

A consultation on the reform of
fire safety legislation



THE INSTITUTION OF OCCUPATIONAL SAFETY AND HEALTH

IOSH Response to the consultation paper issued by
Office of the Deputy Prime Minister
in July 2002

IOSH Response to the consultation paper on the Reform of Fire Safety Legislation

About IOSH

IOSH is a not-for-profit professional body for Occupational Health and Safety (OSH) professionals. Current membership is over 25,000, with members in the United Kingdom, Republic of Ireland, Hong Kong and worldwide. We have close relations with other equivalent national OSH professional organisations, for example the American Society of Safety Engineers (ASSE) and the Safety Institute of Australia (SIA). For more information about IOSH and the work we do in support of our members, please visit our website at <http://www.iosh.co.uk>

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IOSH Response to the consultation paper on the Reform of Fire Safety Legislation

This is the response of the Institution of Occupational Safety and Health (IOSH) to the consultation document issued by the Office of the Deputy Prime Minister on the reform of fire safety legislation.

Our responses to consultation documents are collated after we have requested comments and opinions from across all grades of our membership, Specialist Groups and the IOSH Council of Management. The consultation paper on the reform of fire safety legislation was circulated to all of the above, but was of particular interest to our Fire Risk Management Specialist Group (FSG) and our response is reflective of their opinions. The FSG is made up of occupational safety and health professionals who are involved in all aspects of fire risk management. This response is not confidential and will be circulated to all respondents and be available to all members on the IOSH website.

Abbreviations

DSEAR	Dangerous Substances and Explosive Atmospheres Regulations
FPA	Fire Precautions Act
FPWR	Fire Precautions (Workplace) Regulations
HSE	Health and Safety Executive
HS(G)65	Successful Safety Management. HSE Books, Sudbury.
IOSH	Institution of Occupational Safety and Health
MHSWR	Management of Health and Safety at Work Regulations
ODPM	Office of the Deputy Prime Minister
RRO	Regulatory Reform Order

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a) Do the proposals put forward in this consultation exercise maintain necessary protections for those affected?

Comments: Yes. It is foreseeable that the proposals will provide, in many instances, equal or greater protection for employees and members of the public over the existing regime. This is dependent upon adequate funding of enforcing authorities to enable them to carry out their role effectively and will also require the necessary support mechanisms such as guidance, training and information management systems.

b) Do the proposals put forward in this consultation exercise prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise, as explained in paragraph, 2.10 and 2.11 above?

Comments: No observations

c) The proposals impose a number of new burdens. Your views on whether the tests of proportionality, fair balance and desirability are satisfied, as explained in paragraph 2.12 above, are sought.

Comments: The proposed new burdens appear to be proportional and fairly balanced. However, we feel that the extension of certain aspects of fire safety will mean additional burdens placed on fire authorities. This is due to the requirement to produce reports and the potential, in the early stages following implementation, that there will be a large number of 'responsible persons' seeking advice. There is also a concern that there are a number of premises that are currently unknown, and the effect these might have on fire safety departments.

d) Do you have any views on the costs and savings as identified in chapter X of this consultation document and as addressed in the interim Regulatory Impact Assessment attached at Annex E?

Comments: It must be recognised that introduction of the proposals would result in short to medium term additional costs being placed on fire authorities, coupled with a loss in revenue from certification and licensing. Although we realise that the impact of some of the items listed below would only be felt at the introduction phase prior to implementation, the following steps would need to be carried out and would incur costs:

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- Training and re-training inspecting officers
- Purchase of guidance materials
- Amendment of enforcement/inspection policies
- Re-engineering of management information systems
- Design of suitable administrative process

We also feel that it should be recognised that there will be significant impact created by the short implementation timescale, particularly with regard to the conversion/replacement of management information systems and this could lead to a situation in which all fire brigades require immediate assistance from a limited number of service providers.

We note that it is the intention of the Office of the Deputy Prime Minister (ODPM) to assist brigades with regard to management information systems and the production of statistics and 'best value' indicators. More information on central government intentions in these areas would be useful.

e) Are there any other benefits that would be gained from these proposals?

Comments: There is a potential benefit to rationalise the collation of statistics if FSR returns will only focus on outcomes and therefore reduce burdens on fire authorities. On the other hand, the duplication of health and safety provisions is not considered beneficial.

IDENTIFIED ISSUES.

We would welcome views as to whether we are correct in thinking that our proposals do not remove any rights or freedoms that anyone could reasonably expect to enjoy.

Comments: We agree with this assumption.

We would welcome views as to our proposals to remove the requirement for fire certificates but to extend the application of existing risk assessment-based legislation to non-employees.

Comments: The proposals to remove certification and extend the application to non-employees are welcomed, as they impact significantly on hotels and would allow enforcement in smaller hotel premises compared with the criteria set within the Fire

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Precautions Act (FPA) and improve on the Fire Precautions (Workplace) Regulations (FPWR) which cover employees only.

To move to a risk assessment based model will require a significant investment in training, and an efficient system will need to be set up to monitor premises and to gather information from other agencies e.g. HSE, OSR1 forms. These factors may cost the fire authority money in terms of training, time, personnel and IT equipment.

We would welcome views about the amendment, repeal or revocation of the legislation listed in Annex A. We should also be interested to know if consultees consider that any legislation, not listed in Annex A, should be repealed, revoked or amended as part of the reform.

Comments:

- The list does not contain reference to the Care Standards Act and emanating regulations. Consideration should also be given to the fire safety provisions of the Home Energy Conservation Bill, if and when, it is enacted.
- There does not seem to be any justification for maintaining Crown Immunity under the Fire Service Acts.
- The Factories Act 1961 Etc (Repeals) Regulations 1976 (SI1976 No 2004 repealed sections 40 –51 of the Factories Act 1961.
- The Education (Schools Premises) Regulations 1981 were ultimately replaced by the Education (Schools Premises) Regulations 1999 (SI1999 No 2)

We would welcome comments on the proposal to re-state and modify the Regulation making powers contained in the Fire Precautions Act.

Comments: This proposal is welcomed.

We would welcome views on the proposed definition of the responsible person, including whether we should continue to use the definition of ‘owner’ contained in the Fire Precautions Act. We would also welcome views on our proposals to allow enforcing authorities to take action against contractors.

Comments: The proposals to place responsibility on employers, where they exist and have control, is welcomed, as are the proposals to encompass other persons should

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there be no employer. We support the proposal in respect of enforcement against contractors but feel it may place a burden on the fire authorities and are unsure why it does not include a provision in relation to supply of fire safety equipment and systems.

The responsible person – it is a requirement of the management of Health and Safety at Work Regulations (MHSWR) for a company to have a written health and safety policy statement. This must also be displayed in a prominent position in the workplace. Part of that statement includes a declaration by the person in charge of the firm that they are responsible for health and safety (or states who is) and are responsible for the monitoring and implementation of the policy. Can this be used as a way of determining who is the responsible person to make the Regulatory Reform Order (RRO) fall in line with the principles of other safety legislation?

It is assumed that a copy of the statement can be taken as evidence. Where there is no policy statement, as the premises does not fall within MHSWR then there should be a duty for the responsible person to be identified. More complex multi-occupancy buildings, such as shopping complexes, further exacerbate the problems of enforcement and identifying the responsible person/s.

We would welcome views on our proposals to extend the scope of fire safety legislation to the self-employed and voluntary sector.

Comments: We agree with this proposal. It is not anticipated that there will be significant impact arising from this.

We would welcome views on the proposed application of the new Order.

Comments: Whilst the list of exceptions is clear, the RRO would benefit from a clear statement setting out its application to premises that are not workplaces. References to 'domestic premises' and 'work at home' are not clear. What is the intention where domestic areas are provided by an employer for convenience or as a part of the employment? The term 'single private dwelling' would be preferable to 'domestic premises' or 'home', i.e. better definitions are required.

The consultation document does not define closely enough the issue of staff quarters, workplaces, and domestic premises. Further clarity is sought.

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The application of the RRO with regard to 'Members Only Clubs' needs to be fully considered to ensure the same levels of access apply.

We would welcome views as to our proposals to incorporate the provisions of the draft Dangerous Substances Regulations into the proposed Order and to extend the requirement to mitigate the detrimental effects of a fire to all premises covered by the Order.

Comments: The proposal to incorporate the Dangerous Substances Regulations so far as they concern general fire safety into the RRO is supported. The definition of 'dangerous substance' is pivotal within the Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR). This definition has been read by a number of persons involved in fire enforcement and they have interpreted the intent in widely differing ways. This definition would benefit from being reworded in clear language, so that it can be both understood and applied fairly. This would include the guidance and standards, and the setting out of what is taken to be reasonable and practicable, which would assist all parties in the consistent enforcement of these areas.

There is, however, the potential for an overlap of enforcement responsibilities under DSEAR and the proposed RRO. The role of the fire authorities as an enforcing authority for general fire safety, and the Health and Safety Executive (HSE) who would presumably enforce the main body of DSEAR, needs to be clearly defined with appropriate consultation arrangements incorporated.

We would recommend that the following principals be considered:

- All risk assessments and records to be in a written format and supported by a plan
- A duty to provide this
- An offence committed if this is not completed in writing/recorded and lacks a plan
- Record of evidence of compliance with the RRO

One method that can be recommended is the '5 step' principles contained in the guidance *Fire Safety: an Employer's Guide (ISBN 0 11 341229 0)* which could be utilised in the guidance for the RRO.

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We would welcome views on the proposed risk assessment requirements.

Comments: The list (a) to (c) misses an important issue of people resorting to the premises. It is felt that the record should relate to the numbers of persons in the premises at any one time. This would mean that the responsible person would need to consider one-off events as well as day-to-day guest / visitor numbers.

We would welcome views on the suggested principles of prevention to be applied bearing in mind the need to ensure full compliance with EU legislation.

Comments: We are supportive of any initiative that will improve safety for people, the environment and firefighters. Whilst this may not create new legal or practical burdens, it may well be seen as doing so, especially in those premises that contain more 'residents' or persons resorting, than 'employees', particularly in hotel premises with sleeping accommodation of less than six persons, which have been less regulated in the past, as they fell outside the Fire Precautions Act.

Technical progress – it is generally accepted that where new technologies have significant benefits to health and safety then they should be adopted, i.e. fire engineered solutions. There is mention elsewhere in the document that changes need **not** be made due to the introduction of new technology and so there is some confusion and clarification is required.

The principals contained in item 4.44(f) are drawn from the Fire Precautions (Workplace) regulations and therefore do not reflect all premises i.e. non-employees and non-workplaces.

We would welcome views on the proposed requirements for fire safety arrangements.

Comments: If the link with the Management of Health and Safety at Work Regulations (MHSWR) is to be maintained this could be superfluous, as HS(G)65 deals with this area.

A specific reference to all persons is required to clarify the scope.

Consideration should be given to including all premises and not just those who employ 5 or more within the scope to record the fire safety arrangements. This would then cover those premises where people resort e.g. public entertainment premises, and those in

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occasional use that employ less than five persons, but may have a number of persons present greater than five.

The 'size of the undertaking' should include consideration of all occupancies, including occasional ones, as in the case of potentially large one-off events at holiday complexes, or schools or other educational establishments.

We would welcome views on the proposed requirements for the elimination or reduction of risks from dangerous substances bearing in mind the need to ensure full compliance with EU legislation.

Comments: We support the concepts identified in DSEAR and would further support that full details of the substances e.g. quantities and dangerous characteristics, are available to emergency personnel quickly and easily, in the event of an emergency (pre-plan route).

Guidance documents should clearly identify the roles of the fire authority and HSE to delineate the boundaries including storage and/or process issues.

We would welcome views on our proposal to clarify the purpose of fire-fighting equipment so that it may be considered as a possible means of reducing a risk and as means of providing protection and for providing assistance to others. We should be particularly interested to know whether consultees could identify any circumstances when this might significantly increase costs.

Comments: If the DSEAR definition of dangerous substances encompasses all flammables the requirement to contain them encompasses the need for fire fighting equipment.

In our view the wording of EC Directive 89/391 adequately covers the need for employers to take the necessary measures for first aid fire fighting. The copy out into the Fire Precautions (Workplace) Regulations added the term 'where necessary' which led to various challenges over the need to provide first aid fire-fighting equipment.

The proposals still fall short of making a clear statement on the requirement to provide first aid fire fighting equipment and train people in its use. It is suggested that fire fighting

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equipment should be considered as a possible means of reducing a risk of fire, by way of the 'nipping the fire in the bud' principle.

If this distinction is not clearly made then it may be possible to interpret the requirement for first aid fire fighting equipment to be necessary only where the fire strategy for the premises identifies such a need.

It should be identified in any guidance that fire fighting equipment provided for first aid fire fighting purposes, should be available for use by all suitably trained personnel, which also includes fire-fighting personnel. Through a risk assessment process this aspect is often overlooked and the most effective fire fighting equipment is often removed, i.e. hose reels replaced by other equipment.

In some premises, such as small care premises, it is likely that most - if not all - employees will be required to assist with evacuation in the event of a fire, and will therefore not have the opportunity to fight a fire in the early stages. Whilst it is a good principle to train personnel to tackle a fire before it becomes large, 'nominated employees' may be unable to carry out the duties suggested.

It is anticipated that most commercial residential premises will already have sufficient fire fighting equipment as suggested, but in most cases that will only be because of previous contact with the fire service during registration or licensing. If future legislation requires only 'compliance with fire regulations' for licence or registration, without fire service input until enforcement takes place, it is likely that fire fighting equipment will be found to be lacking.

We would welcome views on the requirements for emergency routes and exits bearing in mind the need to ensure full compliance with EU legislation.

Comments: Plain English is required. The statement is difficult to relate to exits, travel distances and exit widths. The document also uses the term 'place of safety'. Should this be 'place of ultimate safety'?

Most premises will have a fire safety scheme where persons should be able to escape to a place of ultimate safety. Other premises will have a design or an occupancy that

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involves horizontal or phased evacuation where some people will not need to leave the building as this could be counter productive. Progressive horizontal evacuation methods would need to be taken into consideration in the case of hospitals, care homes and other similar establishments, as these too may have persons who do not need to leave the building.

The non-retrospective nature of the Fire Precautions Act means that in reality, organisations holding old certificates may have precautions that might be considered less adequate by modern standards, and there may well be an upgrade burden on some hotels, as they look closer at their routes and exits available.

The provisions of the Health and Safety (Safety Signs and Signals) Regulations 1996 should be incorporated into the RRO to cover signage and signals.

We would welcome views on our proposal to extend the requirement to maintain fire protection equipment.

Comments: We welcome this proposal. It addresses a major weakness in the current regime. It should be recognised that the term 'fire protection equipment' does not encompass all B5 matters, especially access requirements within the premises' curtilage, which we also believe should be included.

It is not clear how a responsible person may be expected to know what equipment or facilities the building was required to have at the time of construction, change of use, registration or certification, unless a plan of the building is required and maintained. This may be especially true of high-risk residential occupancies with a transient population and/or frequent damage.

The Construction (Design and Management) Regulations 1994 (CDM) require the preparation of a health and safety file containing a record of information for the client or the end user, which focuses on health and safety. The information contained is provided to alert those who are responsible for the structure of the key health and safety risks that may arise during subsequent maintenance, repair and construction work during the lifetime of the building. We propose that under the RRO a similar duty is imposed with respect to the fire strategy and supporting engineering documents that underpin the

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passive and active fire safety measures provided in the building (Fire Strategy File) for those who will occupy or resort to the premises.

For the majority of buildings 'as built' plans, if adequately detailed, should suffice (already a requirement under CDM). However, more detailed documentation would be necessary for complex buildings incorporating 'engineered fire safety solutions' including methodology strategy documents.

The Fire Strategy File (which could be incorporated into the health and safety file) would provide an important reference source for the responsible person when completing the fire risk assessment. Essentially such a duty should ensure that vital information is retained throughout the lifetime of the building. With the removal of fire certificates, the omission of a formal mechanism for capturing and retaining important 'risk critical' fire safety information would be a cause for great concern. Initial occupants of a building may have a reasonable understanding of the fire engineering concepts at work in the building, however, in the absence of accurate information, this 'understanding' will tend to erode with time and subsequent changes could prove disastrous.

We consider that the burden imposed by this proposal meets the tests set out in the consultation document for proportionality, fair balance and desirability. It is in effect a proposal to do no more than 'capture' the information that by definition must be available at the time the building/material changes to the building, receive Building Regulations approval.

The document is not clear as to whether the proposal is retrospective regarding the maintenance of fire protection equipment but the inference is that this is the case. If so, this will probably be a burden due to previous non-maintenance. The words 'where necessary' should be omitted as this once again provides a loophole in the RRO not to maintain equipment designed to safeguard the safety of persons in case of fire, and as such could be exploited.

The requirement to maintain facilities provided for fire fighter safety under the Building Regulations is welcomed. The provision of such facilities would need to be documented and incorporated into the final completion certificate that should also incorporate full 'as

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built' fire protection plans. It is recommended that this also includes systems that are provided for other reasons but would also provide protection to fire fighters, e.g. sprinkler systems provided under Approved Document B.

We would welcome views on the proposed requirements in respect of safety assistance.

Comments: This concept is supported. It should be made clear that any person appointed exists to assist the responsible person and not to release them from their duties, especially where that person is not an employee. In an educational boarding situation for example, an unpaid senior student, however qualified, should not be expected to be ultimately responsible for the safety of his/her peers. There should also be a mechanism to record recommendations made by an assistant.

Will there be more guidance to assist the responsible person with the levels of competency is required for their undertaking? Are there any schemes planned to grade people who act as fire safety advisors/consultants?

The report states that the responsible person should '*ensure that any person he or she appoints is given such information about any person working in the undertaking*'. This should also refer to those resorting. Guidance should emphasise the need and duties of the responsible person to action any recommendations or requirements of any assessment made by the appointed person.

We would welcome views on the proposed requirements in respect of procedures for serious and imminent danger.

Comments: The provisions outlined appear to mirror Section 10 of the Fire Precautions Act and are therefore supported.

- The procedures could be clearly described with the aid of a plan (drawing) or flow chart.
- Paragraphs (a), (b) and (c) of the section commencing '*These procedures should...*' appear to relate to dangerous substance processes rather than to fire.

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We would welcome views on the proposed requirements in respect of the provision of information.

Comments: These requirements are welcomed. As a record is maintained of this information; provision needs to be defined. Is it an active process? Or is the availability of information for those who wish to seek it out, adequate to meet the requirements of the RRO?

We support the concept in paragraphs 4.78 and 4.79. However, the risk assessment process should account for those items listed (a) to (e) and would be useful if captured via the use of a plan. The factors listed from (a) to (e) are in effect, goals of the risk assessment and this should be highlighted in the guidance that is to be produced.

Paragraph 4.79 places a responsibility on an employer where they are the responsible person, to provide comprehensive and relevant information on fire safety to employees and other people in the premises. This includes information on risks identified by the risk assessment, the preventative and protective measures provided, etc. This should be linked with the proposals for risk assessment under paragraphs 4.35 to 4.41 and the terminology used, should be the same.

The practical issue of co-operation and consultation in premises of multiple occupation has not been fully addressed under the Fire Precautions (Workplace) Regulations. There needs to be a clear definition of who is responsible in law for common areas and shared fire protection systems to ensure appropriate enforcement.

We would welcome views on the proposed requirements in respect of persons working in a host employers' or self-employed persons' undertakings.

Comments: Clear language should be used, possibly referring to the provision of a fire procedure and fire plan.

We would welcome views on the proposed requirements in respect of capabilities and training.

Comments: We welcome this proposal. The current MHSWR would also apply and dovetail with this item in the same way as the Fire Precautions (Workplace) Regulations.

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We would welcome views on the proposed requirements in respect of the general duties of employees at work.

Comments: No observations.

We would welcome views on the guidance that should accompany the new Order. In particular, who should it be aimed at and what form should it take? We welcome views on whether any part of the guidance issued under the new Order should have some form of legal status.

Comments: We would recommend the same regime as for the HSW Act and its regulations. The RRO should be supported by both an Approved Code of Practice (ACoP) and Guidance. The ACoP and Guidance must be very specific and of sufficient detail, including technical aspects to replace, without diminution of standards or levels of protection, the protection and assurance afforded by the current regime of fire certification under the Fire Precautions Act 1971. It is not clear if provision exists within the Regulatory Reform Act or the proposed RRO to introduce a relevant ACoP. The guidance should be aimed at the competent person appointed as the safety advisor. Should a dispute arise as to what is reasonable, suitable and sufficient or necessary, the guidance should explain and suggest ways of achieving the requirement as in Approved Document B. Functional requirements of Approved Document B should be transposed into the suite of guidance documents and used as an initial benchmark standard.

We would welcome views on our proposals as to how the new Order will work alongside licensing regimes, and in particular whether they would help maintain necessary positions, strike a fair balance between the interests of those affected and the public interest and would help make the proposed new regime desirable as a whole.

Comments: The critical points are the desire to achieve a 'single fire safety regime' and meet EU requirements on the employer. In a very high percentage of licensed premises an employer is in control, and the discharge of their responsibility to their employees also achieves safety for others resorting to the premises. The balance is different and therefore clear guidance will be necessary.

We support the view that the overall responsibility for fire safety and the enforcement of the RRO in Licensed premises should rest with the fire authority. We would also support

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the need for some form of statutory consultation arrangements between licensing authorities and fire authorities. However, the above arrangements should be separate from and not form part of, the issue of a license by the licensing authority.

It is not appropriate that fire authorities approve a risk assessment and inspect every premises when consulted on receipt of an application for a licence. This will not support the introduction of a risk based inspection programme and will direct resources away from the inspection of risk premises. With an appropriate consultation process, fire authorities can be made aware of licensed premises, determine which premises to inspect based on risk, and control the safety of these premises through the provisions of the RRO. The licensing authority could raise issues of fire safety with the fire authority prior to the grant of, or during the period of, a licence if they had particular concerns through their own licensing officers.

We would welcome views on our proposals as to how the new Order will work alongside housing law, and in particular whether they would help maintain necessary protections, strike a fair balance between the interests of those affected and the public interest and would help make the proposed new regime desirable as a whole.

Comments: We accept these proposals, but feel the terminology requires clarification and simplification. The principle of application to persons employed in the premises is welcomed.

The responsibility on landlords and employers to test and maintain 'common fire precautions' in houses of multiple occupation (HMOs) is welcomed. These common fire precautions are understood to include matters within domestic areas which are provided for the protection of common areas. There should be a requirement to record testing and maintenance and for those records to be available for examination. It is not clear how, or if, fire safety law will apply to domestic accommodation provided for employees by an employer. In some circumstances, the domestic arrangements impact on the common areas.

We would welcome views on our proposals in respect of the protection of animals and in particular whether they would help maintain necessary protections, strike a

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fair balance between the interests of those affected and the public interest and would help make the proposed new regime desirable as a whole.

Comments: We agree with the proposals.

We would welcome views as to the appropriate enforcing authorities for the new Order.

Comments: We accept that the fire authorities should be responsible for enforcement. We note and agree the exceptions, but request clarification of paragraph 5.2 as the same fire authority may not be statutory consultees.

We consider that the opportunity should be taken to resolve the issue of how fire safety compliance is enforced within the fire authorities themselves. There should be a regime similar to that under health and safety law, where the HSE enforces against local authorities and vice versa.

We would also welcome views on whether the proposed flexibility, and on whether the negative resolution mechanism would be the appropriate vehicle for extending the fire safety regime to cover premises currently subject to Crown immunity. We would also welcome views on which other elements of the proposed fire safety regime would benefit from future flexibility over and above the proposal to re-state the regulation-making power in the Fire Precautions Act.

Comments: We consider that there is no justification for retaining Crown Immunity and that it should be dealt with through this reform. We support the retention of the regulation-making power currently within the Fire Precautions Act.

We consider that it is beneficial to build flexibility into the reforms provided, so that there will be no consequential reduction of fire safety protection. Flexibility will allow for technological developments that potentially may be beneficial to fire safety and its improvement.

We would welcome views on our proposals for the form of enforcement notices, and whether Ministers should issue a code of practice for enforcing officers.

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Comments: We support the proposed regime of enforcement notices. We also agree that a code of practice should be issued but we would strongly recommend that it should have the statutory force of an ACoP. It should be an 'open document' available to those who are the subject of the enforcement regime.

We would welcome views on our proposals in respect of alterations notices. Should the enforcing authority be required to approve risk assessments within a certain time? Do the proposals meet the requirements of proportionality, fair balance and desirability?

Comments: In the current format these proposals appear to reintroduce parts of Section 8 of the Fire Precautions Act; parts that have become almost redundant due to the wider scope of the Building Regulations. Most 'material alterations' of significant value fall within the need to apply for Building Regulations approval. We welcome the power to require persons to notify the fire service if they believe their premises to be high risk, or are considering increasing the risk. It should then be for the fire service to decide whether or not to inspect.

If the proposals are enacted, they will place the responsibility back on the fire service, as they will have 'validated', which is against the EU directive. The burden of validating, especially within a timescale, places a significant non-recoverable cost on fire authorities. Any structural alteration or issue affecting means of escape should have a notice accompanied by plans.

We would welcome views on the proposals for prohibition notices.

Comments: We support the proposals.

We would welcome views on the proposed powers of inspectors in respect of the enforcement of fire safety legislation.

Comments: We support the proposal. In our view, the powers of inspectors of fire safety should be analogous to those of inspectors of health and safety. However, we disagree with your proposal in paragraph 5.38 to require 24 hours notice to be given to the occupier in respect of powers of entry to premises used as sleeping accommodation, including hotels, since we cannot see any reason for such exemption.

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We would welcome views on the proposed offences under the new Order.

Comments: We support the proposals. We feel paragraph 5.46 should read 'We propose that, except, in the case...'

We would welcome views on our proposals for requiring inspectors to prepare reports of inspections.

Comments: We support the proposals.

We would welcome views on our proposals in respect of appeals, and in particular whether the magistrates' court remains the proper avenue of appeal.

Comments: We support the proposals. We consider that in keeping with the other parts of the criminal justice system, magistrates' courts are the proper avenue of appeal in the first instance.

We would welcome views on our proposals for a duty to institute, develop and maintain an enforcement programme. We should be interested to know if consultees think the programme should be published.

Comments: We welcome all of these proposals.

We would welcome views as to whether our proposals will offer sufficient reassurance to the public as to their safety from fire.

Comments: To reassure the public it will be essential to demonstrate unequivocally that the reforms have not resulted in any lowering of standards of protection. The regime needs to be both flexible and robust. It is critical to their success that codes of practice and guidance will assure safeguards equivalent to those provided under the current legislation. There must be sufficient publicity for the new RRO and the new ACoP/guidance for responsible persons to know about the changes and know where to get help.

We consider that you should review the need for high-risk premises to provide a 'fire safety case' similar to the health and safety regime for safety cases under certain regulations.

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We would welcome views as to whether fire authorities should be able to charge for advice or for any other service provided in relation to fire safety. Any charge would represent a burden and would have to meet the requirements of proportionality, fair balance and desirability, and we would welcome your views on those specific issues if you think that the authorities should be able to charge for advice and other services.

Comments: We consider that fire safety advice and most related services should be free of charge. However, if a 'fire safety case' type of regime for high risk premises were to be adopted, a reasonable charge could be levied in proportion to the amount of technical input made by the fire authorities. We would propose that you consider a model similar to that adopted for health and safety legislation where certain classes of premises/undertakings must provide safety cases to the enforcing authorities.

We would welcome views on our proposed new powers for fire authorities to investigate fires and to take away articles and substances.

Comments: We support the proposals. We consider that fire authority investigating officers or inspectors should have powers of entry, seizure etc analogous to those of health and safety enforcing officers.

We would welcome views on our proposal to introduce a duty on fire authorities to promote community fire safety. Do consultees consider that the absence of a duty is a disincentive to fire brigades to carry out this work?

Comments: We support the proposal. Although we do not consider that it is a disincentive, we believe that clarification of this role by definition in statute is preferred. Raising community fire safety work to statutory requirement level will also assist fire authorities with business planning and financial decisions.