

The Fire Safety Order

This information leaflet gives you introductory guidance on the Fire Safety Order. It does not however give you legal advice. If you need legal advice please contact Kate Bullen in our Commercial department on 01942 778002.

This leaflet:

- Outlines the details of 'The Fire Safety Order'.
- Outlines the need for risk assessments.
- Outlines the penalties for non-compliance.

Overview

The Regulatory Reform (Fire Safety) Order 2005 or "The Fire Safety Order" will come into force on 1st October 2006. It is the response by the government to the call for a form of regulation to suit the needs of the modern business. Statistics show that over 30% of businesses fail within 12 months of a serious fire.

The Fire Safety Order will apply to virtually all premises and covers nearly every type of building. It will not apply to private dwelling houses but will apply to common areas of residential flats. In one way or another it is likely to apply to most people. The aim is to protect anyone on the premises or in the immediate vicinity and who is at risk from fire on the premises.

If you currently have a fire certificate for a building it will not be valid from 1st October. At the moment if you have a fire certificate for a commercial building you can be sure of having complied with your duties. From October onwards that will no longer be the case. Instead The Fire Safety Order implements a continuous risk assessment approach and places the onus on individuals to ensure compliance.

Risk Assessment

The main difference between the old system of fire certificates and the Fire Safety Order is that a continuous fire risk assessment must be carried out to identify any possible dangers and risks. If necessary it needs to be carried out on a daily basis. Changes and alterations to premises, and even the people employed there will require further risk assessment in order to manage the risks which may arise. In the more high risk premises, you may be served with an alterations notice which will require you to notify the Fire and Rescue Service should you wish to make any alterations.

Those carrying out the risk assessment must:

- Identify the fire hazards.
- Identify people at risk.
- Evaluate, reduce and remove risk.
- Protect those identified from any risks that cannot be removed.
- Record plan instruct and train.
- Review continuously.

Although only employers with 5 or more employees are required to record any significant findings the Fire and Rescue Service have indicated it is good practice to record findings for future reference.

The person responsible for the continuous risk assessment is referred to as the "Responsible Person". Anyone who has control of premises or a degree of control over certain areas may be a "Responsible Person". In certain situations there may be a number of people with responsibility. A business with a number of branches will have one or more Responsible Persons at each branch. In small businesses the "Responsible Person" may not necessarily be named but practically will be the employer or the person with responsibility for the building as a whole or the part of the building the business occupies.

Even where a Responsible Person appoints an outside contractor to carry out the risk assessment the Responsible Person remains liable and as such they should have confidence in the persons or agency that they appoint.

Certain types of premises will still get detailed inspections. They are those premises classed as high risk, including:

- residential care homes
- houses in multiple occupancy
- licensed premises
- hotels

Penalties for Non-Compliance

Fire Officers will have the authority to enter and inspect premises, enquire who the Responsible Person is and require production of the risk assessment. Penalties for serious non-compliance with the new procedure range from a fine of up to £5,000 to an unlimited fine and two years imprisonment. The Fire and Rescue Service even have the power to prevent you from using part or all of a building if the failure to comply is serious enough.

The Fire and Rescue Service have stated that they want to work in partnership with businesses. They are still prepared to attend premises and provide advice to those responsible on how to meet the requirements of the Fire Safety Order but will not undertake the risk assessment for people.

If you need more practical advice or information after you have carried out a risk assessment your local Fire and Rescue Service may be able to assist. You can obtain a general guide or specific guides aimed at certain types of premises from www.firesafetyguides.communities.gov.uk or www.hse.gov.uk

DISCLAIMER : These notes are prepared for general interest and it is important to obtain professional advice on specific issues. Stephensons believe the information contained in these notes to be correct at the time of circulation. While all possible care is taken in the preparation of these notes, no responsibility for loss occasioned by any person acting or refraining from acting as a result of the material contained herein can be accepted by Stephensons, the author, or the publisher.

About Stephensons

Stephensons provides legal advice for all aspects of your personal or business life. By understanding your circumstances and keeping the red-tape to ourselves, we focus on efficiently delivering what you need, when you need it. Operating from a number of regional locations, we rank among the top 100 UK law firms and are one of the fastest growing practices in the north west. With over 400 staff, you can trust our specialists to take care of things on your behalf, always putting your best interests first. So, for legal advice and action the way you want it, just turn to Stephensons.