debrief keeps you up to date with the latest legislative developments affecting the property industry. Presented in a succinct, concise manner, **debrief** identifies the key issues relevant to your business and their associated implications for you.

GeraldEve

Fire statistics

According to the ODPM, UK businesses are unprepared in the event of a fire:

- there were over 40,000 fires in non-domestic premises in the UK last year
- there were 20 fire deaths in non-domestic premises in the year to June 2005
- more than 70% of businesses involved in a major fire do not reopen or fail within three years
- only 58% of employers are aware of their obligations to carry out a fire risk assessment

Introduction

UK businesses are unprepared in the event of a fire

Parliament has recently agreed on the biggest single reform of fire safety legislation in over 30 years. It condenses some 70 pieces of existing legislation into one and comes into effect in England and Wales on 1 October 2006.

It is set against a background of some recent statistics published by the ODPM — as shown in the table above — that uncovers UK businesses' lack of preparation in the event of a fire.

This new legislation has been a long time coming. It will provide for a risk-based approach to fire safety, will allow more efficient action by the fire and rescue services and better enforcement by the authorities.

Those who will be affected

Responsibility is upon employers and landlords

The new Fire Order will affect two groups, the first of which is employers. These include those who occupy shops, offices, warehouses, pubs, factories, hotels, residential care premises, theatres, cinemas, educational premises, places of assembly and other non-domestic premises. The second group are non-employers such as landlords responsible for managing fire safety in properties within their portfolios, most commonly multi-occupied buildings such as shopping centres and offices.

The legislation does not impose significant additional burdens on these two groups. It merely consolidates into one piece of legislation the requirements that already exists under the existing regulations — shown in the following table. For those who are self-employed or fall within the voluntary sector, the new regulations clarify their current specific responsibilities.

Key current fire regulations requirements

Employers/Landlords	Self-employed/ Voluntary sector
Fire Precautions Act 1971	Fire Precautions Act 1971
The Precautions (Workplace) Amendment Regulations 1999	Management of Health & Safety at Work Regulations 1999
Management of Health & Safety Regulations 1999	Licensing Requirements
Dangerous Substances & Explosive Atmospheres Regulations 2002	

The existing position

At present, there are two major pieces of specific fire safety legislation. The regimes are based on totally different philosophies — one being prescriptive, the other based on a risk assessment approach.

Fire Precautions Act 1971

Under the Fire Precautions Act 1971, the Secretary of State designated the use of certain types of premises as requiring a fire certificate. An occupier of a designated premise has to apply for a fire certificate prepared by the fire authority — in practice, the local fire brigade.

To issue a fire certificate, the fire brigade inspects the premises and satisfy itself of three things. Namely, that the means of escape, the means of fighting fire and the means for giving warning are adequate and are able to be used at all times.

Fire Precautions (Workplace) Amendment Regulations 1999

These Regulations implemented elements of two EU directives on health and safety at work. They apply to virtually all places where people are employed to work, with the exception of construction sites, ships, mines and other areas covered by the HSE and other agencies.

They require employers to be pro-active in preventing fires. Employers or landlords are obliged to carry out a fire risk assessment, identify any significant findings, provide and maintain the necessary precautions to safeguard those who use the workplace, and provide information, instruction and training to employees about the fire precautions.

In addition to the above and to add to the confusion, some premises are additionally subject to licensing, certification or registration regimes under which yet more fire safety requirements can be imposed.

The proposed new Order

Application

The new fire Order will apply to most non-domestic premises used or operated by employers, the self-employed and the voluntary sector. They exclude premises where obvious special health and safety considerations are required, such as offshore installations, means of transport, mines and boreholes, fields, woods and agricultural land.

It places a duty upon a "responsible person" to conduct a fire risk assessment and maintain adequate and suitable fire precautions.

The 'responsible person'

For most premises, it is unlikely that there will be just one 'responsible person'. The duties are likely to be shared between employers, tenants, landlords, managing agents or any other person with obligations under a lease or a contractual agreement for building maintenance or safety.

In these situations, the new Order requires all the responsible persons to liaise and ascertain who will be responsible for each element of the fire safety obligations. The responsible person must appoint one or more 'competent person(s)' to assist them.

In practice, large employers occupying significant amounts of floorspace are likely to identify a facilities or building manager as the responsible person. For smaller companies, it is likely to be the owner or managing director.

Fire risk assessments

The days of the fire officer telling occupiers or landlords what is required and issuing a fire certificate have well and truly disappeared. From 1 October, fire certificates will be abolished and will cease to have legal status.

Under the new regime, the responsible person must implement a fire risk assessment which must focus on the safety of all 'relevant persons' in case of fire. The assessment must pay particular attention to those at special risk, such as the disabled and those with special needs, and must include any consideration of any dangerous substance likely to be on the premises.

The risk assessment will allow the responsible person to identify risks that can be removed or reduced and to decide the nature and extent of the general fire precautions needed to be taken to protect people against the fire risks that remain. These risks need to be reviewed regularly with the ultimate aim of avoiding fires, mitigating their effects and ensuring that a safe escape is available in case of fire.

Specific requirements for emergency routes and exits include:

- emergency exit routes must be kept clear at all times
- people must be able to evacuate the building to a place of safety quickly and safely

- emergency routes and exits must be adequate for the needs of the building and its use
- emergency doors must open in the direction of travel
- sliding and revolving doors must not be used as emergency doors unless specifically intended
- emergency doors and exits must not be locked or fastened that they cannot be easily and immediately opened by any person who may need to use them in an emergency
- emergency routes and exits must be indicated by signs
- emergency lighting must be provided where illumination is necessary

Enforcement of the Order

Responsibility for enforcement of the new Order will be with the local fire and rescue authority who will carry out regular inspections. Top priority will go to those premises presenting most risk to the community. They are able to do this within the context of the new Integrated Risk Management Planning (IRMP), part of the Government's modernisation agenda for the Fire & Rescue Service.

The local fire and rescue authority can force work to be carried out through issuing a variety of notices:

- an alteration notice — stating that the premises would constitute a serious hazard if any changes were made
- an enforcement notice — stating that the responsible person has failed to comply with the regulations and requiring steps be taken to remedy failures within a specified time period
- a prohibition notice — directing that the risk is so serious that the use of premises should be prohibited or restricted until the matters specified have been rectified

The onus is on the responsible person to prove that he or she did everything reasonable to comply. As under previous legislation, failure to comply with serious duties can result in a fine or up to two years' imprisonment.

Further information

In support of the Order, the Government is shortly to publish 11 guidance documents for companies who own or occupy the following premises:

1. offices and shops
2. factories and warehouses
3. sleeping accommodation
4. residential care premises
5. educational premises
6. small and medium places of assembly
7. large places of assembly
8. theatres and cinemas
9. outdoor events
10. healthcare premises
11. transport premises and facilities

Leading our sector, not following it

“ **We believe technical expertise should come as standard with any property consultancy. What sets us apart is our role in driving change and influencing policy. Many of our partners are at the top of their profession, playing influential roles in advising Government and guiding clients through change.** ”

Here at Gerald Eve, we strive to be leaders in our field and to pass on the many benefits of our creative approach to you, our clients and friends.

debrief is just one of the many ways we communicate the key issues in our swiftly-changing property world.

International Financial Reporting Standards. The 2005 Rating Revaluation. Reforms to the Landlord and Tenant Act 1954. The Planning and Compulsory Purchase Act 2004. All these and more have seen input from our specialists.

Key Gerald Eve personnel — people like Hugh Bullock, Graham Foster and Jerry Schurder — all play a role in advising on legislative, statutory and regulatory changes. It's that involvement that keeps our clients ahead of the game on issues that directly affect their interests. We are at the vanguard of our sector and believe our leadership can only be of benefit to our clients.

If you would like to know more, please contact me at **dbutters@geraldev.com** or call **020 7333 6237**.

David Butters, Senior Partner

A subscription to **debrief** is free. If you'd like to join our mailing list, you can:

- email **debrief@geraldev.com**
- call **Clair Laidlaw** on **020 7333 6252**

We never share your information with anyone else and you can unsubscribe at any time.

Where to find out more

A fully copy of the Regulatory Reform (Fire Safety) Order can be found on the ODPM website, www.odpm.gov.uk.

London (West End)

7 Vere Street
London W1G 0JB
Tel. 020 7493 3338
Fax. 020 7491 1825

David Butters
dbutters@geraldev.com

London (City)

46 Bow Lane
London EC4M 9DL
Tel. 020 7489 8900
Fax. 020 7489 8800

Simon Prichard
sprichard@geraldev.com

Belfast

65 Chichester Street
Belfast BT1 4JD
Tel. 028 9043 4300
Fax. 028 9043 4330

Nick Rose
nrose@geraldev.com

Birmingham

Bank House
8 Cherry Street
Birmingham B2 5AL
Tel. 0121 616 4800
Fax. 0121 616 4801

Chris Kershaw
ckershaw@geraldev.com

Cardiff

32 Windsor Place
Cardiff CF10 3BZ
Tel. 029 2038 8044
Fax. 029 2034 4177

Simon Rees
srees@geraldev.com

Glasgow

Caithness House
127 St Vincent Street
Glasgow G2 5JF
Tel. 0141 221 6397
Fax. 0141 204 2226

Ken Thurtell
kthurtell@geraldev.com

Leeds

28 Park Place
Leeds LS1 2SP
Tel. 0113 244 0708
Fax. 0113 244 0722

Michael Roberts
mroberts@geraldev.com

Liverpool

8 Princes Parade
Liverpool L3 1DL
Tel. 0151 236 3009
Fax. 0151 236 5041

Steven Grindley
sgrindley@geraldev.com

Manchester

No 1 Marsden Street
Manchester M2 1HW
Tel. 0161 830 7070
Fax. 0161 832 7060

Mike Roorcroft
mroocroft@geraldev.com

Milton Keynes

Avebury House
201-249 Avebury Boulevard
Milton Keynes MK9 1AU
Tel. 01908 685 950
Fax. 01908 685 951

Peter Brown
pbrown@geraldev.com

Newcastle

Shakespeare House
18 Shakespeare Street
Newcastle upon Tyne NE1 6AQ
Tel. 0191 260 2555
Fax. 0191 260 2770

David Johnson
djohnson@geraldev.com

Disclaimer & Copyright

Debrief is a short summary and is not intended to be definitive advice. No responsibility can be accepted for loss or damage caused by reliance on it.

This publication is strictly copyright and reproduction of the whole or part of it is strictly prohibited without permission from Gerald Eve.