

## **New fire laws: a crisis for small businesses?**

Businesses in England and Wales face a potential crisis: the law on fire prevention and safety (in all non-domestic premises) changed on 1 October. Few businesses or organisations are prepared for its new responsibilities. Get it wrong or ignore the new law and insurance could be invalidated.

Many of those who own or operate from business premises have never even heard of The Regulatory Reform (Fire Safety) Order 2005 (RRFSO)<sup>1</sup> Many more do not know what they have to do to comply.

Did you know that your fire certificate is now defunct and has no legal status? Did you know if you own business premises or run a business – whether a shop, a restaurant, a bar, a farm etc. - you are now personally responsible for fire prevention and safety? Did you know that if you haven't carried out the appropriate risk assessment (followed up with a plan and guidance if you employ more than five people) your insurance could be void and you could be prosecuted?

The new fire safety law is a fundamental change from previous regulations, focussing on fire prevention and putting the onus on individuals to take responsibility for staff and buildings.

### **Who is affected by the RRFSO?**

Anyone in England and Wales using non-domestic premises, for instance; offices, retail outlets, warehouses, factories, farms, garages, schools, hospitals, care homes, hostels, theatres, cinemas, community premises, pubs, clubs, restaurants, tents, marquees and open air venues. Responsibility for compliance rests with the 'responsible person'. Anyone who owns or runs a business or organisation, or owns non-domestic premises, is now personally responsible for fire prevention and safety.

### **What the 'responsible person' needs to know:**

- Your existing Fire Certificate is expired.

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<sup>1</sup> S.I. 2005 No. 1541.

- If there is more than one person in control of the premises you must all work together to take the necessary steps to comply with the Fire Safety Order.
- If you are a 'responsible person' it is up to you to cover 'general fire precautions' and safety duties needed to protect 'relevant persons'. This means you must:
  - Take action to reduce or remove risks
  - Put in place fire precautions to protect against any remaining risks
  - Review and update your risk assessment – especially if your building changes or you suspect it may no longer be valid.
- In order to comply with the new law you need to carry out a Risk Assessment (see below)
- If you employ five or more people you must record the significant findings of the risk assessment.
- If you employ more than five people, you need to log the results of the risk assessment, create a written plan for fire safety and prevention and provide written guidance and instruction for staff.

**Risk Assessment – five points to consider:**

1. Identify fire hazards within your premises – where can a fire start?
2. Identify people at risk – who would be affected?
3. Evaluate, remove, reduce and protect from risk
4. Record, plan, inform, instruct and train
5. Review and Revise

(For more information, go to the Department for Communities and Local Government website at: [www.communities.gov.uk](http://www.communities.gov.uk) and download 'A Short Guide to Making Your Premises Safe From Fire'.)

Each point will have its own set of actions, for instance, take Number Three:

The 'responsible person' needs to ensure safety by reducing risks. This could be as simple as substituting highly flammable materials with less flammable ones and having a safe-smoking policy.

You will also need to ask these questions: Can you stop a fire spreading quickly? How will people escape? You can answer these questions by: Identifying all escape routes,

identifying all fire separating elements (walls or ceilings that form part of an escape route).

Having identified the fire separating elements (FSE) and the fire rating of each element, the 'responsible person' should:

- Check all escape routes are clear of impediments.
- Check all openings, like fire doors, windows, ducts or shafts in the FSE are sound.
- Check emergency lighting and signage.
- Check for gaps around walls, ceilings and partitions and seal appropriately.
- Check the basic steel structure is sound and that any added fire protection is in tact.
- Check that fire curtains or other emergency barriers are in good operating condition.
- Check roof spaces and hidden areas and seal if in an FSE area.
- Ensure maintenance for these areas is carried out by suitably qualified people using fire rated materials.

(Go to [www.prpf.org](http://www.prpf.org) for further information)

### **What is acceptable risk?**

The Order requires that fire precautions should be put in place 'where necessary' and '...to the extent that it is reasonable and practicable in the circumstances...' When fire risk is reduced as much as possible, you must assess any remaining risk and decide whether there are further measures that should be taken to provide a reasonable level of fire safety.

### **The implications for businesses:**

- There has been little publicity about the new law and many affected will simply not be aware of their new responsibilities.
- Those that are affected may not believe they are, for instance, the voluntary sector, farmers and self-employed people working away from home may not recognise themselves as a 'business'.
- Most people don't know what they're looking for, or how to look for it. How many will check beyond sprinklers and alarms? Most fire protection measures are 'passive' and should be built into the fabric of a building.

- There is some confusion over the extent of the responsibility and some small businesses believe it doesn't affect them as they employ fewer than five people.
- Businesses that do not have a relevant and up-to-date risk assessment with corresponding plans and staff guidance can be prosecuted for non-compliance.
- Businesses that do not have a relevant and up-to-date risk assessment may find their insurance invalidated.
- Smaller businesses that do not have assigned staff to cover health and safety issues will find that the work needed to initially comply with the new legislation is time-consuming.
- Business bosses and owners who lease premises may find it difficult to negotiate co-responsibility for fire precautions (especially if it involves expensive structural work) with the property owner/landlord.

#### **w/c 1035**

#### **Quotes:**

*Matthew Knowles, spokesman for the Federation of Small Businesses, says: "The new legislation coming into force on October 1st is a good opportunity for small businesses to get their house in order. We know that this will cause headaches in the short term and we're concerned that awareness is still low. A survey we carried out in March 2006 showed that 59% of small firms in England and Wales were unaware of the new requirements. Although it is in businesses' interests to be safe as regards fire safety this is a definite shift in emphasis towards the business owner on fire safety. Information and assistance from the relevant authorities, especially local fire authorities, will be invaluable in helping businesses meet the new requirements."*

*Station Officer Day of the Westminster Branch of the London Fire Authority, says: "The Fire Authority will visit all business premises in an area (to check there is an up-to-date Risk Assessment). If a particular company is not operating the new principles after receiving a 14-day-notice, it could be in breach of fire regulations. As well as the 'responsible person' being liable for the breach, the insurance on the property would be invalid."*

*Andy Jones, Sales Adviser for PremierLine Direct insurers, said: "If it is found that the risk assessment has not been conducted, it could affect the insurance". Andy went on to state, "...as with all insurance claims it depends on the results of the investigation. If the claim could have been prevented by acting on the risk assessment (RRO) then a claim may be invalid."*

*James Cole, proprietor, bathroom retailer:" I knew nothing about this new Fire Safety Order and had no idea how it would affect my company. Why hasn't it been publicised more by the Government? I haven't got a department I can employ to do the (risk assessment) job for me and I haven't got the budget to pay an agency to do it either. If I get my risk assessment wrong and I am prosecuted or have a fire (and my insurance doesn't cover me) I'll be put out of business. This will impact on every small firm in England and Wales – and the families that rely on them. But none of the traders I've spoken to are informed or prepared. I can't believe there's so little awareness of the implications of this legislation."*

**w/c 393**

**ENDS**