
STATUTORY INSTRUMENTS

2005 No. 1541

The Regulatory Reform (Fire Safety) Order 2005

PART 1

GENERAL

Citation, commencement and extent

1.—(1) This Order may be cited as the Regulatory Reform (Fire Safety) Order 2005 and shall come into force in accordance with paragraphs (2) and (3).

(2) This article and article 52(1)(a) shall come into force on the day after the day on which this Order is made.

(3) The remaining provisions of this Order shall come into force on 1st April 2006.

(4) This Order extends to England and Wales only.

Interpretation

2. In this Order—

“alterations notice” has the meaning given by article 29;

“approved classification and labelling guide” means the Approved Guide to the Classification and Labelling of Dangerous Substances and Dangerous Preparations (5th edition)(1) approved by the Health and Safety Commission on 16th April 2002;

“the CHIP Regulations” means the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002(2);

“child” means a person who is not over compulsory school age, construed in accordance with section 8 of the Education Act 1996(3);

“dangerous substance” means—

- (a) a substance or preparation which meets the criteria in the approved classification and labelling guide for classification as a substance or preparation which is explosive, oxidising, extremely flammable, highly flammable or flammable, whether or not that substance or preparation is classified under the CHIP Regulations;
- (b) a substance or preparation which because of its physico-chemical or chemical properties and the way it is used or is present in or on premises creates a risk; and
- (c) any dust, whether in the form of solid particles or fibrous materials or otherwise, which can form an explosive mixture with air or an explosive atmosphere;

(1) ISBN. 0-7176-2369-6.

(2) S.I.2002/1689.

(3) 1996 c. 56; section 8 was amended by the Education Act 1997 (c. 44), section 52.

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

“employee” means a person who is or is treated as an employee for the purposes of the Health and Safety at Work etc. Act 1974⁽⁴⁾ and related expressions are to be construed accordingly;

“enforcement notice” has the meaning given by article 30;

“enforcing authority” has the meaning given by article 25;

“explosive atmosphere” means a mixture, under atmospheric conditions, of air and one or more dangerous substances in the form of gases, vapours, mists or dusts in which, after ignition has occurred, combustion spreads to the entire unburned mixture;

“fire and rescue authority” means a fire and rescue authority under the Fire and Rescue Services Act 2004⁽⁵⁾;

“fire inspector” means an inspector or assistant inspector appointed under section 28 of the Fire and Rescue Services Act 2004;

“general fire precautions” has the meaning given by article 4;

“hazard”, in relation to a dangerous substance, means the physico-chemical or chemical property of that substance which has the potential to give rise to fire affecting the safety of a person, and references in this Order to “hazardous” are to be construed accordingly;

“inspector” means an inspector appointed under article 26 or a fire inspector;

“licensing authority” has the meaning given by article 42(3);

“normal ship-board activities” include the repair of a ship, save repair when carried out in dry dock;

“owner” means the person for the time being receiving the rackrent 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 rackrent if the premises were let at a rackrent;

“personal protective equipment” means all equipment which is intended to be worn or held by a person in or on premises and which protects that person against one or more risks to his safety, and any addition or accessory designed to meet that objective;

“place of safety” in relation to premises, means a safe area beyond the premises.

“premises” includes any place and, in particular, includes—

- (a) any workplace;
- (b) any vehicle, vessel, aircraft or hovercraft;
- (c) any installation on land (including the foreshore and other land intermittently covered by water), and any other installation (whether floating, or resting on the seabed or the subsoil thereof, or resting on other land covered with water or the subsoil thereof); and
- (d) any tent or movable structure;

“preparation” means a mixture or solution of two or more substances;

“preventive and protective measures” means the measures which have been identified by the responsible person in consequence of a risk assessment as the general fire precautions he needs to take to comply with the requirements and prohibitions imposed on him by or under this Order;

“prohibition notice” has the meaning given by article 31;

(4) 1974 c. 37; the meaning of “employee” was extended by the Police (Health and Safety) Act 1997 (c. 42), section 1.

(5) 2004 c. 21.

“public road” means a highway maintainable at public expense within the meaning of section 329 of the Highways Act 1980(6);

“rackrent” in relation to premises, means 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;

“the relevant local authority”, in relation to premises, means—

- (a) if the premises are in Greater London but are not in the City of London, the London Borough in the area of which the premises are situated;
- (b) if the premises are in the City of London, the Common Council of the City of London;
- (c) if the premises are in England in a metropolitan county, the district council in the area of which the premises are situated;
- (d) if the premises are in England but are not in Greater London or a metropolitan county—
 - (i) the county council in the area of which the premises are situated; or
 - (ii) if there is no county council in the area of which the premises are situated, the district council in that area;
- (e) if the premises are in Wales, the county council or county borough council in the area of which the premises are situated;

“relevant persons” means—

- (a) any person (including the responsible person) who is or may be lawfully on the premises; and
- (b) 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 who is carrying out his duties in relation to a function of a fire and rescue authority under section 7, 8 or 9 of the Fire and Rescue Services Act 2004 (fire-fighting, road traffic accidents and other emergencies), other than in relation to a function under section 7(2)(d), 8(2)(d) or 9(3)(d) of that Act;

“responsible person” has the meaning given by article 3;

“risk” means the risk to the safety of persons from fire;

“risk assessment” means the assessment required by article 9(1);

“safety” means the safety of persons in respect of harm caused by fire; and “safe” shall be interpreted accordingly;

“safety data sheet” means a safety data sheet within the meaning of regulation 5 of the CHIP Regulations;

“ship” includes every description of vessel used in navigation;

“special, technical and organisational measures” include—

- (a) technical means of supervision;
- (b) connecting devices;
- (c) control and protection systems;
- (d) engineering controls and solutions;
- (e) equipment;

- (f) materials;
- (g) protective systems; and
- (h) warning and other communication systems;

“substance” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour;

“visiting force” means any such body, contingent, or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952(7);

“workplace” means 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;

“young person” means any person who has not attained the age of 18.

Meaning of “responsible person”

3. 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.

Meaning of “general fire precautions”

4.—(1) In this Order “general fire precautions” in relation to premises means, subject to paragraph (2)—

- (a) measures to reduce the risk of fire on the premises and the risk of the spread of fire on the premises;
- (b) measures in relation to the means of escape from the premises;
- (c) measures for securing that, at all material times, the means of escape can be safely and effectively used;
- (d) measures in relation to the means for fighting fires on the premises;
- (e) measures in relation to the means for detecting fire on the premises and giving warning in case of fire on the premises; and
- (f) measures in relation to the arrangements for action to be taken in the event of fire on the premises, including—
 - (i) measures relating to the instruction and training of employees; and

(ii) measures to mitigate the effects of the fire.

(2) The precautions referred to in paragraph (1) do not include special, technical or organisational measures required to be taken or observed in any workplace in connection with the carrying on of any work process, where those measures —

- (a) are designed to prevent or reduce the likelihood of fire arising from such a work process or reduce its intensity; and
- (b) are required to be taken or observed to ensure compliance with any requirement of the relevant statutory provisions within the meaning given by section 53(1) of the Health and Safety at Work etc 1974⁽⁸⁾.

(3) In paragraph (2) “work process” means all aspects of work involving, or in connection with—

- (a) the use of plant or machinery; or
- (b) the use or storage of any dangerous substance.

Duties under this Order

5.—(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.

(3) Any duty imposed by articles 8 to 22 or by regulations made under article 24 on the responsible person in respect of premises shall also be imposed on every person, other than the responsible person referred to in paragraphs (1) and (2), who has, to any extent, control of those premises so far as the requirements 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 premises; or
- (b) the safety of any premises,

that person is to be treated, for the purposes of paragraph (3), as being a person who has control of the premises to the extent that his obligation so extends.

(5) Articles 8 to 22 and any regulations made under article 24 only require the taking or observance of general fire precautions in respect of relevant persons.

Application to premises

6.—(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⁽⁹⁾;
- (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;

⁽⁸⁾ 1974 c. 37.

⁽⁹⁾ S.I. 1995/738.

- (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⁽¹⁰⁾ 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⁽¹¹⁾, other than any building on the surface at a mine;
 - (g) a borehole site to which the Borehole Sites and Operations Regulations 1995⁽¹²⁾ apply.
- (2) Subject to the preceding paragraph of this article, this Order applies in relation to any premises.

Disapplication of certain provisions

7.—(1) Articles 9(4) and (5) and 19(2) do not apply in relation to occasional work or short-term work involving work regulated as not being harmful, damaging, or dangerous to young people in a family undertaking.

(2) Articles 9(2), 12, 16, 19(3) and 22(2) do not apply in relation to the use of means of transport by land, water or air where the use of means of transport is regulated by international agreements and the European Community directives giving effect to them and in so far as the use of means of transport falls within the disapplication in article 1.2(e) of Council Directive 1999/92/EC on minimum requirements for improving the safety and health of workers potentially at risk from explosive atmospheres⁽¹³⁾, except for any means of transport intended for use in a potentially explosive atmosphere.

(3) Articles 19 and 21 impose duties only on responsible persons who are employers.

(4) The requirements of articles 8 to 23, or of any regulations made under article 24, do not have effect to the extent that they would prevent any of the following from carrying out their duties—

- (a) any member of the armed forces of the Crown or of any visiting force;
- (b) any constable or any member of a police force not being a constable;
- (c) any member of any emergency service.

(5) Without prejudice to paragraph (4), article 14(2)(f) does not apply to any premises constituting, or forming part of, a prison within the meaning of the Prison Act 1952⁽¹⁴⁾ or constituting, or forming part of, a remand centre, detention centre or youth custody centre provided by the Secretary of State under section 43 of that Act or any part of any other premises used for keeping persons in lawful custody or detention.

(6) Where paragraph (4) or (5) applies, the safety of relevant persons must nevertheless be ensured so far as is possible.

⁽¹⁰⁾ 1994 c. 22.

⁽¹¹⁾ 1954 c. 70, extended by the Mines and Quarries (Tips) Act 1969 (c. 10) and the Mines Management Act 1971 (c. 20); relevant amending instruments are S.I. 1974/2013, 1976/2063 and 1993/1897.

⁽¹²⁾ S.I. 1995/2038.

⁽¹³⁾ OJNo. L23, 28.1.00, p.57.

⁽¹⁴⁾ 1952 c. 52. Relevant amendments to section 43 are contained in the Criminal Justice Act 1988 (c. 33), sections 123(6) and 170 and Schedules 8(1) and 15(11), the Crime and Disorder Act 1998 (c. 37), section 119 and Schedule 8(6), the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 165(1) and Schedule 9(5) and the Criminal Justice and Court Services Act 2000 (c. 43), section s59 and 75 and Schedule 8(1).