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Fire safety responsibilities under Section 156 of the Building Safety Act 2022

Briefing Note - August 2023



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1 – Applicable buildings

These requirements apply to all non-domestic premises, such as where people work, visit or stay, including workplaces, and the non-domestic parts of multi-occupied residential buildings (e.g., communal corridors, stairways, plant rooms).

The requirements do not apply within individual domestic premises.

Local fire and rescue authorities remain the primary enforcing body for the Regulatory Reform (Fire Safety) Order 2005 (FSO), including these additional requirements.

Other enforcing bodies:

- Health and Safety Executive - non-occupied buildings on a construction site
- Defence Fire Safety Regulator - armed forces premises
- Local Authority - designated sports grounds and regulated stands at sports grounds
- Crown Premises Fire Safety Inspectorate - buildings occupied or owned by the government.

2 - Background

The Building Safety Act 2022 (BSA) has amended the FSO and will now require all Responsible Persons to:

- record their completed fire risk assessment in full (where previously only specific information was required to be recorded)
- record the identity (their name and their organisation) engaged to undertake/ review any or all of the fire risk assessment
- record their fire safety arrangements (to demonstrate how fire safety is managed)
- record (and as necessary update) contact information and share this with other Responsible Persons and residents of multi-occupied residential premises
- take reasonably practicable steps to ascertain the existence of other Responsible Persons who share the same premises, and of Accountable Persons (which are a new legal entity made under the BSA in the case of higher-risk residential buildings)
- require that departing Responsible Persons must share all 'relevant fire safety information' with incoming Responsible Persons
- (of a building containing two or more sets of domestic premises) provide residents with relevant fire safety information in a format that is easily understood by the residents.

Furthermore, the changes will increase the level of fines for some offences and strengthen the status of statutory guidance issued under Article 50 of the FSO (see below).

There is also a legal requirement that, where the Responsible Person appoints a person to make or review the fire risk assessment, they must be competent. This requirement will be brought into force at a later date, and relevant guidance in that regard will be provided ahead of the commencement date.

3 – Duties for all Responsible Persons

The following duties apply if you are the Responsible Person for any building regulated by the FSO.

Recording your fire risk assessment and other information:

- you must now record the fire risk assessment in full (including all the findings) and the fire safety arrangements for your premises in all circumstances
- you should make available as much information as possible about fire safety in your premises (replacing the previous requirement to record only the significant findings of the risk assessment)
- it also removes the previous limitations on the circumstances within which you are required to record both the risk assessment and the fire safety arrangements at your premises, such as only being required to record this information if there were five or more employees or where subject to licensing or an alterations notice
- if you employ a fire risk assessor, you must record their name and their organisation name (to ensure there is a clear record for enforcing authorities as to who completed the assessment).

Cooperation and coordination between Responsible Persons:

- it is important that you work with other Responsible Persons in the premises to help facilitate a cohesive approach to fire safety throughout the entire building
- if there are other Responsible Person/s, you will need to inform each other of the extent of your responsibilities under the FSO and make a record of this information
- it is vital that your fire risk assessment, and any fire safety measures you take as a result, align with, and complement, the fire risk assessment(s) and fire safety measures for the rest of the building in order to provide a whole building approach to fire safety.

Cooperation with Accountable Persons:

- if you are a Responsible Person in a higher risk residential building, (defined under the BSA as at least 18 metres in height, or with at least 7 storeys, and containing at least 2 residential units), then you must take reasonable steps to identify the Accountable Persons (this may include the Principle Accountable Person) within the premises

- you will then need to cooperate with them to enable them to perform any duties they are required to perform under the BSA which would include, e.g., sharing your fire risk assessment
- the purpose of this requirement is to make sure that Responsible Persons and Accountable Persons take a whole building approach to building and fire safety in the premises. This will include the Golden Thread of Building Information required to be provided in all new higher risk residential buildings that includes the Safety Case Report which will identify fire safety risks in existing buildings.

Provision of information to new Responsible Persons:

Responsible Persons are also required to share any relevant fire safety information with incoming Responsible Persons to provide a continual record of fire safety information throughout a building's lifetime. This would include scenarios where you cease trading, are taken over by a new Responsible Person or sell your business or freehold.

Where you are the existing Responsible Person, you must provide any new Responsible Person with any relevant fire safety information including:

- the fire risk assessment and review records (including any fire safety information provided by other Responsible Persons)
- the identity of any person who assisted with the fire risk assessment/review
- the name and UK address of any Responsible Person or any person acting on behalf of the Responsible Person who will accept notices or other documentation
- the identity of the Accountable Person, where known (if a higher risk residential building)
- any information given under regulation 38 of the Building Regulations 2010 (such as the information provided when a building is built or extended).

If you do not have the contact details for the incoming Responsible Person, you could ask the building owner or manager.

4 – Duties of Responsible Persons (which contain two or more sets of domestic premises)

The following new duties also apply when your building contains two or more sets of domestic premises:

Provision of information to residents

You must provide residents with the following information:

- any risks to residents identified in the fire risk assessment
- the fire safety measures provided for the safety of any or all occupants (such as the means of escape, the measures to restrict the spread of fire and what people should do in the event of a fire)
- the name and UK address of the Responsible Person

- the identity of any person appointed to assist with making or reviewing the fire risk assessment
- the identity of any competent person nominated by the Responsible Person to implement firefighting measures
- any risks to relevant persons throughout the building that have been identified by other Responsible Persons in the building

The Fire Safety (England) Regulations 2022 already mandate fire safety instructions that must be shared with residents of multi-occupied domestic premises where resident evacuation would be through common parts, such as:

- the evacuation strategy
- how to report a fire
- what residents must do when a fire occurs.

In addition, the Regulations require Responsible Persons to provide information on fire doors including:

- keeping them shut when not in use
- not tampering with self-closing devices
- reporting any faults with doors immediately.

The Regulations stipulate that information on fire safety instructions should be displayed in a conspicuous part of the building with a copy provided to new residents when they move in and existing residents on an annual basis.

If you are the Responsible Person for a building located in England, you should provide both the instructions required under the Regulations and the information required as a result of the changes to the FSO.

5 – Other changes to the Fire Safety Order

As well as introducing new requirements for Responsible Persons, the BSA also amends the FSO with regards to guidance.

Guidance

Article 50 of the FSO requires the Secretary of State to ensure that such guidance as they consider appropriate is made available to assist Responsible Persons to discharge their duties.

Section 156 of the BSA strengthens the status of all Article 50 guidance by providing that, in court proceedings for alleged breaches of the FSO, compliance with or deviation from guidance issued under Article 50 may be relied upon as tending to establish whether or not there was a breach of the FSO.



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