

February 1998

## Presentation on The Fire Precautions (Workplace) Regulations 1997 by ADO Pete Pinney, West Midlands Fire Service.

Pete started his presentation by reminding the members that these Regulations had been introduced to implement the outstanding general fire precautions element of the European Community's Framework and Workplace Directives. In achieving this the Regulations were designed to minimise additional burdens on employers, most of whom were already subject to fire precautions legislation and the general duty of care laid down in the Health and Safety etc., Act 1974.

The new Regulations now extended protection to all places where work is carried out, with the exception of the following:-

- Premises with a 1971 FPA Certificate
- Sportsgrounds with a Safety Certificate in force
- Sub-Surface Railway Stations
- Construction Sites
- Workplaces in or onboard a ship (including a ship in the course of construction or repair)
- Premises with a Fire Precautions Act (Special Premises)Certificate
- Premises where only Self-employed Persons work
- Private residential premises
- Means of Transport
- Forestry/Agricultural activities **away** from a main building

The main features of the regulations which are new to UK fire law are that they are:

- Self complying - employers must ensure that premises comply
- Safety standards are based on risk assessment

The Assessment of Fire Risk should be a common sense approach and should not involve extra cost, or the use of expensive consultants. It could be part of a General Risk Assessment under the Management of Health and Safety at Work Regulations and should:-

- Be realistic, looking at both the **Likelihood** and **Consequence** of injury.
- Include Control Measures to be taken, showing minimum standards to be achieved, size/layout of accommodation, type of contents.
- Show Means of Escape is adequate and safe.
- Indicate means of Fire Detection.
- Specify Fire Fighting provisions.

- Prescribe an Emergency Evacuation Plan
- Identify Fire Training and method of informing employees of Control Measures.
- Include provision for regular Inspection and Maintenance of:-
  - Fire Extinguishers
  - Means of Escape
  - Fire Detector Systems
  - Fire Alarms

This should not incur much extra expense if employers are already taking adequate steps. In fact, most Small, Medium-sized Enterprises complied with Section 9a of the FPA Act, which has now been disapplied.

The Fire Service are now responsible for Supervising and Enforcing the new regulations which have Civil and Criminal sanctions. It is important to realise that the Fire Service will be adopting an Advisory or Supporting role and WILL NOT carry out fire assessments. The new approach is no longer 'prescriptive' but will, instead, evaluate the Control Measures taken by employers and will tell them what needs to be done - and why! So, after employers have done their own risk assessments, they can contact the Fire Safety Section of the Fire Service to obtain advice on any areas of doubt. Written advice can be obtained from a booklet entitled "Guide to Fire Precautions in the Workplace: information for employers on the Fire Precautions (Workplace) Regulations 1997."

The major change in philosophy to move the Fire Services from an 'Enforcement' stance has come about because the previous approach was too costly. They will now adopt a role of 'Assessing & Assisting Compliance', concentrating on the protection those at most serious risks to injury. West Midlands is in the forefront of Public Education to control the risks and, as a result, there has been a dramatic reduction in fire deaths in recent times. The Home Office is keen to extend this expertise nation wide.

The other changes in philosophy give:

- More emphasis on Risk Assessment/Risk Control than Prescription.
- Greater choices of control measures for Employers who no longer have to follow the letter of prescriptive law and advice from fire officers.
- A shift in the burden of proof.
- De-criminalisation of fire safety law.

The new regulations also closes gaps in current fire safety legislation by widening the definition premise covered to include:-

- Museums and Art Galleries
- Unlicensed parts of theatres or when the licence is not in force

- Non-designated hotels
- Uncertificated parts of schools and hospitals
- Places of sport when certificate is not in force (for sporting activities)
- Places of Worship

Pete Pinney reminded the meeting that under the Fire Precautions Act 1971, Fire certificates were required for designated buildings where:-

- More than 20 employees worked in the building.
- More than 10 employees worked above, or below, the ground floor.

The criteria were based on individual buildings which may/may not be part of a larger site. It was not permitted for employers to apply for a fire certificate for the purpose of avoiding the need to carry out a risk assessment. The new regulations were better because they were applicable to individual employers. They also allow changes to be made to buildings without the need to tell the Fire Services if this happens to cause a change in their exemption status. Whatever the requirements under Fire Precaution legislation, the Fire Prevention elements of the Building Regulations still apply.

The burden of compliance is on the employer and there will be no more routine inspections by the fire services - just a reasonable sample to monitor the application. Enforcement is the responsibility of the Fire Services because they have the skills, knowledge and experience to carry it out. The way that they approach enforcement is to be "**Considerate**" by:-

- Seeking agreement with the employer as to appropriate standards.
- Listening to employers and take their views into account.
- Specifying fire safety standards relative to the assessed risk NOT against a prescribed set of requirements.
- Being "User-friendly" and Helpful.

The fire services will also aim to apply more "**Consistent Enforcement**" by:-

- Justifying the need to take an interest in any premises.
- Being able to give reasons for those things which may be required.
- Keeping records to ensure consistency between officers.
- Using enforcement powers sparingly and appropriately.

Finally, they want to demonstrate "**Compassionate Enforcement**" by:-

- being sympathetic to the needs and constraints of business.
- Being conscious of the costs against benefits and the availability of finance.
- Being open handed, reasonable and patient.
- Keeping the **principles** of fire safety in mind.
- Looking carefully at Managed and Engineered solutions.

- Avoiding prescription.

The Enforcement powers are as follows:-

- Issue an **Enforcement Order** with *Notice of Intent* where there is a need to improve safety measures.
- Issue a **Delayed Enforcement Notice** with *Notice of Intent* where there is a serious risk of injury.
- Issue an **Immediate Enforcement Notice** without *Notice of Intent* where there is an imminent danger to persons.
- Action under Section 10 of the Fire Prevention Act 1971.

The Enforcement strategy may be drawn as follows:-

Pete had welcomed questions throughout his presentation but, for the sake of clarity, these are now reported below.

**Peter Evans** asked what the responsibilities were with multi-occupied premises. **Pete Pinney** that the owner had a specific duty for common areas and must share Risk Assessment information with other occupiers on the site.

Peter Evans later enquired about the statutes covering Pop Concerts and Pete Pinney said that this would be controlled by a license issued under Local Government Miscellaneous Provisions.

**Pete Condron** enquired if a building would still need a fire certificate if the number of workers reduced below the minimum numbers during the day. **Pete Pinney** said that the requirement to have a fire certificate was fixed by the actual number who were present **at any one time**.

**David Simkin** what would happen if half the buildings on a site were covered by FPA Fire Certificates and the rest were covered by Factories Act fire certificates. Pete Pinney replied that the new regulations applied, a Risk Assessment was needed and it should be fairly easy to comply. Employers should ONLY apply for a FPA Fire Certificate the numbers were above the criteria AND where a building WAS NOT covered by a Factories Act fire certificate. Where a Factories Act building was risk assessed and changes were made, it was merely necessary to inform the fire service. no inspection or approval was required.

Another member asked what would happen if a hazard was missed? **Pete** said that the Fire Service would 'advise' on the correct approach in a spirit of 'partnership' with the employer.

Another question concerned premises exempted under the FPA 1971. Pete Pinney said that Section 9a of that Act had now been disapplied and a risk assessment would be needed under the new Regulations. If the premises had been inspected, exempted, and then minor improvements carried out, a risk assessment was still needed. An Emergency Fire Plan was also required and the staff should be informed about the arrangements - these were not needed under the FPA 1971.

A question was asked about any changes in the requirements for fire training. Pete replied that there was no change in fire extinguisher training. Regarding the Means of Escape, however, there was no requirement for drills every 12 months, nor prescribed training.

**Pete Condron** asked what was being done to improve consistency of approach between different brigades. **Pete Pinney** replied that the Home Office was encouraging consistency through the Fire Service College and the Association of Chief and Assistant-Chief Fire Officers. In the West Midlands, a "Partnership" had been formed between the Fire Service and Marks & Spencer for consistent application of standards nation-wide. Marks & Spencer had also formed a partnership with Birmingham City Council Building Control Officers for consistent application of the fire elements of the Building Regulations.

As there were no other questions, John Humpherson closed the meeting and thanked Pete Pinney for a very informative and useful presentation.