Regulatory Reform (Fire Safety) Order, 2005:

The Responsible Person

Presented by Jonathan Herrick BEng (Hons) MI FIRE E
West Midlands Fire Service
Objectives

At the end of the session you will be able to:

• Identify where responsibility for taking General Fire Precautions for premises lies
• Identify the duties imposed
This session will not provide all the answers

Some aspects will only be decided when cases come to court.
Article 3: ...Responsible Person

In this Order “responsible person” means—

a) in relation to a workplace, the employer, if the workplace is to any extent under his control;

b) in relation to any premises not falling within paragraph (a)—

i. the person who has control of the premises (as occupier or otherwise) in connection with the carrying on by him of a trade, business or other undertaking (for profit or not); or

ii. the owner, where the person in control of the premises does not have control in connection with the carrying on by that person of a trade, business or other undertaking
Responsible Person – Article 3

- **Employer** – assuming control
- **Person with control** – assuming trade, business or other undertaking (profit or not); or
- **Owner** – assuming person in control has no trade, business or other undertaking
Relevant Person – Article 2

• Any person lawfully on the premises; and
• Any person in the immediate vicinity of the premises who is at risk from a fire on the premises;
• BUT…does not include a fire-fighter carrying out operational duties.
Article 6: Application to premises:

(1) This Order does not apply in relation to —

a) domestic premises, except to the extent mentioned in article 31(10)
b) an offshore installation within the meaning of regulation 3 of the Offshore Installation and Pipeline Works (Management and Administration) Regulations 1995
c) a ship, in respect of the normal ship-board activities of a ship’s crew which are carried out solely by the crew under the direction of the master;
d) fields, woods or other land forming part of an agricultural or forestry undertaking but which is not inside a building and is situated away from the undertaking’s main buildings;
e) an aircraft, locomotive or rolling stock, trailer or semi-trailer used as a means of transport or a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994 or a vehicle exempted from duty under that Act;
f) a mine within the meaning of section 180 of the Mines and Quarries Act 1954, other than any building on the surface at a mine;
g) a borehole site to which the Borehole Sites and Operations Regulations 1995 apply.

(2) Subject to the preceding paragraph of this article, this Order applies in relation to any premises.
Application – Article 6

- Applies to Any Place
  But not—
  - domestic premises;
  - offshore installations;
  - ships (crew and master);
  - fields, woods or other land;
  - means of transport;
  - mines;
  - boreholes.
A Workplace

Any premises or parts of premises, not being domestic premises, used for the purposes of an employer’s undertaking and which are made available to an employee of the employer as a place of work and includes:

(a) any place within the premises to which such employee has access while at work; and

(b) any room, lobby, corridor, staircase, road, or other place
   (i) used as a means of access to or egress from that place of work; or
   ii) where facilities are provided for use in connection with that place of work, other than a public road;
Employer

Require an employee

• A person who works under a contract of employment or apprenticeship (whether oral, written or implied)
  (includes trainees and work experience)

Employer

• “The other party to a contract of employment”
Person with Control

No clear definition for ‘Control’ to clarify the context, however..

• Could mean managerial control;
• Could mean responsibility / control regarding the safety of the premises; or
• For Houses in Multiple Occupation – “…the person who receives the rack rent of the premises…” (Housing Act 2004, Section 263(1))
Prohibition notices – Article 31(10)

(Regarding prohibiting use:)

• “In this article, “premises” includes domestic premises other than premises consisting of or comprised in a house which is occupied as a single private dwelling…”
Domestic premises – Article 2

A “…premises occupied as a private dwelling
(including any garden, yard, garage, out house,
or other appurtenance of such premises, which
is not used in common by the occupants of more
than one such dwelling);”
Owner

The person for the time being receiving the **rack-rent** of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rack rent if the premises were let at a rack rent.

*(Article 2 Interpretation)*
Rackrent

“…a rent that is not less than two-thirds of the rent at which the property might reasonably be expected to be let from year to year, free from all usual tenant’s rates and taxes, and deducting from it the probable average cost of the repairs, insurance and other expenses (if any) necessary to maintain the property in a state to command such rent,” (Article 2: Interpretation)

“…a rent which is not less than $\frac{2}{3}$ of the full net annual value of the premises.” (Housing Act 2004 Section263(2))
(1) Where the premises are a workplace, the responsible person must ensure that any duty imposed by articles 8 to 22 or by regulations made under article 24 is complied with in respect of those premises.

(2) Where the premises are not a workplace, the responsible person must ensure that any duty imposed by articles 8 to 22 or by regulations made under article 24 is complied with in respect of those premises, so far as the requirements relate to matters within his control.

(5) Articles 8 – 22…only require the taking or observance of general fire precautions in respect of relevant persons
Duties under this Order – Article 5

• For a workplace, the **responsible person** must comply with articles 8 to 22 or article 24.

• If not a workplace, **the responsible person** must comply with articles 8 to 22 or article 24, so far as the requirements relate to matters within his control.
Article 5: Duties under this Order

(3) Any duty imposed by article 8 – 22…on the responsible person in respect of the premises shall also be imposed on every person, other than the responsible person…who has, to any extent, control of those premises, so far as the matters relate to matters within his control.

(4) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to –

(a) the maintenance or repair of any premises, including anything in or on the premises; or

(b) the safety of any premises

That person is to be treated…as being a person who has control of the premises to the extent that his obligation so extends.
The concept of Control

- Duties imposed by articles 8 – 22 are imposed on everyone having any control of the premises.
- If contract or tenancy impose an obligation in relation to:
  - maintenance / repair including anything in or on the premises; or
  - safety of the premises
that person is treated … as a person with control within the extent of his obligation.
- Satisfying articles 8 – 22 only requires taking or observance of general fire precautions regarding relevant persons.
General fire precautions

- Reduction of risk of fire and fire spread
- Provision of Means of escape
- Protection of means of escape
- Fire-fighting measures on the premises
- Fire detection and warning
- Instruction and training of staff
- Mitigating the effects of a fire
Articles 8 – 22 (an outline)

The responsible person must:
• Make a Fire Risk Assessment
• Provide ‘general fire precautions’
• Consider relevant persons
• Record
  – significant findings
  – control measures
• Provide instruction and training to staff
Summary

- The Order applies to ALL public access buildings
- The Responsible person is:
  - The Employer or;
  - The person/s with control
  - The owner
- The Responsible person must ensure adequate general fire precautions for everyone who may be affected by a fire on the premises
Thank you for your attention

Do you have any Questions?