

The Fire Safety Order 2005

Background

The Regulatory Reform (Fire Safety) Order 2005 (FSO) came into effect in October 2006 and replaced over 70 pieces of fire safety law. Its purpose is to bring about more effective fire safety procedures; regulating only where necessary and in a manner that is more suited to the needs of modern business and commerce.

The Order replaces many of the references to fire safety in other legislation such as the Fire Precautions Act, Licensing Act and Housing Acts with a simple, single Order. It requires any person who exercises some level of control within a set of premises to take reasonable steps to reduce the risk from fire and ensure occupants can safely escape if a fire does occur. These pages summarise the main points of the Order and are not intended to be a comprehensive guide.

Where does the Order apply?

The FSO applies to all non-domestic premises in England and Wales, including the common parts of blocks of flats and houses in multiple occupation (HMOs). Relevant premises include:

- Offices and shops
- Premises that provide care
- Community halls and churches
- The common areas of houses of multiple occupation
- Pubs, clubs and restaurants
- Leisure facilities
- Schools, colleges and universities
- Tents and marquees
- Hotels and hostels
- Factories and warehouses

The Order specifically excludes purely domestic premises occupied by a single-family group.

The Fire (Scotland) Act 2005 and the Fire Safety Regulations (NI) 2010 make similar requirements in Scotland and Northern Ireland.

Responsible person

Under the Order, all non-domestic premises should now have a legally-designated 'responsible person'. The responsible person will be someone who has control over the premises, or parts of it. For example, the designated responsible person may be:

- The owner, employer or manager of a business for those parts they have control over. It may be the body corporate.
- The landlord/owner or managing agent for the common parts of premises or common fire safety equipment such as fire warning systems or sprinklers in premises which are shared between a number of businesses.
- Individuals within a multiple occupancy building, such as self-employed people or voluntary organisations if they control someone within the premises.
- Any other person who has some control over a part of a premise may also be the 'responsible person' in so far as that control extends.

It is important that all parties concerned are clear as to who the 'responsible person' is for the business or premises. Where more than one person has responsibility, tasks and roles must be clearly defined. The need for communication, co-ordination and the sharing of information between all parties is paramount where there is more than one responsible person for a building.

Responsible person duties

The Order requires that the 'responsible person' take ownership of the management of any risk in their premises. The 'responsible person' must:

- Carry out a fire risk assessment and identify possible dangers and risks.
- Think about who might be particularly at risk.
- Take actions to remove the risk from fire, as far as reasonably possible.
- Put in place precautionary measures to deal with any risks that remain.
- Ensure protection in any areas where flammable or explosive materials are stored or used.
- Put in place an emergency evacuation plan.
- All findings must be recorded and reviewed on a regular basis.

Although the responsible person must make sure that the fire risk assessment is carried out, you can appoint some other competent person to do the actual assessment. However, you remain responsible in law.

In tenanted buildings, where the tenant has the responsibility for undertaking fire risk assessments, the landlord should obtain copies of the tenants' fire risk assessment.

The 'responsible person', either on their own or in co-operation with any other 'responsible person' must, as far as is reasonably practical, ensure that everyone on the premises can escape safely in the event of a fire.

Current legislation no longer draws any distinction between people who are employees, visitors or members of the public present within the premises and is inclusive of people who may have a disability or anyone who may need special assistance.

Fire certificates are no longer issued and those previously in force now have no legal status. However it is good practice to use the old fire certificate as a starting point when carrying out a fire risk assessment.

If your premises has been designed and built, and is being used in accordance with modern building regulations then your structural fire precautions should be acceptable as long as they have not been damaged during more recent building works. However, you will still need to carry out a fire risk assessment and ensure that your risk reduction, fire prevention and maintenance routines are in place.

The five steps of fire risk assessment

Step 1: Identify the fire hazards within your premises

You need to identify:

- Any sources of ignition such as naked flames, electrical sources, heaters or some commercial processes.
- Sources of fuel such as accumulated waste, display materials, textiles or overstocked products.
- Sources of additional oxygen such as forced air circulation or medicinal/commercial oxygen supplies.

Step 2: Identify people at risk

You will need to identify those people who may be especially at risk such as:

- People working in close proximity to fire hazards.
- People working alone or in isolated areas (such as roof spaces or storerooms).
- Children or parents with babies.
- The elderly or infirm and people who are disabled.
- Large groups of people (such as in a sports stadium or conference).

Step 3: Evaluate, remove, reduce and protect from risk

You need to evaluate the level of risk in your premises. You should as far as is reasonably practicable remove or reduce any hazards identified and reduce any risks you have identified. You should for example:

- Replace highly combustible materials with less combustible ones.
- Ensure adequate separation between combustibles and ignition sources.
- Operate a safe smoking policy.
- Remove ignition sources.

When you have reduced the risk as far as possible you must assess the residual risk and decide whether there are any further measures and precautions you need to enforce to ensure a reasonable level of fire safety.

Step 4: Record, plan, instruct, inform and train

You will need to record the hazards and people you have identified as especially at risk. You should also record the actions you took to evaluate, remove and reduce the risk. Documenting this is reasonably straightforward.

You will also need to make a suitable emergency plan for your premises. This should include the actions that need to be taken in the event of a fire at your premises or any adjoining premises. Staff and other relevant individuals such as paying guests will need to be provided with instructions. All employees should receive adequate information and training about the risks in the premises. Fire marshals will require more thorough training.

Step 5: Review

You should make sure your fire risk assessment is up to date, you will need to re-examine your fire risk assessment every time there is a significant change to the level of risk in your premises. This could include physical changes to your premises, an increase in the storage of combustible materials, a night shift starting or a change in the type of people using your premises.

You will need to consider how the changes will affect the risk in your premises, assess if your risk management measures are adequate and if you need to adopt further measures.

Enforcement of the Order

Fire authorities are the primary enforcing agency for all fire safety legislation in non-domestic premises, regardless of use. All fire authorities will continue to address complaints about fire safety, undertake post fire investigations where poor fire safety matters are discovered and may carry out targeted or sampling inspections.

Where breaches of the Order occur, the fire authority will provide practical advice or, where the risk is serious, formal notices. Except in the most serious of cases, the fire authority will work in partnership with the responsible person in order to achieve a satisfactory level of fire safety.

In cases where a serious risk to life is presented the fire authority may issue a notice restricting the use of the premises for certain things, (such as sleeping) or may prohibit all or part of the premises being used at all.

All cases carry a right of appeal.

Further reading

<http://www.opsi.gov.uk/si/si2005/20051541.htm>