Statutory Instrument 2005 No. 1541

2005 No. 1541

REGULATORY REFORM, ENGLAND AND WALES

The Regulatory Reform (Fire Safety) Order 2005

Made *7th June 2005*

Coming into force in accordance with article 1

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Whereas——

(a) the First Secretary of State ("the Secretary of State") consulted[1]—

(i) such organisations as appeared to him to be representative of interests substantially affected by his proposals for this Order;

(ii) the statutory bodies, and such organisations as appeared to him to be representative of those bodies, to whose functions his proposals relate;

(iii) the Law Commission;

(iv) the National Assembly for Wales; and

(v) such other persons as he considered appropriate;

(b) as a result of that consultation it appeared to the Secretary of State that it was appropriate to vary part of his proposals;

(c) following the consultation mentioned in recital (a) the Secretary of State considered it appropriate to proceed with the making of this Order;

(d) a document containing the Secretary of State's proposals was laid before Parliament as required by section 6 of the Regulatory Reform Act 2001[2] and the period for Parliamentary consideration under section 8 of that Act expired;

(e) the Secretary of State had regard to the representations made during that period and in particular to the 11th Report of the Regulatory Reform Committee of the House of Commons[3] and to the 27th Report of the Delegated Powers and Regulatory Reform Committee of the House of Lords[4];

(f) a draft of this Order was laid before Parliament with a statement giving details of those representations and the changes to the Secretary of State's proposals in the light of them;

(g) the draft was approved by resolution of each House of Parliament;

(h) this Order modifies a function of the National Assembly for Wales and the Assembly has agreed that it be made;

(i) the Secretary of State is of the opinion that this Order does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise; and

(j) this Order creates burdens affecting persons in the carrying on of certain activities, and the Secretary of State is of the opinion that—

> (i) the provisions of this Order, taken as a whole, strike a fair balance between the public interest and the interests of the persons affected by the burdens being created; and
>
> (ii) the extent to which this Order removes or reduces one or more burdens, or has other beneficial effects for persons affected by the burdens imposed by the existing law, makes it desirable for this Order to be made;

Now therefore the First Secretary of State, in exercise of the powers conferred by section 1 of the Regulatory Reform Act 2001, hereby makes the following Order:

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)[5] 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[6];
"child" means a person who is not over compulsory school age, construed in accordance with section 8 of the Education Act 1996[7];
"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;

"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[8] 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[9];
"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;
"public road" means a highway maintainable at public expense within the meaning of section 329 of the Highways Act 1980[10];
"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[11];
"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[12].

(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[13];

(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[14] 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[15], other than any building on the surface at a mine;

(g) a borehole site to which the Borehole Sites and Operations Regulations 1995[16] 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[17], 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[18] 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.

PART 2

FIRE SAFETY DUTIES

Duty to take general fire precautions

8. —(1) The responsible person must—

(a) take such general fire precautions as will ensure, so far as is reasonably practicable, the safety of any of his employees; and

(b) in relation to relevant persons who are not his employees, take such general fire precautions as may reasonably be required in the circumstances of the case to ensure that the premises are safe.

Risk assessment

9. —(1) The responsible person must make a suitable and sufficient assessment of the risks to which relevant persons are exposed for the purpose of identifying the general fire precautions he needs to take to comply with the requirements and prohibitions imposed on him by or under this Order.

(2) Where a dangerous substance is or is liable to be present in or on the premises, the risk assessment must include consideration of the matters set out in Part 1 of Schedule 1.

(3) Any such assessment must be reviewed by the responsible person regularly so as to keep it up to date and particularly if—

(a) there is reason to suspect that it is no longer valid; or

(b) there has been a significant change in the matters to which it relates including when the premises, special, technical and organisational measures, or organisation of the work undergo significant changes, extensions, or conversions,

and where changes to an assessment are required as a result of any such review, the responsible person must make them.

(4) The responsible person must not employ a young person unless he has, in relation to risks to young persons, made or reviewed an assessment in accordance with paragraphs (1) and (5).

(5) In making or reviewing the assessment, the responsible person who employs or is to employ a young person must take particular account of the matters set out in Part 2 of Schedule 1.

(6) As soon as practicable after the assessment is made or reviewed, the responsible person must record the information prescribed by paragraph (7) where—

(a) he employs five or more employees;

(b) a licence under an enactment is in force in relation to the premises; or

(c) an alterations notice requiring this is in force in relation to the premises.

(7) The prescribed information is—

(a) the significant findings of the assessment, including the measures which have been or will be taken by the responsible person pursuant to this Order; and

(b) any group of persons identified by the assessment as being especially at risk.

(8) No new work activity involving a dangerous substance may commence unless—

(a) the risk assessment has been made; and

(b) the measures required by or under this Order have been implemented.

Principles of prevention to be applied

10. Where the responsible person implements any preventive and protective measures he must do so on the basis of the principles specified in Part 3 of Schedule 1.

Fire safety arrangements

11. —(1) The responsible person must make and give effect to such arrangements as are appropriate, having regard to the size of his undertaking and the nature of its activities, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.

(2) The responsible person must record the arrangements referred to in paragraph (1) where—

(a) he employs five or more employees;

(b) a licence under an enactment is in force in relation to the premises; or

(c) an alterations notice requiring a record to be made of those arrangements is in force in relation to the premises.

Elimination or reduction of risks from dangerous substances

12. —(1) Where a dangerous substance is present in or on the premises, the responsible person must ensure that risk to relevant persons related to the presence of the substance is either eliminated or reduced so far as is reasonably practicable.

(2) In complying with his duty under paragraph (1), the responsible person must, so far as is reasonably practicable, replace a dangerous substance, or the use of a dangerous substance, with a substance or process which either eliminates or reduces the risk to relevant persons.

(3) Where it is not reasonably practicable to eliminate risk pursuant to paragraphs (1) and (2), the responsible person must, so far as is reasonably practicable, apply measures consistent with the risk assessment and appropriate to the nature of the activity or operation, including the measures specified in Part 4 of Schedule 1 to this Order to—

(a) control the risk, and

(b) mitigate the detrimental effects of a fire.

(4) The responsible person must—

(a) arrange for the safe handling, storage and transport of dangerous substances and waste containing dangerous substances; and

(b) ensure that any conditions necessary pursuant to this Order for ensuring the elimination or reduction of risk are maintained.

Fire-fighting and fire detection

13. —(1) Where necessary (whether due to the features of the premises, the activity carried on there, any hazard present or any other relevant circumstances) in order to safeguard the safety of relevant persons, the responsible person must ensure that—

(a) the premises are, to the extent that it is appropriate, equipped with appropriate fire-fighting equipment and with fire detectors and alarms; and

(b) any non-automatic fire-fighting equipment so provided is easily accessible, simple to use and indicated by signs.

(2) For the purposes of paragraph (1) what is appropriate is to be determined having regard to the dimensions and use of the premises, the equipment contained on the premises, the physical and chemical properties of the substances likely to be present and the maximum number of persons who may be present at any one time.

(3) The responsible person must, where necessary—

(a) take measures for fire-fighting in the premises, adapted to the nature of the activities carried on there and the size of the undertaking and of the premises concerned;

(b) nominate competent persons to implement those measures and ensure that the number of such persons, their training and the equipment available to them are adequate, taking into account the size of, and the specific hazards involved in, the premises concerned; and

(c) arrange any necessary contacts with external emergency services, particularly as regards fire-fighting, rescue work, first-aid and emergency medical care.

(4) A person is to be regarded as competent for the purposes of paragraph (3)(b) where he has sufficient training and experience or knowledge and other qualities to enable him properly to implement the measures referred to in that paragraph.

Emergency routes and exits

14. —(1) Where necessary in order to safeguard the safety of relevant persons, the responsible person must ensure that routes to emergency exits from premises and the exits themselves are kept clear at all times.

(2) The following requirements must be complied with in respect of premises where necessary (whether due to the features of the premises, the activity carried on there, any

hazard present or any other relevant circumstances) in order to safeguard the safety of relevant persons—

(a) emergency routes and exits must lead as directly as possible to a place of safety;

(b) in the event of danger, it must be possible for persons to evacuate the premises as quickly and as safely as possible;

(c) the number, distribution and dimensions of emergency routes and exits must be adequate having regard to the use, equipment and dimensions of the premises and the maximum number of persons who may be present there at any one time;

(d) emergency doors must open in the direction of escape;

(e) sliding or revolving doors must not be used for exits specifically intended as emergency exits;

(f) emergency doors must not be so locked or fastened that they cannot be easily and immediately opened by any person who may require to use them in an emergency;

(g) emergency routes and exits must be indicated by signs; and

(h) emergency routes and exits requiring illumination must be provided with emergency lighting of adequate intensity in the case of failure of their normal lighting.

Procedures for serious and imminent danger and for danger areas

15. —(1) The responsible person must—

(a) establish and, where necessary, give effect to appropriate procedures, including safety drills, to be followed in the event of serious and imminent danger to relevant persons;

(b) nominate a sufficient number of competent persons to implement those procedures in so far as they relate to the evacuation of relevant persons from the premises; and

(c) ensure that no relevant person has access to any area to which it is necessary to restrict access on grounds of safety, unless the person concerned has received adequate safety instruction.

(2) Without prejudice to the generality of paragraph (1)(a), the procedures referred to in that sub-paragraph must—

(a) so far as is practicable, require any relevant persons who are exposed to serious and imminent danger to be informed of the nature of the hazard and of the steps taken or to be taken to protect them from it;

(b) enable the persons concerned (if necessary by taking appropriate steps in the absence of guidance or instruction and in the light of their knowledge and the

technical means at their disposal) to stop work and immediately proceed to a place of safety in the event of their being exposed to serious, imminent and unavoidable danger; and

(c) save in exceptional cases for reasons duly substantiated (which cases and reasons must be specified in those procedures), require the persons concerned to be prevented from resuming work in any situation where there is still a serious and imminent danger.

(3) A person is to be regarded as competent for the purposes of paragraph (1) where he has sufficient training and experience or knowledge and other qualities to enable him properly to implement the evacuation procedures referred to in that paragraph.

Additional emergency measures in respect of dangerous substances

16. —(1) Subject to paragraph (4), in order to safeguard the safety of relevant persons arising from an accident, incident or emergency related to the presence of a dangerous substance in or on the premises, the responsible person must ensure that—

(a) information on emergency arrangements is available, including—

(i) details of relevant work hazards and hazard identification arrangements; and

(ii) specific hazards likely to arise at the time of an accident, incident or emergency;

(b) suitable warning and other communication systems are established to enable an appropriate response, including remedial actions and rescue operations, to be made immediately when such an event occurs;

(c) where necessary, before any explosion conditions are reached, visual or audible warnings are given and relevant persons withdrawn; and

(d) where the risk assessment indicates it is necessary, escape facilities are provided and maintained to ensure that, in the event of danger, relevant persons can leave endangered places promptly and safely.

(2) Subject to paragraph (4), the responsible person must ensure that the information required by article 15(1)(a) and paragraph (1)(a) of this article, together with information on the matters referred to in paragraph (1)(b) and (d) is—

(a) made available to relevant accident and emergency services to enable those services, whether internal or external to the premises, to prepare their own response procedures and precautionary measures; and

(b) displayed at the premises, unless the results of the risk assessment make this unnecessary.

(3) Subject to paragraph (4), in the event of a fire arising from an accident, incident or emergency related to the presence of a dangerous substance in or on the premises, the responsible person must ensure that—

(a) immediate steps are taken to—

(i) mitigate the effects of the fire;

(ii) restore the situation to normal; and

(iii) inform those relevant persons who may be affected; and

(b) only those persons who are essential for the carrying out of repairs and other necessary work are permitted in the affected area and they are provided with—

(i) appropriate personal protective equipment and protective clothing; and

(ii) any necessary specialised safety equipment and plant,

which must be used until the situation is restored to normal.

(4) Paragraphs (1) to (3) do not apply where—

(a) the results of the risk assessment show that, because of the quantity of each dangerous substance in or on the premises, there is only a slight risk to relevant persons; and

(b) the measures taken by the responsible person to comply with his duty under article 12 are sufficient to control that risk.

Maintenance

17. —(1) Where necessary in order to safeguard the safety of relevant persons the responsible person must ensure that the premises and any facilities, equipment and devices provided in respect of the premises under this Order or, subject to paragraph (6), under any other enactment, including any enactment repealed or revoked by this Order, are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair.

(2) Where the premises form part of a building, the responsible person may make arrangements with the occupier of any other premises forming part of the building for the purpose of ensuring that the requirements of paragraph (1) are met.

(3) Paragraph (2) applies even if the other premises are not premises to which this Order applies.

(4) The occupier of the other premises must co-operate with the responsible person for the purposes of paragraph (2).

(5) Where the occupier of the other premises is not also the owner of those premises, the references to the occupier in paragraphs (2) and (4) are to be taken to be references to both the occupier and the owner.

(6) Paragraph (1) only applies to facilities, equipment and devices provided under other enactments where they are provided in connection with general fire precautions.

Safety assistance

18. —(1) The responsible person must, subject to paragraphs (6) and (7), appoint one or more competent persons to assist him in undertaking the preventive and protective measures.

(2) Where the responsible person appoints persons in accordance with paragraph (1), he must make arrangements for ensuring adequate co-operation between them.

(3) The responsible person must ensure that the number of persons appointed under paragraph (1), the time available for them to fulfil their functions and the means at their disposal are adequate having regard to the size of the premises, the risks to which relevant persons are exposed and the distribution of those risks throughout the premises.

(4) The responsible person must ensure that—

(a) any person appointed by him in accordance with paragraph (1) who is not in his employment—

(i) is informed of the factors known by him to affect, or suspected by him of affecting, the safety of any other person who may be affected by the conduct of his undertaking; and

(ii) has access to the information referred to in article 19(3); and

(b) any person appointed by him in accordance with paragraph (1) is given such information about any person working in his undertaking who is—

(i) employed by him under a fixed-term contract of employment, or

(ii) employed in an employment business,

as is necessary to enable that person properly to carry out the function specified in that paragraph.

(5) A person is to be regarded as competent for the purposes of this article where he has sufficient training and experience or knowledge and other qualities to enable him properly to assist in undertaking the preventive and protective measures.

(6) Paragraph (1) does not apply to a self-employed employer who is not in partnership with any other person, where he has sufficient training and experience or knowledge and other qualities properly to assist in undertaking the preventive and protective measures.

(7) Paragraph (1) does not apply to individuals who are employers and who are together carrying on business in partnership, where at least one of the individuals concerned has sufficient training and experience or knowledge and other qualities—

(a) properly to undertake the preventive and protective measures; and

(b) properly to assist his fellow partners in undertaking those measures.

(8) Where there is a competent person in the responsible person's employment, that person must be appointed for the purposes of paragraph (1) in preference to a competent person not in his employment.

Provision of information to employees

19. —(1) The responsible person must provide his employees with comprehensible and relevant information on—

(a) the risks to them identified by the risk assessment;

(b) the preventive and protective measures;

(c) the procedures and the measures referred to in article 15(1)(a);

(d) the identities of those persons nominated by him in accordance with article 13(3)(b) or appointed in accordance with article 15(1)(b) ; and

(e) the risks notified to him in accordance with article 22(1)(c).

(2) The responsible person must, before employing a child, provide a parent of the child with comprehensible and relevant information on—

(a) the risks to that child identified by the risk assessment;

(b) the preventive and protective measures; and

(c) the risks notified to him in accordance with article 22(1)(c),

and for the purposes of this paragraph, "parent of the child" includes a person who has parental responsibility, within the meaning of section 3 of the Children Act 1989[19], for the child.

(3) Where a dangerous substance is present in or on the premises, the responsible person must, in addition to the information provided under paragraph (1) provide his employees with —

(a) the details of any such substance including—

(i) the name of the substance and the risk which it presents;

(ii) access to any relevant safety data sheet; and

(iii) legislative provisions (concerning the hazardous properties of any such substance) which apply to the substance; and

(b) the significant findings of the risk assessment.

(4) The information required by paragraph (3) must be—

(a) adapted to take account of significant changes in the activity carried out or methods or work used by the responsible person; and

(b) provided in a manner appropriate to the risk identified by the risk assessment.

Provision of information to employers and the self-employed from outside undertakings

20. —(1) The responsible person must ensure that the employer of any employees from an outside undertaking who are working in or on the premises is provided with comprehensible and relevant information on—

(a) the risks to those employees; and

(b) the preventive and protective measures taken by the responsible person.

(2) The responsible person must ensure that any person working in his undertaking who is not his employee is provided with appropriate instructions and comprehensible and relevant information regarding any risks to that person.

(3) The responsible person must—

(a) ensure that the employer of any employees from an outside undertaking who are working in or on the premises is provided with sufficient information to enable that employer to identify any person nominated by the responsible person in accordance with article 15 (1)(b) to implement evacuation procedures as far as those employees are concerned; and

(b) take all reasonable steps to ensure that any person from an outside undertaking who is working in or on the premises receives sufficient information to enable that person to identify any person nominated by the responsible person in accordance with article 15 (1)(b) to implement evacuation procedures as far as they are concerned.

Training

21. —(1) The responsible person must ensure that his employees are provided with adequate safety training—

(a) at the time when they are first employed; and

(b) on their being exposed to new or increased risks because of—

(i) their being transferred or given a change of responsibilities within the responsible person's undertaking;

(ii) the introduction of new work equipment into, or a change respecting work equipment already in use within, the responsible person's undertaking;

(iii) the introduction of new technology into the responsible person's undertaking; or

(iv) the introduction of a new system of work into, or a change respecting a system of work already in use within, the responsible person's undertaking.

(2) The training referred to in paragraph (1) must—

(a) include suitable and sufficient instruction and training on the appropriate precautions and actions to be taken by the employee in order to safeguard himself and other relevant persons on the premises;

(b) be repeated periodically where appropriate;

(c) be adapted to take account of any new or changed risks to the safety of the employees concerned;

(d) be provided in a manner appropriate to the risk identified by the risk assessment; and

(e) take place during working hours.

Co-operation and co-ordination

22. —(1) Where two or more responsible persons share, or have duties in respect of, premises (whether on a temporary or a permanent basis) each such person must—

(a) co-operate with the other responsible person concerned so far as is necessary to enable them to comply with the requirements and prohibitions imposed on them by or under this Order;

(b) (taking into account the nature of his activities) take all reasonable steps to co-ordinate the measures he takes to comply with the requirements and prohibitions imposed on him by or under this Order with the measures the other responsible persons are taking to comply with the requirements and prohibitions imposed on them by or under this Order; and

(c) take all reasonable steps to inform the other responsible persons concerned of the risks to relevant persons arising out of or in connection with the conduct by him of his undertaking.

(2) Where two or more responsible persons share premises (whether on a temporary or a permanent basis) where an explosive atmosphere may occur, the responsible person who has overall responsibility for the premises must co-ordinate the implementation of all the measures required by this Part to be taken to protect relevant persons from any risk from the explosive atmosphere.

General duties of employees at work

23. —(1) Every employee must, while at work—

(a) take reasonable care for the safety of himself and of other relevant persons who may be affected by his acts or omissions at work;

(b) as regards any duty or requirement imposed on his employer by or under any provision of this Order, co-operate with him so far as is necessary to enable that duty or requirement to be performed or complied with; and

(c) inform his employer or any other employee with specific responsibility for the safety of his fellow employees—

(i) of any work situation which a person with the first-mentioned employee's training and instruction would reasonably consider represented a serious and immediate danger to safety; and

(ii) of any matter which a person with the first-mentioned employee's training and instruction would reasonably consider represented a shortcoming in the employer's protection arrangements for safety,

in so far as that situation or matter either affects the safety of that first-mentioned employee or arises out of or in connection with his own activities at work, and has not previously been reported to his employer or to any other employee of that employer in accordance with this sub-paragraph.

Power to make regulations about fire precautions

24. —(1) The Secretary of State may by regulations make provision as to the precautions which are to be taken or observed in relation to the risk to relevant persons as regards premises in relation to which this Order applies.

(2) Without prejudice to the generality of paragraph (1), regulations made by the Secretary of State may impose requirements—

(a) as to the provision, maintenance and keeping free from obstruction of any means of escape in case of fire;

(b) as to the provision and maintenance of means for securing that any means of escape can be safely and effectively used at all material times;

(c) as to the provision and maintenance of means for fighting fire and means for giving warning in case of fire;

(d) as to the internal construction of the premises and the materials used in that construction;

(e) for prohibiting altogether the presence or use in the premises of furniture or equipment of any specified description, or prohibiting its presence or use unless specified standards or conditions are complied with;

(f) for securing that persons employed to work in the premises receive appropriate instruction or training in what to do in case of fire;

(g) for securing that, in specified circumstances, specified numbers of attendants are stationed in specified parts of the premises; and

(h) as to the keeping of records of instruction or training given, or other things done, in pursuance of the regulations.

(3) Regulations under this article—

(a) may impose requirements on persons other than the responsible person; and

(b) may, as regards any of their provisions, make provision as to the person or persons who is or are to be responsible for any contravention of that provision.

(4) The Secretary of State must, before making any regulations under this article, consult with such persons or bodies of persons as appear to him to be appropriate.

(5) The power of the Secretary of State to make regulations under this article—

(a) is exercisable by statutory instrument, which is subject to annulment in pursuance of a resolution of either House of Parliament;

(b) includes power to make different provision in relation to different circumstances; and

(c) includes power to grant or provide for the granting of exemptions from any of the provisions of the regulations, either unconditionally or subject to conditions.

PART 3

ENFORCEMENT

Enforcing authorities

25. For the purposes of this Order, "enforcing authority" means—

(a) the fire and rescue authority for the area in which premises are, or are to be, situated, in any case not falling within any of sub-paragraphs (b) to (e);

(b) the Health and Safety Executive in relation to—

(i) any premises for which a licence is required in accordance with section 1 of the Nuclear Installations Act 1965[20] or for which a permit is required in accordance with section 2 of that Act;

(ii) any premises which would, except for the fact that it is used by, or on behalf of, the Crown, be required to have a licence or permit in accordance with the provisions referred to in sub-paragraph (i);

(iii) a ship, including a ship belonging to Her Majesty which forms part of Her Majesty's Navy, which is in the course of construction, reconstruction or conversion or repair by persons who include persons other than the master and crew of the ship;

(iv) any workplace which is or is on a construction site within the meaning of regulation 2(1) of the Construction (Health, Safety and Welfare) Regulations 1996[21] and to which those Regulations apply, other than construction sites referred to in regulation 33 of those Regulations.

(c) the fire service maintained by the Secretary of State for Defence in relation to—

(i) premises, other than premises falling within paragraph (b)(iii), occupied solely for the purposes of the armed forces of the Crown;

(ii) premises occupied solely by any visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964[22];

(iii) premises, other than premises falling within paragraph (b)(iii), which are situated within premises occupied solely for the purposes of the armed forces of the Crown but which are not themselves so occupied;

(d) the relevant local authority in relation to premises which consist of—

(i) a sports ground designated as requiring a safety certificate under section 1 of the Safety of Sports Grounds Act 1975[23] (safety certificates for large sports stadia);

(ii) a regulated stand within the meaning of section 26(5) of the Fire Safety and Safety of Places of Sport Act 1987[24] (safety certificates for stands at sports grounds);

(e) a fire inspector, or any person authorised by the Secretary of State to act for the purposes of this Order, in relation to—

(i) premises owned or occupied by the Crown, other than premises falling within paragraph (b)(ii) and (c));

(ii) premises in relation to which the United Kingdom Atomic Energy Authority is the responsible person, other than premises falling within paragraph (b)(ii)).

Enforcement of Order

26. —(1) Every enforcing authority must enforce the provisions of this Order and any regulations made under it in relation to premises for which it is the enforcing authority and for that purpose, except where a fire inspector or other person authorised by the Secretary of State is the enforcing authority, may appoint inspectors.

(2) In performing the duty imposed by paragraph (1), the enforcing authority must have regard to such guidance as the Secretary of State may give it.

(3) A fire and rescue authority has power to arrange with the Health and Safety Commission or the Office of Rail Regulation for such of the authority's functions under this Order as may be specified in the arrangements to be performed on its behalf by the Health

and Safety Executive or the Office of Rail Regulation, as the case may be, (with or without payment) in relation to any particular workplace.

Powers of inspectors

27. —(1) Subject to the provisions of this article, an inspector may do anything necessary for the purpose of carrying out this Order and any regulations made under it into effect and in particular, so far as may be necessary for that purpose, shall have power to do at any reasonable time the following—

(a) to enter any premises which he has reason to believe it is necessary for him to enter for the purpose mentioned above and to inspect the whole or part of the premises and anything in them, where such entry and inspection may be effected without the use of force;

(b) to make such inquiry as may be necessary for any of the following purposes—

(i) to ascertain, as regards any premises, whether the provisions of this Order or any regulations made under it apply or have been complied with; and

(ii) to identify the responsible person in relation to the premises;

(c) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records (including plans)—

(i) which are required to be kept by virtue of any provision of this Order or regulations made under it; or

(ii) which it is necessary for him to see for the purposes of an examination or inspection under this article,

and to inspect and take copies of, or of any entry in, the records;

(d) to require any person having responsibilities in relation to any premises (whether or not the responsible person) to give him such facilities and assistance with respect to any matters or things to which the responsibilities of that person extend as are necessary for the purpose of enabling the inspector to exercise any of the powers conferred on him by this article;

(e) to take samples of any articles or substances found in any premises which he has power to enter for the purpose of ascertaining their fire resistance or flammability; and

(f) in the case of any article or substance found in any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause danger to the safety of relevant persons, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is, in the circumstances, necessary).

(2) An inspector must, if so required when visiting any premises in the exercise of powers conferred by this article, produce to the occupier of the premises evidence of his authority.

(3) Where an inspector proposes to exercise the power conferred by paragraph (1)(f) he must, if requested by a person who at the time is present in and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person.

(4) Before exercising the power conferred by paragraph (1)(f) an inspector must consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

Exercise on behalf of fire inspectors etc. of their powers by officers of fire brigades

28. —(1) The powers conferred by article 27 on a fire inspector, or any other person authorised by the Secretary of State under article 25(e), are also exercisable by an employee of the fire and rescue authority when authorised in writing by such an inspector for the purpose of reporting to him on any matter falling within his functions under this Order; and articles 27(2) and (3) and 32(2)(d) to (f), with the necessary modifications, apply accordingly.

(2) A fire inspector, or other person authorised by the Secretary of State, must not authorise an employee of a fire and rescue authority under this article except with the consent of the fire and rescue authority.

Alterations notices

29. —(1) The enforcing authority may serve on the responsible person a notice (in this Order referred to as "an alterations notice") if the authority is of the opinion that the premises—

(a) constitute a serious risk to relevant persons (whether due to the features of the premises, their use, any hazard present, or any other circumstances); or

(b) may constitute such a risk if a change is made to them or the use to which they are put.

(2) An alterations notice must—

(a) state that the enforcing authority is of the opinion referred to in paragraph (1); and

(b) specify the matters which in their opinion, constitute a risk to relevant persons or may constitute such a risk if a change is made to the premises or the use to which they are put.

(3) Where an alterations notice has been served in respect of premises, the responsible person must, before making any of the changes specified in paragraph (4) which may result in a significant increase in risk, notify the enforcing authority of the proposed changes.

(4) The changes referred to in paragraph (3) are—

(a) a change to the premises;

(b) a change to the services, fittings or equipment in or on the premises;

(c) an increase in the quantities of dangerous substances which are present in or on the premises;

(d) a change to the use of the premises.

(5) An alterations notice may include a requirement that, in addition to the notification required by paragraph (3), the responsible person must —

(a) take all reasonable steps to notify the terms of the notice to any other person who has duties under article 5(3) in respect of the premises;

(b) record the information prescribed in article 9(7), in accordance with article 9(6);

(c) record the arrangements required by article 11(1), in accordance with article 11(2); and

(d) before making the changes referred to in paragraph (3), send the enforcing authority the following —

(i) a copy of the risk assessment; and

(ii) a summary of the changes he proposes to make to the existing general fire precautions.

(6) An alterations notice served under paragraph (1) may be withdrawn at any time and, for the purposes of this article, the notice is deemed to be in force until such time as it is withdrawn or cancelled by the court under article 35(2).

(7) Nothing in this article prevents an enforcing authority from serving an enforcement notice or a prohibition notice in respect of the premises.

Enforcement notices

30. —(1) If the enforcing authority is of the opinion that the responsible person or any other person mentioned in article 5(3) has failed to comply with any provision of this Order or of any regulations made under it, the authority may, subject to article 36, serve on that person a notice (in this Order referred to as "an enforcement notice").

(2) An enforcement notice must—

(a) state that the enforcing authority is of the opinion referred to in paragraph (1) and why;

(b) specify the provisions which have not been complied with; and

(c) require that person to take steps to remedy the failure within such period from the date of service of the notice (not being less than 28 days) as may be specified in the notice.

(3) An enforcement notice may, subject to article 36, include directions as to the measures which the enforcing authority consider are necessary to remedy the failure referred to in paragraph (1) and any such measures may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention.

(4) Where the enforcing authority is of the opinion that a person's failure to comply with this Order also extends to a workplace, or employees who work in a workplace, to which this Order applies but for which they are not the enforcing authority, the notice served by them under paragraph (1) may include requirements concerning that workplace or those employees; but before including any such requirements the enforcing authority must consult the enforcing authority for that workplace.

(5) Before serving an enforcement notice which would oblige a person to make an alteration to premises, the enforcing authority must consult—

(a) in cases where the relevant local authority is not the enforcing authority, the relevant local authority;

(b) in the case of premises used as a workplace which are within the field of responsibility of one or more enforcing authorities within the meaning of Part 1 of the Health and Safety at Work etc Act 1974[25], that authority or those authorities; and section 18(7) of the Health and Safety at Work etc Act 1974 (meaning in Part I of that Act of "enforcing authority" and of such an authority's "field of responsibility") applies for the purposes of this article as it applies for the purposes of that Part;

(c) in the case of a building or structure in relation to all or any part of which an initial notice given under section 47 of the Building Act 1984[26] is in force, the approved inspector who gave that initial notice;

(d) in the case of premises which are, include, or form part of, a designated sports ground or a sports ground at which there is a regulated stand, the relevant local authority, where that authority is not the enforcing authority; and for the purposes of this sub-paragraph, "sports ground" and "designated sports ground" have the same meaning as in the Safety of Sports Grounds Act 1975 and "regulated stand" has the same meaning as in the Fire Safety and Safety of Places of Sport Act 1987;

(e) any other person whose consent to the alteration would be required by or under any enactment.

(6) Without prejudice to the power of the court to cancel or modify an enforcement notice under article 35(2), no failure on the part of an enforcing authority to consult under paragraphs (4) or (5) makes an enforcement notice void.

(7) Where an enforcement notice has been served under paragraph (1)—

(a) the enforcing authority may withdraw the notice at any time before the end of the period specified in the notice; and

(b) if an appeal against the notice is not pending, the enforcing authority may extend or further extend the period specified in the notice.

Prohibition notices

31. —(1) If the enforcing authority is of the opinion that use of premises involves or will involve a risk to relevant persons so serious that use of the premises ought to be prohibited or restricted, the authority may serve on the responsible person or any other person mentioned in article 5(3) a notice (in this Order referred to as "a prohibition notice").

(2) The matters relevant to the assessment by the enforcing authority, for the purposes of paragraph (1), of the risk to relevant persons include anything affecting their escape from the premises in the event of fire.

(3) A prohibition notice must—

(a) state that the enforcing authority is of the opinion referred to in paragraph (1);

(b) specify the matters which in their opinion give or, as the case may be, will give rise to that risk; and

(c) direct that the use to which the prohibition notice relates is prohibited or restricted to such extent as may be specified in the notice until the specified matters have been remedied.

(4) A prohibition notice may include directions as to the measures which will have to be taken to remedy the matters specified in the notice and any such measures may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the matters.

(5) A prohibition or restriction contained in a prohibition notice pursuant to paragraph (3)(c) takes effect immediately it is served if the enforcing authority is of the opinion, and so states in the notice, that the risk of serious personal injury is or, as the case may be, will be imminent, and in any other case takes effect at the end of the period specified in the prohibition notice.

(6) Before serving a prohibition notice in relation to a house in multiple occupation, the enforcing authority shall, where practicable, notify the local housing authority of their intention and the use which they intend to prohibit or restrict.

(7) For the purposes of paragraph (6)—

"house in multiple occupation" means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004[27], as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act); and
"local housing authority" has the same meaning as in section 261(2) of the Housing Act 2004.

(8) Without prejudice to the power of the court to cancel or modify a prohibition notice under article 35(2), no failure on the part of an enforcing authority to notify under paragraph

(6) makes a prohibition notice void.

(9) Where a prohibition notice has been served under paragraph (1) the enforcing authority may withdraw it at any time.

(10) 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 and article 27 (powers of inspectors) shall be construed accordingly.

PART 4

OFFENCES AND APPEALS

Offences

32. —(1) It is an offence for any responsible person or any other person mentioned in article 5(3) to—

(a) fail to comply with any requirement or prohibition imposed by articles 8 to 22 and 38 (fire safety duties) where that failure places one or more relevant persons at risk of death or serious injury in case of fire;

(b) fail to comply with any requirement or prohibition imposed by regulations made, or having effect as if made, under article 24 where that failure places one or more relevant persons at risk of death or serious injury in case of fire;

(c) fail to comply with any requirement imposed by article 29(3) or (4) (alterations notices);

(d) fail to comply with any requirement imposed by an enforcement notice;

(e) fail, without reasonable excuse, in relation to apparatus to which article 37 applies (luminous tube signs)—

(i) to ensure that such apparatus which is installed in premises complies with article 37 (3) and (4);

(ii) to give a notice required by article 37(6) or (8), unless he establishes that some other person duly gave the notice in question;

(iii) to comply with a notice served under article 37(9).

(2) It is an offence for any person to—

(a) fail to comply with article 23 (general duties of employees at work) where that failure places one or more relevant persons at risk of death or serious injury in case of fire;

(b) make in any register, book, notice or other document required to be kept, served or given by or under, this Order, an entry which he knows to be false in a material

particular;

(c) give any information which he knows to be false in a material particular or recklessly give any information which is so false, in purported compliance with any obligation to give information to which he is subject under or by virtue of this Order, or in response to any inquiry made by virtue of article 27(1)(b);

(d) obstruct, intentionally, an inspector in the exercise or performance of his powers or duties under this Order;

(e) fail, without reasonable excuse, to comply with any requirements imposed by an inspector under article 27(1)(c) or (d);

(f) pretend, with intent to deceive, to be an inspector;

(g) fail to comply with the prohibition imposed by article 40 (duty not to charge employees);

(h) fail to comply with any prohibition or restriction imposed by a prohibition notice.

(3) Any person guilty of an offence under paragraph (1)(a) to (d) and (2)(h) is liable—

(a) on summary conviction to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or to both.

(4) Any person guilty of an offence under paragraph (1)(e)(i) to (iii) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Any person guilty of an offence under paragraph (2)(a) is liable—

(a) on summary conviction to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to a fine.

(6) Any person guilty of an offence under paragraph (2)(b), (c), (d) or (g) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) Any person guilty of an offence under paragraph (2)(e) or (f) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) Where an offence under this Order committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate is guilty of that offence, and is liable to be proceeded against and punished accordingly.

(9) Where the affairs of a body corporate are managed by its members, paragraph (8) applies in relation to the acts and defaults of a member in connection with his functions of

management as if he were a director of the body corporate.

(10) Where the commission by any person of an offence under this Order, is due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(11) Nothing in this Order operates so as to afford an employer a defence in any criminal proceedings for a contravention of those provisions by reason of any act or default of—

(a) an employee of his; or

(b) a person nominated under articles 13(3)(b) or 15(1)(b) or appointed under 18(1).

Defence

33. Subject to article 32(11), in any proceedings for an offence under this Order, except for a failure to comply with articles 8(1)(a) or 12, it is a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

Onus of proving limits of what is practicable or reasonably practicable

34. In any proceedings for an offence under this Order consisting of a failure to comply with a duty or requirement so far as is practicable or so far as is reasonably practicable, it is for the accused to prove that it was not practicable or reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

Appeals

35. —(1) A person on whom an alterations notice, an enforcement notice, a prohibition notice or a notice given by the fire and rescue authority under article 37 (fire-fighters' switches for luminous tube signs) is served may, within 21 days from the day on which the notice is served, appeal to the court.

(2) On an appeal under this article the court may either cancel or affirm the notice, and if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.

(3) Where an appeal is brought against an alterations notice or an enforcement notice, the bringing of the appeal has the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.

(4) Where an appeal is brought against a prohibition notice, the bringing of the appeal does not have the effect of suspending the operation of the notice, unless, on the application of the appellant, the court so directs (and then only from the giving of the direction).

(5) In this article "the court" means a magistrates' court.

(6) The procedure for an appeal under paragraph (1) is by way of complaint for an order, and—

(a) the Magistrates' Courts Act 1980[28] applies to the proceedings; and

(b) the making of the complaint is deemed to be the bringing of the appeal.

(7) A person aggrieved by an order made by a magistrates' court on determining a complaint under this Order may appeal to the Crown Court; and for the avoidance of doubt, an enforcing authority may be a person aggrieved for the purposes of this paragraph.

Determination of disputes by Secretary of State

36. —(1) This article applies where—

(a) a responsible person or any other person mentioned in article 5(3) has failed to comply with any provision of this Order or of any regulations made under it; and

(b) the enforcing authority and that person cannot agree on the measures which are necessary to remedy the failure.

(2) Where this article applies, the enforcing authority and the person referred to in paragraph (1)(a) may agree to refer the question as to what measures are necessary to remedy the failure referred to in paragraph (1)(a) to the Secretary of State for his determination.

(3) The Secretary of State may, by notice in writing to both parties, require the provision of such further information, including plans, specified in the notice, within the period so specified, as the Secretary of State may require for the purpose of making a determination.

(4) If the information required under paragraph (3) is not provided within the period specified, the Secretary of State may refuse to proceed with the determination.

(5) Where the Secretary of State has made a determination under this article, the enforcing authority may not, subject to paragraph (6), take any enforcement action the effect of which would be to conflict with his determination; and in this article, "enforcement action" means the service of an enforcement notice or the inclusion of any directions in an enforcement notice.

(6) Paragraph (5) does not apply where, since the date of the determination by the Secretary of State, there has been a change to the premises or the use to which they are put such that the risk to relevant persons has significantly changed.

PART 5

MISCELLANEOUS

Fire-fighters' switches for luminous tube signs etc.

37. —(1) Subject to paragraph (11), this article applies to apparatus consisting of luminous tube signs designed to work at a voltage normally exceeding the prescribed voltage, or other equipment so designed, and references in this article to a cut-off switch are, in a case where a transformer is provided to raise the voltage to operate the apparatus,

references to a cut-off switch on the low-voltage side of the transformer.

(2) In paragraph (1) the "prescribed voltage" means—

(a) 1000 volts AC or 1500 volts DC if measured between any two conductors; or

(b) 600 volts AC or 900 volts DC if measured between a conductor and earth.

(3) No apparatus to which this article applies is to be installed unless it is provided with a cut-off switch.

(4) Subject to paragraph (5), the cut-off switch must be so placed, and coloured or marked as to satisfy such reasonable requirements as the fire and rescue authority may impose to secure that it must be readily recognisable by and accessible to fire-fighters.

(5) If a cut-off switch complies in position, colour and marking with the current regulations of the Institution of Electrical Engineers for a fire-fighter's emergency switch[29], the fire and rescue authority may not impose any further requirements pursuant to paragraph (4).

(6) Not less than 42 days before work is begun to install apparatus to which this article applies, the responsible person must give notice to the fire and rescue authority showing where the cut-off switch is to be placed and how it is to be coloured or marked.

(7) Where notice has been given to the fire and rescue authority as required by paragraph (6), the proposed position, colouring or marking of the switch is deemed to satisfy the requirements of the fire authority unless, within 21 days from the date of the service of the notice, the fire and rescue authority has served on the responsible person a counter-notice stating that their requirements are not satisfied.

(8) Where apparatus to which this article applies has been installed in or on premises before the day on which this article comes into force, the responsible person must, not more than 21 days after that day, give notice to the fire and rescue authority stating whether the apparatus is already provided with a cut-off switch and, if so, where the switch is placed and how it is coloured or marked.

(9) Subject to paragraph (10), where apparatus to which this article applies has been installed in or on premises before the day on which this article comes into force, the fire and rescue authority may serve on the responsible person a notice—

(a) in the case of apparatus already provided with a cut-off switch, stating that they are not satisfied with the position, colouring or marking of the switch and requiring the responsible person, within such period as may be specified in the notice, to take such steps as will secure that the switch will be so placed or coloured or marked as to be readily recognisable by, and accessible to, fire-fighters in accordance with the reasonable requirements of the fire and rescue authority; or

(b) in the case of apparatus not already provided with a cut-off switch, requiring him, within such period as may be specified in the notice, to provide such a cut-off switch in such a position and so coloured or marked as to be readily recognisable by,

and accessible to, fire-fighters in accordance with the reasonable requirements of the fire and rescue authority.

(10) If a cut-off switch complies in position, colour and marking with the current regulations of the Institution of Electrical Engineers for a fire-fighter's emergency switch, the fire and rescue authority may not serve a notice in respect of it under paragraph (9).

(11) This article does not apply to—

(a) apparatus installed or proposed to be installed in or on premises in respect of which a premises licence under the Licensing Act 2003[30] has effect authorising the use of premises for the exhibition of a film, within the meaning of paragraph 15 of Schedule 1 to that Act; or

(b) apparatus installed in or on premises before the day on which this article comes into force where, immediately before that date—

(i) the apparatus complied with section 10(2) and (3) (requirement to provide cut-off switch) of the Local Government (Miscellaneous Provisions) Act 1982[31]; and

(ii) the owner or occupier of the premises, as the case may be, had complied with either subsection (5) or subsection (7) (notice of location and type of switch) of section 10 of that Act.

Maintenance of measures provided for protection of fire-fighters

38. —(1) Where necessary in order to safeguard the safety of fire-fighters in the event of a fire, the responsible person must ensure that the premises and any facilities, equipment and devices provided in respect of the premises for the use by or protection of fire-fighters under this Order or under any other enactment, including any enactment repealed or revoked by this Order, are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair.

(2) Where the premises form part of a building, the responsible person may make arrangements with the occupier of any premises forming part of the building for the purpose of ensuring that the requirements of paragraph (1) are met.

(3) Paragraph (2) applies even if the other premises are not premises to which this Order applies.

(4) The occupier of the other premises must co-operate with the responsible person for the purposes of paragraph (2).

(5) Where the occupier of the other premises is not also the owner of those premises, the reference to the occupier in paragraphs (2) and (4) are to be taken to be references to both the occupier and the owner.

Civil liability for breach of statutory duty

39. —(1) Subject to paragraph (2), nothing in this Order is to be construed as conferring a right of action in any civil proceedings (other than proceedings for recovery of a fine).

(2) Notwithstanding section 86 of the Fires Prevention (Metropolis) Act 1774[32], breach of a duty imposed on an employer by or under this Order, so far as it causes damage to an employee, confers a right of action on that employee in civil proceedings.

Duty not to charge employees for things done or provided

40. No employer may levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any requirement of this Order or of regulations made under it.

Duty to consult employees

41. —(1) In regulation 4A of the Safety Representatives and Safety Committees Regulations 1977[33] (employer's duty to consult and provide facilities and assistance), in paragraph (1)(b), for "or regulation 4(2)(b) of the Fire Precautions (Workplace) Regulations 1997" substitute "or article 13(3)(b) of the Regulatory Reform (Fire Safety) Order 2005".

(2) In regulation 3 of the Health and Safety (Consultation with Employees) Regulations 1996[34] (duty of employer to consult), in paragraph (b), for "or regulation 4(2)(b) of the Fire Precautions (Workplace) Regulations 1997" substitute "or article 13(3)(b) of the Regulatory Reform (Fire Safety) Order 2005".

Special provisions in respect of licensed etc. premises

42. —(1) Subject to paragraph (2), where any enactment provides for the licensing of premises in relation to which this Order applies, or the licensing of persons in respect of any such premises—

(a) the licensing authority must ensure that the enforcing authority for the premises has the opportunity to make representations before issuing the licence; and

(b) the enforcing authority must notify the licensing authority of any action that the enforcing authority takes in relation to premises to which the licence relates; but no failure on the part of an enforcing authority to notify under this paragraph shall affect the validity of any such action taken.

(2) Paragraph (1) does not apply where the licensing authority is also the enforcing authority.

(3) In this article and article 43(1)(a)—

(a) "licensing authority" means the authority responsible for issuing the licence; and

(b) "licensing" includes certification and registration and "licence" is to be construed accordingly; and

(c) references to the issue of licences include references to their renewal, transfer or variation.

Suspension of terms and conditions of licences dealing with same matters as this Order

43. —(1) Subject to paragraph (3), paragraph (2) applies if—

(a) an enactment provides for the licensing of premises in relation to which this Order applies, or the licensing of persons in respect of any such premises;

(b) a licence is issued in respect of the premises (whether before or after the coming into force of this Order); and

(c) the licensing authority is required or authorised to impose terms, conditions or restrictions in connection with the issue of the licences.

(2) At any time when this Order applies in relation to the premises, any term, condition or restriction imposed by the licensing authority has no effect in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under this Order.

(3) Paragraph (1) does not apply where the licensing authority is also the enforcing authority.

Suspension of byelaws dealing with same matters as this Order

44. Where any enactment provides for the making of byelaws in relation to premises to which this Order applies, then, so long as this Order continues to apply to the premises, any byelaw has no effect in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under this Order.

Duty to consult enforcing authority before passing plans

45. —(1) Where it is proposed to erect a building, or to make any extension of or structural alteration to a building and, in connection with the proposals, plans are, in accordance with building regulations, deposited with a local authority, the local authority must, subject to paragraph (3), consult the enforcing authority before passing those plans.

(2) Where it is proposed to change the use to which a building or part of a building is put and, in connection with that proposal, plans are, in accordance with building regulations, deposited with a local authority, the authority must, subject to paragraph (3), consult with the enforcing authority before passing the plans.

(3) The duty to consult imposed by paragraphs (1) and (2)—

(a) only applies in relation to buildings or parts of buildings to which this Order applies, or would apply following the erection, extension, structural alteration or change of use;

(b) does not apply where the local authority is also the enforcing authority.

Other consultation by authorities

46. —(1) Where a government department or other public authority intends to take any action in respect of premises which will or may result in changes to any of the measures required by or under this Order, that department or authority must consult the enforcing authority for the premises before taking that action.

(2) Without prejudice to any power of the court to cancel or modify a notice served by a government department or other authority, no failure on the part of the department or

authority to consult under paragraph (1) invalidates the action taken.

(3) In paragraph (1), "public authority" includes an approved inspector within the meaning of section 49 of the Building Act 1984[35].

Disapplication of the Health and Safety at Work etc. Act 1974 in relation to general fire precautions

47. —(1) Subject to paragraph (2), the Health and Safety at Work etc. Act 1974[36] and any regulations made under that Act shall not apply to premises to which this Order applies, in so far as that Act or any regulations made under it relate to any matter in relation to which requirements are or could be imposed by or under this Order.

(2) Paragraph (1) does not apply—

(a) where the enforcing authority is also the enforcing authority within the meaning of the Health and Safety at Work etc Act 1974[37];

(b) in relation to the Control of Major Accident Hazards Regulations 1999[38].

Service of notices etc.

48. —(1) Any notice required or authorised by or by virtue of this Order to be served on any person may be served on him either by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.

(2) Any such notice may—

(a) in the case of a body corporate, be served on or given to the secretary or clerk of that body; and

(b) in the case of a partnership, be served on or given to a partner or a person having control or management of the partnership business.

(3) For the purposes of this article, and of section 7 of the Interpretation Act 1978[39] (service of documents by post) in its application to this Order, the proper address of any person is his last known address, except that—

(a) in the case of a body corporate or their secretary or clerk, it is the address of the registered or principal office of that body;

(b) in the case of a partnership or person having control or the management of the partnership business, it is the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is their principal office within the United Kingdom.

(4) If the person to be served with or given any such notice has specified an address in the United Kingdom other than his proper address as the one at which he or someone on his behalf will accept notices and other documents, that address is also to be treated for the purposes of this article and section 7 of the Interpretation Act 1978 as his proper address.

(5) Without prejudice to any other provision of this article, any such notice required or authorised to be served on or given to the responsible person in respect of any premises (whether a body corporate or not) may be served or given by sending it by post to him at those premises, or by addressing it by name to the person on or to whom it is to be served or given and delivering it to some responsible individual who is or appears to be resident or employed in the premises.

(6) If the name or the address of the responsible person on whom any such notice is to be served cannot after reasonable inquiry be ascertained by the person seeking to serve it, the document may be served by addressing it to the person on whom it is to be served by the description of "responsible person" for the premises (describing them) to which the notice relates, and by delivering it to some responsible individual resident or appearing to be resident on the premises or, if there is no such person to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

(7) Any notice required or authorised to be given to or served on the responsible person or enforcing authority may be transmitted to that person or authority—

(a) by means of an electronic communications network (within the meaning given by section 32 of the Communications Act 2003[40]); or

(b) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.

(8) Where the recipient of the transmission is the responsible person, the transmission has effect as a delivery of the notice to that person only if he has indicated to the enforcing authority on whose behalf the transmission is made his willingness to receive a notice transmitted in the form and manner used.

(9) An indication to an enforcing authority for the purposes of paragraph (8)—

(a) must be given to the authority in any manner it requires;

(b) may be a general indication or one that is limited to notices of a particular description;

(c) must state the address to be used and must be accompanied by any other information which the authority requires for the making of the transmission;

(d) may be modified or withdrawn at any time by a notice given to the authority in any manner it requires.

(10) Where the recipient of the transmission is the enforcing authority, the transmission has effect as a delivery of the notice only if the enforcing authority has indicated its willingness to receive a notice transmitted in the form and manner used.

(11) An indication for the purposes of paragraph (10)—

(a) may be given in any manner the enforcing authority thinks fit;

(b) may be a general indication or one that is limited to notices of a particular description;

(c) must state the address to be used and must be accompanied by any other information which the responsible person requires for the making of the transmission;

(d) may be modified or withdrawn at any time in any manner the enforcing authority thinks fit.

(12) If the making or receipt of the transmission has been recorded in the computer system of the enforcing authority, it must be presumed, unless the contrary is proved, that the transmission—

(a) was made to the person recorded in that system as receiving it;

(b) was made at the time recorded in that system as the time of delivery;

(c) contained the information recorded on that system in respect of it.

(13) For the purposes of this article—

"notice" includes any document or information; and
"transmission" means the transmission referred to in paragraph (7).

Application to the Crown and to the Houses of Parliament

49. —(1) Subject to paragraphs (2) to (4), this Order, except for articles 29, 30 and 32 to 36, binds the Crown.

(2) Articles 27 and 31 only bind the Crown in so far as they apply in relation to premises owned by the Crown but not occupied by it.

(3) For the purposes of this article—

(a) the occupation of any premises by the Corporate Officer of the House of Lords for the purposes of that House, by the Corporate Officer of the House of Commons for the purpose of that House, or by those Corporate Officers acting jointly for the purposes of both Houses, is to be regarded as occupation by the Crown;

(b) any premises in which either or both of those Corporate Officers has or have an interest which is that of an owner are to be regarded as premises owned by the Crown; and

(c) in relation to premises specified in sub-paragraphs (a) and (b), the relevant Corporate Officer is the responsible person.

(4) Nothing in this Order authorises the entry of any premises occupied by the Crown.

(5) Nothing in this Order authorises proceedings to be brought against Her Majesty in her private capacity, and this paragraph shall be construed as if section 38(3) of the Crown Proceedings Act 1947[41] (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Order.

Guidance

50. —(1) The Secretary of State must ensure that such guidance, as he considers appropriate, is available to assist responsible persons in the discharge of the duties imposed by articles 8 to 22 and by regulations made under article 24.

(2) In relation to the duty in paragraph (1), the guidance may, from time to time, be revised.

(3) The Secretary of State shall be treated as having discharged his duty under paragraph (1) where—

(a) guidance has been made available before this article comes into force; and

(b) he considers that the guidance is appropriate for the purpose mentioned in paragraph (1).

Application to visiting forces, etc.

51. This Order applies to a visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964[42] only to the extent that it applies to the Crown.

Subordinate provisions

52. —(1) For the purposes of section 4(3) of the Regulatory Reform Act 2001[43] (subordinate provisions) the following are designated as subordinate provisions—

(a) article 1(3);

(b) in article 2, the definition of "relevant local authority";

(c) article 9(6) and (7);

(d) in article 10, the reference to "Part 3 of Schedule 1";

(e) article 11(2);

(f) article 14(2);

(g) article 16(1)(a) to (d);

(h) article 16(4);

(i) article 18(6) and (7);

(j) article 25;

(k) article 45(3);

(l) article 49; and

(m) Schedule 1.

(2) A subordinate provisions order[44] made in relation to article 1(3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) A subordinate provisions order made in relation to any of the provisions mentioned in article 52(1)(b) to (m) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Repeals, revocations, amendments and transitional provisions

53. —(1) The enactments and instruments referred to in Schedules 2 and 3 are amended, repealed and revoked in accordance with those Schedules.

(2) The enactments and instruments specified in column 1 of Schedules 4 and 5 are repealed or revoked, as the case may be, to the extent specified in the corresponding entry in column 3.

(3) Any conditions imposed under section 20(2A) or (2C) of the London Building Acts (Amendment) Act 1939[45] before the date when this Order comes into force and which relate to maintenance, shall cease to have effect from that date.

Signed by authority of the First Secretary of State

Jim Fitzpatrick
Parliamentary Under-Secretary of State Office of the Deputy Prime Minister

7th June 2005

SCHEDULE 1

PART 1

Article 9(2)

MATTERS TO BE CONSIDERED IN RISK ASSESSMENT IN RESPECT OF DANGEROUS SUBSTANCES

The matters are—

(a) the hazardous properties of the substance;

(b) information on safety provided by the supplier, including information contained in any relevant safety data sheet;

(c) the circumstances of the work including —

(i) the special, technical and organisational measures and the substances used and their possible interactions;

(ii) the amount of the substance involved;

(iii) where the work will involve more than one dangerous substance, the risk presented by such substances in combination; and

(iv) the arrangements for the safe handling, storage and transport of dangerous substances and of waste containing dangerous substances;

(d) activities, such as maintenance, where there is the potential for a high level of risk;

(e) the effect of measures which have been or will be taken pursuant to this Order;

(f) the likelihood that an explosive atmosphere will occur and its persistence;

(g) the likelihood that ignition sources, including electrostatic discharges, will be present and become active and effective;

(h) the scale of the anticipated effects;

(i) any places which are, or can be connected via openings to, places in which explosive atmospheres may occur; and

(j) such additional safety information as the responsible person may need in order to complete the assessment.

PART 2

Article 9(5)

MATTERS TO BE TAKEN INTO PARTICULAR ACCOUNT IN RISK ASSESSMENT IN RESPECT OF YOUNG PERSONS

The matters are—

(a) the inexperience, lack of awareness of risks and immaturity of young persons;

(b) the fitting-out and layout of the premises;

(c) the nature, degree and duration of exposure to physical and chemical agents;

(d) the form, range, and use of work equipment and the way in which it is handled;

(e) the organisation of processes and activities;

(f) the extent of the safety training provided or to be provided to young persons; and

(g) risks from agents, processes and work listed in the Annex to Council Directive 94/33/EC[46] on the protection of young people at work.

PART 3

Article 10

PRINCIPLES OF PREVENTION

The principles are—

(a) avoiding risks;

(b) evaluating the risks which cannot be avoided;

(c) combating the risks at source;

(d) adapting to technical progress;

(e) replacing the dangerous by the non-dangerous or less dangerous;

(f) developing a coherent overall prevention policy which covers technology, organisation of work and the influence of factors relating to the working environment;

(g) giving collective protective measures priority over individual protective measures; and

(h) giving appropriate instructions to employees.

PART 4

Article 12

MEASURES TO BE TAKEN IN RESPECT OF DANGEROUS SUBSTANCES

1. In applying measures to control risks the responsible person must, in order of priority—

(a) reduce the quantity of dangerous substances to a minimum;

(b) avoid or minimise the release of a dangerous substance;

(c) control the release of a dangerous substance at source;

(d) prevent the formation of an explosive atmosphere, including the application of appropriate ventilation;

(e) ensure that any release of a dangerous substance which may give rise to risk is suitably collected, safely contained, removed to a safe place, or otherwise rendered safe, as appropriate;

(f) avoid—

(i) ignition sources including electrostatic discharges; and

(ii) such other adverse conditions as could result in harmful physical effects from a dangerous substance; and

(g) segregate incompatible dangerous substances.

2. The responsible person must ensure that mitigation measures applied in accordance with article 12(3)(b) include—

(a) reducing to a minimum the number of persons exposed;

(b) measures to avoid the propagation of fires or explosions;

(c) providing explosion pressure relief arrangements;

(d) providing explosion suppression equipment;

(e) providing plant which is constructed so as to withstand the pressure likely to be produced by an explosion; and

(f) providing suitable personal protective equipment.

3. The responsible person must—

(a) ensure that the premises are designed, constructed and maintained so as to reduce risk;

(b) ensure that suitable special, technical and organisational measures are designed, constructed, assembled, installed, provided and used so as to reduce risk;

(c) ensure that special, technical and organisational measures are maintained in an efficient state, in efficient working order and in good repair;

(d) ensure that equipment and protective systems meet the following requirements—

(i) where power failure can give rise to the spread of additional risk, equipment and protective systems must be able to be maintained in a safe

state of operation independently of the rest of the plant in the event of power failure;

(ii) means for manual override must be possible, operated by employees competent to do so, for shutting down equipment and protective systems incorporated within automatic processes which deviate from the intended operating conditions, provided that the provision or use of such means does not compromise safety;

(iii) on operation of emergency shutdown, accumulated energy must be dissipated as quickly and as safely as possible or isolated so that it no longer constitutes a hazard; and

(iv) necessary measures must be taken to prevent confusion between connecting devices;

(e) where the work is carried out in hazardous places or involves hazardous activities, ensure that appropriate systems of work are applied including —

(i) the issuing of written instructions for the carrying out of work; and

(ii) a system of permits to work, with such permits being issued by a person with responsibility for this function prior to the commencement of the work concerned.

SCHEDULE 2

Article 53(1)

AMENDMENTS OF PRIMARY LEGISLATION.

Celluloid and Cinematograph Film Act 1922

1. In section 2 of the Celluloid and Cinematograph Film Act 1922[47] (purposes to which the Act applies) for the words "the Fire Precautions (Workplace) Regulations 1997" substitute "the Regulatory Reform (Fire Safety) Order 2005".

London Building Acts (Amendment) Act 1939

2. —(1) The London Building Acts (Amendment) Act 1939[48] is amended as follows.

(2) In section 20 (precautions against fire in certain buildings)—

(a) in subsection (2A)—

(i) omit the words "and maintenance";

(ii) omit paragraphs (a) and (b); and

(iii) in paragraph (e) omit the words "interior, exterior and"; and

(b) in subsection (2C)(b) omit the words "and maintenance".

(3) Omit section 34 (protection against fire in certain new buildings).

(4) In section 35 (protection against fire in certain old buildings)—

(a) in subsection (1)—

(i) omit paragraphs (a), (b) and (d);

(ii) in paragraph (c), omit sub-paragraphs (ii) and (iii) and the final "or"; and

(iii) in paragraph (i) of the proviso, omit the words from "as respects a building" to "referred to in this subsection"; and

(b) omit subsection (5).

(5) In section 36 (projecting shops)—

(a) in subsection (1) for the words "Where any portion" substitute "Subject to subsection (4), where any portion";

(b) after subsection (3) insert—

" (4) This section does not apply in relation to any building to which the Regulatory Reform (Fire Safety) Order 2005 applies.".

(6) In section 37 (means of access to roofs)—

(a) in subsection (1) for the word "Each" substitute "Subject to subsection (3), each"; and

(b) after subsection (2) insert—

" (3) This section does not apply in relation to any building to which the Regulatory Reform (Fire Safety) Order 2005 applies.".

(7) Omit section 38 (parts of building used for storage of inflammable liquid).

(8) In section 42 (appeals) omit paragraphs (a), (b), (c) and (f).

(9) In section 133 (maintenance of means of escape etc.)—

(a) in subsection (1) for the words "All arrangements" substitute "Subject to subsection (4), all arrangements"; and

(b) after subsection (3) insert—

" (4) This section does not apply in relation to any building or part of a building to which the Regulatory Reform (Fire Safety) Order 2005 applies.".

Pet Animals Act 1951

3. In section 1 of the Pet Animals Act 1951[49] (licensing of pet shops) after subsection (3) insert—

" (3A) No condition may be specified under subsection (3) of this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

East Ham Corporation Act 1957

4. —(1) The East Ham Corporation Act 1957[50] is amended as follows.

(2) In section 62(1) (fire and safety precautions in public and other buildings) for the words from "If it appears" to "thereto" substitute—

" If it appears to the Corporation that for the purpose of preventing injury or danger (other than injury or danger arising from fire) to persons resorting to any building to which section 24 of the Building Act 1984 (provision of passages) applies".

(3) Omit section 63 (firemen's switches for luminous tube signs) and section 64 (storage of flammable substances).

(4) In section 91 (safety of stands)—

(a) in subsection (2) after the words "requirements which" insert “subject to subsection (2A); and

(b) after subsection (2) insert—

" (2A) No modification or requirement may be required under subsection (2) of this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Caravan Sites and Control of Development Act 1960

5. —(1) The Caravan Sites and Control of Development Act 1960[51] is amended as follows.

(2) In section 5 (site licences)—

(a) after subsection (2) insert—

" (2A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the land, no condition is to be attached to a site licence in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.";

(b) after subsection (3B) insert—

" (3C) Subsections (3A) and (3B) of this section do not apply where the Regulatory Reform (Fire Safety) Order 2005 applies to the land.";

(c) after subsection (6) insert—

" (6A) No model standards may be specified under subsection (6) of this section in relation to land to which the Regulatory Reform (Fire Safety) Order 2005 applies in so far as the standards relate to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order."; and

(d) in subsection (8) for the words "that subsection" substitute "this section".

(3) In section 8 (power to alter conditions attached to site licences)—

(a) after subsection (1) insert—

" (1A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the land to which the site licence relates, no condition may be attached to a site licence under subsection (1) of this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order."; and

(b) after subsection (5) insert—

" (5A) Subsection (5) of this section does not apply where the Regulatory Reform (Fire Safety) Order 2005 applies to the land.".

Public Health Act 1961

6. In section 75 of the Public Health Act 1961[52] (byelaws as to pleasure fairs and roller skating rinks) after subsection (1) insert—

" (1A) No byelaw may be made under this section which applies to a pleasure fair or rolling skating rink, in so far as the byelaw relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Gaming Act 1968

7. —(1) The Gaming Act 1968[53] is amended as follows.

(2) In section 43(9) (rights of entry and related rights) for the words from "fire and rescue authority" to "situated" substitute "appropriate fire and rescue authority".

(3) In section 52(1) (interpretation) after the definition of "the Act of 1963" insert—

" "the appropriate fire and rescue authority", in relation to premises, means—
(a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises, the enforcing authority within the meaning given by article 25 of that Order; and

(b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area where the premises are (or are to be) situated ;".

(4) In Schedule 2 (grant, renewal, cancellation and transfer of licences)—

(a) in paragraph 2(2), omit the definition of "the appropriate fire and rescue authority";

(b) in paragraph 20(1) after paragraph (a) insert—

" (aa) where the Regulatory Reform (Fire Safety) Order 2005 applies to the relevant premises, that the Order or regulations made under it have not been complied with in respect of the relevant premises;";

(c) after paragraph 20(2) insert—

" (2A) For the purposes of sub-paragraph (1), a person shall be taken not to be a fit and proper person to be the holder of a licence under this Act if he has been convicted of an offence under the Regulatory Reform (Fire Safety) Order 2005 in respect of the relevant premises."; and

(d) omit paragraph 21(1)(f).

Fire Precautions Act 1971

8. The Fire Precautions Act 1971[54] ceases to have effect.

Health and Safety at Work etc. Act 1974

9. In section 23(4) of the Health and Safety at Work etc. Act 1974[55] (supplementary provisions about notices) for the words from "has the meaning" to the end substitute the following—

" , in relation to premises, means—
(a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises, the enforcing authority within the meaning given by article 25 of that Order;

(b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area where the premises are (or are to be) situated.".

Safety of Sports Grounds Act 1975

10. —(1) The Safety of Sports Grounds Act 1975[56] is amended as follows.

(2) In section 2 (contents of safety certificates) after subsection (2A) insert—

" (2B) No condition of a safety certificate shall require a person to contravene any provision of the Regulatory Reform (Fire Safety) Order 2005 or regulations made under it.".

(3) In section 4 (amendment etc of certificate)—

(a) after subsection (1) insert—

" (1A) The local authority shall, if it appears to them that a safety certificate would require a person to contravene any provision of the Regulatory Reform (Fire Safety) Order 2005 or regulations made under it, amend the safety certificate by

notice in writing to its holder; but nothing in this subsection shall be taken to require the local authority to take any action unless they are aware of any such inconsistency between a safety certificate and the Order.";

(b) in subsection (4) after "(1)(a)" insert "or (1A)".

(4) After section 4 insert—

" **Safety certificates: fire safety**

4A. A safety certificate has no effect to the extent that it would require a person to contravene any provision of the Regulatory Reform (Fire Safety) Order 2005 or regulations made under it.".

(5) In section 9(1) (exclusion of other statutory requirements)—

(a) in paragraph (c) for "sections 24 and 71" substitute "section 24";

(b) omit paragraph (d); and

(c) in paragraph (e) for "those terms and conditions" substitute "the terms and conditions of the safety certificate".

Greater London Council (General Powers) Act 1975

11. Omit section 3 of the Greater London Council (General Powers) Act 1975[57] (protection for fire brigade in respect of certain substances).

County of South Glamorgan Act 1976

12. —(1) The County of South Glamorgan Act 1976[58] is amended as follows.

(2) In section 27 (safety of stands)—

(a) in subsection (2) after the words "requirements which" insert "subject to subsection (2A),"; and

(b) after subsection (2) insert—

" (2A) No modification or requirement may be required under subsection (2) of this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 51 (modification of section 60 of the Public Health Act 1936)—

(a) in subsection (1)(b), omit paragraph (b) and the preceding "or" of the substituted subsection (4); and

(b) omit subsection (3)(b) and the preceding "or".

(4) Omit section 52 (firemen's switches for luminous tube signs).

(5) In section 54(1) (byelaws with regard to certain temporary structures), after the words

"Public Health Act 1961" insert "and provided that no byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005".

Rent Act 1977

13. Omit section 140 of, and Schedule 20 to, the Rent Act 1977[59] (modification of Act in relation to fire precautions).

County of Merseyside Act 1980

14. —(1) The County of Merseyside Act 1980[60] is amended as follows.

(2) In section 20 (safety of stands)—

(a) in subsection (6), after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 51(1) (fire and safety precautions in public and other buildings) for the words from "If it appears" to "such building" substitute "If it appears to a district council that for the purpose of preventing injury or danger (other than injury or danger arising from fire) to persons resorting to any building to which section 24 of the Building Act 1984 (provision of passages) applies".

(4) Omit section 54 (firemen's switches for luminous tube signs) and section 57 (byelaws etc. in relation to oil-burning equipment).

(5) In section 69 (registration of entertainment clubs)—

(a) in subsection (3)—

(i) in paragraph (c) omit the words "and suitable fire-fighting appliances,"; and

(ii) omit paragraph (d);

(b) after subsection (3) insert—

" (3A) The district council may not refuse to register or renew the registration of premises under subsection (3) above on grounds that relate to precautions against fire.".

(c) in subsection (4)(b) omit the words "the taking of proper precautions against fire, and" and the words "fire-fighting appliances"; and

(d) after subsection (4) insert—

" (4A) No condition may be imposed under subsection (4) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

West Midlands County Council Act 1980

15. —(1) The West Midlands County Council Act 1980[61] is amended as follows.

(2) In section 39 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) Omit section 45 (firemen's switches for luminous tube signs) and section 47 (byelaws etc. in relation to oil-burning equipment).

(4) In section 49 (provision of means of escape from fire in certain buildings) omit subsection (3)(b) and the preceding "or".

Cheshire County Council Act 1980

16. —(1) The Cheshire County Council Act 1980[62] is amended as follows.

(2) In section 29 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A)"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) Omit section 49 (firemen's switches for luminous tube signs) and section 51 (byelaws etc. in relation to oil-burning equipment).

(4) In section 52(1) (fire and safety precautions in public and other buildings) for the words from "If it appears" to "such building" substitute "If it appears to a district council that for the purpose of preventing injury or danger (other than injury or danger arising from fire) to persons resorting to any building to which section 24 of the Building Act 1984 (provision of passages) applies".

(5) Omit section 53 (fire precautions in buildings used for storage of flammable substances).

(6) In section 54 (modification of section 60 of the Public Health Act 1936) omit subsection (4)(b) and the preceding "or".

(7) In section 56 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

West Yorkshire Act 1980

17. —(1) The West Yorkshire Act 1980[63] is amended as follows.

(2) In section 40 (registration of entertainment clubs)—

(a) in subsection (3)—

(i) in paragraph (c) omit the words "and suitable fire-fighting appliances,"; and

(ii) omit paragraph (d);

(b) after subsection (3) insert—

" (3A) The district council may not refuse to register or renew the registration of premises under subsection (3) above on grounds that relate to precautions against fire.";

(c) in subsection (4)(b) omit the words "the taking of proper precautions against fire, and" and the words "fire-fighting appliances"; and

(d) after subsection (4) insert—

" (4A) No condition may be imposed under subsection (4) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) Omit section 51 (firemen's switches for luminous tube signs).

Isle of Wight Act 1980

18. Omit section 31 (firemen's switches for luminous tube signs) and section 33 (byelaws etc. in relation to oil-burning equipment) of the Isle of Wight Act 1980[64].

South Yorkshire Act 1980

19. —(1) The South Yorkshire Act 1980[65] is amended as follows.

(2) In section 45 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 46 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(4) Omit section 54 (firemen's switches for luminous tube signs).

(5) In section 58(1) (fire and safety precautions in public and other buildings) for the words from "If it appears" to "such building" substitute "If it appears to a district council that for the purpose of preventing injury or danger (other than injury or danger arising from fire) to persons resorting to any building to which section 24 of the Building Act 1984 (provision of passages) applies".

(6) Omit section 59 (byelaws etc. in relation to oil-burning equipment).

Tyne and Wear Act 1980

20. —(1) The Tyne and Wear Act 1980[66] is amended as follows.

(2) In section 17 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 18 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1), insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Zoo Licensing Act 1981

21. Section 3 of the Zoo Licensing Act 1981[67] (consideration of application for licence) is amended as follows—

(a) in subsection (2), for paragraph (c) substitute "(c) the relevant fire and rescue authority"; and

(b) after subsection (2) insert—

" (3) In subsection (2) "the relevant fire and rescue authority" means—

(a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the zoo—

(i) the enforcing authority within the meaning given by article 25 of that Order, and

(ii) the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the whole or any part of the zoo is situated, if that authority is not the enforcing authority mentioned in sub-paragraph (i);

(b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the whole or any part of the zoo is situated .".

Greater Manchester Act 1981

22. —(1) The Greater Manchester Act 1981[68] is amended as follows.

(2) In section 58 (safety of stands)—

(a) in subsection (6), after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 59 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(4) Omit section 62 (firemen's switches for luminous tube signs).

(5) In section 66(1) (fire and safety precautions in public and other buildings) for the words from "If it appears" to "such building" substitute "If it appears to a district council that for the purpose of preventing injury or danger (other than injury or danger arising from fire) to persons resorting to any building to which section 24 of the Building Act 1984 (provision of passages) applies".

(6) In section 78 (registration of entertainment clubs)—

(a) in subsection (3)—

(i) in paragraph (c) omit the words "and suitable fire-fighting appliances,"; and

(ii) omit paragraph (d);

(b) after subsection (3) insert—

" (3A) The district council may not refuse to register or renew the registration of premises under subsection (3) above on grounds that relate to precautions against fire.".

(c) in subsection (4)(b) omit the words "the taking of proper precautions against fire, and" and the words "fire-fighting appliances"; and

(d) after subsection (4) insert—

" (4A) No condition may be imposed under subsection (4) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

County of Kent Act 1981

23. Omit section 52 (firemen's switches for luminous tube signs) and section 54 (byelaws etc. in relation to oil-burning equipment) of the County of Kent Act 1981[69].

Derbyshire Act 1981

24. —(1) The Derbyshire Act 1981[70] is amended as follows.

(2) In section 16 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 24 (modification of section 60 of the Public Health Act 1936)—

(a) in subsection (1)(b), omit paragraphs (b) and (c) and the preceding "or" of the substituted subsection (4); and

(b) omit subsection (3)(b) and the preceding "or".

(4) Omit section 25 (firemen's switches for luminous tube signs) and section 26 (byelaws etc. in relation to oil-burning equipment).

East Sussex Act 1981

25. —(1) The East Sussex Act 1981[71] is amended as follows.

(2) Omit section 34 (fireman's switches for luminous tube signs).

(3) In section 47 (registration of entertainment clubs)—

(a) in subsection (3)—

(i) in paragraph (c) omit the words "and suitable fire-fighting appliances,"; and

(ii) omit paragraph (d);

(b) after subsection (3) insert—

" (3A) The district council may not refuse to register or renew the registration of premises under subsection (3) above on grounds that relate to precautions against fire.".

(c) in subsection (4)(b) omit the words "the taking of proper precautions against fire, and" and the words "fire-fighting appliances"; and

(d) after subsection (4) insert—

" (4A) No condition may be imposed under subsection (4) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Local Government (Miscellaneous Provisions) Act 1982

26. —(1) The Local Government (Miscellaneous Provisions) Act 1982[72] is amended

as follows.

(2) Omit sections 9 and 10 (firemen's switches for luminous tube signs).

(3) In Schedule 3 (control of sex establishments)—

(a) in paragraph 8—

(i) at the beginning insert "(1)";

(ii) after the words "Subject to" insert "sub-paragraph (2) and"; and

(iii) at the end insert—

" (2) No term, condition or restriction may be specified under sub-paragraph (1) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005 in respect of the premises, vehicle, vessel or stall.";

(b) after paragraph 13(1) insert—

" (1A) No standard condition may be prescribed by regulation under sub-paragraph (1) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.";

(c) in paragraph 18(2) at the beginning insert "Subject to sub-paragraph (4) below,"; and

(d) after paragraph 18(3) insert—

" (4) No variation is to be made under this paragraph in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Humberside Act 1982

27. —(1) The Humberside Act 1982[73] is amended as follows.

(2) Omit section 13 (firemen's switches for luminous tube signs).

(3) In section 15 (modification of section 60 of the Public Health Act 1936)—

(a) in subsection (1) omit paragraphs (b) and (c) and the preceding "or" of the substituted subsection (4); and

(b) omit subsection (3)(b) and the preceding "or".

(4) In section 17 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "county council may" insert "subject to subsection (1A),"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

County of Avon Act 1982

28. Section 6 of the County of Avon Act 1982[74] (byelaws with regard to certain temporary structures) is amended as follows—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A),"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Cumbria Act 1982

29. —(1) The Cumbria Act 1982[75] is amended as follows.

(2) Omit section 27 (byelaws etc. in relation to oil-burning equipment).

(3) In section 28 (modification of section 60 of the Public Health Act 1936)—

(a) in subsection (1) omit paragraphs (b) and (c) and the preceding "or" of the substituted subsection (4); and

(b) omit subsection (4)(b) and the preceding "or".

(4) Omit section 29 (fire precautions in buildings used for storage of flammable substances).

Hampshire Act 1983

30. Omit section 14 of the Hampshire Act 1983[76] (automatic fire alarms).

Staffordshire Act 1983

31. —(1) The Staffordshire Act 1983[77] is amended as follows.

(2) Omit section 27 (byelaws etc. in relation to oil-burning equipment).

(3) In section 28 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A),"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Food Act 1984

32. —(1) The Food Act 1984[78] is amended as follows.

(2) In section 60(d) (market byelaws) omit the words "for the area in which the market is situated".

(3) In section 61 (interpretation) for the definition of "fire and rescue authority" substitute—

" "fire and rescue authority" in relation to a market, means—
(a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the market, the enforcing authority within the meaning given by article 25 of that Order; or

(b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the market is situated .".

Building Act 1984

33. —(1) The Building Act 1984[79] is amended as follows.

(2) In section 48 (effect of initial notice), omit subsection (4).

(3) In section 51B[80] (effect of amendment notice), omit subsection (2).

(4) Omit section 71 (entrances and exits required in certain cases).

(5) In section 72 (means of escape from fire)—

(a) in subsection (6), omit paragraphs (b) and (c); and

(b) omit subsection (7).

(6) In section 81[81] (local authority power to serve notice about demolition)—

(a) for subsection (6)(b) substitute—

" (b) if it contains such a requirement as is specified in section 82(1)(i) below, to the fire and rescue authority, if they are not themselves the fire and rescue authority."; and

(b) omit subsection (7).

(7) In section 82 (notices under section 81), for subsection (1)(i) substitute—

" (i) to make such arrangements with regard to the burning of structures or materials on the site as may be reasonably required by the fire and rescue authority;".

(8) In section 126 (interpretation) for the definition of "fire and rescue authority" substitute—

> " "fire and rescue authority" in relation to any premises or proposed premises, means—
> (a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises or proposed premises, the enforcing authority within the meaning given by article 25 of that Order;
>
> (b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the premises are or are to be situated ;".

County of Lancashire Act 1984

34. —(1) The County of Lancashire Act 1984[82] is amended as follows.

(2) Omit section 32 (fire precautions in buildings used for storage of flammable substances).

(3) In section 35 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Cornwall County Council Act 1984

35. Section 20 of the Cornwall County Council Act 1984[83] (safety of stands) is amended as follows—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Bournemouth Borough Council Act 1985

36. In section 19 of the Bournemouth Borough Council Act 1985[84] (modification of section 72 of the Building Act 1984) omit subsection (3)(b) and the preceding "or".

Leicestershire Act 1985

37. —(1) The Leicestershire Act 1985[85] is amended as follows.

(2) In section 21 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) Omit section 47 (automatic fire alarms) and section 48 (fire precautions in buildings used for storage of flammable substances).

(4) In section 51 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(5) In section 54(6) (means of escape from fire in certain buildings) omit the word "or" at the end of paragraph (a) and the words following "or" to the end of the subsection.

Clwyd County Council Act 1985

38. —(1) The Clwyd County Council Act 1985[86] is amended as follows.

(2) Omit section 21 (byelaws etc. in relation to oil-burning equipment) and section 23 (fire precautions in buildings used for storage of flammable substances).

(3) In section 24(1) (fire and safety precautions in public and other buildings) for the words from "If it appears" to "such building" substitute "If it appears to a district council that for the purpose of preventing injury or danger (other than injury or danger arising from fire) to persons resorting to any building to which section 24 of the Building Act 1984 (provision of passages) applies".

(4) In section 26 (modification of section 72 of the Building Act 1984) omit subsection (3).

(5) In section 42 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Worcester City Council Act 1985

39. —(1) The Worcester City Council Act 1985[87] is amended as follows.

(2) In section 27 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 28 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(4) In section 45 (provision of means of escape from fire in certain buildings), omit subsection (1)(b)(iv) and subsection (3).

Poole Borough Council Act 1986

40. —(1) The Poole Borough Council Act 1986[88] is amended as follows.

(2) In section 6 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 12(1) (fire and safety precautions in public and other buildings) for the words from "If it appears" to "such building" substitute "If it appears to the Council that for the purpose of preventing injury or danger (other than injury or danger arising from fire) to

persons resorting to any building to which section 24 of the Building Act 1984 (provision of passages) applies".

(4) Omit section 13 (fire precautions in buildings used for storage of flammable substances).

(5) In section 16 (modification of section 72 of the Building Act 1984) omit subsection (3).

Berkshire Act 1986

41. —(1) The Berkshire Act 1986[89] is amended as follows.

(2) In section 28 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) Omit section 30 (fire precautions in building used for storage of flammable substances).

(4) In section 31 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(5) In section 33 (modification of section 72 of the Building Act 1984)—

(a) in subsection (1), omit paragraphs (b) and (c) and the preceding "or" of the substituted subsection (6); and

(b) in subsection (3) paragraphs (b) and (c) and the preceding "or" are omitted.

(6) In section 35(1) (fire and safety precautions in public and other buildings), for the words from "If it appears" to "such building" substitute "If it appears to a district council that for the purpose of preventing injury or danger (other than injury or danger arising from fire) to persons resorting to any building to which section 24 of the Building Act 1984 (provision of passages) applies".

(7) Omit section 40 (automatic fire alarms).

Fire Safety and Safety of Places of Sport Act 1987

42. —(1) The Fire Safety and Safety of Places of Sport Act 1987[90] is amended as follows.

(2) In section 27 (contents of safety certificates) after subsection (3) insert—

" (3A) No condition of a safety certificate shall require a person to contravene any provision of the Regulatory Reform (Fire Safety) Order 2005 or regulations made under it.".

(3) In section 29 (amendment, cancellation etc. of certificates)—

(a) after subsection (1) insert—

" (1A) The local authority shall, if it appears to them that a safety certificate would require a person to contravene any provision of the Regulatory Reform (Fire Safety) Order 2005 or regulations made under it, amend the safety certificate by notice in writing to its holder; but nothing in this subsection shall be taken to require the local authority to take any action unless they are aware of such an inconsistency between a safety certificate and the Order.";

(b) in subsection (4) after "(1)(b)" insert "or (1A)"; and

(4) After section 29 insert—

" **Safety certificates: fire safety**

29A. A safety certificate has no effect to the extent that it would require a person to contravene any provision of the Regulatory Reform (Fire Safety) Order 2005 or regulations made under it.".

(5) In section 33(1)[91] (exclusion of other statutory requirements)—

(a) omit paragraph (b); and

(b) in paragraph (d) for the words "sections 24 and 71" substitute "section 24".

Plymouth City Council Act 1987

43. —(1) The Plymouth City Council Act 1987[92] is amended as follows.

(2) In section 7 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions

are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 10 of the Plymouth City Council Act 1987 (provision of means of escape from fire in certain buildings), omit subsection (3).

West Glamorgan Act 1987

44. —(1) The West Glamorgan Act 1987[93] is amended as follows.

(2) In section 41 (byelaws with regard to certain temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 42 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Dyfed Act 1987

45. —(1) The Dyfed Act 1987[94] is amended as follows.

(2) In section 45 (byelaws as to temporary structures)—

(a) in subsection (1) after the words "fire authority" insert "and subject to subsection (1A)"; and

(b) after subsection (1) insert—

" (1A) No byelaw may be made under this section in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(3) In section 46 (safety of stands)—

(a) in subsection (6) after the words "conditions which" insert "subject to subsection (6A),"; and

(b) after subsection (6) insert—

" (6A) No modification or condition may be required under subsection (6) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

(4) Omit section 48 (byelaws etc. in relation to oil-burning equipment).

(5) In section 50 (amendment of section 72 of the Building Act 1984) omit subsection (3)(b) and the preceding "or".

(6) Omit section 53 (automatic fire alarms).

Environment and Safety Information Act 1988

46. In the Schedule to the Environment and Safety Information Act 1988[95] (authorities and statutory functions) after the entry for the Food and Environment Protection Act 1985 insert the following entry—

S.I. 2005/1541	The Regulatory Reform (Fire Safety) Order 2005	The enforcing authority as defined in article 25.	Articles 29, 30 and 31.

Smoke Detectors Act 1991

47. The Smoke Detectors Act 1991[96] ceases to have effect.

London Local Authorities Act 1995

48. —(1) The London Local Authorities Act 1995[97] is amended as follows.

(2) In section 2 (interpretation) for the definition of "the fire and rescue authority" substitute—

" "the fire and rescue authority", in relation to premises, means—
(a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises, the enforcing authority within the meaning given by article 25 of that Order; or

(b) in any other case, the London Fire and Emergency Planning Authority;".

(3) In section 16 (near beer licensing) after subsection (3) insert—

" (3A) No term, condition or restriction is to be imposed under subsection (2) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005 in respect of the premises.".

(4) In section 18(1) (refusal of licence) for paragraphs (f) and (g) substitute—

" (f) where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises, that Order or any regulations made under it are not being complied with in respect of the premises;

(g) where the Regulatory Reform (Fire Safety) Order 2005 does not apply to the premises—

(i) proper precautions against fire on the premises are not being taken;

(ii) satisfactory means of escape in case of fire and suitable fire-fighting appliances are not provided on the premises; or".

(5) In section 20 (power to prescribe standard terms, conditions and restrictions) after subsection (1) insert—

" (1A) No standard condition that is applicable to premises to which the Regulatory Reform (Fire Safety) Order 2005 applies may be prescribed by regulation under subsection (1) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.".

(6) In section 22 (variation of near beer licence)—

(a) in subsection (3) after the words "The council may" insert ", subject to subsection (4) below"; and

(b) after subsection (3) insert—

" (4) No term, condition or restriction may be varied under this section in so far as the effect of the variation would be that the term, condition or restriction as varied would relate to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.".

Capital Allowances Act 2001

49. In section 29 of the Capital Allowances Act 2001[98] (allowances for fire safety)—

(a) omit subsections (2) to (4); and

(b) after subsection (4) insert—

" (4A) A person takes required fire precautions in respect of premises if—

(a) he has been served with a notice under article 31 of the Regulatory Reform (Fire Safety) Order 2005 (prohibition notices) in respect of the premises specifying matters giving rise to a risk of a kind mentioned in paragraph (1) of that article, and

(b) he takes steps to remedy the matters specified in the prohibition notice.".

Licensing Act 2003

50. —(1) The Licensing Act 2003[99] is amended as follows.

(2) In sections 13 (authorised persons, interested parties and responsible authorities) and 69 (authorised persons, interested parties and responsible authorities) for paragraph (b) of subsection (2), in each case, substitute—

" (b) an inspector appointed by the fire and rescue authority for the area in which the premises are situated."

(3) In section 177(8) (dancing and live music in certain small premises) in the definition of "permitted capacity"—

(a) omit paragraph (a);

(b) in paragraph (b), omit the words "in any other case,".

SCHEDULE 3

Article 53(1)

AMENDMENTS OF SUBORDINATE LEGISLATION

The Dangerous Substances in Harbour Areas Regulations 1987

1. Regulation 30 of the Dangerous Substances in Harbour Areas Regulations 1987[100] (storage tanks) is amended as follows—

(a) in paragraph (1) for the words "appropriate fire and rescue authority" substitute "relevant authority"; and

(b) after paragraph (4) insert—

" (5) In paragraph (1) "relevant authority" means—

(a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the harbour or harbour areas within which the storage tank is situated, the enforcing authority within the meaning given by article 25 of that Order; and

(b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the harbour or harbour area is situated .".

The Marriages (Approved Premises) Regulations 1995

2. In Schedule 1 to the Marriages (Approved Premises) Regulations 1995[101] (requirements for the grant of approval) at the end of paragraph 3 insert—

" ; and in this paragraph "fire and rescue authority" means—

(a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises, the enforcing authority within the meaning given by article 25 of that Order;

(b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the premises are situated .".

The Construction (Health, Safety and Welfare) Regulations 1996

3. For regulation 33 of the Construction (Health, Safety and Welfare) Regulations 1996[102] (enforcement in respect of fire precautions) substitute—

" **Enforcement in respect of fire**

33. —(1) Subject to paragraph (2), the enforcing authority within the meaning given by article 25 of the Regulatory Reform (Fire Safety) Order 2005 is the enforcing authority as regards—

(a) regulations 19 and 20 in so far as those regulations relate to fire; and

(b) regulation 21,

in respect of a construction site which is contained within, or forms part of, premises which are occupied by persons other than those carrying out the construction work or any activity arising from such work.

(2) Paragraph (1) only applies in respect of premises to which the Regulatory Reform (Fire Safety) Order 2005 applies.".

The Housing (Fire Safety in Houses in Multiple Occupation) Order 1997

4. In regulation 3 of the Housing (Fire Safety in Houses in Multiple Occupation) Order 1997[103] (description of house – consultation requirements) in paragraph (2)(f) for the words "a valid fire certificate issued under section 1 of the Fire Precautions Act 1971 is in force" substitute "the Regulatory Reform (Fire Safety) Order 2005 applies".

The Health and Safety (Enforcing Authority) Regulations 1998

5. In regulation 4 of the Health and Safety (Enforcing Authority) Regulations 1998[104] (enforcement by the Executive) for paragraph (3)(e) substitute—

" (e) a fire and rescue authority under the Fire and Rescue Services Act 2004;".

The Building Regulations 2000

6. —(1) The Building Regulations 2000[105] are amended as follows.

(2) In regulation 12 (giving of a building notice or deposit of plans)—

(a) omit paragraph (1);

(b) for paragraph (4) substitute—

" (4) A person shall deposit full plans where he intends to carry out building work in relation to a building to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of the building work.".

(3) In regulation 14 (full plans) for paragraph (4) substitute—

" (4) Full plans shall be accompanied by a statement as to whether the building is a building in relation to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of the building work.".

(4) In regulation 17 (completion certificates) for paragraph (1)(b)(i) substitute—

" (i) been notified, in accordance with regulation 14(4), that the building is a building to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of the work; or".

The Building (Approved Inspectors etc.) Regulations 2000

7. —(1) The Building (Approved Inspectors etc.) Regulations 2000[106] are amended as follows.

(2) In regulation 2 (interpretation) omit the definition of "fire and rescue authority".

(3) In regulation 13(1) (approved inspector's consultation with the fire authority)—

(a) omit sub-paragraph (a);

(b) for sub-paragraph (b) substitute—

" (b) a "relevant building" is a building or any part of it to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of building work;";

(c) for sub-paragraph (c) substitute—

" (c) a "relevant change of use" is a material change of use where, after the change of use takes place, the Regulatory Reform (Fire Safety) Order 2005 will apply, or continue to apply, to the building or any part of it.".

(4) In regulation 18 (events causing initial notice to cease to be in force) for paragraph (2)(i) substitute—

" (i) if the building is a relevant building as defined by regulation 13(1)(b), on the expiry of a period of four weeks beginning with the date of occupation; and".

The Care Homes Regulations 2001

8. Regulation 23 of the Care Homes Regulations 2001[107] (fitness of premises) is amended as follows—

(a) in paragraph (4) for the words "The registered person" substitute "Subject to paragraph (4A) the registered person"; and

(b) after paragraph (4) insert—

" (4A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the care home—

(a) paragraph (4) does not apply; and

(b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of the care home.".

The Children's Homes Regulations 2001

9. Regulation 32 of the Children's Homes Regulations 2001[108] (fire precautions) is amended as follows—

(a) in paragraph (1) for the words "The registered person" substitute "Subject to paragraph (1A) the registered person"; and

(b) after paragraph (1) insert—

" (1A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the children's home—

(a) paragraph (1) does not apply; and

(b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of the home.".

The Private and Voluntary Care (England) Regulations 2001

10. Regulation 25 of the Private and Voluntary Care (England) Regulations 2001[109] (fitness of premises) is amended as follows—

(a) in paragraph (4) for the words "The registered person" substitute "Subject to paragraph (4A) the registered person"; and

(b) after paragraph (4) insert—

" (4A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises—

(a) paragraph (4) does not apply; and

(b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of those premises.".

The Care Homes (Wales) Regulations 2002

11. Regulation 24 of the Care Homes (Wales) Regulations 2002[110] (fitness of premises) is amended as follows—

(a) in paragraph (4) of the English language version for the words "The registered person" substitute "Subject to paragraph (4A) the registered person";

(b) in paragraph (4) of the Welsh language version for the words "Rhaid i'r person cofrestredig" substitute "Yn ddarostyngedig i baragraff (4A) rhaid i'r person cofrestredig";

(c) after paragraph (4) of the English language version insert—

" (4A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the care home—

(a) paragraph (4) does not apply; and

(b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of the care home."; and

(d) after paragraph (4) of the Welsh language version insert—

" (4A) Pan fydd Gorchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005 yn gymwys i'r cartref gofal —

(a) nid yw paragraff (4) yn gymwys; a

(b) rhaid i'r person cofrestredig sicrhau cydymffurfiad â gofynion y Gorchymyn hwnnw ac ag unrhyw reoliadau a wnaed oddi tano, ag eithrio erthygl 23 (dyletswyddau cyflogeion), mewn perthynas â'r cartref gofal.".

The Private and Voluntary Care (Wales) Regulations 2002

12. Regulation 24 of the Private and Voluntary Care (Wales) Regulations 2002[111] (fitness of premises) is amended as follows—

(a) in paragraph (4) of the English language version for the words "The registered person" substitute "Subject to paragraph (4A) the registered person";

(b) in paragraph (4) of the Welsh language version for the words "Rhaid i'r person cofrestredig" substitute "Yn ddarostyngedig i baragraff (4A) rhaid i'r person cofrestredig";

(c) after paragraph (4) of the English language version insert—

" (4A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises—

(a) paragraph (4) does not apply; and

(b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of those premises."; and

(d) after paragraph (4) of the Welsh language version insert—

" (4A) Pan fydd Gorchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005 yn gymwys i'r tir ac adeiladau—

(a) nid yw paragraff (4) yn gymwys; a

(b) rhaid i'r person cofrestredig sicrhau cydymffurfiad â gofynion y Gorchymyn hwnnw ac ag unrhyw reoliadau a wnaed oddi tano, ag eithrio erthygl 23 (dyletswyddau cyflogeion), mewn perthynas â'r tir ac adeiladau hynny.".

The Children's Homes (Wales) Regulations 2002

13. Regulation 31 of the Children's Homes (Wales) Regulations 2002[112] (fire precautions) is amended as follows—

(a) in paragraph (1) of the English language version for the words "The registered person" substitute "Subject to paragraph (1A) the registered person";

(b) in paragraph (1) of the Welsh language version for the words "Rhaid i'r person cofrestredig" substitute "Yn ddarostyngedig i baragraff (1A) rhaid i'r person cofrestredig";

(c) after paragraph (1) of the English language version insert—

" (1A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the children's home—

(a) paragraph (1) does not apply; and

(b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of the home."; and

(d) after paragraph (1) of the Welsh language version insert—

" (1A) Pan fydd Gorchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005 yn gymwys i'r cartref plant—

(a) nid yw paragraff (1) yn gymwys; a

(b) rhaid i'r person cofrestredig sicrhau cydymffurfiad â gofynion y Gorchymyn hwnnw ac ag unrhyw reoliadau a wnaed oddi tano, ag eithrio erthygl 23 (dyletswyddau cyflogeion), mewn perthynas â'r cartref.".

The Child Minding and Day Care (Wales) Regulations 2002

14. Regulation 21 of the Child Minding and Day Care (Wales) Regulations 2002[113] (fire precautions) is amended as follows—

(a) in paragraph (1) of the English language version for the words "The registered person" substitute "Subject to paragraph (1A) the registered person";

(b) in paragraph (1) of the Welsh language version for the words "Rhaid i'r person cofrestredig" insert “Yn ddarostyngedig i baragraff (1A) rhaid i'r person cofrestredig;

(c) after paragraph (1) of the English language version insert—

" (1A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the relevant premises—

(a) paragraph (1) does not apply; and

(b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of the premises."; and

(d) after paragraph (1) of the Welsh language version insert—

" (1A) Pan fydd Gorchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005 yn gymwys i'r safle perthnasol —

(a) nid yw paragraff (1) yn gymwys; a

(b) rhaid i'r person cofrestredig sicrhau cydymffurfiad â gofynion y Gorchymyn hwnnw ac ag unrhyw reoliadau a wnaed oddi tano, ag eithrio erthygl 23 (dyletswyddau cyflogeion), mewn perthynas â'r safle.".

The Residential Family Centres Regulations 2002

15. Regulation 22 of the Residential Family Centres Regulations 2002[114] (fire precautions) is amended as follows—

(a) in paragraph (1) for the words "The registered person" substitute "Subject to paragraph (1A) the registered person"; and

(b) after paragraph (1) insert—

" (1A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the residential family centre—

(a) paragraph (1) does not apply; and

(b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of the premises.".

The Residential Family Centres (Wales) Regulations 2003

16. Regulation 22 of the Residential Family Centres (Wales) Regulations 2003[115] (fire precautions) is amended as follows—

(a) in paragraph (1) of the English language version for the words "The registered person" substitute "Subject to paragraph (1A) the registered person";

(b) in paragraph (1) of the Welsh language version for the words "Rhaid i'r person cofrestredig" insert "Yn ddarostyngedig i baragraff (1A) rhaid i'r person cofrestredig";

(c) after paragraph (1) of the English language version insert—

" (1A) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the residential family centre—

(a) paragraph (1) does not apply; and

(b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of the premises."; and

(d) after paragraph (1) of the Welsh language version insert—

" (1A) Pan fydd Gorchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005 yn gymwys i'r ganolfan preswyl i deuluoedd—

(a) nid yw paragraff (1) yn gymwys; a

(b) rhaid i'r person cofrestredig sicrhau cydymffurfiad â gofynion y Gorchymyn hwnnw ac ag unrhyw reoliadau a wnaed oddi tano, ag eithrio erthygl 23 (dyletswyddau cyflogeion), mewn perthynas â'r tir ac adeiladau.".

SCHEDULE 4

Article 53(2)

REPEALS

Instrument	*Reference*	*Extent of repeal*
London Building Acts (Amendment) Act 1939	c. xcvii	In section 20(2A) the words "and maintenance", paragraphs (a) and (b) and in paragraph (e) the words "interior, exterior and". Section 34. In section 35(1), paragraphs (a), (b) and (d), in paragraph (c), sub-paragraphs (ii) and (iii) and the final "or" and in paragraph

		(i) of the proviso the words from "as respects a building" to "referred to in this subsection". Section 35(5). Section 38. In section 42, paragraphs (a), (b), (c) and (f).
East Ham Corporation Act 1957	c. xxxvii	Sections 63 and 64.
Gaming Act 1968	c. 65	In Schedule 2, the definition of "the appropriate fire authority" in paragraph 2(2), and paragraph 21(1)(f).
Fire Precautions Act 1971	c. 40	The whole Act.
Fire Precautions (Loans) Act 1973	c. 11	The whole Act.
Health and Safety at Work etc. Act 1974	c. 37	Section 78 and Schedule 8.
Safety of Sports Grounds Act 1975	c. 52	Section 9(1)(d).
Greater London Council (General Powers) Act 1975	c. xxx	Section 3.
County of South Glamorgan Act 1976	c. xxxv	In section 51(1)(b), paragraph (b) and the preceding "or" of the substituted subsection (4) and subsection (3)(b) and the preceding "or". Section 52.
Rent Act 1977	c. 42	Section 140 and Schedule 20.
Local Government, Planning and Land Act 1980	c. 65	Section 152(1)(a) and (b).
County of Merseyside Act 1980	c. x	Sections 54 and 57. In section 69(3), in paragraph (c) the words “and suitable fire-fighting appliances” and paragraph (d). In section 69(4)(b) the words "the taking of proper precautions against fire, and" and the words "fire-fighting appliances".

West Midlands County Council Act 1980	c. xi	Sections 45 and 47. In section 49(3), paragraph (b) and the preceding "or".
Cheshire County Council Act 1980	c. xiii	Sections 49, 51 and 53. In section 54(4) paragraph (b) and the preceding "or".
West Yorkshire Act 1980	c. xiv	In section 40(3) in paragraph (c) the words "and suitable fire-fighting appliances," and paragraph (d). In section 40(4)(b) the words "the taking of proper precautions against fire, and" and the words "fire-fighting appliances". Section 51.
Isle of Wight Act 1980	c. xv	Sections 31 and 33.
South Yorkshire Act 1980	c. xxxvii	Sections 54 and 59.
Greater Manchester Act 1981	c. ix	Section 62. In section 78(3) in paragraph (c) the words "and suitable fire-fighting appliances," and paragraph (d). In section 78(4)(b) the words "the taking of proper precautions against fire, and" and the words "fire-fighting appliances".
County of Kent Act 1981	c. xviii	Sections 52 and 54.
Derbyshire Act 1981	c. xxxiv	In section 24 in subsection 1(b) paragraphs (b) and (c) and the preceding "or" of the substituted subsection (4) and subsection (3)(b) and the preceding "or". Sections 25 and 26.
East Sussex Act 1981	c. xxv	Section 34. In section 47(3) in paragraph (c) the words "and suitable fire-fighting appliances," and paragraph (d). In section 47(4)(b) the words "the taking of proper precautions against fire, and" and the words "fire-fighting appliances".
Local Government	c. 30	Sections 9 and 10.

(Miscellaneous Provisions) Act 1982		
Humberside Act 1982	c. iii	Section 13. In section 15 in subsection 1(b) paragraphs (b) and (c) and the preceding "or" of the substituted subsection (4) and subsection (3)(b) and the preceding "or".
Cumbria Act 1982	c. xv	Section 27. In section 28 in subsection 1(b) paragraphs (b) and (c) and the preceding "or" of the substituted subsection (4) and subsection (4)(b) and the preceding "or". Section 29.
Hampshire Act 1983	c. v	Section 14.
Staffordshire Act 1983	c xviii	Section 27.
Food Act 1984	c.30	In section 60(d) the words "for the area in which the market is situated".
Building Act 1984	c. 55	Sections 48(4), 51B(2), 71, 72(6)(b) and (c) and (7), and 81(7).
County of Lancashire Act 1984	c. xxi	Section 32.
Bournemouth Borough Act 1985	c. v	Section 19(3)(b) and the preceding "or".
Leicestershire Act 1985	c. xvii	Sections 47 and 48. In section 54(6), the word "or" at the end of paragraph (a) and the words following "or" to the end of the subsection.
Clwyd County Council Act 1985	c. xliv	Sections 21, 23 and 26(3).
Worcester City Council Act 1985	c. lxiii	In section 45, subsection (1)(b)(iv) and subsection (3).
Poole Borough Council Act 1986	c. i	Sections 13 and 16(3).
Berkshire Act 1986	c. ii	Section 30. In section 33(1) in subsection 1(b) paragraphs (b) and (c) and

		the preceding "or" of the substituted subsection (4) and subsection (3)(b) and (c) and the preceding "or". Section 40.
Fire Safety and Safety of Places of Sport Act 1987	c. 27	Part 1. Section 33(1)(b). Schedule 1.
Plymouth City Council Act 1987	c. iv	Section 10(3).
Dyfed Act 1987	c. xxiv	Section 48. Section 50(3)(b) and the preceding "or". Section 53.
Environment and Safety Information Act 1988	c. 30	The entry in the Schedule relating to the Fire Precautions Act 1971.
National Health Service and Community Care Act 1990	c. 19	In Schedule 8, paragraph 15.
Smoke Detectors Act 1991	c. 37	The whole Act.
Capital Allowances Act 2001	c. 2	Section 29(2) to (4).

SCHEDULE 5

Article 53(2)

REVOCATIONS

Instrument	*Reference*	*Extent of revocation*
The Fire Certificate (Special Premises) Regulations 1976	S.I. 1976/2003	The whole Regulations.

The Fire Precautions (Workplace) Regulations 1997	S.I. 1997/1840	The whole Regulations.
The Fire Precautions (Workplace) (Amendment) Regulations 1999	S.I. 1999/1877	The whole Regulations.
The Management of Health and Safety at Work Regulations 1999	S.I. 1999/3242	In regulations 1(2), 3(1), 7(1), 11(1)(a), 11(1)(b), 12(1)(b) the words "and by Part II of the Fire Precautions (Workplace) Regulations 1997" in each place where they occur. In regulation 10(1)(c) the words from "and the measures" to "Regulations 1997". In regulation 10(1)(d) the words "and regulation" to "Regulations 1997". In regulations 11(2) and 12(2) the words in brackets. Regulation 28.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order reforms the law relating to fire safety in non-domestic premises. It replaces fire certification under the Fire Precautions Act 1971 with a general duty to ensure, so far as is reasonably practicable, the safety of employees, a general duty, in relation to non-employees to take such fire precautions as may reasonably be required in the circumstances to ensure that premises are safe and a duty to carry out a risk assessment. The Order imposes a number of specific duties in relation to the fire precautions to be taken. The Order provides for the enforcement of the Order, appeals, offences and connected matters. It amends or repeals other primary legislation concerning fire safety to take account of the new system and provides for minor and other consequential amendments, repeals and revocations. The Order also gives effect in England and Wales to:

(a) Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work (O.J. No. L 183, 29.6.89, p. 1) ("the Framework Directive") (except for provisions on accident reporting (article 9(1)(c) and (d) and (2)), employment protection rights (articles 7(2), 8(4) and (5) and 11(4)), and use of personal protective equipment (article 13(2)(b)));

(b) Council Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship (O.J. No. L 206, 29.7.91, p. 19) ("the Temporary Workers' Directive") (except for provisions on the responsibility of host undertakings to temporary workers (article 8));

(c) article 6 of, together with paragraphs 4 and 5 each of the annexes to, Council Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace (O.J. No. L 393, 30.12.89, p. 1) ("the Workplace Directive");

(d) articles 6 and 7 of Council Directive 94/33/EC (O.J. No. L216, 20.8.94, p.12) on the protection of young people at work;

(e) Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work (O.J. No. L 131, 05.05.98, p. 11) ("the Chemical Agents Directive"); and

(f) Council Directive 99/92/EC on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (O.J. No. L 23, 28.01.00, p. 57) ("the Explosive Atmospheres Directive"),

in so far as those provisions relate to general fire precautions to be taken by employers and in so far as more specific legislation does not make appropriate provision.

The Order applies to all non-domestic premises other than those listed in article 6. The main duty-holder is the "responsible person" in relation to the premises, defined in article 3. The duties on the responsible person are extended to any person who has, to any extent, control of the premises to the extent of their control (article 5).

Part 2 imposes duties on the responsible person in relation to fire safety in premises. Article 23 imposes various duties on employees. Article 24 gives the Secretary of State power to make further regulations about fire precautions.

Part 3 provides for enforcement. The enforcing authority is defined in article 25 and article 26 imposes a duty on the authority to enforce the Order. Articles 27 and 28 set out the powers of inspectors. Articles 29 to 31 provide for the service of alterations, enforcement and prohibition notices in certain circumstances.

Part 4 (articles 32 to 36) provides for offences and appeals. Part 5 (articles 37 to 53) provides for miscellaneous matters including fire-fighters' switches for luminous tube signs (article 37), maintenance of measures provided to the ensure the safety of fire-fighters (article 38), civil liability for breach of statutory duty by an employer (article 39), special requirements for licensed premises (article 42) and consultation by other authorities (article 46).

Schedule 1 sets out the matters to be taken into account in carrying out a risk

assessment (Parts 1 and 2), the general principles to be applied in implementing fire safety measures (Part 3) and the special measures to be taken in relation to dangerous substances (Part 4). Schedule 2 amends various enactments, including amendments to limit the scope for other public authorities to attach conditions to licences in respect of fire precautions to be taken in premises and amendments to local acts to remove reference to fire safety. The remaining amendments in Schedule 2 and those in 3 are minor or consequential. Schedules 4 and 5 contain repeals and revocations.

A regulatory impact assessment has been prepared in respect of this Order. A copy may be obtained from the Office of the Deputy Prime Minister, Fire Legislation, Safety and Personnel Division, Fire Safety Legislation Branch, Zone 17C, Portland House, Stag Place, London SW1E 5LP.

Notes:

[1] A consultation paper "A consultation document on the reform of fire safety legislation" was published by the Office of the Deputy Prime Minister in July 2002. Copies may be obtained from the Office of the Deputy Prime Minister, P.O. Box 236, Wetherby, West Yorkshire, LS23 7NB.

[2] 2001 c. 6.

[3] Session 2003-04 HC 684.

[4] Session 2003-04 HL 153.

[5] ISBN. 0-7176-2369-6.

[6] S.I. 2002/1689.

[7] 1996 c. 56; section 8 was amended by the Education Act 1997 (c. 44), section 52.

[8] 1974 c. 37; the meaning of "employee" was extended by the Police (Health and Safety) Act 1997 (c. 42), section 1.

[9] 2004 c. 21.

[10] 1980 c. 66.

[11] 1952 c. 67.

[12] 1974 c. 37.

[13] S.I. 1995/738.

[14] 1994 c. 22.

[15] 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.

[16] S.I. 1995/2038.

[17] OJ No. L23, 28.1.00, p.57.

[18] 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).

[19] 1989 c. 41.

[20] 1965 c. 57; relevant amending instruments are S.I. 1974/2056 and 1990/1918.

[21] S.I. 1996/1592.

[22] 1964 c.5

[23] 1975 c. 52. Section 1 was amended by section 19(2) of the Fire Safety and Safety of Places of Sports Act 1987 (c. 27).

[24] 1987 c. 27.

[25] 1974 c. 37.

[26] 1984 c. 55. Section 47 was amended by S.I. 1996/1905.

[27] 2004 c. 34.

[28] 1980 c. 43.

[29] The current regulations are the IEE Wiring Regulations, version 16 published in June 2001 (as amended by amendment 1 of 2002 published in February 2002) - BS 7671: 2001 (ISBN 058296 998 0). Copies may be obtained from any of the sales outlets operated by the British Standards Institute (BSI) or by post from the BSI at Milton Keynes.

[30] 2003 c. 17.

[31] 1982 c. 30.

[32] 1774 14 Geo 3 c. 78.

[33] S.I. 1977/500. Regulation 4A was inserted by S.I. 1992/2051 and amended by S.I. 1997/1840 and 1999/3242.

[34] S.I. 1996/1513 amended by S.I. 1997/1840 and 1999/3242.

[35] 1984 c. 55.

[36] 1974 c. 37.

[37] See section 18 and the Health and Safety (Enforcing Authority) Regulations 1998 (S.I. 1998/494).

[38] S.I.1999/743 amended by the Greater London Authority Act 1999 (c.29) and S.I.1999/2597 and 2002/2469.

[39] 1978 c. 30.

[40] 2003 c. 21.

[41] 1947 c. 44.

[42] 1964 c. 5.

[43] 2001 c. 6.

[44] See section 4(4) of the Regulatory Reform Act 2001.

[45] 1939 c. xcvii. Section 20(2A) and (2C) were inserted by S.I. 1985/1936 and subsequently amended by S.I. 1986/452.

[46] O.J. No L216, 20.8.94, p.12.

[47] 1922 (c. 35). Section 2 was amended by the Cinemas Act 1985 (c. 13), section 24 and Schedule 2, by S.I. 1992/1811 and 2002/2776 and by the Licensing Act 2003, section 198(1) and paragraph 10 of Schedule 6.

[48] 1939 c. xcvii. Subsections (1), (2), (2A) and (2G) were inserted by S.I. 1985/1936 and subsequently amended by S.I. 1986/452. Section 35 was amended by the Greater London Council (General Powers) Act 1966 (c. xxviii), section 22(1)(b) and by S.I. 1986/452 and 1987/798. Sections 36 and 37 were amended by S.I. 1986/452. Section 133 was amended by S.I. 1985/1936.

[49] 1951 (c. 35). Section 1 was amended by the Local Government Act 1974 (c. 7), sections 35 and 42 and Schedules 6 and 8.

[50] 1957 c. xxxvii.

[51] 1960 (c. 62).

[52] 1961 (c. 64).Section 75 was amended by the Local Government (Miscellaneous Provisions) Act 1976 (c. 57), section 22.

[53] 1968 (c. 65). Relevant amendments to section 43(9) and Schedule 2 were made by the Gaming (Amendment) Act 1990 (c. 26), section 1 and the Schedule and by the Fire and Rescue Services Act 2004 (c. 21), section 53 and paragraph 24 of Schedule 1.

[54] 1971 (c. 40).

[55] 1974 (c. 37). Section 23(4) was amended by the Fire and Rescue Services Act 2004 (c. 21), section 53(1) and paragraph 44 of Schedule 1.

[56] 1975 c. 52. Relevant amendments were made by the Fire Safety and Safety of Places of Sport Act 1987 (c. 27), Part 2 and Schedule 2, the Local Government Act 1985 (c. 51), section 16 and Schedule 8 and by the Local Government (Wales) Act 1994 (c. 19), section 66 and Schedule 16.

[57] 1975 (c. xxx).

[58] 1976 (c. xxxv).

[59] 1977 (c. 42).

[60] 1980 (c. x).

[61] 1980 (c. xi).

[62] 1980 (c. xiii).

[63] 1980 (c. xiv).

[64] 1980 (c. xv).

[65] 1980 (c. xxxvii).

[66] 1980 (c. xliii).

[67] 1981 (c. 37). Section 3 was amended by the Local Government Act 1985 (c. 51), section 102 and Schedule 17, by the Local Government (Wales) Act 1994 (c. 19), section 66 and Schedule 16 and by the Fire and Rescue Services Act 2004 (c. 21), section 53(1) and paragraph 51 of Schedule 1.

[68] 1981 (c. ix).

[69] 1981 (c. xviii).

[70] 1981 (c. xxxiv).

[71] 1981 (c. xxv).

[72] 1982 (c. 30). Sections 9 and 10 were amended by the Fire and Rescue Services Act 2004 (c. 21), section 53(1) and paragraph 54 of Schedule 1. Schedule 3 was

amended by the Licensing Act 2003 (c. 17), section 198 and paragraph 85 of Schedule 6 from a date to be appointed, and by the Greater London Council (General Powers) Act 1986 (c. iv), section 12.

[73] 1982 (c. iii).

[74] 1982 (c. iv).

[75] 1982 (c. xv).

[76] 1983 (c. v).

[77] 1983 (c. xviii).

[78] 1984 (c. 30). Section 60(d) was added by the Food Safety Act 1990 (c. 16), section 52(a) and paragraphs 1 and 10 of Schedule 2. Sections 60 and 61 were amended by the Fire and Rescue Services Act 2004 (c. 21), section 53 and paragraph 56 of Schedule 1.

[79] 1984 (c. 55). Relevant amendments were made by the Fire and Rescue Services Act 2004 (c. 21), section 53 and paragraph 57 of Schedule 1.

[80] Section 51B was inserted by S.I. 1996/1905.

[81] Section 81(1)(a) was amended by the Housing and Planning Act 1986 (c. 63), section 24 and paragraph 11 of Schedule 5 and by the Housing (Consequential Provisions) Act 1985 (c. 71), section 4 and paragraph 58 of Schedule 2.

[82] 1984 (c. xxi).

[83] 1984 (xix).

[84] 1985 (c. v).

[85] 1985 (c. xvii).

[86] 1985 (c. xliv).

[87] 1985 (c. xliii).

[88] 1986 (c. i).

[89] 1986 (c. ii).

[90] 1987 (c. 27). Relevant amendments were made by the Local Government (Wales) Act 1994 (c. 19), section 66 and Schedule 16 and by the Fire and Rescue Services Act 2004, section 53 and paragraph 63 of Schedule 1.

[91] Section 33 was amended by the Licensing Act 2003 (c. 17), section 198 and paragraph 106 of Schedule 6.

[92] 1987 (c. iv).

[93] 1987 (c. viii).

[94] 1987 (c. xxiv).

[95] 1988 (c. 30).

[96] 1991 (c. 37).

[97] 1995 (c. x). The definition of "fire authority" was substituted by the Greater London Authority Act 1999 (c. 29), section 328 and Schedule 29. Further amendments were made by the Fire and Rescue Services Act 2004 (c. 21), section 53 and paragraph 86 of Schedule 1.

[98] 2001 (c. 2). Relevant amendments were made by the Fire and Rescue Services Act 2004 (c. 21), section 53 and paragraph 96 of Schedule 1.

[99] 2003 (c.17)

[100] S.I. 1987/37. Relevant amendments were made by S.I. 2004/3168.

[101] S.I. 1995/510. Relevant amendments were made by S.I. 2004/3168.

[102] S.I. 1996/1592.

[103] S.I. 1997/230.

[104] S.I. 1998/494 to which there are amendments not relevant to this Order.

[105] S.I. 2000/2531 to which there are amendments not relevant to this Order.

[106] S.I. 2000/2532; relevant amendments were made by S.I. 2004/3168.

[107] S.I. 2001/3965; relevant amendments were made by S.I. 2004/3168.

[108] S.I. 2001/3967; relevant amendments were made by S.I. 2004/3168.

[109] S.I. 2001/3968; relevant amendments were made by S.I. 2004/3168.

[110] S.I. 2002/324 (W. 37) to which there are amendments not relevant to this Order.

[111] S.I. 2002/325 (W. 38).

[112] S.I. 2002/327 (W. 40).

[113] S.I. 2002/812 (W. 92) to which there are amendments not relevant to this Order.

[114] S.I. 2002/3213; relevant amendments were made by S.I. 2004/3168.

[115] S.I. 2003/781 (W. 92).

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