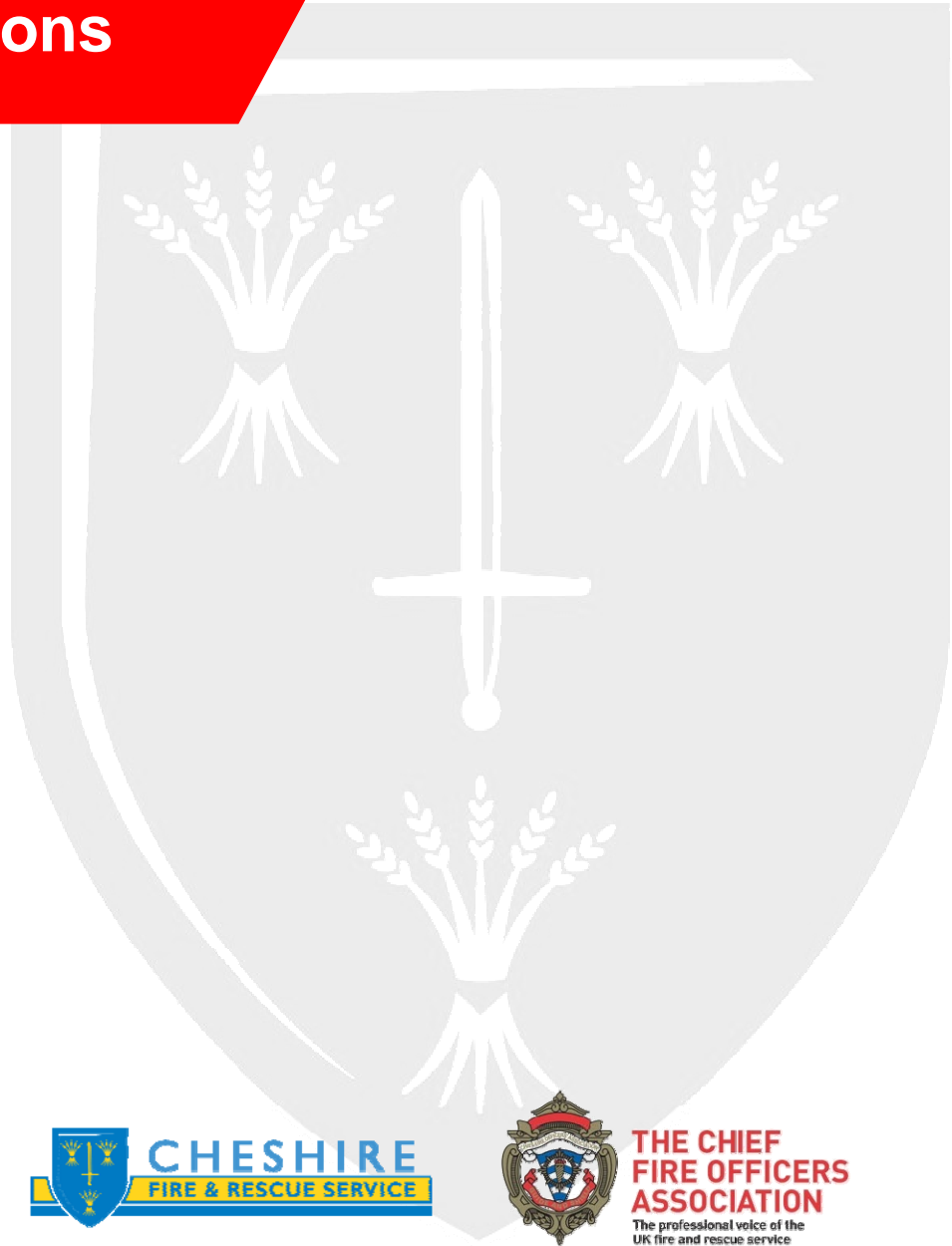


HSE Liaison at Hazardous Installations





Foreword



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The Chief Fire Officers Association (CFOA) is committed to saving life and protecting property, we do this by developing policies and working in partnership with stakeholders.

I am delighted that this document has been produced.

The document has been developed as a result of changes in legislation. Specifically the new Fire Safety Order which came into force on the 1st of October 2006 and transferred from HSE control to Fire and Rescue Authority control General Fire Precautions within Special Premises.

Buncefield and incidents throughout the country have highlighted how essential it is to have effective liaison with partners and in particular achieve the fine balance between general fire precautions and process fire precautions.

This document seeks to provide clear and consistent understanding of roles and responsibilities when responding to hazardous installations. The benefits of the document are to improve safety, reduce risks and support better partnership working.

I would like to acknowledge the work of the professionals from within our Service and the HSE who have produced this guidance and encourage work with CFOA to ensure partnership working in the future. I recommend that this document is seen as best practice and adopted across all Fire and Rescue Services.

Steve McGuirk
President
Chief Fire Officers Association



Acknowledgements

Professionals within the Fire and Rescue Service, Health and Safety Executive, Scottish Executive and Shell UK. Who have shared their considerable knowledge and experience within the field of Hazardous Installations previously known as special premises.

The document has been produced with the practitioner in mind and is predominately aimed at fire safety officers and strategic managers within the service. It is our vision that the guidance is used in conjunction with HSE Operational Circular 217 on which it is based. It is to be used as the cornerstone when dealing with Hazardous premises.

The guidance document has three sections

Section 1: Agreement on the demarcation responsibilities for fire precautions.

Section 2: Liaison between relevant authorities

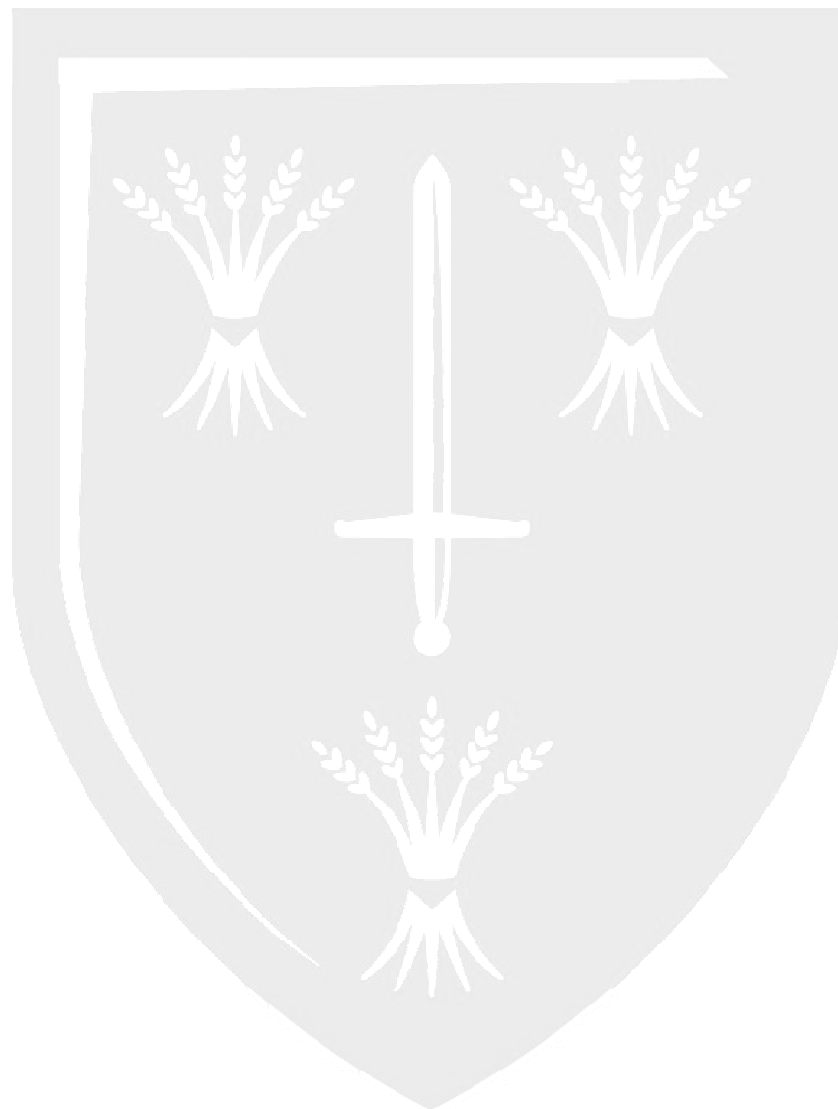
Section 3: Arrangements for specific situations.

I would like to acknowledge the individuals who have produced this guidance and thank those Fire and Rescue Authorities that supported the work. In particular I would like to thank.

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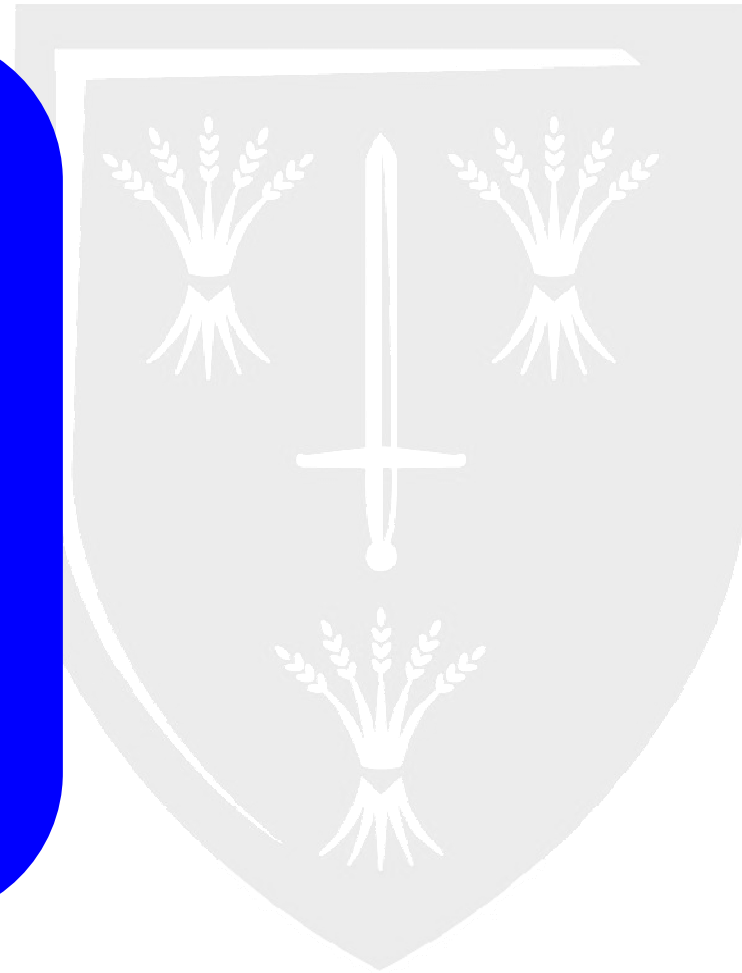
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Scope

This agreement establishes the principles and describes the joint working and liaison arrangements between the Health and Safety Executive and Fire and Rescue Authorities to deliver the objective of a coordinated and nationally consistent approach to fire safety within premises previously designated as special premises and any other like premises.

It covers in detail, the principles surrounding joint inspections/audits.



Background

With the introduction of the Regulatory Reform (Fire safety) Order 2005 on the 1st October 2006, several pieces of legislation have been revoked, the Fire Certificates (Special Premises) Regulations 1976 being one.

The Regulations were applied in the same, prescriptive, way as the Fire Precautions Act 1971. The premises, to which the regulations applied, were inspected and subject to there being a satisfactory standard of fire safety a fire certificate issued. The fire certificates cover the whole of the site and included complex

chemical plant as well as normal office, factory and workshop type buildings.

Now the regulations have been revoked by the Regulatory Reform (Fire Safety) Order 2005, the responsibility for the General Fire Precautions, at these premises, will fall to Fire Authorities.

The Fire Certificates (Special Premises) Regulations 1976 was enforced by the HSE and addressed the 'general fire precautions' (GFP) provided at premises that store or produce large quantities of certain specified highly flammable substances.



Relationship with other Legislation

The nature of the premises are such that the majority of them are regulated by COMAH and DSEAR (Dangerous Substances & Explosive Atmospheres Regulations) regulations. (See Appendix 2). The HSE are responsible for the Enforcement of these regulations, and conduct regular inspections.

e.g Within the COMAH regulations, all 'Top Tier' sites are required to submit a safety report every 5 years this prompts 3-5 inspections a year by the Competent Authority. Additional inspections may be completed following a specific event/accident notified under RIDDOR.

Fire Authorities are also involved in the COMAH off-site planning. There is an overlap between the COMAH regulations and the RR(FS)O and it is important to be aware of this when completing inspections under the fire safety order.

It is essential that the departments with services that manage Operations and Community Fire Protection communicate their planned inspections and any subsequent findings to each other. This process is up to the individual Fire and Rescue authorities to determine.

When completing a fire safety audit of a top-tier COMAH site it may be sufficient, based on intelligence gained from the ER department, to discuss the last HSE report with the responsible person rather than conduct a specific audit of 'Article 16 – Additional emergency measures in respect of dangerous substances' as this will have already been

checked during the programmed COMAH inspection. To cover the same areas on both visits would be unnecessary and inconvenient for the site operator. This promotes a more professional approach.

Partnership with Special Premises

Induction Training

The management of health and safety takes a high priority at these types of premises. All personnel working at sites are required to undergo general induction courses and site specific induction courses as part of the health and safety policy.

Additional courses may also be required relating to specific risks i.e. Hydrogen Sulphide, confined space working etc.

Any fire officer required to visit and inspect such premises may also be required to undergo a general site induction course for each site visited (with this issue in mind it would be advantageous to keep the number of inspecting officers, for this type of premises, to a minimum). The amount of training required can be kept to a minimum provided that during the visit/inspection personnel are accompanied by a suitably trained member of staff at all times.

Personal protective equipment

Another health and safety requirement for the sites is the wearing of suitable personal protective equipment. Most sites will require, as a minimum;

- Steel toe-capped footwear
- Bump hat
- Protective glasses
- Ear protectors
- Hi-visibility jacket
- Goggles
- Safety glasses

Standards to be applied ACOP's

The main code of practice used for general fire precautions at this type of premises is BS5588 Pt11:1997. (Appendix1 lists a range of other ACOP's that may be used at 'Special premises'). Industry standards are also referred to for guidance and some premises produce their own codes entitled DEP's (Design Engineering Practice).

Building regulations

The procedural guidance for the building regulations states that there is no statutory duty for building control bodies to consult with the HSE, for 'Special premises'. However, following the introduction of the Fire Safety Order, the local authority must consult the enforcing authority before passing plans of new buildings or proposed alterations (article 45).

This will result in a further increase in workload as building regulations consultations are received for former 'Special Premises' sites.



General and Process Fire Precautions

Legislation distinguishes between the general fire safety requirements in the workplace and specific process related fire safety requirements.

General Fire Precautions

The general fire safety requirements for the workplace are made under the Regulatory Reform (Fire Safety) Order 2005 (FSO) and the F(S)A and are termed 'general fire precautions' (GFP) and in Scotland 'fire safety measures'. This is defined in the FSO and the F(S)A

- measures to reduce the risk of fire on the premises and the risk of the spread of fire on the premises;
- measures in relation to the means of escape from premises;
- measures for securing, that at all material times, the means of escape can be safely and effectively used;
- measures in relation to the means of fighting fires on the premises;
- measures in relation to the means for detecting fire on the premises and giving warning in case of fire on the premises;
- measures in relation to the arrangements for action to be taken in the event of fire on the premises, including
- measures relating to the instruction and training of employees; and
- measures to mitigate the effects of the fire.



Process Fire Precautions

The specific process related fire safety requirements are not defined in such an exact manner in the legislation, but the term 'process fire precautions' (PFP) is conveniently used to mean those 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 precautions are:

- designed to prevent or reduce the likelihood of fire arising from such a work process or reduce its intensity; and
- 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 Health and Safety at Work Act 1974.

Where 'work process' means all aspects of work involving, or in connection with:

- the use of plant or machinery; or
- the use or storage of any dangerous substance (as defined under DSEAR).

Specifically PFP are taken to mean those fire precautions defined in the FSO (article 4(2) and (3)) and F(S)A (schedule 2(2)).

The term 'PFP' is not confined to industrial premises but includes all relevant work activities and the keeping and use of dangerous substances of any quantity.



Enforcement Responsibility

Enforcement responsibility for PFP in places of work and in premises where dangerous substances are kept and used remains unchanged and continues to lie with HSE or such other enforcing authorities as determined by the Health and Safety (Enforcing Authority) Regulations 1998, the Petroleum (Consolidation) Act 1928 (Enforcement) Regulations 1979 and the Manufacture and Storage of Explosives Regulations 2005.

Definition of enforcement responsibility under the relevant legislation

The prime enforcement responsibility for GFP in the majority of places of work rests with the local F&RA. The F&RAs are defined in Section 1 of the Fire and Rescue Services Act 2004 (F&RSA) (for England and Wales) and in Section 1 of the F(S)A (for Scotland). [NB Privately owned fire services such as can be found in some ports and airports are not F&RA and in consequence are not responsible for enforcement of GFP under the FSO or the F(S)A.]

In the case of Crown premises, the Crown Premises Inspection Group (CPIG) is responsible for enforcement of GFP in England and Wales and in Scotland it is HM Fire Service Inspectorate (see Appendix 4). At MOD sites the enforcing authority is the Defence Fire Service (DFS).

For certain specific premises/locations at which HSE/LAs already deal with GFP under extant legislation, HSE/LAs will become the enforcing authority for the FSO in England and Wales and for the F(S)A in Scotland from October 2006. These premises are:

- any premises for which a licence is required in accordance with section 1 of the Nuclear Installations Act 1965 or for which a permit is required in accordance with section 2 of that Act;
- 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 the subparagraph above;
- 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;
- 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 or to which those Regulations apply, other than construction sites referred to in regulation 33 of those Regulations;
- certain sports grounds and certain stands at sports grounds (LA only).

HSE fire surveyors

Across the country HSE fire surveyors will be available when required to provide technical advice and support to front line inspectors. Contact should be made initially through the team leader of HID S13E. Further information on the role of the fire surveyors can be found in Appendix A

Warrant

The new fire safety legislation is not a relevant statutory provision under HSW Act therefore HSE/LA inspectors with enforcement responsibilities under the FSO/F(S)A (as specified above) must ensure that they obtain the appropriate warrant from their relevant authority.

Balance of Enforcement responsibilities

The terms 'GFP' and 'PFP' overlap and may affect each other in practice. For example, the means for fighting fire required in connection with the keeping and use of dangerous substances will also form part of the GFP for the workplace. Similarly, the GFP in the workplace may be affected by the presence of the dangerous substances and, for example, improved means of escape in case of fire may be necessary.

In most cases it will be clear who should give advice and, if appropriate, take enforcement action. The following examples are given to assist inspectors determine enforcement responsibility.

Enforcement demarcation – examples

Plant may be provided with fixed and/or inbuilt fire fighting equipment primarily to limit loss rather than necessarily contribute to life safety. This may be regarded as part of the process fire precautions. Examples include automatic gas flooding systems (e.g. Carbon Dioxide), which may introduce a risk of suffocation in the event of discharge. It would therefore normally be for HSE to check that this risk is addressed in such installations. Where changes are considered necessary to guard against such risk with equipment required under the FSO or F(S)A, these should be sought in consultation with the F&RA. It is important that any manual operation of such systems is catered for in staff training and staff routines. It is also important that those who may have to fight fires on the premises are familiar with the equipment, which has been provided.



Conversely, a F&RA may assess standards of separation from means of escape for the storage of flammable materials. In such cases the following may be used as a guide to the relative responsibilities of health and safety enforcing authorities and F&RAs:

- If separation or containment of stored materials is required to safeguard the means of escape in case of fire, enforcement will largely be a matter for the F&RA.
- If separation or containment of stored materials is required specifically under a relevant statutory provision of HSW Act or more generally for fire precautions not directly related to means of escape (e.g. for fire prevention and process control or prevention of the spread of fire), enforcement will be a matter for the HSW Act enforcing authority.

Where the quantity of dangerous substance present at the workplace is sufficient to pose more than a slight risk, DSEAR Regulation 8 requires the employer to liaise with the emergency services on emergency arrangements, including providing relevant information (DSEAR AcoP + Guidance document L138 refers). Enforcement of this is a matter for the HSW Act enforcing authority, though it is expected that this would be following liaison and discussion with the emergency services. (NB. Predominantly, though not necessarily exclusively this will be the F&RA).

Other than those premises/locations listed HSE/LA inspectors will not normally inspect GFP during visits to workplaces. However, occasions will arise during the course of visits when inspectors become aware of deficiencies in GFP, which in the

light of their knowledge of general safety matters or of fire hazards, are matters of evident concern to them.



LIAISON BETWEEN HSE REGIONS AND FIRE AND RESCUE AUTHORITIES

The overlap of certain responsibilities for fire precautions means that staff from HSE's regional offices and F&RAs should maintain close links to ensure a free exchange of information. HSE regional offices will supply to F&RAs a quarterly list of newly registered premises. HSE inspectors should remember F&RAs interest in process hazards because of their possible effect on GFP in premises; and F&RAs duties to obtain information on premises in their area, to give fire prevention advice when requested, and to attend fires when they occur. HSE inspectors have a clear interest in any requirements that an F&RA may impose concerning GFP, which may affect matters within their responsibilities.



Examples of the need for liaison between HSE inspectors and F&RAs are:

- when HSE inspectors become aware of inadequacies in GFP which are matters of evident concern (see [Appendix 2](#));
- when F&RA inspectors become aware of inadequacies in PFP which are matters of evident concern (see [Appendix 3](#));
- when the issue of a prohibition notice, an improvement notice or imposition of a requirement that might affect GFP is being considered by an HSE inspector;
- when the issue of a prohibition notice, enforcement notice, or imposition of a requirement that might affect PFP or any other aspect of safety is being considered by the F&RA;
- to meet requirements for consultation as required by legislation, particularly HSW Act s.23(4); and
- during investigations following a fire where HSE/LA inspectors may have a subsequent enforcement role (i.e. fire may have been caused by inadequacies in PFP).

HSE/LA inspectors and employers may therefore approach the F&RA for advice on GFP and fire prevention matters.

Action by HSE inspectors in connection with GFP (where HSE is not the enforcing authority for GFP) - matters of evident concern

HSE/LA inspectors who become aware of inadequacies in GFPs which are of evident concern, in addition to drawing them to the attention of the duty holder, should also draw them to the attention of the F&RA in the following way:

- where an immediate risk to life appears to be involved, notify the F&RA by telephone (and include a record of this in the visit report) to enable the F&RA to consider issuing a prohibition notice under article 31 of the FSO or section 63 of the F(S)A. The F&RA should inform HSE/LA subsequently of the action decided; and
- where an immediate risk to life is not involved, notify the F&RA in writing.

If these matters are within Crown premises, the HSE/LA inspector will forward the notification to the DFS or Fire Service Inspectorate as appropriate. The initiative for any further action to rectify any inadequacy of the GFP then rests with the appropriate authority.

If there are significant PFP inadequacies, which overlap with GFP, joint action may be appropriate. However, the initiative for further action on GFP, or liaison with any other enforcing authority concerning this, rests with the other enforcing authority once the matter has been notified as above.

Action by fire and rescue authorities in connection with PFP - evident concern

Fire and rescue authorities who become aware of inadequacies in PFP which are of evident concern, should draw them to the attention of HSE in the following way:

- where an immediate risk to life appears to be involved, notify the local HSE office by telephone to enable the HSE inspector to consider taking enforcement action under HSW Act. The HSE inspector should inform the fire and rescue authority subsequently of the action decided; and
- where an immediate risk to life is not involved, notify the local HSE office in writing.



Complaints about Fire Precautions

Complaints about fire precautions should be dealt with as follows:

- If the complaint relates solely to GFP, except where HSE/LA is the enforcing authority, the complainant should be advised to contact their local F&RA unless the workplace is occupied or owned by the Crown. In such circumstances, the complainant should be advised to contact the Crown Premises Inspection Group (CPIG) (see [Appendix 4](#)), or in Scotland, HM Fire Service Inspectorate, or DFS in respect of MoD sites. Where such advice to the complainant is impracticable, as in the case of anonymous complaints, or inappropriate, as in the case of complaints where the complainant is liable to be victimised, the HSE recipient should refer the complaint to the relevant F&RA, or the Chief Inspector of the Fire and Rescue Authorities (the address for HM Fire Service Inspectorates can be found in Appendix 4), as appropriate. In the event that the matter is the responsibility of another enforcing authority, the F&RA or the Fire Service Inspectorate will arrange for the complaint to be passed on; and
- If the complaint relates to PFP, or is one of a number of complaints about a workplace, the complaint should be dealt with in the usual way but any part of the complaint relating to general fire precautions (except where HSE is the enforcing authority for GFP) should be referred to the F&RA or, in the case of premises occupied or owned by

the Crown, to CPIG or in Scotland, HM Fire Service Inspectorate.



Consultation requirements under the FSO and F(S)A

Article 45 of the FSO requires Building Control Authorities (BCA) to consult the enforcing authority before accepting or requiring alterations to buildings used as a place of work. For all new applications under the FSO this will be the HSE/LAs where they are the enforcing authority for the new fire legislation. The procedures for this are covered in the 'Procedural Guidance Document' which is available from the HSE. In reality this will be confined to those buildings on nuclear sites (para 52) for which building regulations approval is required.

Article 46 of the FSO requires HSE/LAs to consult the enforcing authority for the FSO/F(S)A before making any requirement under HSW Act or relevant statutory provision made under this that may have an affect on the GFP. This reinforces the existing requirement for such consultation made by Section 23(4) HSW ACT. There is no equivalent to articles 45 and 46 for Scotland but Section 23(4) of HSW continues to apply in Scotland.

Section 64 of the F(S)A requires a F&RA to consult the HSW Act enforcing authority before serving an enforcement notice which would have the effect of requiring an alteration to a workplace. Article 30(5) of the Regulatory Reform (Fire Safety) Order 2005 is the equivalent to Section 64. It has been agreed with the CLG and SE that when HSE has no comments to make, no response to the F&RA will be necessary. It is therefore essential that any reservations should be expressed to the F&RA promptly i.e. within a maximum of 2 weeks of receipt. If, after expressing a reservation, it is necessary to make enquiries or to take advice, the time taken to prepare comments for submission to the F&RA should not exceed 6 weeks except with the prior agreement of the authority.



ARRANGEMENTS FOR SPECIFIC SITUATIONS

Premises subject to the Petroleum (Consolidation) Act 1928

At premises subject to the Petroleum (Consolidation) Act, HSE/LA inspectors should consult the licensing authority if action is considered necessary that may affect or be affected by the dispensing of petroleum spirit into the fuel tanks of vehicles etc. The enforcing authority is the petroleum licensing authority. It is the responsibility of the licensing authority to liaise with the F&RA if this impacts on GFP issues.

Premises subject to the Manufacture and Storage of Explosives Regulations 2005 (MSER)

In respect of explosives sites for which HSE is the licensing authority, prior to issuing or varying any site licence the F&RA should be given opportunity to comment. Similarly, the F&RA should notify HSE (ExI) of any action they intend to take in relation to premises to which the explosives licence relates. HSE (ExI) will advise the F&RA at an early stage of the licence/variation application, so that they may comment on matters that affect GFP before the licence is finalised.

Where the MSER licence applies only to certain parts of the premises, such as stores or registered premises, which are situated within larger premises, HSE (ExI) inspectors should consult the F&RA if the arrangements for the keeping of explosives may affect or be affected by the GFP in the larger premises. Similarly, the F&RA should notify HSE (ExI) of any action they intend to take in relation to the wider premises, which could affect the area to which the explosives licence relates.

At premises licensed or registered under MSER where the police or local authorities are the licensing authority, HSE inspectors should consult the licensing authority if action is considered necessary that may affect, or be affected by, the keeping of explosives. It is the responsibility of the licensing authority to liaise with the F&RA if this could impact on GFP issues.

Premises subject to the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 (PFEER)

The FSO and F(S)A do not apply to offshore installations within the meaning of regulation 3 of the Offshore Installation and Pipeline Works (Management and Administration) Regulations 1995. HSE has enforcement responsibility for GFP under PFEER.

Premises subject to the Borehole Sites and Operations Regulations 1995 (BSOR)

The FSO and F(S)A do not apply to borehole sites where the above regulations apply. HSE has enforcement responsibility for GFP under BSOR.

Construction sites

HSE (or where applicable, the LA under the Health and Safety (Enforcing Authority) Regulations 1989) is the enforcing authority for FSO (in England and Wales) and the F(S)A (in Scotland) at construction sites (as defined by Regulation 2(1) of the Construction (Health, Safety and Welfare) Regulations 1996 (CHSW) that are physically separate or separated premises.

The CHSW Regulations also gives HSE/LAs powers in relation to general fire safety matters on construction sites. In practice the CHSW fire safety requirements given by Regulations 19 to 21, should be sufficient in most instances for HSE to enforce GFP. However, there may be occasions when the powers of the FSO and F(S)A will be required. Please note that the new CDM Regs are due to be published in Spring 2007 and will include provisions on fire safety which are covered in the CHSW Regs, upon publication of the CDM Regs the CHSW will then be revoked.

Where the construction site is contained within, or forms part of premises that remain or become occupied by persons other than those carrying out the construction work or any activity arising from such work, the enforcing authority for the FSO or the F(S)A for the premises containing the construction site is also responsible for enforcing the GFP for the construction site.

The GFP requirements in respect of other construction work that is of a minor nature and does not constitute a construction site as defined; e.g. decorating, are covered by the general requirements of the FSO or the F(S)A and responsibility for enforcement rests with the relevant enforcing authority for the premises in which the construction work is being carried out.

In relation to such shared occupancy of premises, HSE and LA Inspectors remain responsible for enforcement of PFP matters and issues immediately connected with the work of the construction site (using CHSW Regs). Liaison arrangements between HSE (and LA inspectors) and the F&RAs are discussed in Part II of this document.

HSE is responsible for the enforcement of GFP within the curtilage of the construction site, including accommodation provided in support of the construction activity; e.g. site offices. However, where such accommodation is separated from the construction site by, for example, distance, a road, or being in a separate compound, such that the GFP provision for one is not governed or influenced by the other, the F&RA is responsible for enforcement of GFP under the FSO or F(S)A as appropriate. Such situations are likely to include construction site accommodation compounds that are provided for, but separate from large works of engineering construction, such as bridges, roads and tunnels.

Where sleeping accommodation is present within the curtilage of construction sites for which HSE/LAs are responsible for the enforcement of GFP under the FSO or F(S)A, HSE/LAs will also be responsible for enforcing the GFP requirement for this. However, the local F&RS have agreed to assist HSE/LA Inspectors if required.

Ships under construction and repair

Ship is defined under the FSO and F(S)A as including every description of vessel used in navigation. This is a wide definition that will include small boats and unusual 'vessels' such as mobile offshore installations. HSE is the enforcing authority for GFP on 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, conversion or repair by people who include people other than the master and crew of the ship.

The FSO and F(S)A do not apply in relation to a ship, in respect of normal shipboard activities of a ship's crew, which are carried

out solely by the crew under the direction of the master. This is consistent with the disapplication to ships in most HSE regulations and is invariably most relevant to ship repair by the crew.

Shipbuilding and boat building

For larger vessels, modern ship construction techniques can involve modular construction, and fabrication usually takes place in a shed and is essentially the same as other large-scale fabrication and GFP will therefore fall to the local F&RA. The modules or blocks are transported to an assembly location that may be a slipway or dry dock. HSE becomes the enforcing authority for GFP at the point where assembly is started. For vessels of non-modular construction HSE becomes the enforcing authority when fabrication of the hull and its fitting out has started. HSE remains the enforcing authority for GFP for the fitting out stage and after launching. The Marine and Coastguard Authority is responsible for enforcing all safety legislation for work carried out on sea trials etc whether this is done by crews or shore based workers or both.

Ship and boat repair

A ship or boat that is under repair, refit or conversion should be self-evident. HSE will enforce GFP in relation to work on or in the vessel.

Shipbreaking/dismantling

The F&RA has enforcement responsibility for GFP and HSE for PFP.

Docks including loading and unloading of ships

Responsibility for enforcement of GFP in docks, harbour areas etc., including embarkation and disembarkation from ships etc. rests with the local F&RA (or CPIG in respect of such situations at Crown premises). HSE will enforce PFP measures under DSHAR. The requirement for a means of escape in regulation 27(1)(b) of the Dangerous Substances in Harbour Areas Regulations 1987 (DSHAR) is not only for the purpose of escaping from fire. There are other risks involving dangerous goods, which might require a safe means of escape. The provisions of the FSO will therefore not disapply regulation 27(1)(b) at berths where there are risks other than fire.

(Refer to advice for 'COMAH Sites' in respect of docks and harbour areas within Top-Tier COMAH premises.)

COMAH Sites

The F&RA has enforcement responsibility for general fire precautions (GFP) at all COMAH premises. However, COMAH, which also potentially covers GFP in respect of major accidents, will still apply at such sites as it is excluded from the general disapplication of HSW ACT in the FSO (Article 47 refers) and the F(S)A (Section 70 refers). The effect of this, in respect of Top-Tier (TT) COMAH sites, is to allow the COMAH Competent Authority to retain the power to assess whether the Safety Report shows that GFP arrangements have been demonstrated to limit the consequences of a COMAH major accident.

General fire precautions (GFP) generally cover all arrangements for the safe evacuation of persons from fires to ensure their safety. This includes evacuation from process plant, installations, warehouses, control rooms, offices and other buildings or process areas. Further details of General Fire Precautions are given in [Appendix 2](#). Although it is expected that the local Fire & Rescue Authority will carry out planned inspection and reactive investigation of general fire precautions. HSE HID Inspectors may come across matters of evident concern for general fire precautions during their normal activities and they should bring these to the attention of the local F&RA.

Process fire precautions (PFP) generally cover all measures necessary under regulation 4 of COMAH to: a) prevent fire and explosion major accidents occurring on an installation; and b) to mitigate and reduce the exposure of persons to harm from fire and explosion arising from major accidents. Further details of Process Fire Precautions and matters of evident concern are given in [Appendix 3](#). Although it is expected that HSE HID Inspectors will carry out planned inspections and reactive

investigation of process fire precautions. Local F&RA officers may come across matters of evident concern for process fire precautions during their normal activities and they should bring these to the attention of HSE HID Inspectors.

Where GFPs and PFPs overlap, for example because a safety measure is both a General and Process Fire Precaution as defined in appendices 2 and 3: the local F&RA shall take primary enforcement of the measure under the FSO. Where the local F&RA considers it necessary, it should consult HSE HID Inspectors for advice: for example, if there is a conflict between a potential GFP and a PFP or other health and safety issue. In such cases, the solution that contributes most to the safety of relevant persons should take precedence. The local F&RA shall advise COMAH site operators – for top-tier sites only – to review the site's safety report for significant changes requiring notification to HSE, whenever it requires changes to the General Fire Precautions.

When COMAH sites have major shutdowns and other construction works covered by the Construction Design and Management (CDM) Regulations 1994, the segregated CDM site is a construction site for the purposes of the FSO regulations. Consequently, in this case, both the GFP and the PFP will be enforced by HSE.

Note. The need for the safety report arrangements arises because the adequacy of GFP on TT COMAH sites was previously demonstrated in the Safety Report (SR) by reference to the Fire Certificate (issued either under the FC(SP)R or FPA). With the removal of the certification regime, demonstration of the adequacy of the GFP may in future be made by the duty-holder referencing their Fire Safety Risk Assessment required under

FSO (F(S)A in Scotland), in the SR as a separate document and confirming that the Fire Safety Risk Assessment has been reviewed by the F&RA or is undergoing discussion with the F&RA.

Lower tier COMAH sites only need to refer to the Fire Safety Risk Assessment in their Major Accident Hazard Pipeline Plans (MAPP) and related Safe Management System (SMS) documentation.

HSE inspectors may also wish to impose requirements under COMAH that may cause variation to the GFP provision. In circumstances where this occurs, HSE Inspectors should consult with the F&RA prior to issuing a prohibition notice, improvement notice, or imposing any requirement that may affect the GFP provision. In circumstances where this occurs, HSE Inspectors should consult with the F&RA prior to issuing a prohibition notice, improvement notice, or imposing any requirement that might affect the GFP.

In relation to sites subject to the Control of Major Accident Hazards Regulations 1999 (COMAH) and the FSO; the HSC is satisfied that enforcement of General Fire Precautions should be performed solely by the local F&RA.

The new legislation is not intended to cover PFP, i.e. those special measures taken in connection with any work process, which are designed to prevent or reduce the risk of fire from the use of plant or from machinery or from the storage of any dangerous substance; HSW Act covers this (see section 1(1)(c)). The fire safety legislation disapplies the HSW Act and any regulations made under the Act, in respect of GFPs in relation to

premises to which it applies, and where requirements could be imposed through the Order or the Act.

One exception to this disapplication is premises subject to the Control of Major Accident Hazards Regulations 1999 (COMAH). In order to ensure that the demarcation between HSE and the F&RA is maintained, liaison arrangements for COMAH premises outlined in this document and mirrored in the F&RA internal guidance should be observed.

For TT COMAH sites, prior to taking any action in respect of GFP, the F&RA should request the duty-holder to review the potential impact of this proposal on their Safety Report. Where this identifies the need for a significant review of the SR, the duty-holder should notify the COMAH Competent Authority of the proposal for their consideration in liaison with the F&RA. HSE will undertake any necessary liaison with the EA in England & Wales, or SEPA in Scotland.

N.B. COMAH is enforced by a joint Competent Authority, HSE and the Environment Agency (EA) in England and Wales and HSE and the Scottish Environmental Protection Agency (SEPA) in Scotland.

Nuclear Licensed Sites

HSE (NSD) is responsible for the enforcement of GFP under the FSO and the F(S)A within the boundary of the licensed site.

Sites occupied by the Ministry of Defence (MOD)

The Defence Fire and Rescue Service (DFRS) is responsible for enforcing the FSO/FSA at MOD sites with the exception of shipbuilding and ship repair activities. However, HSE has enforcement responsibilities for nuclear-licensed enclaves on such sites, for those areas that would be licensed if it were not for the fact that they are Crown premises, and for shipbuilding and ship repair.

MOD sites containing a nuclear licensed enclave

There are three potential enforcement agencies for fire safety on such sites - HSE, local fire and rescue authority (F&RA) and DFRS. The basis for enforcement demarcation on general fire precautions is:

- Nuclear-licensed area - NSD
- Areas that 'would be licensed' - bulk storage/handling/ processing of nuclear matter, e.g. X-berths (operational/ refitting) - NSD
- Non-nuclear ship building/ ship repair - FOD
- Z-berths - F&RA
- Remaining areas, including construction sites, accommodation units and sports complexes for forces personnel - DFRS

Agreeing enforcement demarcation

Where it is not possible to physically define all such areas, local agreements between the enforcing authorities may have to be

drawn up for each site linked to a site plan. These agreements should be based on the letter of understanding between HSE and DFRS, which is reproduced in [Appendix 8](#) [still awaiting agreement to be finalised]. The letter describes the procedures in cases where agreement on enforcement demarcation cannot be reached locally.



Premises subject to the Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR)

The FSO (and the F(S)A & associated Regulations) incorporates substantial sections copied from DSEAR. However, it is confirmed that HSE or LA's will enforce PFP in premises subject to DSEAR and F&RA will enforce GFP (subject to the agreements detailed above for specific premises).

Crown premises - including matters of evident concern

The principles of the advice in Part II apply also to premises (or parts of premises) occupied or owned by the Crown, except that for such premises (or parts) liaison should be with the CPIG of HM Fire Service Inspectorate, or in Scotland the appropriate enforcement officers of HM Fire Service Inspectorate. There are restrictions on enforcement imposed by HSW Act s.48 and Article 49 of the FSO and Section 77 of the F(S)A in relation to Crown premises; but if HSE inspectors observe matters of evident concern where an immediate risk to life appears to be involved because of inadequate GFP they should telephone CPIG, or in Scotland the appropriate member of the Inspectorate. In such cases HM Fire Services Inspectorate will be responsible for any necessary advisory action or for liaison with the appropriate Government Department. If there is any difficulty in making contact, the facts should be reported by telephone to the CPIG or HM Fire Service Inspectorate in Scotland as the case may be. Contact details are given in [Appendix 4](#).



APPENDIX 1**RELEVANT STATUTORY PROVISIONS OF HSW ACT CONTAINING PARTICULAR FIRE SAFETY PROVISIONS**

Petroleum (Consolidation) Act 1928

Mines and Quarries Act 1954 (ss.73 and 115)

The Coal Mines (Cardox and Hydrox) Regulations 1956 (reg.2)

The Coal Mines (Firedamp Drainage) Regulation 1960 (regs.12 and 13)

Dangerous Substances in Harbour Areas Regulations 1987

Chemicals (Hazard Information and Packaging for Supply) Regulations 1994 as amended

Construction (Health, Safety and Welfare) Regulations 1996

Docks Regulations 1988

Control of Industrial Major Accident Hazards Regulations 1999

Dangerous Substances and Explosive Atmospheres Regulations 2002

Manufacture and Storage of Explosives Regulations 2005

APPENDIX 2

MATTERS OF EVIDENT CONCERN IN CONNECTION WITH GENERAL FIRE PRECAUTIONS

The matters listed below are intended as illustrations of matters which might cause an inspector evident concern. Such matters may be self-evident or may be drawn to an inspector's attention, e.g. by a safety representative. Inspectors are not expected to make inquiries to seek information on such matters.

Means of escape in case of fire

- Fire exits which cannot be easily and immediately opened from the inside, e.g. by panic bolts, or other suitable emergency fastening.
- Significantly obstructed exit doors, passageways, gangways or staircases.
- Open stairways in multi-storey buildings containing significant quantities of flammable materials.
- The keeping of dangerous substances, e.g. flammable materials in locations or circumstances such that they may prejudice the means of escape in case of fire.
- Significant breaches of fire-resisting enclosures, such as missing or permanently open fire doors on escape routes.

Means for fighting fire

The absence of, or clearly inadequate provision or maintenance of, fire extinguishers or other equipment for general fire-fighting purposes.

Fire alarms

Lack of a fire alarm in a large building or in a building where there are significant quantities of explosive or highly flammable materials where the building, or a substantial part of it, is not licensed by HSE under the Manufacture and Storage of Explosives Regulations 2005.

Fire alarms are not in working order.

Fire routine, staff training and fire risk assessments

Absent, or clearly inadequate, fire routine procedures and staff training in the actions to take in the event of fire.

Absent or clearly inadequate fire risk assessments.

APPENDIX 3

MATTERS OF EVIDENT CONCERN IN CONNECTION WITH PROCESS FIRE PRECAUTIONS

These examples are illustrative of deficiencies involving dangerous substances on which F&RA may consider liaison with HSE/LA inspectors is necessary. The list is not intended to be exhaustive.

- Extremely and/or highly flammable liquids: clearly unsatisfactory conditions of storage or use; lack of control of solvent fume; poor control of sources of ignition; substantial spillages of any highly flammable liquid.
- Gas cylinders containing flammable gases: clearly unsatisfactory conditions of storage or use; poor control of sources of ignition; substantial escape of any flammable gas.
- Hot work on vessels which have contained dangerous substances and which have not been adequately cleaned.
- Flammable gas generation or compression plant situated inside buildings.
- Substantial quantities of polyurethane foam in workrooms.
- Excessively dusty conditions involving combustible dusts.
- Excessive deposits of combustible solids or liquids. Examples include cooking oils and fat in and around extraction ductwork in catering establishments and lubricating oils and grease around machinery.
- Radioactive substances, which are high fire risks: unsatisfactory conditions of storage and use. This category might include certain highly flammable liquids, which have radioactive properties.

APPENDIX 4

ADDRESSES OF INSPECTORS OF FIRE SERVICES WITH RESPONSIBILITIES FOR GENERAL FIRE SAFETY AT CROWN PREMISES

Office address	Areas covered
HM Fire Service Inspectorate Crown Premises Inspection Group Allington Towers 5th Floor Allington Street Victoria LONDON SW1E 5WY 0207 944 5578 CPIG@odpm.gov.uk	England and Wales
HM Fire Service Inspectorate for Scotland Area 1R St Andrews House Regent Road EDINBURGH EH1 3DG Fax: 0131 244 2564	Fife Grampian East Highland Orkney & Shetland Isles Lothian and Borders Tayside Tel: 0131 244 2339
	Central Dumfries and Galloway Strathclyde West Highland & Western Isles Tel: 0131 244 2336

If there is any difficulty in contacting members of the Fire Service Inspectorate, assistance may be obtained by telephoning 0207 944 5789 for England and Wales and 0131 556 8400 for Scotland.

APPENDIX 5

FIRE SAFETY LEGISLATION

General

1. A number of Government Departments deal with fire safety policy, legislation and its enforcement. Those principally concerned are the Department for Communities and Local Government and the Scottish Executive, who have the policy lead on general fire precautions (GFP) and, because of their responsibility for building regulations, the Building Regulations Division of CLG and the Scottish Building Standards Agency. The Department for Transport and the Scottish Executive Enterprise, Transport and Lifelong Learning Department also have responsibility for roads, tunnels and bridges etc. The Department of Trade and Industry lead on consumer safety and protection. The Department of Work and Pensions, in England and Wales, as advised by HSC, have the lead responsibility for process fire precautions (PFP).
2. HSC's functions derive from HSW Act whose comprehensive general purposes and duties of care include protection of persons from fire hazards. [Appendix 1](#) lists the relevant statutory provisions (RSPs) of HSW Act containing particular fire safety provisions. In view of its statutory duty to make arrangements for the general purposes of HSW Act, HSC has undertaken to satisfy itself that, where HSW Act and other legislation overlap, or where two authorities can enforce the same legislation, enforcement arrangements between HSE and other enforcing authorities are, and remain, effective.
3. Many local authority general acts in England and Wales contain provisions relating to fire, but most include savings clauses in respect of HSW Act and the FSO related to the application of specified sections and the powers for repeal and modification contained in HSW Act s.80.

Department for Communities and Local Government (CLG) and Scottish Executive (SE) new fire safety legislation.

4. CLG is responsible for the new fire safety legislation for England and Wales:
 - The Fire and Rescue Services Act 2004; and,
 - The Regulatory Reform (Fire Safety) Order 2005.
5. The SE is responsible for the new fire safety legislation for Scotland:

- The Fire (Scotland) Act 2005; and,
- The Fire Safety (Scotland) Regulations 2006.

Scope of the legislation

The new fire safety legislation (listed above) replaces previous fire safety legislation including the Fire Services Act 1947, the Fire Precautions Act 1971, the Fire Precautions (Workplace) Regulations 1997 (FP(W)R), and the Fire Certificate (Special Premises) Regulations 1976 (FC(SP)R). Any fire certificates issued under the Fire Precautions Act or the FC(SP)R will cease to have effect when the FSO comes into force in England and Wales and when the F(S)A comes into force in Scotland.

The new legislation addresses 'general fire safety precautions' and other fire safety duties, which are needed to protect people in case of fire in and around most premises. It requires a fire safety risk assessment to be undertaken and appropriate fire precautions to be put in place on the basis of the results of the assessment to prevent fire and protect those on, or in the immediate vicinity of the premises, from harm caused by fire.

The new legislation is not intended to cover PFP, i.e. those special measures taken in connection with any work process, which are designed to prevent or reduce the risk of fire from the use of plant or from machinery or from the storage of any dangerous substance; this is covered by the HSW Act (see section 1(1)(c)). In order to ensure that the demarcation between HSE and the F&RA is maintained, liaison arrangements outlined in this OC and mirrored in the F&RA internal guidance should be observed. (Awaiting clarification from CLG that this OC will be mirrored by their guidance in the same way that OC 217/2(REV) is mirrored by Home Office Circular 15.)

The fire safety legislation disapplies the HSW Act and any regulations made under the Act in respect of GFPs in relation to premises to which it applies, and where requirements could be imposed through the Order or the Act. Exceptions to this are (i) where HSE/LA is the enforcing authority for GFPs (see para 11 and Part III) and (ii) premises subject to the Control of Major Accident Hazards Regulations 1999 (see Part III).

Duties under the legislation

The new legislation addresses 'general fire safety precautions' and related fire safety duties, which are needed to protect people in case of fire in and around most non-domestic premises.

The legislation requires a fire safety risk assessment to be carried out (although this can be done as part of the health and safety risk assessment but should be clearly distinguishable) and that it is reviewed regularly. It requires that action be taken to reduce or remove risks and that fire precautions are put in place to protect against any remaining risks. Where there are 5 or more employees the significant findings of the risk assessment and any measures taken to address the findings of the assessment should be recorded.

Responsibility for complying with the new legislation rests with the 'responsible person' in England and Wales and in Scotland, ' a person who "has control to any extent" of the premises'. In a workplace this is the employer and any other person who may have control of any part of the premises, e.g. the occupier or owner. Where there is more than one 'responsible person' (or in Scotland 'person who has "control to any extent" of the premises') they must take reasonable steps to work together.

The new fire safety legislation applies to most non-domestic premises, including most workplaces (this includes self-employed premises and voluntary organisations). It protects everyone who uses the premises including non-employees and members of the public (e.g. hospital patients, residents in care homes, and visitors to these types of premises).

The fire safety legislation does not apply to domestic premises; offshore installations; certain ships; certain woods, fields and other land; aircraft; locomotive or rolling stock; mines; and boreholes (for full list see article 6 of the FSO or section 78 of the F(S)A).

Powers of inspectors

In most premises the local F&RA enforces the new fire safety legislation. HSE/LA is the enforcer at certain premises (these are detailed in para 9 of the main OC). The new fire safety legislation gives the enforcing authority powers to:

- Inspect premises to check compliance;
- Issue an enforcement notice;
- Issue a prohibition notice;
- Issue an alterations notice (in the case of high risk premises) requiring notification of proposed changes to the premises (including services, fittings, equipment, quantities of dangerous substances present, or the use of the premises) which may result in a significant increase in risk.

APPENDIX 6

THE ROLE OF THE FIRE SURVEYOR – Within the HSE

The role of the fire surveyor within the HSE will be to provide technical support to the front line inspectors responsible for the inspection of premises for which HSE has enforcement responsibility under the new fire safety legislation. This support will take the form of providing advice to inspectors and the industry on what is good practice, carrying out site audits of fire safety management systems, taking part in team inspections with front line inspectors, assisting with the training of inspectors, and commenting on plans for new buildings. Front line inspectors whether in Nuclear Service Directorate (NSD) or Field Operation Division (FOD) will be responsible for enforcement. In this sense their role will remain unchanged. Front line inspectors will continue to need to have sufficient understanding of general fire precautions to fulfil this role.

Although it is expected that planned inspections of general fire precautions will be carried out by fire surveyors, front line inspectors will need to be able to identify and deal with matters of concern in relation to general fire precautions that they come across during their normal inspectoral activities.

It is expected that the fire surveyors will have a major role in reviewing and commenting on the risk assessments and fire safety arrangements required by the new law.

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