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Building Regulation and Fire Safety

TOP

Procedural guidance

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FOREWORD

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FOREWORD

Purpose of this guide

This guide has been prepared primarily for designers, developers and occupiers of buildings. It explains the steps involved in approving fire safety aspects of building work, and the interaction between building regulations and other fire safety requirements in England and Wales.

If the procedures described in this guide are followed, developers and designers will be able to receive all the fire safety information relevant to building regulations and other approvals, in time to avoid abortive work. There should also be no need for extra fire safety work to be done at the end of a contract, before the building can be occupied for its designated purpose.

It is intended that enforcing authorities should use the consultation procedures described in the guide as a model for arrangements they make in their area, so that procedures will be similar throughout England and Wales.

Although this guide has no legal force the Department of the Environment, the Welsh Office and the Home Office would expect enforcing authorities to follow its recommendations. The procedures adopted will be reviewed periodically.

The Department of the Environment, the Welsh Office, the Home Office and the Deregulation Unit of the Department of Trade and Industry have issued the guide jointly, in response to recommendations of the Bickerdike Allen report which looked at the interaction of fire and building regulations. During preparation of the guide Local Authorities' Associations, Fire Service representatives and the professional bodies most concerned have been consulted.

Terminology

The following short terms are used in the guide:

applicant – the person responsible for obtaining approval; in practice this is often the agent of the owner or developer, such as the architect, and it is used in this guide to include anyone acting for the applicant; the use of the term 'he' is intended to include the female.

approved inspector – a person who is approved under s. 49 of the Building Act 1984 to carry out certain building control functions (in May 1992 NHBC was the only Approved Inspector).

building control authority – the local authority empowered to enforce building regulations in their area by s. 91(2) of the Building Act 1984.

consultation – exchange of information, and comment between two enforcing authorities, such as building control and fire authorities, which may include correspondence and face-to-face meetings.

fire authority – the authority discharging the functions of the fire authority under the Fire Services Act 1947 in the area in which the premises are, or will be, situated.

THE DIVISION OF RESPONSIBILITY

- 1.1** There are two main authorities¹ with whom designers, developers and occupiers of buildings may have dealings concerning fire safety: the building control authority (or approved inspector) and the fire authority.
- 1.2** Building control authorities are responsible for enforcing the requirements of building regulations. These regulations are concerned with building work and the requirements for structural fire precautions and means of escape in case of fire apply to most buildings.
- 1.3** The fire authority is responsible for matters relating to fire certificates and regulations made under the Fire Precautions Act 1971, which concern the safety of certain buildings once occupied.
- 1.4** Building work which complies with the building regulations' requirements for means of escape and structural fire safety will be satisfactory from those points of view for purposes of fire certification. However, there are other measures such as fire alarms, detection systems, and means of fighting fire which are not covered by building regulations, although they are features of the process leading to fire certification about which the fire authority can make requirements. There is obvious practical value in taking these fire certification matters into account in the design and construction phases, although certification only becomes necessary on occupation of the building.
- 1.5** Therefore the applicant needs to know the requirements of both authorities at the design/construction stages. There is a risk that in dealing with two enforcing bodies the applicant may receive different interpretations of the requirements from the two sources, and may confuse guidance and requirements. For this reason one authority should take the leading role, and by consulting the other authority at the appropriate points, should be able to channel all the necessary information to the applicant.
- 1.6** During the design and construction phase of a project the building control authority (or approved inspector) are in the lead, and are the applicant's prime reference. They make requirements on building regulation matters, and all guidance on other matters, including the fire authority's requirements for certification, should be channelled through them.
- 1.7** On completion the lead passes to the fire authority for matters relating to the building in use, such as fire certificates. The fire authority will also be consulted by licensing/registration authorities about fire safety matters concerning premises that need to be licensed or registered (see paras. 1.24 and 1.25, page 5) although they are not themselves generally the licensing or registration authority. Note that licensing/registration conditions are also likely to refer to matters other than fire safety. Appendix D, page 26, summarises legislation under which licensing or registration may involve consultation on fire safety.

¹ In addition the Health and Safety Inspectorate are concerned with fire safety of the building site, as a place of work.

BUILDING REGULATIONS: COMPLIANCE IN GENERAL

- 1.8 It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. The Approved Documents² associated with the Regulations give practical guidance on how to comply.
- 1.9 An applicant generally has a choice of two routes: the 'building notice' procedure, or the 'full plans' option. A building notice is simply served on the local authority before work begins. There is no associated right of appeal (other than magistrates' court proceedings) against any requirement the local authority may make, should they decide that there is a contravention when they inspect the work. A 'full plans' application involves seeking formal approval. Approval or rejection must be given within a time limit, and there is a right of appeal to the Secretary of State. When a full plans application is made the applicant can ask the local authority for a completion certificate when the work is complete.
- 1.10 If the use of the building is one designated under the Fire Precautions Act 1971, and the work has a bearing on the means of escape, the building notice procedure cannot be used.

WHAT LEGISLATION APPLIES?

- 1.11 This guide is mainly concerned with the building regulations that apply in England and Wales. Appendices B to E (pages 22 to 28) give information on other legislation that applies to fire safety, including buildings in use. The main procedural points are covered in the step by step guide in section 2, page 6.
- 1.12 The building regulations apply to virtually all buildings, with few exceptions. However, sections 3 and 4 of the Building Act 1984 provide exemptions for certain classes of buildings (educational establishments approved under the Education Act, and certain premises operated as part of a statutory undertaking); and Schedule 2 of the Building Regulations 1991 exempts various types of building according to their use or size.
- 1.13 Fire safety requirements are given in Part B of Schedule 1 of the regulations. From 1 June 1992 these cover means of escape, fire spread, and access and facilities for the fire service. Guidance on meeting the requirements is given in an Approved Document on 'Fire Safety'².

² Approved Documents to the Building Regulations 1991; Part B Fire Safety; published by HMSO £11.85; ISBN 0 11 7523135

- 1.14** Buildings used for purposes designated under s.1 of the Fire Precautions Act 1971 require a fire certificate, unless they are exempted (exemption generally relates to small premises where there are few people). The designated uses are:
- a hotel or boarding house;
 - b factory;
 - c office;
 - d shop;
 - e railway premises.
- 1.15** The Home Secretary intends to make new regulations under s. 12 of the Fire Precautions Act 1971 to take effect on 1 January 1993. These will generally apply to every place in which one or more persons work and will be known as the Fire Precautions (Places of Work) Regulations 1992. They are intended to implement the fire safety requirements of European Commission Directives 89/391/EEC and 89/654/EEC, relating to health and safety of workers at work.
- 1.16** Details of the regulations were not finalised when this guide was written. They are, however, expected to include general requirements about fire risk assessments and the action to be taken in case of fire, which will apply to all premises from 1 January 1993. They are also expected to include specific requirements about the provision of means of escape in case of fire, 'first aid' fire fighting equipment, fire detection and alarm systems and fire resisting construction. These provisions are likely to apply:
- a to workplaces existing (ie premises in use as a place of work) on 31 December 1992, to comply by 1 January 1996;
 - b to all parts of premises materially altered, from the date of alteration;
 - c to all other premises, from 1 January 1993.
- But in the case of fire risk assessment and action in case of fire, the provisions will apply to all existing places of work from the 1 January 1993.
- Detailed guidance on these regulations will be available in due course.

CONSULTATION

- 1.17** When a building is likely to be used for a purpose which is subject to the fire safety requirements of other legislation, consultation between enforcing authorities is an essential part of the building control procedure. This guide describes the statutory consultations which the authorities are obliged to carry out. It also indicates where discussions may be needed to consider fire safety proposals at an earlier stage than the statutory consultation, to keep all parties informed; and avoid delays. These discussions may be between the applicant and the building control authority only, or they may also involve the fire authority.
- 1.18** When plans are deposited with a building control authority or approved inspector under building regulations the authority/inspector must consult the fire authority before passing the plans if they relate to the:
- a erection;
 - b extension;
 - c structural alteration, or;
 - d change of use³;
- of a building, if the intended use is likely to be one designated under the Fire Precautions Act 1971 (see para. 1.14, page 3).
- 1.19** These consultations are necessary so that the fire authority are aware of the construction or alteration of buildings over which they have a certification and continuing control duty. They also provide an opportunity to make the applicant aware of action that may have to be taken on non-building regulation matters in order to get a fire certificate for the building when construction is finished.
- 1.20** The nature and timing of consultations are described in detail in section 2, page 6.

THE STATUTORY BAR

- 1.21** Where an application is made for a fire certificate for a building, and building regulations were in force at the time of erection regarding means of escape, the fire authority will (subject to the qualifications described in para. 2.34.1, page 15) issue a fire certificate without requiring additional structural or other requirements concerning means of escape.
- 1.22** This constraint, which is known as the 'statutory bar', has been made to ensure that if a building complies with the building regulations regarding means of escape, the work in that respect will be satisfactory for the issue of a fire certificate (see also para. 2.30.2, page 14 and Appendix B, page 24).

³ Changes of use regarded as material in this connection are defined in regulation 5 of the Building Regulations 1991

LOCAL ACTS

- 1.23** There are provisions in other primary legislation, and in some places in local acts, which require consultation to take place between the building control and the fire authorities and this guidance should also be used in those instances. The applicant should check with the building control authority to see whether there are any local acts in force.

PREMISES SUBJECT TO LICENSING OR REGISTRATION

- 1.24** Many premises (principally buildings used by large numbers of people) are controlled through a licensing procedure in which fire safety matters are an important concern. In the interests of public safety, where plans are submitted to the building control authority for new buildings, or alterations or extensions, which may be subject to licensing or registration, the building control authority should consult all interested parties.
- 1.25** Many premises which are put to a use that involves the provision of sleeping accommodation are also subject to fire safety requirements. Such premises include residential care homes, hospitals and boarding schools. The need for liaison arises as with licensed premises.

- 2.1 This section describes the consultation procedures that should be followed at different stages of the building control process for different types of building.
- 2.2 During these stages the building control authority or approved inspector is the lead authority, as explained above, and emphasis is put on their responsibility to consult the fire authority. It is very important that the fire authority should respond as quickly as possible, and that they should play an active part in maintaining good communications.
- 2.3 Where local arrangements exist which already fulfil the aims of this guide it may not be necessary to adopt all the procedures suggested here. The consultation process should be conducted to ensure that both authorities fulfil their roles in an efficient and cost-effective way.
- 2.4 Throughout this guide it is assumed that applicants are conversant with technical aspects of fire safety and its regulation, or that they employ professional advisors who have this knowledge. It is the responsibility of the designer to design the building; the advice given by the building control authority and the fire authority does not extend to design consultancy. The approval process is likely to be delayed if designs are presented without prior consideration of fire safety. Because there are statutory time limits on the period for consideration of plans, such delays may lead to rejection of plans.

The left hand column describes actions of direct concern to the designer or applicant. The right hand column provides commentary or describes actions which are of less direct concern to the applicant. Although the process is presented in a chronological sequence this may vary in practice, and some of the stages will be not be relevant in some cases.

Para.
2.5

PRELIMINARY DESIGN STAGE ADVICE

2.5 At the early stages of a project the designer may wish to consult the authorities about fire safety aspects of the scheme. The designer's first approach should be to the building control authority or approved inspector. At the time of writing the only Approved Inspector is the NHBC, and their approval concerns only houses, flats and maisonettes (which can be subject to a consultation requirement under s. 72 of the Building Act 1984)

2.5.1 If the designer makes an independent approach to the fire authority for goodwill advice under the Fire Services Act 1947, the fire authority should point out that any structural fire precautions and means of escape will have to satisfy building regulation requirements. They should make it clear that building regulations are administered by the building control authority, and that the fire authority do not give authoritative advice on those matters. They should refer the applicant to a building control authority or approved inspector.

2.5.2 In the preliminary stages of a complex project the scope for comment will be limited by the information available. If approached, the fire authority should take the opportunity to make appropriate recommendations about any non building regulations fire precautions. Any advice they do give should be in writing and should clearly indicate which matters are in their opinion:

- a ones which will have to be complied with under the Fire Precautions Act 1971 when the building is occupied;
- b ones which will have to be complied with to meet other fire legislation (not Building Regulations);
- c ones which are only advisory and not enforceable under legislation (eg about property protection).

A copy of the advice should be sent to the local authority

2.6 If the eventual use of the building is one designated under the Fire Precautions Act 1971 (see paragraph 1.14) a fire certificate may be required, and will be issued by the fire authority. In such cases, if there are aspects of the design which follow a different approach to fire safety from that given in the Approved Document to Part B of the building regulations, it may be desirable for the designer to request a joint meeting with the fire authority and the building control authority or approved inspector. If the building control authority or approved inspector agree they will arrange the meeting.

2.7 At this meeting the building control authority or approved inspector will take the lead in commenting on building regulation matters, and the fire authority will lead in commenting on associated fire precautions. A record of the main points of the meeting should be circulated to all parties, which clearly distinguishes between:

- a building regulation requirements;
- b fire certification requirements;
- c requirements of any other fire legislation;
- d advice which is not enforceable under legislation (eg concerning property protection).

2.6.1 *The fire authority is responsible in most cases for:*

- a continuing enforcement of fire safety legislation once the building is in use;
- b firefighting operations if there is a fire in the building;
- c the safety of occupants and firefighters if there is a fire.

The fire authority may therefore have views on the manner in which the designer proposes to meet the requirements of building regulations, particularly if it is proposed to rely on active fire protection systems or a high level of fire safety management.

2.7.1 *Associated fire precautions include measures such as fire detection, fire alarms, means of fighting fire and managerial aspects of fire safety*

BUILDING REGULATION APPLICATION

Paras. 2.8 2.12

2.8 Where the proposed work involves a building whose use is designated under the Fire Precautions Act 1971 final plans have to be deposited (see Regulation 13 of the Building Regulations).

2.8.1 Part B of the Building Regulations applies to all buildings other than those exempted under Schedule 2 of the Regulations (see Appendix A, page 17). The application of Parts B1 and B3 to prisons is limited. A requirement for consultation between the local authority and the fire authority can arise under the Building Act (s. 15), under the Fire Precautions Act (ss. 15-17) and any of the legislation described in Appendix D, page 26.

2.8.2 Even if there is no formal requirement to consult, consultation may still be desirable in many cases:

- a to provide the applicant with advice about associated fire precautions at the most cost-effective time in the design process;
- b where the local authority or approved inspector propose to accept measures which depart from the guidance in the Approved Document or relevant British Standard;
- c where the size or location of the development might have implications for the disposition of fire service resources;
- d where fire protection installations, provided to meet building regulation requirements, have a need for ongoing maintenance which can be controlled by the fire authority (eg by regulations made under s. 12 of the Fire Precautions Act).

2.9 When full plans are deposited the applicant is required to make a statement about the use to which the building will be put.

Non-statutory consultations should follow the pattern described below for statutory consultations.

2.10 If the work is subject to a requirement under Part B (fire safety) two extra copies of those drawings which demonstrate compliance with Part B are required, unless the building concerned is a house or flat (see Regulation 13).

2.10.1 The 'drawings demonstrating compliance with Part B' are those showing the major principles, such as escape routes and compartmentation, and describing any fire engineering proposals, but it is unlikely to be necessary to include detailed drawings.

2.11 In some cases the two extra copies will be needed for statutory consultation purposes. In cases where no statutory consultation is involved the local authority or approved inspector may still choose to consult the fire authority. In either case the two extra copies allow the fire authority to keep a set of drawings while returning the other to the local authority, or approved inspector, marked up with any comments.

2.12 If the applicant wishes to receive a completion certificate, this should be stated when plans are deposited. Where the eventual use of the building will be one designated under the Fire Precautions Act 1971 the building control authority are required to provide a completion certificate under Building Regulation 15.

2.12.1 The local authority may issue a completion certificate in response to a late request, but that is at their discretion.

2.13 The following guidance is based on the consultation procedure for a building whose use is subject to fire certification under the Fire Precautions Act 1971. Appendix D identifies building uses to which other legislation applies a consultation requirement, and these consultations should follow the same pattern.

2.14 The purpose of the statutory consultation, as set out in s. 16 of the Fire Precautions Act 1971 (see Appendix B, page 22), is to permit:

- a the fire authority to comment on fire safety matters covered by building regulations; and
- b early agreement on fire safety matters which are not addressed in building regulations, but should be incorporated in the design at this stage, because it would be more difficult and expensive to make changes to them at a late stage in the construction. These might involve fire alarms, or firefighting equipment, or other considerations of licensing, registration or certification.

2.15 If the building control authority or approved inspector is not satisfied that the proposals comply with building regulation requirements, they will send the applicant a list of amendments or additional information that they consider necessary. They will not consult the fire authority until they are reasonably satisfied that compliance with building regulations is shown, unless they are prepared to consider dispensing with the requirement(s) (see para. 2.19, page 12). If the deficiencies are minor they may decide to proceed with consultation, attaching a copy of their list of the necessary amendments (clearly identified as such) with the material they send the fire authority.

2.13.1 Applicants need clear advice so that all necessary measures can be incorporated at the most cost-effective time during building work. Consultation is a means of ensuring that different interpretations of the same guidance are avoided, which is a major objective of this guide.

2.14.1 Consultation procedures should be the same throughout the area of the fire authority

2.14.2 These non building regulations fire safety matters are often referred to as 'associated fire precautions' by fire authorities

2.15.1 If the proposals need substantial amendment it is not likely that there will be time to complete the statutory consultation, and the application may have to be rejected, even though the applicant agrees to an extension of time. It is therefore very important that the application shows that full account has been taken of Part B's requirements, if delays are to be avoided.

2.16 Once the building control authority or approved inspector is reasonably satisfied that the proposals comply with building regulations they will send one copy of the application, with two copies of the drawings which demonstrate compliance with Part B, to the fire authority, with any supporting documentation they consider useful, such as correspondence they have had with the applicant.

2.16.1 The fire authority should make its observations to the building control authority or approved inspector in writing, within 14 working days of receipt, so that the building control authority can meet the statutory timetable for giving a decision. The comments should clearly distinguish between matters:

- a covered by building regulations;
- b which will have to be complied with under the Fire Precautions Act 1971 when the building is occupied;
- c which will have to be complied with to meet other fire legislation;
- d which are only advisory and not enforceable under legislation.

These comments should include a marked-up copy of the drawings demonstrating compliance with Part B.

2.17 The building control authority or approved inspector should have regard to the fire authority's comments, in relation to those parts of the proposals to which building regulations apply, before finalising their response to the applicant. That response should include a copy of any comments from the fire authority on associated fire precautions and other non-statutory advice.

2.17.1 If the comments of the fire authority conflict with the building control authority or approved inspector's interpretation of building regulation requirements, the building control authority or approved inspector should inform the fire authority. Unless the difference can be resolved more simply the fire authority should indicate their views in a formal written case to the building control authority or approved inspector, who should, if necessary, convene a meeting to resolve the matter.

The only line of communication with the applicant should be through the building control authority or approved inspector.

2.17.2 In the exceptional event that the fire authority and building control authority or approved inspector can not agree, the DOE in consultation with the Home Office is prepared to give informal advice. Any approach to the Department should be in writing and should include a statement of case from each party. A third party such as a fire authority has no right of appeal to the Secretary of State under the Building Act 1984.

DETERMINATION

2.18 If the applicant and the local authority disagree about whether deposited plans of proposed work are in conformity with building regulations, the applicant can seek a determination of the question from the Secretary of State under s. 16(10) of the Building Act 1984.

2.18.1 An application for a determination should be sent to the Department of the Environment (or, in Wales, to the Welsh Office) who will charge a fee of half the plans fee subject to a minimum of £50 and maximum of £500. The applicant should explain why the proposal does comply accompanying the statement of case with relevant drawings and a copy of any rejection notice.

DISPENSATION - FIRE AUTHORITY CONSULTATION

2.19 The local authority are obliged by s. 15 of the Building Act 1984 to consult the fire authority before relaxing or dispensing with a requirement of building regulations that relates to:

- a* structural fire precautions;
- b* the provision of means of escape from buildings in case of fire, or;
- c* the provision of means for securing that such means of escape can be safely and effectively used at all material times.

2.19.1 The consultation should follow the form described in 2.16, page 11, with the fire authority responding in writing within 14 days.

2.19.2 The fire authority should also be consulted before dispensing with Part B5, the requirement for access and facilities for the fire service

AMENDED PLANS

2.20 Because, as described in para. 2.15, page 10, the local authority only consult the fire authority when they are reasonably satisfied with the proposals (barring any preliminary discussions about special schemes referred to in para. 2.6, page 8, or non-statutory consultation referred to in para. 2.11, page 9) plans may be amended a number of times before the statutory consultation stage is reached. But if the applicant submits amended plans, following the statutory consultation, because of changes relating to fire safety made to the scheme, the fire authority will be consulted (assuming that consultation was required in the first place).

2.20.1 The fire authority should be sent two copies of plans, one to put comments on and one to keep. Any comments from the fire authority should be in writing, and should follow the format described in para. 2.16.1, page 11, and should be relayed to the applicant by the building control authority or approved inspector

APPROVAL OF PLANS

2.21 When, after any necessary consultations with the fire authority, the building control authority or approved inspector are satisfied that the plans comply with the requirements of building regulations they will issue a notice of passing of plans. They may issue a conditional approval, on the basis either that specified modifications are made to the deposited plans or that further plans are deposited (see s. 16 of the Building Act 1984). In large schemes it is acknowledged that it may not always be possible to issue an approval within the prescribed time period.

2.21.1 Whether the approval is conditional or not it would be helpful to the applicant if the notice was either accompanied by a schedule of requirements necessary to comply with other legislation, or by an indication that such information would be forwarded when available.

2.21.2 If a statutory consultation was involved, they will also send a copy of this notice to the fire authority.

2.22 At this stage, if a completion certificate is to be required, the building control authority or approved inspector should invite the applicant to prepare drawings to record the fire safety requirements. These will cover the fire safety features that are required by building regulations, and the provisions being made for fire certification. They should be clearly marked with:

- a means of escape and their protection, including position and type of fire doors;
- b structural fire precautions (lines of compartmentation etc);
- c access and facilities for the fire service;
- d fire alarms;
- e fire fighting equipment;
- f emergency lighting;
- g fire exit signs and other fire notices;
- h 'active' fire protection systems such as sprinklers, or other fixed extinguishing systems, smoke control, fire ventilation, with notes on arrangements for their ongoing maintenance.

2.22.1 This is particularly important in complex projects, and 'shell and core' projects if fire certificates are likely to be needed. The fire authority has powers under the Fire Precautions Act 1971 to require plans, and the applicant for a fire certificate could use a copy of these record drawings to discharge this requirement. The plans should be drawn to a preferred scale and use the conventions in BS1635:1990 Graphical symbols and abbreviations for fire protection drawings.

2.22.2 Information on the arrangements for ongoing maintenance of 'active' protection systems is needed by the fire authority when implementing the provisions for continuing control of these systems. The power to make regulations for this purpose is in s. 12 of the Fire Precautions Act.

2.22.3 It would be helpful to apply the principles set out in para. 2.22 where a completion certificate has been requested and the premises do not require a fire certificate.

CONSTRUCTION

2.23 As work proceeds the building control authority or approved inspector will make inspections.

2.24 If changes from the approved plans are made during construction the applicant should send a copy of the amended plans or a note of the change to the building control authority or approved inspector. If fire safety measures are involved, or if the changes affect fire safety, and if the building will need a fire certificate, or if the building is one for which consultation was necessary at the plans approval stage, the building control authority or approved inspector should notify the fire authority in writing.

2.25 The building control authority or approved inspector should have regard to the fire authority's comments, in relation to those parts of the proposals to which building regulations apply, before finalising their response to the applicant. That response should include a copy of any comments on associated fire precautions from the fire authority.

2.24.1 The fire authority should give any comments on the change, in writing, to the building control authority or approved inspector, making clear distinction, as before, between matters which will have to be complied with under legislation, and those which are only advisory

NOTIFICATION

2.26 The building regulations require anyone carrying out building work to notify the building control authority or approved inspector within five working days of completion.

2.27 If a completion certificate is required it would be helpful if the notice of completion is accompanied by two copies of floor plans as described in para. 2.22, page 13.

2.28 When any items which did not comply with building regulations have been made good the person carrying out the work should notify the building control authority or approved inspector so that there can be a re-inspection.

2.29 When the building control authority or approved inspector is satisfied that the work complies with the requirements of the building regulations, they will issue a completion certificate which will include reference to the drawings mentioned in para. 2.22, page 13. One copy of the certificate will go to the applicant and one to the fire authority.

2.30 If, following a request, the building control authority or approved inspector can not issue a completion certificate, they should explain, in writing, why this is so. A copy of this explanation will be sent to the fire authority. If necessary the fire authority and the building control authority or approved inspector should meet to discuss any inadequacies that are thought to exist in the means of escape or structural fire precautions.

2.27.1 *There is no obligation on the building control authority or approved inspector to issue a completion certificate unless one has been formally requested, or unless the use of the building will require a fire certificate.*

2.28.1 *The building control authority or approved inspector will inspect the building after receiving the notice of completion. The building control authority or approved inspector should notify the person carrying out the work of the defects.*

2.28.2 *Failure to correct defects may lead to legal action being taken.*

2.29.1 *The building control authority or approved inspector will send a copy of these plans, and a copy of the completion certificate, to the fire authority*

2.29.2 *The fire authority should have regard to the completion certificate when:*

- a considering an application for a fire certificate (see para. 2.34, page 15);*
- b serving a notice of steps to be taken under s. 8 of the Fire Precautions Act 1971 or;*
- c considering whether any regulations under s. 12 of the Fire Precautions Act 1971 have been complied with.*

2.30.1 *In the absence of a completion certificate for premises for which the fire authority has received an application for a fire certificate, the fire authority will have to refer to the record of consultations with the building control authority or approved inspector, to establish the requirements made under building regulations.*

2.30.2 *Section 13 of the Fire Precautions Act 1971 imposes a 'statutory bar' on the fire authority preventing them from making the issue of a fire certificate conditional on alterations to the means of escape, if at the time of its erection the building regulations imposed means of escape requirements. But if the fire authority is not satisfied with the adequacy of the means of escape by virtue of matters which did not have to be shown in connection with the deposit of plans, the statutory bar does not apply (see examples Appendix B, page 24).*

OCCUPATION

Paras.
2.31
2.34

2.31 The building regulations require anyone carrying out building work to give five days notice before the building, or any part of it, is to be occupied (if occupation precedes completion).

2.31.1 The fire authority may inspect the premises from time to time to verify this

2.32 The occupier of premises holding a fire certificate (or for which a fire certificate application has been made) has an obligation to ensure that the fire precautions are maintained.

2.33 The fire authority should be the lead authority where fire safety of the building in use is concerned, and building users seeking advice on such matters should approach them in the first instance. Building control may have a role in connection with licensing or registration of some premises.

FIRE CERTIFICATE

2.34 The intending occupant must apply to the fire authority for a fire certificate before any premises are put to a use for which a fire certificate is required. The fire authority are required to carry out an inspection. If the procedures described in this guide are followed there should be no need for extra fire safety work to be done at the end of a contract, before the building can be occupied for its designated purpose.

2.34.1 The consultation process should ensure that the building can be certificated without further work. But if the fire authority is not satisfied with the associated fire precautions required by the Fire Precautions Act 1971, or with the means of escape in circumstances described in para. 2.30.2, page 14, they will serve a notice on the applicant for the fire certificate, requiring steps to be taken to rectify matters, and specifying the time for completion of those steps

2.34.2 Under s. 17 of the Fire Precautions Act 1971 the fire authority will consult the building control authority before serving a notice if alteration work is required. Generally this consultation entails sending a copy of the proposed notice to the local authority and allowing 14 days for a response before serving the notice.

2.35 The occupier (or owner in the case of multi-occupied buildings) of premises for which a fire certificate is in force, or where an exemption from the requirement to hold a fire certificate has been granted by the fire authority, has a duty to inform the fire authority of any proposed change of use and of any structural alterations or extensions.

2.35.1 If the fire authority on receipt of a notification of proposed alterations, consider that these will cause the means of escape to become inadequate, they will serve a notice on the applicant. The consultation procedure outlined in para. 2.34.2, page 15, will be followed by the fire authority. The notice will give the steps to be taken to maintain a satisfactory standard. So far as means of escape and structural fire precautions, covered by building regulations, are concerned, the fire authority should direct the applicant to comply with the building regulations, as described in para. 2.5.1, page 7.

2.35.2 The fire authority may wish to give directions to ensure that fire safety is maintained during construction, eg if a stair is made unusable they may direct that this work should only start when alternative arrangements have been made.

2.36 If any of these changes are 'building work', as defined by the building regulations, an application should be made to the building control authority or approved inspector. The procedures to be followed then should be as described in Building Regulation Application (from para. 2.8, page 9).

(see Appendix D)

2.37 If occupiers and owners of these premises ensure that building work complies with the requirements of building regulations, the standard of structural fire protection and means of escape should be adequate for licensing or registration purposes, so far as that work is concerned. If all of the fire authority's recommendations on other fire safety legislation have been implemented, there should be no need for any additional fire safety work before the necessary licence or registration is obtained.

2.37.1 The fire authority should have regard to the building regulations completion certificate when advising the licensing or registration authority about the adequacy of fire precautions in new premises.

APPENDIX A:

THE BUILDING ACT 1984 AND THE BUILDING REGULATIONS 1991

The following is a simplified guide, and as such it should not be regarded as a definitive interpretation of the Act or the Regulations.

The Building Regulations for England and Wales are made by the Secretary of State under the power given in the Building Act 1984, and are revised from time to time. The current building regulations are the Building Regulations 1991 (S.I. 1991 No. 2768).

Enforcement

Local authorities, ie councils of districts and London boroughs, enforce Building Regulations in their area.

Building work

The regulations control all 'building work'. 'Building work' means:

- a the erection or extension of a building;
- b the material alteration of a building;
- c the provision, extension or material alteration of a controlled service or fitting in or in connection with a building;
- d work required in connection with a material change of use.

Material alteration

An alteration is material if the work or any part of it, would at any stage result in:

- a a building not complying with a relevant requirement where previously it did, or
- b a building which, before the work commenced, did not comply with a relevant requirement, becoming more unsatisfactory in relation to such a requirement.

A relevant requirement means any of the requirements of:

- a Part A (structure);
- b Part B (fire safety (excluding B2, internal fire spread - linings)), and
- c Part M (access and facilities for disabled people).

The person intending to carry out alterations should form a view on whether it is 'material' or not, and if in doubt should consult the local authority.

Material change of use

A material change of use occurs where the purpose for which the building is used changes to:

- a a dwellinghouse;
- b a flat;
- c a hotel;
- d an institution;
- e a public building;
- f a non-exempt building having previously been an exempt one (exempt buildings are listed in Schedule 2 of the regulations).

Where a building is being materially altered, the work should be carried out so that after completion the building complies with the requirements of Schedule 1 or, where it did not previously comply, is no more unsatisfactory.

Schedule 2 of the Building Regulations 1991 exempt buildings and work

CLASS I

Buildings controlled under other legislation

1. Any building the construction of which is subject to the Explosives Acts 1875 and 1923⁴.
2. Any building (other than a building containing a dwelling or a building used for office or canteen accommodation) erected on a site in respect of which a licence under the Nuclear Installations Act 1965⁵ is for the time being in force.
3. A building included in the schedule of monuments maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979⁶.

CLASS II

Buildings not frequented by people

A detached building:

- a into which people do not normally go; or
 - b into which people go only intermittently and then only for the purpose of inspecting or maintain fixed plant or machinery
- unless any point of such a building is less than one and a half times its height from
- (i) any point of a building into which people can or do normally go; or
 - (ii) the nearest point of the boundary of the curtilage of that building, whichever is the nearer

CLASS III

Greenhouses and agricultural buildings

1. Subject to paragraph 3, a greenhouse
2. A building used, subject to paragraph 3, for agriculture, or a building principally for the keeping of animals, provided in each case that:
 - a no part of the building is used as a dwelling,
 - b no point of the building is less than one and a half times its height from any point of a building which contains sleeping accommodation; and
 - c the building is provided with a fire exit which is not more than 30 metres from any point in the building.
3. The descriptions of buildings in paragraphs 1 and 2 do not include a greenhouse or a building used for agriculture if the principal purpose for which they are used is retailing, packing or exhibiting.
4. In paragraph 2, 'agriculture' includes horticulture, fruit growing, the growing of plants for seed and fish farming.

CLASS IV

Temporary buildings

A building which is not intended to remain where it is erected for more than 28 days.

⁴ 1875 c.17, 1923 c.17.

⁵ 1965 c.57; the only relevant amending instrument is S.I. 1974/2056.

⁶ 1979 c.46

CLASS V

Ancillary buildings

1. A building on a site, being a building which is intended to be used only in connection with the disposal of buildings or building plots on that site.
2. A building on the site of construction or civil engineering works, which is intended to be used only during the course of those works and contains no sleeping accommodation.
3. A building other than a building containing a dwelling or used as an office or showroom, erected for use on the site of and in connection with a mine or quarry.

CLASS VI

Small detached Buildings

1. A detached single storey building having a floor area which does not exceed 30m², which contains no sleeping accommodation and is a building:
 - a no point of which is less than one metre from the boundary of its curtilage; or
 - b which is constructed substantially of non-combustible material.
2. A detached building designed and intended to shelter people from the effects of nuclear, chemical or conventional weapons, and not used for any other purpose, if:
 - a its floor area does not exceed 30m²; and
 - b the excavation for the building is no closer to any exposed part of another building or structure than a distance equal to the depth of the excavation plus one metre
3. A detached building having a floor area which does not exceed 15m², which contains no sleeping accommodation.

CLASS VII

Extensions

The extension of a building by the addition at ground level of:

- a a conservatory porch, covered yard or covered way; or
- b a carport open on at least two sides;

where the floor area of that extension does not exceed 30m², provided that in the case of a conservatory or porch which is wholly or partly glazed, the glazing satisfies the requirements of Part N of Schedule 1.

Technical requirements

Building work should be carried out so that it complies with the requirements in Schedule 1 of the regulations. Part B of schedule 1 contains requirements under five headings:

- a B1 Means of escape in case of fire
- b B2 Internal fire spread – linings
- c B3 Internal fire spread – structure
- d B4 External fire spread
- e B5 Access and facilities for the fire service.

These requirements are written in functional terms, ie. in terms of what is to be achieved rather than the means of achieving it.

Approved documents

Practical guidance on ways of meeting the functional requirements is given in documents approved by the Secretary of State. There is a 1992 edition of the Approved Document on Part B – Fire Safety.

Deposit of plans

A person intending to carry out building work, unless using the services of an approved inspector must give notice to the building control authority of his intentions. He can deposit 'full plans' and details of the proposal which can be assessed for compliance, and obtain a notice of passing or rejection of plans. When full plans are deposited they must be accompanied by a statement as to whether the proposed work is for a building which is to be put to a designated use under the Fire Precautions Act 1971. If it is, the local authority is obliged to issue a completion certificate covering Part B.

The person carrying out the work may also, at deposit of plans stage, specifically ask for a completion notice to be issued at the end of the construction process. In this case the completion certificate would cover all parts of Schedule 1 of the regulations.

Building notice

Alternatively a 'building notice' accompanied by a site plan and a limited amount of information concerning the proposal, may be given. There is no requirement for the building control authority to pass or reject a building notice and, therefore, no right of appeal is available as there is under the full plans procedure. Detailed plans do not have to be submitted with a building notice but, during progress of the work specific plans may be requested by the building control authority.

The building notice procedure can not be used for work where the building is to be put to a use designated under the Fire Precautions Act. This restriction applies whether or not the building may be exempt from the fire certification requirement.

Designated uses are:

- a use as a hotel or boarding house;
- b use as a factory;
- c use as an office;
- d use as shop or railway premises.

Consultation

When plans are deposited the building control authority must consult the fire authority before passing the plans, if they relate to:

- a an erection, extension or structural alteration to a building which is likely to be put to a designated use (see Building Notice above);
- b a proposed change of use of a building to one which is likely to be a designated use; or
- c if the building control authority intends to dispense with a provision of Part B, in response to a request from the applicant.

Conditional approval

Plans may be approved unconditionally or subject to certain conditions in accordance with s. 16 of the Building Act 1984.

Notices during construction

A person carrying out building work must give notice to the building control authority at certain stages as work proceeds so that inspections may be made. An approved inspector will decide at what stages he will require to be notified.

Completion certificate

Where a statement is made at plans deposit stage that the building will be put to a designated use, or a specific request is made for a completion certificate, (or at the local authority's discretion, under other circumstances) the building control authority must, if notified of occupation or completion, issue such a certificate if they have been able to ascertain, 'after taking all reasonable steps' that the relevant requirements of the regulations have been complied with.

Contravention

A person contravening any provision in the building regulations is liable to a fine on conviction. In addition a local authority may serve notice on the owner to pull down or alter contravening work.

Appeals and determinations

An applicant is entitled to appeal to the Secretary of State, within a time limit, if an application to relax or dispense with the requirements of the building regulations is refused by the building control authority; or he may seek a determination by the Secretary of State, before the proposed work is carried out, on any question, or dispute with the authority, as to whether the work complies with the regulations.

APPENDIX B:

FIRE PRECAUTIONS ACT 1971

The Fire Precautions Act, 1971 is the principal instrument for the control of fire safety in occupied premises and is designed to ensure the provision of adequate means of escape and related fire precautions.

Fire authorities are responsible for the enforcement of the Act and for the issue of fire certificates, other than for premises which are owned and, or, occupied by the Crown. In these premises enforcement is undertaken by HM Fire Service Inspectorate.

Appendix D outlines other statutes that include provisions for fire safety in a wide range of premises not currently designated under the Fire Precautions Act, 1971. In such cases where the legislation is not enforced by the fire authority, the normal practice is for the fire authority to give advice on fire safety matters to the enforcing authority, which generally has a statutory duty to consult. These premises are nevertheless within the scope of section 10 of the Fire Precautions Act 1971 which gives the fire authority power to issue prohibition notices where dangerous conditions arise.

Fire certificates are required for premises put to a use which has been designated by an Order made under the Act. Currently, the use of premises as an hotel or boarding house, a factory, an office, a shop, or as railway premises are designated uses. However, whether or not a fire certificate is required in practice depends, in the case of hotels and boarding houses, on the amount of sleeping accommodation provided and, in the case of the other designated places of work, the number of persons at work in the premises. In the case of factories it also depends on whether explosive or highly flammable materials are stored or used there.

Hotels and boarding houses are required to have a fire certificate covering that use if sleeping accommodation is provided for more than 6 persons being either staff or guests or if any such sleeping accommodation is provided either above the first floor or below the ground floor.

Places of work (ie factories, offices, shops and railway premises) are required to have a fire certificate covering the relevant use if more than 20 persons are employed in the premises or more than 10 persons are employed elsewhere than on the ground floor.

Additionally, factory premises are required to have a fire certificate if explosive or highly flammable materials are stored or used, irrespective of the number of employees.

A fire certificate will also be required for each relevant premises when a building contains more than one premises used as a factory, office, shop or railway premises and the aggregate of persons at work at any one time in all such premises exceeds 20 or the aggregate of persons at work elsewhere than on the ground floor exceeds 10.

An application for a fire certificate must be made to the fire authority for the area in which the premises are situated using form FPI(Rev). Copies of this form are obtainable from the fire authority.

Following the application, the premises will be inspected by the fire authority, who if they are satisfied that the means of escape from fire and related fire precautions are such as may reasonably be required in the circumstances of the case, must issue a fire certificate.

The fire certificate will specify, generally by means of a plan, the approved fire precautions and may impose requirements as to the maintenance of those precautions; for training of staff in the action to take in case of fire; for limiting the number of persons who may be in the premises at any one time; and as to other precautions to be observed in the interest of the safety of people on the premises in case of fire.

Thereafter the fire authority must be consulted before the use of the premises is changed and they must be informed in advance if:

- a it is proposed to make any material extension of, or material structural alteration to, the premises;
- b it is proposed to make a material alteration in the internal arrangement of the premises or in the furniture or equipment with which the premises are provided; and
- c in the case of factory premises, it is proposed to begin to store or use explosive or highly flammable materials or materially to increase the extent of such storage or use.

The word 'material' is not defined in the Fire Precautions Act 1971, but generally an alteration is considered to be 'material' if it would render the means of escape and related fire precautions inadequate in relation to the normal conditions of use of the premises.

If, on inspection of premises in response to an application for a fire certificate, the fire authority is not satisfied that the fire precautions are reasonable in the circumstances, they must serve a notice on the occupier stating what steps will have to be taken before they are so satisfied. They will also state that they will not issue a fire certificate unless those steps are taken within a specified time.

Where it is discovered that the means of escape and/or related fire precautions in premises already certificated have become inadequate due to a change in conditions, the fire authority must also serve a notice of the steps to be taken to make them adequate.

Notice must similarly be served if, as a result of notification of proposed material alterations, the fire precautions will become inadequate.

The fire authority can exempt certain low risk premises from the requirement to have a fire certificate but these premises, together with factories, offices, shops and railway premises which are exempted from certification by the designating order, are required by section 9A of the Fire Precautions Act 1971 to be provided with reasonable means of escape and for fighting fire. There is no requirement to consult before exempting premises. If such premises are not provided with reasonable means of escape and means for fighting fire, the fire authority can serve an improvement notice on the occupier requiring certain steps to be taken to achieve the required standard.

In each of the circumstances mentioned above the fire authority must consult the building control authority before serving any notice involving the making of alterations.

Although premises put to a designated use may be exempt from the requirement to have a fire certificate, (see above) they are still required to have adequate means of escape and means of fighting fire, under section 9A the Fire Precautions Act 1971. Occupants are not required to advise the fire authority before making structural or other alterations, although building regulations approval may be necessary. Guidance on the application of the Fire Precautions Act 1971 in respect of 9A premises is given in the Home Office *Code of practice for offices, shops and factories not required to have fire certificate*, (HMSO).

The statutory bar

If at the time a building was built or altered, building regulations imposed requirements as to means of escape and plans were required to be deposited with the building control authority, the fire authority may not generally include in a notice of steps to be taken or in an improvement notice a requirement to carry out structural or other alterations to the means of escape. The statutory bar does not apply if the fire authority are satisfied that the means of escape are inadequate by reason of circumstances not required to be shown on the plans deposited under the Building Regulations, or if it is necessary to make requirements in order to satisfy any regulations made under section 12 of the Fire Precautions Act 1971.

An example in which the statutory bar might not apply would be a factory which had its means of escape designed for a normal fire risk, but on occupation it was used for a process involving a high risk; additional exits may be necessary to satisfy reduced travel distance requirements. Similarly, where some unexpected high fire risk is found, eg the storage of highly flammable material, it might be necessary to provide extra protection to an escape route.

If, however, the fire authority consider that there is a serious risk to persons in case of fire in any premises and the use of those premises should be restricted or prohibited they may serve a notice accordingly. This power extends to all users of premises which can be designated under the Fire Precautions Act 1971 (ie all premises other than those occupied as a single private dwelling).

APPENDIX C:

FIRE SERVICES ACT, 1947

Section 1(1)(f) of this Act has particular relevance to this Guide. It requires every fire authority to secure efficient arrangements for the giving, when requested, of advice in respect of buildings in the area of the fire authority as to:

- a* fire prevention;
- b* restricting the spread of fire and;
- c* means of escape in case of fire.

APPENDIX D

FIRE SAFETY ACT
OR CONSTRUCTION ACT

ANIMAL ESTABLISHMENTS

Pet Animals Act, 1951

Animal Boarding Establishments Act 1963

Riding Establishments Act, 1964 (as amended)

Breeding of Dogs Act, 1973

Zoo Licensing Act, 1981

These premises are controlled by a licensing system operated by the district council and, in any decision to grant a licence, the licensing authority is obliged to have regard to the protection of animals in case of fire or in an emergency.

CHILDREN'S HOMES

Children Act 1989

Provision is made in Schedules 4, 5, 6, 8 and 9 for the making of regulations covering fire safety in community homes, voluntary homes, registered children's homes, privately fostered children's accommodation and premises providing child minding and day care for young children. Regulation 14 of The Children's Homes Regulations 1991 (S.I. 1991 No 1506) makes various requirements of responsible authorities in relation to fire precautions.

ELDERLY AND DISABLED PERSONS HOMES

Registered Homes Act 1984 (as amended by the Registered Homes (Amendment) Act, 1991 *prop.*)

Regulations made under this Act – The Residential Care Homes Regulations 1984 (S.I. 1984 No 1345) and The Nursing Homes and Mental Nursing Homes Regulations, 1984 (S.I. 1984 No 1578) (as amended) – require persons registered to take adequate fire precautions in the home and to consult the fire authority for this purpose.

HOUSES IN MULTIPLE OCCUPATION

Housing Act 1985 (as amended by the Local Government and Housing Act 1989), sections 352, 365 and 368.

If a local authority believe that a house in multiple occupation is not provided with such means of escape and other fire precautions as the authority think necessary, they may serve notice specifying the work necessary to provide a proper means of escape and requiring work to be executed within a specified period. Before serving any notice, etc, relating to means of escape the local authority must consult the fire authority.

LICENSED PREMISES

Cinemas Act, 1985

An applicant for the grant or renewal of a cinema licence must give written notice of the application to the fire authority. The licensing authority may grant, renew or transfer a licence having regard to any observations made to them by the fire authority.

Gaming Act, 1968

Applications for grant or renewal of a licence are made to the licensing justices and the fire authority has a right to be heard on any application made.

Licensing Act, 1964 (as amended by the Licensing Act, 1988)

An applicant for grant or renewal of a justices' licence must give written notice of the application to the fire authority. Objections to the grant of a licence can be made by the fire authority on the basis of fire risk. In the case of licensed clubs, the fire authority has the right to make an objection to applications on the ground that 'the premises are not suitable and convenient for the purpose in view of their character and condition and of the size and nature of the club'.

Local Government (Miscellaneous Provisions) Act, 1982

An applicant for the grant or renewal of an entertainments license (for premises used for music, dancing and similar entertainments) has to notify the fire authority and, when considering the application, the licensing authority must have regard to any observations of the fire authority. This Act does not apply to London.

Theatres Act, 1968

The licensing authority may grant a licence on such terms and conditions as may be specified and, although conditions vary, they may relate to fire safety matters.

LOCAL ACTS

There are many local Acts in operation in various areas in England and Wales and some of these require consultation with the fire authority. The local authority will advise where these Acts apply.

PLACES OF SPORT

Safety of Sports Ground Act, 1975 (as amended by the Fire Safety and Safety of Places of Sport Act, 1987)

In London and the metropolitan counties, the local authority must send a copy of the application for a safety certificate to the fire authority and must consult then about the terms and conditions to be included in the certificate before it is issued. (Elsewhere, the copy must be sent to the building authority.)

SCHOOLS

Education Act, 1944 (as amended)

Schools maintained by local education authorities and grant-maintained schools are exempt from the Building Regulations by virtue of section 4 of the Building Act, 1984 (as amended).

However, education authorities and governing bodies of the grant-maintained schools must secure their compliance with the Education (School Premises) Regulations 1981 (S.I. 1981 No 909). Independent schools are not exempted from the operation of the Building Regulations. Also, under the Education (Particulars of Independent Schools) Regulations, 1982 (S.I. 1982 No 1730) the particulars of advice given by the fire authority on fire safety matters have to be declared in applications for registration of the school and in the annual return to the relevant Registrar.

APPENDIX E

STANDARDS AND GUIDES

British Standards and other sources of guidance which refer to fire safety in design, construction, and maintenance of buildings.

BRITISH STANDARDS

British Standard 5588:

Fire Precautions in the design and construction of buildings

- Part 1: 1990 *Code of practice for residential buildings*
- Part 2: 1985 *Code of practice for shops*
- Part 3: 1983 *Code of practice for offices*
- Part 4: 1978 *Smoke control in protected escape routes using pressurisation (under revision)*
- Part 5: 1991 *Code of practice for firefighting stairways and lifts*
- Part 6: 1991 *Code of practice for places of assembly*
- Part 7: — *Code of practice for atrium buildings (in preparation)*
- Part 8: 1988 *Code of practice for means of escape for disabled persons*
- Part 9: 1989 *Code of practice for ventilation and air conditioning ductwork*
- Part 10: 1991 *Code of practice for shopping complexes*
- Part 11: — *Code of practice for places of work (in preparation)*

HOME OFFICE GUIDES

1. *Series Guide to safety at sports grounds.*
HMSO. ISBN 0 11 341001 8, 1990. £4.95.
2. *Guide to fire precautions in existing places of work that require a fire certificate.*
HMSO. ISBN 0 11 340906 0, 1989. £6.50.
3. *Code of practice for fire precautions in factories, offices, shops and railway premises not required to have a fire certificate.*
HMSO. ISBN 0 11 340904 4, 1989. £3.50.
4. *Fire Safety at work (Management Guide for Places of Work).*
HMSO. ISBN 0 11 340905 2, 1991. £4.00.
5. *Guide to fire precautions in existing places of entertainment and like premises.*
HMSO. ISBN 0 11 340907 9, 1990. £8.50.
6. *Guide to fire precautions in premises used as hotels and boarding houses which require a fire certificate*
HMSO. ISBN 0 11 341005 0, 1991. £7.50.
7. *Fire safety management in hotels and boarding houses.*
HMSO. ISBN 0 11 340980 X, 1991. £4.50.
8. *Draft guide to fire precautions in hospitals.*
Home Office Fire Department. ISBN – none, 1982. £0.
9. *Draft guide to fire precautions in existing residential care premises.*
Home Office Fire Department. ISBN 0 86 252084 3, 1983. £0.

DEPARTMENT OF HEALTH

FIRECODE Documents:

Policy and principles; Nov. 1987
Directory; Nov. 1987

Health Technical Memoranda:

HTM81: *Fire precautions in new hospitals*

HTM82: *Alarm and detection systems*

HTM86: *Assessing fire risk in existing hospital wards*

HTM88: *Guide to fire precautions in NHS housing in the community for
mentally handicapped or mentally ill people*

Nucleus fire precautions recommendations

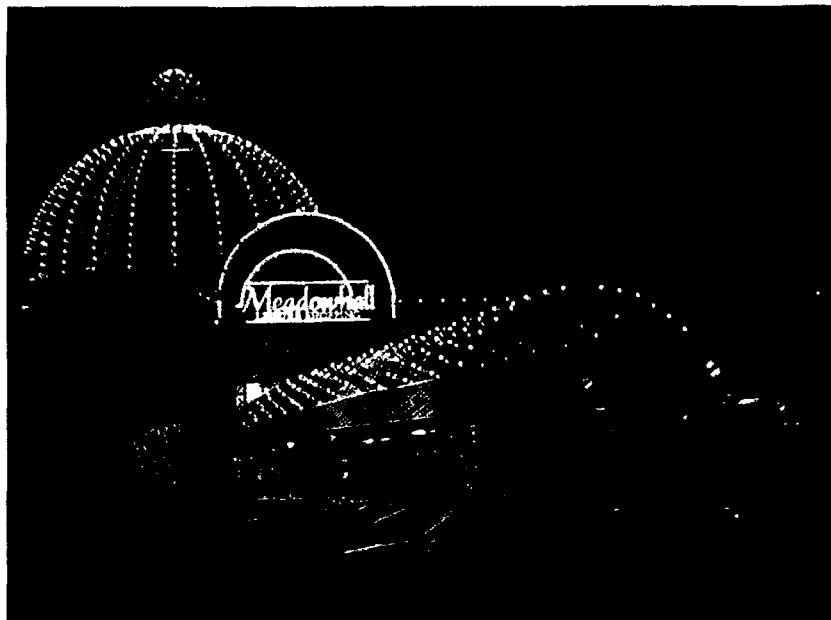
Fire practice Notes:

FPN1: *Laundries*

FPN2: *Storage of flammable liquids*

FPN3: *Escape bed lifts*

FPN5: *Commercial enterprises on hospital premises*



Front cover and above: Meadowhall Shopping Centre, Sheffield. An out-of-town development of 100,000m² sales area which required close liaison between building control, the fire authority and designers to achieve the appropriate fire safety standard.

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Building Regulations and Fire Safety Procedural Guidance



The Home Office



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

National Assembly for Wales



Department of the Environment, Transport and the Regions

February 2001

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Foreword

This guide has been prepared for:

- designers
- developers
- occupiers
- employers
- fire authorities
- building control bodies.

It explains the steps involved in approving the fire safety aspects of building work, and the interaction between Building Regulations and other statutory fire safety requirements in England and Wales.

If the procedures described in this guide are followed, developers and designers will be able to receive all the fire safety information relevant to Building Regulations and other statutory approvals, in time to avoid abortive work. Owners and occupiers will also benefit, as this process will generate the basis of their fire safety management procedures and risk assessment. ***There should be no need for extra building work to be done at the end of a building project, before the building can be occupied for its intended purpose.***

It is intended that all building control bodies and fire authorities should use the consultation procedures described in the guide as a model for arrangements they make, so that procedures will be similar throughout England and Wales.

The Department of the Environment, the Welsh Office, the Home Office and the Deregulation Unit of the Department of Trade and Industry issued the first edition of this guide jointly in 1992. This document is a revision of the original guide to take account of recent changes to fire precautions legislation and associated procedures.

Although this guide has no legal force the Department of the Environment, Transport and the Regions, the National Assembly for Wales and the Home Office would expect relevant bodies and authorities to follow its recommendations. The recommended procedures will be reviewed periodically and amended in the light of any changes in legislation.

Terminology

The following terms are used in the guide:

applicant – the person responsible for obtaining approval. In practice this is often the agent of the owner or developer, such as the architect, and it is used in this guide to include anyone acting for the applicant.

building control body – a term used to include both local authority building control and approved inspectors.

local authority – the local authority empowered to carry out the building control function and to enforce Building Regulations in their area by virtue of Section 91(2) of the Building Act 1984.

approved inspector – a corporate body or individual approved under Section 49 of the Building Act 1984 to carry out certain building control functions.

consultation – exchange of information and comment between organisations, such as building control bodies and fire authorities, which may include correspondence and face-to-face meetings.

fire authority – the authority discharging the functions of the fire authority under the Fire Services Act 1947 in the area in which the premises are, or will be, situated. In most cases the enforcement responsibilities of fire authorities is delegated to the fire brigade.

relevant use – means a use as a workplace of a kind to which Part II of the Fire Precautions (Workplace) Regulations 1997 applies or a use designated under Section 1 of the Fire Precautions Act 1971 (see appendix A).

Approved Inspectors Regulations – The Building (Approved Inspectors etc.) Regulations 2000 (S.I. 2000/2532, ISBN 0-11-099898-7, £6.30, The Stationery Office Ltd).

Building Regulations – The Building Regulations 2000 (S.I. 2000/2531, ISBN 0-11-099897-9, £4.50, The Stationery Office Ltd).

Workplace Fire Regulations – The Fire Precautions (Workplace) Regulations 1997 (S.I. 1997/1840, ISBN 0-11-064738-6, £3.20, The Stationery Office Ltd) as amended by the Fire Precautions (Workplace) (Amendment) Regulations 1999 (SI 1999/1877, ISBN 0-11-082882-8, £2.50, The Stationery Office Ltd).

SECTION 1 – INTRODUCTION

WHAT LEGISLATION APPLIES

- 1.1 This guide is mainly concerned with the Building Regulations which apply only in England and Wales. There is separate legislation covering building in Scotland and Northern Ireland. Appendices A, F, G and H give information on other legislation that applies to fire safety, including buildings in use. The main procedural points are covered in the step by step guide in section 2.

Building Regulations

- 1.2 The Building Regulations apply to building work as defined in regulation 3 of the Regulations. However, section 4 of the Building Act 1984 provides exemptions for some educational establishments (see appendix G) and some buildings belonging to statutory undertakers, the United Kingdom Atomic Energy Authority and the Civil Aviation Authority. Schedule 2 of the Building Regulations exempts various types of building according to their use or size. Buildings belonging to, or that are occupied by, the Crown authorities are also exempt.
- 1.3 Fire safety requirements are given in Part B of Schedule 1 to the Regulations. These cover means of escape, fire alarms, fire spread, and access and facilities for the fire service. Guidance on some ways of meeting the requirements is given in Approved Document B (Fire Safety).

Fire Precautions Act 1971

- 1.4 Premises put to the following uses:

- hotels or boarding houses
- factories
- offices
- shops
- railway premises

are designated, subject to certain exceptions, under Section 1 of the Fire Precautions Act 1971 (see appendix A), and will require a fire certificate (see appendix B) unless specifically exempted by the fire authority.

Workplace Fire Regulations

- 1.5 These Regulations apply to premises in which persons are employed (see appendix A). The fire authority is responsible for the enforcement of this legislation (with the exception of ships under construction or repair and any workplace, other than a building on the surface at a mine, to which the Fire Certificates (Special Premises) Regulations 1976 apply - see appendix G). By virtue of these Regulations the employer is required to undertake and continually review a fire risk assessment and implement appropriate precautions to ensure that the employees within the premises are not placed at risk from fire.

Parallel Application

- 1.6 Most (not all) buildings subject to the Fire Precautions Act are also subject to the Workplace Fire Regulations. Some may also be subject to other legislation imposing fire safety requirements. Most building work, and certain changes of use, involving buildings that are subject to fire precautions legislation will also be subject to the Building Regulations.
- 1.7 The frequent parallel application of the fire safety requirements of the Building Regulations and other legislation relating to fire precautions emphasises the need for consultation between the applicant and the administering bodies involved at the earliest opportunity.
- 1.8 If the consultation procedures described in this guide are followed there should be no need for extra building work to be done after the end of a building project before a building can be occupied for its intended purpose. This aim can only be achieved where all parties take a methodical joint approach to fire safety, whilst discharging their respective statutory duties and responsibilities.

THE DIVISION OF RESPONSIBILITY

- 1.9 There are two main bodies with whom designers, developers and occupiers of buildings may have dealings concerning fire safety: the building control body and the fire authority.
- 1.10 Building control bodies are responsible for checking on compliance with the requirements of the Building Regulations. The Regulations are concerned with building work and with material changes of use (which may give rise to requirements for building work) and the requirements for fire safety will apply to most buildings.
- 1.11 The fire authority is the enforcing authority for matters relating to fire safety under the Fire Precautions Act 1971, the Workplace Fire Regulations and either directly or indirectly other legislative controls which concern the safety of people in relation to the operation and use of certain buildings once occupied.
- 1.12 Building work that complies with the Building Regulations' requirements for fire safety will normally be satisfactory when the building is occupied. However, there may be risks associated with the specific operations of the occupier that would not be covered by Building Regulations. There is obvious practical value in taking these other fire safety matters into account in the design and construction phases, although the legislation only becomes applicable on occupation of the building.
- 1.13 During the design and construction phase of a project the building control body will check on compliance with the requirements of the Building Regulations. In order to facilitate the consultation process they should take a co-ordinating role with fire authorities and, where appropriate, with other regulatory bodies. Any recommendations and advice given should be channelled through the building control body to the applicant.
- 1.14 Once a building is occupied and in use the fire authority take on the co-ordinating role as they have the enforcement role for general fire safety matters under the Fire Precautions Act 1971 and the Workplace Fire Regulations. Licensing and registration authorities will also consult the fire authority about fire safety matters concerning premises that need to be licensed or registered. Fire authorities are not themselves generally the licensing or registration authority. Note that licensing/registration conditions are also likely to refer to matters other than fire safety. Appendix G summarises legislation under which licensing or registration may involve consultation on fire safety.

BUILDING REGULATIONS – COMPLIANCE IN GENERAL

- 1.15 It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. The Approved Documents associated with the Regulations give practical guidance on how to comply. The design and construction of building work is subject to checks by a building control body. Applicants can decide whether to apply to the local authority for building control or to appoint an approved inspector. The two systems of building control are detailed in the Manual to the Building Regulations.

Local Authority Building Control

- 1.16 Where the applicant chooses to use the local authority there will generally be a choice of two routes: the 'full plans' procedure, or the 'building notice' option. A 'full plans' application involves seeking formal approval of plans. Approval or rejection must be given within a five week time limit (or two months if the applicant agrees), and there is a facility to request a determination of disagreements from the Secretary of State (see appendix D). When a full plans application is made the applicant can ask the local authority for a completion certificate when the work is complete. A building notice, however, is simply given to the local authority at least two clear days before work begins. There is no associated right of appeal (other than to a magistrates' court) against any requirement the local authority may make, should they decide that there is a contravention when they inspect the work. If the building is to be put to a relevant use the **building notice** procedure cannot be used (see appendix A).

Approved Inspector Building Control

- 1.17 If an approved inspector is engaged the person intending to carry out the work and the inspector must jointly give to the local authority an initial notice. The local authority has five days in which to accept or reject the notice. If the local authority have neither accepted or rejected the notice by the end of that period, the notice is deemed to be accepted.
- 1.18 Once the notice has been accepted the approved inspector is responsible for supervising the work. If the applicant wishes to have detailed plans of the work certified as complying with the Building Regulations, and the approved inspector is satisfied with the plans, a plans certificate will be issued to the applicant and the local authority by the approved inspector. There is a facility to request a determination of disagreements from the Secretary of State (see appendix D). When the work is complete the approved inspector must give the local authority a final certificate.

RISK ASSESSMENT AND THE WORKPLACE FIRE REGULATIONS

- 1.19 By virtue of the Workplace Fire Regulations employers are required to carry out a fire risk assessment of their workplace. This must consider all employees and all other people including the public and persons with special needs who may be affected by a fire and may be present in the premises. (Detailed guidance on compliance with these regulations is contained in "Fire Safety – An Employers Guide" published by HSE Books – ISBN 0-11-341229-0).

- 1.20 Although these Regulations are applicable to a workplace whilst in operation it would be useful for the designers of a building to carry out at least a preliminary risk assessment as part of the design process. The level of detail of this assessment will vary depending on the amount of information available to the designer and whether or not the eventual occupier of the building is known at the design stage.
- 1.21 If a preliminary risk assessment is produced it can be used as part of the Building Regulations submission and can assist the fire authority in providing advice at an early stage as to what, if any, additional provisions may be necessary when the building is first occupied. It will also assist employers when developing the full risk assessment for the purposes of the Workplace Fire Regulations, and it will act as a record of the rationale behind the fire safety design of the finished building.
- 1.22 It is fundamental to the principle of the Workplace Fire Regulations that fire precautions will usually need to change and evolve with the building throughout its life. Risk assessments should be kept constantly under review to make sure that precautions are adequate and effective.

OCCUPIED BUILDINGS

- 1.23 Responsibility for ensuring that a building, once occupied, is provided with appropriate fire safety arrangements rests with the occupiers, owners and employers, according to the circumstances. It is therefore essential that, when occupying new buildings or existing buildings that have had building works completed, or when contemplating alterations or extensions to existing buildings, occupiers (and owners/employers where appropriate) ensure that the fire safety arrangements in place are adequate and meet the requirements of any relevant enforcing authority (see appendices A, B and G).
- 1.24 Ensuring that these responsibilities are met is achieved through a number of different systems, enforced by one or more statutory authorities, which may involve the certification, licensing or registration of the premises concerned. It is possible that a building will be subject to more than one set of regulations, or other legislation, relating to fire safety and that more than one enforcing authority may be involved.
- 1.25 However, with the exception of most dwellings and a small number of other cases, the fire authority will have a primary enforcement responsibility, or a responsibility for advising the enforcing authority concerned. The fire authority's responsibilities are contained in a number of different pieces of legislation. These range from the direct enforcement responsibilities contained in legislation such as the Workplace Fire Regulations and the Fire Precautions Act 1971, to that of statutory consultee/advisor to the enforcing authority contained in such legislation as the Registered Homes Act 1984 and the Licensing Act 1964.
- 1.26 It is therefore recommended that occupiers (and owners or employers where appropriate) who are unsure what legislation applies to their building, or who require advice on the fire safety arrangements made, contact the fire authority for the area concerned. On being contacted the fire authority will advise on the legislation that, in their opinion, applies to the premises concerned and the appropriate enforcing authorities. In those cases where the fire authority has a direct or advisory role they will advise on the procedures that should be followed and the fire safety arrangements that should be in place or maintained.

- 1.27 When considering the fire safety provisions for the building in use the fire authority will have regard to the risk assessments that were undertaken as part of the design and approvals processes and by the employer under the Workplace Fire Regulations, and the building control body's completion of final certificate. The consultation between the designers/applicant, the building control body and the fire authority, and the recording of risk assessments and other relevant information, throughout the design and approval process should ensure that the subsequent need for a variation in the fire safety arrangements provided is avoided, or kept to a minimum.
- 1.28 Additional fire safety arrangements should only become necessary because of factors identified on occupation of the building that were not made known, or were unknown, at the time of the building regulation approval and consultation process. It is, therefore, essential that the fire authority is fully consulted on all relevant matters and that their advice on the fire safety arrangements for the building when in use is incorporated, if appropriate, into the final building design.
- 1.29 If in the effort to achieve an acceptable fire safety package the views of the fire authority and the building control body differ, and cannot be resolved, the building control body should ensure that the applicant is fully aware of the possibility that the fire authority may require additional works on occupation of the building (see 2.17.1).

CONSULTATION

- 1.30 When a building is likely to be used for a purpose that is subject to the fire safety requirements of other legislation, consultation between the relevant bodies is an essential part of the building control procedure. Whilst there are clear distinctions of jurisdiction between building work and an occupied building it is often impossible when considering the overall level of safety in a building to separate physical fire safety measures and the way in which the building will be managed when occupied. This guide describes the statutory consultations that fire authorities and building control bodies are obliged to carry out. It also indicates where discussions may be needed to consider fire safety proposals at an earlier stage than those required for statutory consultation so as to keep all parties informed and avoid delays. These discussions may be between the applicant and the building control body only, or they may also involve the fire authority.
- 1.31 Where a building control body is formally engaged in checking the compliance of building work with the Building Regulations and the building in question is to be put to a relevant use there will be statutory requirements to consult the fire authority at certain stages of the process.
- 1.32 These consultations are necessary so that the fire authority is aware of the erection or alteration of buildings in which they may have a direct or indirect interest or responsibility. They also provide an opportunity to make the applicant aware of action that may have to be taken on non-building regulation matters in order to satisfy any other fire safety legislation once the building is occupied.
- 1.33 Fire authorities and building control bodies will often hold useful information relating to the design of existing buildings. The consultation process provides an opportunity to share this information with the other parties.

- 1.34 There may be occasions where more than one building control body is dealing with different building work within the same building. In these circumstances it would be advisable for them to consult with each other, as necessary, to avoid any conflict that might otherwise arise.
- 1.35 The nature and timing of consultations are described in detail in section 2.
- 1.36 Consultation with all relevant parties can also help to achieve consensus where alternative technical solutions may be available, such as during the specification of fire detection and fire alarm systems. As an example, a fire risk assessment, agreed by the relevant parties, may assist in determining the fitness for purpose of alternative means of providing a fire alarm e.g. a shouted warning or a simple electrical alarm or a fault monitored electrical alarm. Effective decisions made at the specification stage can save considerable rectification costs if corrective action proves necessary after completion of the building work.
- 1.37 There are also circumstances where a fire authority, in the course of its own statutory activities, would consult building control bodies. Such circumstances include consultation under the Fire Precautions Act 1971 (Section 17) prior to serving a “steps notice” (see B4 appendix B), or under the Workplace Fire Regulations (regulation 13(5)) prior to the serving of an “enforcement notice” which would oblige a person to make an alteration to a building.

CONSULTATION – OTHER LEGISLATION

Local Acts

- 1.38 There are provisions in other primary legislation, and in some places in Local Acts (see appendix H) which require consultation to take place between local authorities and fire authorities. This guidance should also be used in those instances. Under regulation 13(6) of the Approved Inspectors Regulations an approved inspector must consult the fire authority if a Local Act would have required the local authority to do so, had they been undertaking the building control function. The applicant should check with the building control body to see whether there are any Local Acts in force. These Acts are usually enforced by the local authority only.

Premises Subject To Licensing Or Registration

- 1.39 Many premises are controlled through a licensing procedure in which fire safety matters are an important concern. Where plans are submitted to the building control body for new buildings, or alterations or extensions, which may be subject to licensing or registration, the building control body should consult all interested parties (see appendix G).

Buildings that may require registration or licensing could include:

- Residential/Nursing Care Homes
- Hospitals
- Boarding Schools
- Public Houses
- Places of Entertainment
- Night-clubs

- Nurseries
- Sports Grounds
- Places of Marriage
- Houses in Multiple Occupation
- Petroleum Filling Stations.

Special Premises

- 1.40 The Health and Safety Executive has enforcement responsibilities under the Fire Certificates (Special Premises) Regulations 1976 for general fire precautions in special premises (premises such as nuclear installations, explosives factories and magazines or where hazardous substances are stored or used in quantities above specified limits).

SECTION 2 – THE APPROVALS PROCESS STEP BY STEP

- 2.1 This section describes the consultation procedures that should be followed at different stages of the building control process.
- 2.2 During these stages the building control body is the co-ordinating authority, as explained above, and their consultation with the fire authority is crucial. It is very important that all parties should respond within agreed timescales, and that they should play an active part in maintaining good communications.
- 2.3 The consultation process should be conducted to ensure that both the building control body and the fire authority fulfil their roles in an efficient and cost-effective way. Where local arrangements exist which already fulfil the aims of this guide it may not be necessary to adopt all the procedures suggested here.
- 2.4 The plans approval process is likely to be delayed if designs are presented without prior consideration of fire safety. Where local authorities undertake building control there are statutory time limits on the period for consideration of plans and so delays may lead to rejection of plans. Throughout this guide it is assumed that applicants are conversant with technical aspects of fire safety and its regulation, or that they employ professional advisors who have this knowledge. **Whilst early and effective consultation is strongly recommended, the advice given by the building control body and the fire authority does not extend to design consultancy.**

The left-hand column describes actions of direct concern to the designer or applicant. The right hand column provides commentary or describes actions which are of less direct concern to the applicant. Although the process is presented in a chronological sequence this may vary in practice, and some of the stages will be not be relevant in all cases.

PRELIMINARY DESIGN STAGE ADVICE AND CONSULTATION

2.5 At the early stages of a project the designer may wish to seek advice about the fire safety aspects of the scheme. Involving building control bodies and fire authorities at an early stage can often result in reduced costs for the applicant. However the advice given by the building control body and the fire authority does not extend to design consultancy. The designer's first approach should preferably be to the building control body.

2.5.1 Whatever body is contacted first should determine, as far as it is able, which other authorities or bodies are likely to have an interest and inform the applicant of the necessary application or consultation procedures. Therefore, at the earliest opportunity the applicant should be informed of the likely interest of the other organisations and the necessary application or consultation procedures.

2.5.2 In responding to an independent approach from a designer or occupier, for goodwill advice under the Fire Services Act 1947 (see appendix F), the fire authority should point out that in respect of the Building Regulations, or other legislation for which they are not directly responsible, they can offer only informal opinions. They should refer the applicant to a building control body, and where appropriate other enforcing authorities, for guidance on what may be required to meet the legislation for which those bodies or authorities are responsible.

2.5.3 Any advice the fire authority do give should be in writing and should clearly indicate which matters in their opinion:

- will have to be complied with under the Fire Precautions Act 1971 or the Workplace Fire Regulations when the building is occupied.
- will have to be complied with to meet other fire safety legislation.
- are only advisory and not enforceable under legislation. A copy of the advice should be sent to the local authority and the approved inspector where it is known that a relevant initial notice is in force.

2.6 If the building or part of the building is to be put to a relevant use the fire authority will have powers that may influence the design of the building (see appendix A).

2.7 In such cases, if there are aspects of the design which follow an unusual or complex approach to fire safety, it may be desirable for the designer to request a joint meeting with the fire authority and the building control body.

2.8 At this meeting the building control body should take the co-ordinating role. A record of the main points of the meeting should be circulated to all parties, which clearly distinguishes between:

- building regulation requirements
- fire certification requirements
- requirements of any other fire legislation
- advice which is not enforceable under legislation.

STATUTORY CONSULTATION

2.9 Where a building is to be put to a relevant use, building control bodies are required to consult with the fire authority at certain stages within the process as prescribed by legislation.

2.9.1 *Whilst the legislation and associated procedures for local authorities and approved inspectors may be different the purpose of consultation is the same, that is to seek the comments of the fire authority regarding the fire precautions that will be necessary to meet the legislation (other than the Building Regulations) that will apply to the building once it is in use. This should allow them to reach mutually compatible views on whether plans and building work are satisfactory from the standpoints of the Building Regulations and of fire precautions legislation.*

Note

*In addition to giving such comments the fire authority may wish to offer **observations** to the building control body in relation to the Building Regulations. These should be clearly and separately identified.*

2.9.2 *Consultation also provides the opportunity for the fire authority and the building control body to make recommendations regarding the provision of fire precautions that it believes would be advisable but that are not required by legislation.*

2.10 Even if there is no formal requirement to consult, consultation may still be desirable in many cases such as:

- where the building control body proposes to accept measures which are unusual or complex and/or
- where the size or location of the development might have implications for the disposition of fire service resources.

2.11 To facilitate consultation the building control body will need two extra copies of those drawings that demonstrate compliance with Part B. In some cases the two extra copies will be needed for statutory consultation purposes. In cases where no statutory consultation is involved the local authority or approved inspector may still choose to consult the fire authority. In either case the two extra copies allow the fire authority to keep a set of drawings while returning the other to the building control body, marked up with any comments.

2.12 Where plans are deposited with a local authority for approval and the intended use of the building is a relevant use the local authority is required to consult with the fire authority under section 16 of the Fire Precautions Act before passing or conditionally passing the plans.

2.13 Where approved inspectors have been appointed and the intended use of the building is a relevant use they are required to consult with the fire authority before or as soon as is practicable after issuing an initial notice and before giving a plans certificate or final certificate to the local authority.

2.11.1 Under regulation 14 of the Building Regulations if plans are being submitted to a Local Authority for building work to which Part B of Schedule 1 to the Building Regulations is applicable, unless the building concerned is a house or flat, two extra copies of those plans which demonstrate compliance with Part B are required to be provided by the applicant for consultation purposes.

2.11.2 Under regulation 13 of the Approved Inspectors Regulations, an approved inspector, when consulting in relation to an initial notice, must provide the fire authority with a set of plans which demonstrate compliance with Part B. When consulting in relation to a plans certificate an approved inspector must provide the fire authority with a copy of all the plans to which the certificate will relate. Approved inspectors will need to make arrangements to ensure that sufficient copies are available.

2.12.1 Section 16 of the Building Act allows local authorities 5 weeks, or 2 months if agreed in writing, to pass or reject plans. Fire authorities must, therefore, respond in good time (see 2.16).

2.13.1 Approved inspectors may not give a plans certificate or final certificate until 15 working days have elapsed from the date on which they consulted with the fire authority, unless the authority have replied before the end of the 15 days (regulation 13 of the Approved Inspectors Regulations).

2.14 If the building control body is not satisfied that the proposals comply with Building Regulations, they may send the applicant a list of amendments or additional information considered necessary. They will not normally consult the fire authority until they are reasonably satisfied that compliance with Building Regulations is shown. If the deficiencies are minor they may decide to proceed with consultation, attaching a copy of their list of the necessary amendments (clearly identified as such) with the information they send the fire authority.

2.15 Once the building control body is reasonably satisfied that the proposals comply with the Building Regulations they will send to the fire authority two copies of drawings which relate to compliance with Part B, i.e. which identify the intended physical fire precautions, together with any supporting documentation they consider useful. That might include correspondence they have had with the applicant. It may also be helpful at this point for the building control body to advise the fire authority of any unusual aspect of the design.

2.16 The fire authority should make its observations to the building control body in writing and within agreed timescales (usually within 15 working days) so that the building control body can meet its own obligations.

2.17 The fire authority's comments must clearly distinguish between matters:

- which will have to be complied with under the Fire Precautions Act 1971 or considered under the Workplace Fire Regulations when the building is occupied.
- which will have to be complied with to meet other fire safety legislation other than Building Regulations.
- which are only advisory and not enforceable under legislation (see appendix F).

Note

In addition to giving such comments the fire authority may wish to offer observations to the building control body in relation to the Building Regulations. These should be clearly and separately identified.

2.14.1 *If the proposals need substantial amendment or the information provided is inadequate then the process may be delayed. It is therefore very important that the application shows that full account has been taken of Part B's requirements, if such delays are to be avoided.*

2.14.2 *In some cases a local authority may be prepared to consider relaxing or dispensing with a requirement under regulation 11 of the Building Regulations in which case additional consultation may be required (see appendix E).*

2.15.1 *Building control bodies should time their consultations and provide such information to the fire authority as necessary to satisfy the purpose of the consultation (see 2.9.1).*

2.15.2 *If the building control body is aware of any information that may assist the fire authority or if they have given goodwill advice on additional precautions that are advisable but not enforceable under legislation (see appendix F) then the building control body should include this information with the consultation documents.*

2.17.1 *If in the effort to achieve an acceptable fire safety package the views of the fire authority and the building control body differ, the building control body should seek to resolve the matter quickly and simply. Failing this the fire authority should indicate its views in a formal written case to the building control body, who should, if necessary, convene a meeting to achieve consensus.*

2.17.2 *In the exceptional event that the fire authority and building control body cannot agree, the DETR, in consultation with the Home Office, is prepared to give informal advice where it is approached jointly by both parties. Any approach to the Department should be in writing and should include a statement of the case from each party taking into account all relevant legislation.*

2.18 The building control body must have regard to the fire authority's comments before reaching its decision on plans or in the case of an approved inspector before deciding on a final or plans certificate. In giving their decision building control bodies should include a copy of any comments from the fire authority (see 2.22).

APPROVAL OF PLANS

2.19 Having plans approved by either the local authority or certified by an approved inspector can give protection from enforcement action where the approved plans have been followed.

2.20 When, after any necessary consultations with the fire authority, the building control body is satisfied that the plans comply with the requirements of Building Regulations they may issue a notice or certificate approving the plans.

2.21 If a statutory consultation was involved, the building control body should also send a copy of the notice or certificate (or some other mutually acceptable written notification) to the fire authority.

2.22 The building control body should supply the applicant with a copy of the comments and advice generated by the fire authority described in paragraph 2.17.

2.18.1 Although fire authorities should make their observations in writing the fire authority's comments in whatever format will be of interest to the applicant and should be passed on by the building control body.

2.19.1 A local authority cannot give a notice under Section 36 of the Building Act 1984 requiring alterations if building work conforms to plans that have been approved by the local authority. In cases where an initial notice ceases to be in force without a final certificate having been given, the local authority may not give a notice under Section 36(1) in relation to work that conforms to plans that are the subject of a plans certificate issued by the approved inspector.

2.20.1 Where a full plans application has been submitted to a local authority they must issue a decision notice within the statutory time limit. They may reject the plans, approve them or issue a conditional approval.

2.20.2 In cases where an approved inspector is undertaking building control, if an applicant requests a plans certificate, the approved inspector must give one if the approved inspector is satisfied that the plans comply with the Building Regulations (see 2.13.1).

2.22.1 In the exceptional event that the fire authority propose to require physical changes in plans or work that are beyond the requirements of the Building Regulations the building control body should make the applicant aware.

AMENDED PLANS

2.23 On many projects the design of the building will change during both the design and construction stages. Plans may be amended a number of times before and after the statutory consultation stage is reached. If the applicant submits amended plans, following a statutory consultation and before or after the plans are approved, because of changes relating to fire safety made to the scheme, the building control body should, as a matter of good practice, consult the fire authority, even if no question arises of formally approving plans.

2.24 Where an approved inspector has been appointed some proposed changes in a building project may require the giving of an amendment notice to the local authority, altering the description of the work given in the original initial notice. The approved inspector will then need to formally consult with the fire authority again, under regulation 13 of the Approved Inspectors Regulations, if work introduced by the amendment notice concerns a building to be put to a relevant use and is subject to Part B requirements.

2.23.1 The fire authority should be sent two copies of amended plans, one to put comments on and one to keep. Any comments from the fire authority should be in writing, and should follow the format described in paragraph 2.17, and should be relayed to the applicant by the building control body.

2.24.1 The procedures for statutory consultation detailed above should be followed. It may be possible to streamline this procedure if the fire authority has been kept up to date during the design process.

CONSTRUCTION

2.25 As work proceeds the building control body may make inspections as appropriate.

2.26 The purpose of these inspections is to assess the works as they progress with regard to compliance with the Building Regulations, which relate to fire safety and other requirements of the Building Regulations for the **finished building only**.

2.27 Building Regulations do not address the risk of fire during the construction work, which is covered by the Construction (Health, Safety and Welfare) Regulations 1996.

2.27 HSE have issued the following fire safety guidance on these regulations: Construction information Sheet No 51 Construction Fire Safety; and HSG 168 Fire safety in construction work (ISBN 0-7176-1332-1).

2.28 When construction work is being carried out on an existing building which, apart from the construction site part of the building, remains occupied, the fire authority are responsible for the enforcement of the Construction (Health, Safety and Welfare) Regulations in respect of fire. Where the building is unoccupied, the Health and Safety Executive are responsible for enforcement.

2.28.1 *The fire authority enforces parts of the Construction (Health, Safety and Welfare) Regulations relating to fire safety matters in existing buildings undergoing construction works. As a result fire authority officers may, from time to time, inspect premises undergoing works of construction to ensure that the fire safety provisions and measures are and remain adequate for the risk presented.*

COMPLETION

2.29 Whilst this section logically falls before occupation it is not unusual for a building to be either fully or partly occupied before it is formally recognised as complete. Paragraphs 2.36 to 2.41 give guidance on the occupation of buildings.

2.30 The applicant should notify the building control body that the building work is complete.

2.30.1 *Where a local authority is supervising the work regulation 15(4) of the Building Regulations requires that the local authority should be notified of the completion of the building work not more than 5 working days after completion. Approved Inspectors should advise the applicant what notification arrangements should be followed.*

2.31 At this stage the applicant should produce an updated risk assessment and drawings to record the fire safety provisions included in the building design.

2.31.1 *Whilst it is not a statutory requirement to produce "as built" information, it will often be in the client's best interests to do so. These benefits are illustrated in paragraphs 1.19 to 1.22.*

2.32 If the building control body is satisfied that the work complies with the requirements of the Building Regulations, they should issue either, in the case of a local authority, a completion certificate or, in the case of an approved inspector, after consultation with the fire authority a final certificate.

2.32.1 *There is no obligation on a local authority to issue a completion certificate unless one has been formally requested, or unless the building will be put to a relevant use.*

2.32.2 *Approved inspectors must give the local authority a final certificate following completion of the work, if satisfied that the work complies with the applicable requirements of the Building Regulations. Approved inspectors are subject to a statutory time limit for the issue of a final certificate starting from occupation (see 2.37.2).*

2.33 Approved inspectors must consult with the fire authority before issuing a final certificate (regulation 13 of the Approved Inspectors Regulations). Local authorities, as a matter of good practice, may also consult at this stage. Such consultations need not necessarily involve additional plans.

2.34 The building control body should send a copy of the completion/final certificate to the fire authority including where available a copy of the risk assessment and/or “as built” record drawings.

2.35 If, having been notified of completion, the building control body cannot issue a completion certificate or final certificate, they should explain, in writing, why this is so.

2.34.1 *The fire authority should have regard to the completion/final certificate when considering an application for a fire certificate or reviewing the fire safety provisions of an occupied building under the Workplace Fire Regulations or other fire safety legislation.*

2.35.1 *A copy of this explanation should be sent to the fire authority where fire issues are involved. If necessary the fire authority and the building control body should meet to discuss any inadequacies that are thought to exist in the means of escape or structural fire precautions and consider what options are available for advice or enforcement.*

OCCUPATION

2.36 Prior to occupying the building the owner/employer must ensure that where relevant the following statutory obligations are met.

Building Regulations

2.37 If it is proposed to occupy a building where a Building Regulations completion or final certificate has not been issued (see 2.29 to 2.35) by the building control body then the building control body must be notified of the timing and extent of the occupation in advance.

2.37.1 *Where a local authority is supervising work involving the erection of a building, regulation 15 of the Building Regulations requires the applicant to give the local authority at least 5 working days prior to occupation. In accordance with Section 92 of the Building Act 1984 any such notice should be in writing.*

2.37.2 *Where an approved inspector is engaged and an initial notice relates to the erection, extension or material alteration of a building that is to be put to a relevant use and the building (or relevant part) is occupied and no final certificate is given, the initial notice will cease to have effect after a grace period of 4 weeks (8 weeks for non relevant uses) and building control will usually revert to the local authority, unless the local authority agree to extend the period.*

Workplace Fire Regulations

2.38 If the building is a workplace (see appendix A) the employer must have completed the fire risk assessment and the provisions required to address the identified risks must be in place.

2.38.1 *There is no period of grace for employers to produce their risk assessment. The documentation and any necessary safety measures must be in place on the first day that the building is occupied.*

2.38.2 *There may be additional risks associated with the logistics of moving an organisation into a new building that should be addressed by the employer.*

2.39 If the design has produced a risk assessment as part of the design and approvals process this may form the basis of the employer's assessment.

Fire Precautions Act

2.40 If the building is being put to a use where a fire certificate is required (see appendix A) the application for the certificate must be with the fire authority before occupation.

2.40.1 *Whilst there is a statutory requirement for the application for a fire certificate to be made there is no need for a fire certificate to be in place before a building is occupied. There is however, a statutory duty which falls upon the owner/occupier to maintain certain fire safety measures in the period between a fire certificate being applied for and being issued. Similarly the Workplace Fire Regulations may also apply, in which case the employer must carry out a fire risk assessment.*

Licensing and Local Acts

2.41 If the proposed building is subject to a licence or a local Act there may be conditions applicable to occupation of the building (see appendices G and H).

2.41.1 *If in doubt the fire authority is a useful source of advice as to the applicability of fire safety, licensing and local legislation.*

APPENDIX A – RELEVANT USES

BUILDING REGULATIONS

- A.1 For the purposes of the Building Regulations and the Approved Inspectors Regulations a “relevant use” is defined as meaning use as a workplace to which Part II of the Workplace Fire Regulations applies or a use designated under section 1 of the Fire Precautions Act 1971.

FIRE PRECAUTIONS ACT 1971

- A.2 The use of certain types of premises has been designated by the Secretary of State as requiring a fire certificate under the Fire Precautions Act. There are two designating orders in force in Great Britain.
- A.3 The first designation order requires a fire certificate when premises are used as a hotel or boarding house which will provide sleeping accommodation for more than six people (whether staff or guests), or if they provide any sleeping accommodation for staff or guests elsewhere than on the ground or first floors of the premises.
- A.4 The second designation order requires that a fire certificate must be applied for when more than 20 people are at work at any one time in a factory, office, shop or railway premises, or more than 10 are at work at any one time elsewhere than on the ground floor.
- A.5 In buildings in multiple occupation containing two or more similar premises, a certificate must be sought when the aggregate number of people exceeds the totals in either A3 or A4 above.
- A.6 Fire certificates are also required for factory premises (these may include certain warehouses) where explosive or highly flammable materials are stored or used in or under the building, regardless of the number of people at work, unless the fire authority has determined otherwise.
- A.7 The fire authority may exempt premises from the certification requirement if they consider them to be of low risk.

WORKPLACE FIRE REGULATIONS

- A.8 Part II of the Fire Precautions (Workplace) Regulations 1997 applies (subject to certain exceptions) to any premises or part of a 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.

CONSULTATION

- A.9 Regulation 17(3)(a) of The Workplace Fire Regulations modifies section 16 of the Fire Precautions Act 1971 to the effect that references there to “a designated use” shall include reference to use as a workplace.

- A.10 The amendment of section 16 of the Fire Precautions Act 1971 does not have the effect of extending the requirement to apply for a fire certificate, which remains unchanged.
- A.11 Under regulation 12(3) of the Building Regulations, the “building notice” procedure identified in regulation 12(2)(a) cannot be used in respect of any proposed building work relating to a building to be put to a relevant use. Therefore in the case of work to a building which is to be put to any such use, full plans must be deposited, if the local authority system is selected. The local authority must then consult the fire authority in accordance with Section 16 of the Fire Precautions Act 1971 (as amended).
- A.12 The consultation requirements in regulation 13 of the Approved Inspectors Regulations are likewise tied to the concept of relevant use.

APPENDIX B – FIRE CERTIFICATE

- B.1 The intending occupant or owner of a building must apply to the fire authority for a fire certificate before any premises are put to a use for which a fire certificate is required (see appendix A). The fire authority is required to carry out an inspection.
- B.2 If, following the inspection, the fire authority is satisfied that the means of escape from fire and related fire precautions in the premises concerned are such as may reasonably be required in the circumstances of the case, it must issue a fire certificate.
- B.3 The consultation process should ensure that the building can be certificated without further work. But if the fire authority is not satisfied that the fire precautions meet the requirements of the Fire Precautions Act 1971 it will, subject to the restrictions of the statutory bar (see appendix C) serve a notice on the applicant for the fire certificate requiring steps to be taken to rectify matters, and specifying the time for completion of those steps.
- B.4 Under Section 17 of the Fire Precautions Act 1971 the fire authority will consult the local authority before serving a notice if alteration work is required. Generally this consultation entails sending a copy of the proposed notice to the local authority. Where the fire authority is aware that an initial notice is in force with respect to the building, or that part of the building, to which the notice relates it may be appropriate to additionally consult the approved inspector.
- B.5 The fire certificate, or in the case of premises forming part of a building in multiple occupation, a copy of the certificate must be kept in the premises to which it relates. It is an offence not to keep the fire certificate in the premises.
- B.6 The fire certificate will specify:
- a the use(s) of the premises covered by the fire certificate.
 - b the means of escape in case of fire.
 - c the means for ensuring that the means of escape can be safely and effectively used at all material times (this would cover such matters as measures to restrict the spread of fire, smoke and fumes, escape lighting and directional signs).
 - d the type, number and location of the means for fighting fire (whether in the premises or affecting the means of escape) with which the relevant building is provided.
 - e the type, number and location of the fire alarms.
 - f in the case of factories, particulars of any explosive or highly flammable materials which may be stored or used in the premises.
- B.7 The certificate may include a plan showing any of the above.

- B.8 The fire authority may also decide to incorporate any of the following requirements in the fire certificate:
- a that the means of escape are properly maintained and kept free from obstruction.
 - b that everything covered in (c), (d) and (e) in paragraph B6 is properly maintained.
 - c that all employees are given appropriate training in what to do in case of fire, and that records are kept of that training.
 - d that the number of people who may be in the premises at any one time do not exceed a specified limit.
 - e other precautions to be observed in relation to the risk from fire to persons in the premises.
- B.9 The Occupier (or owner in the case of multi-occupied buildings) of premises for which a fire certificate is in force, or where an exemption from the requirement to hold a fire certificate has been granted by the fire authority, has a duty to inform the fire authority of any proposed change of use and of any structural alterations or extensions.
- B.10 If any of these changes are 'building work', as defined by the Building Regulations, an application should be made to a building control body and the procedures for consultation set out in section 2 should be followed.

APPENDIX C – THE STATUTORY BAR

- C.1 The statutory bar applies to new or refurbished buildings, where plans have been approved under Building Regulations or an approved inspector's initial notice has been accepted and where the fire authority deem that the building requires a fire certificate under the Fire Precautions Act.
- C.2 Plans should have been sent to the fire authority via the building control body. Having been consulted by the building control body the fire authority under the Fire Precautions Act 1971 cannot then require further fire safety measures for means of escape in the building on occupation, i.e. the statutory bar is applied.
- C.3 However, if the fire authority is satisfied that the fire precautions are inadequate by reason of matters, relating to means of escape in case of fire, that were not subject to a Building Regulations approval or were not known at the time of approval, then the fire authority is not barred from making requirements.
- C.4 The statutory bar does not apply to any requirements of the Workplace Fire Regulations. This reflects the need for flexibility in fire precaution assessments to evolve within the building throughout its life cycle. Fire risk assessment should be continually reviewed to ensure that the employees within the premises are not placed at risk from fire.
- C.5 In practical terms in all but a few premises the statutory bar has ceased to be of effect. This makes it all the more important that consultation between building control bodies and fire authorities should result in a consensus on the fire safety aspects of building work at the earliest possible stage during the design and execution of a building project.

APPENDIX D – DETERMINATION

- D.1 If the applicant and a building control body disagree about whether plans of proposed work are in conformity with Building Regulations, the applicant can seek a determination of the question from the Secretary of State under either Section 16(10)(local authorities) or Section 50(2)(approved inspectors) of the Building Act 1984
- D.2 An application for a determination should be sent to the Department of the Environment, Transport and the Regions (or in Wales, to the National Assembly for Wales) who will charge a fee of half the relevant plans charge subject to a minimum of £50 and maximum of £500. The applicant should explain why they consider the proposal does comply, accompanying the statement of case with relevant drawings and a copy of any rejection notice.
- D.3 There is no similar provision for determination by the Secretary of State under the Fire Precautions Act or the Workplace Fire Regulations.

APPENDIX E – DISPENSATION – STATUTORY CONSULTATION

E.1 The local authority is obliged by Section 15 of the Building Act 1984 to consult the fire authority before relaxing or dispensing with a requirement of Building Regulations that relates to:

- structural fire precautions
- the provision of means of escape from buildings in case of fire
- the provision of means for securing that such means of escape can be safely and effectively used at all material times.

E.2 Local authorities should also consult with the fire authority where they intend to relax or dispense with requirement B5 (access and facilities for the fire service).

E.3 The consultation should follow the form described in section 2 with the fire authority responding in writing.

APPENDIX F – FIRE SERVICES ACT, 1947

F1 Section 1(1)(f) of this Act has particular relevance to this guide. It requires every fire authority to secure efficient arrangements for giving, when requested, advice in respect of buildings in the area of the fire authority as to:

- fire prevention
- restricting the spread of fire
- means of escape in case of fire.

F2 During the consultation process a fire authority may offer goodwill advice to applicants that is not enforceable under legislation. It is important that this advice is clearly differentiated from advice relating to statutory requirements and that the benefits of adopting the advice is clearly explained.

APPENDIX G – OTHER RELATED LEGISLATION

Premises where other legislation requires notice to or consultation with the fire authority:

ANIMAL ESTABLISHMENTS

- Pet Animals Act, 1951
- Animal Boarding Establishments Act, 1963
- Riding Establishments Act, 1964 (as amended)
- Breeding of Dogs Act, 1973
- Zoo Licensing Act, 1981.

These premises are controlled by a licensing system operated by local authorities and, in any decision to grant a licence, the licensing authority is obliged to have regard to the protection of animals in case of fire or in an emergency.

CHILDREN'S HOMES

- Children Act, 1989.

Provision is made in Schedules 4, 5, 6, 8 and 9 for the making of Regulations covering fire safety in community homes, voluntary homes, registered children's homes, privately fostered children's accommodation and premises providing child minding and day care for young children. Regulation 14 of The Children's Homes Regulations 1991 (S.I. 1991/1506) makes various requirements of responsible authorities in relation to fire precautions.

ELDERLY AND DISABLED PERSONS HOMES

- Registered Homes Act 1984 (as amended by the Registered Homes (Amendment) Act 1991).

Regulations made under this Act – The Residential Care Homes Regulations 1984 (S.I. 1984/1345) and The Nursing Homes and Mental Nursing Homes Regulations, 1984 (S.I. 1984/1578)(as amended) – require persons registered to take adequate fire precautions in the home and to consult the fire authority for this purpose.

HOUSES IN MULTIPLE OCCUPATION

- Housing Act 1985 (as amended by the Local Government and Housing Act, 1989) sections 352, 365 and 368.

If a local authority believe that a house in multiple occupation is not provided with such means of escape and other fire precautions as the authority think necessary, they may serve notice specifying the work necessary to provide a proper means of escape and requiring work to be executed within a specified period. Before serving any notice etc. relating to means of escape the local authority must consult the fire authority.

LICENSED PREMISES

- Cinemas Act, 1985.

An applicant for the grant or renewal of a cinema licence must give written notice of the application to the fire authority. The licensing authority may grant, renew or transfer a licence having regard to any observations made to them by the fire authority.

- Gaming Act, 1968.

Applications for grant or renewal of a licence are made to the licensing justices and the fire authority has a right to be heard on any application made.

- Licensing Act, 1964 (as amended by the Licensing Act, 1988).

An application for grant or renewal of a justice's licence must give written notice of the application to the fire authority. The fire authority on the basis of fire risk can make objections to the grant of licence. In the case of licensed clubs, the fire authority has the right to make an objection to applications on the ground that 'the premises are not suitable and convenient for the purpose in view of their character and condition and of the size and nature of the club'.

- Local Government (Miscellaneous Provisions) Act, 1982.

An applicant for the grant or renewal of an entertainments licence (for premises used for music, dancing and similar entertainments) has to notify the fire authority and, when considering the application, the licensing authority must have regard to any observations of the fire authority. This Act does not apply in London.

- Theatres Act, 1968.

The licensing authority may grant a licence on such terms and conditions as may be specified and, although conditions vary, they may relate to fire safety matters.

PLACES OF MARRIAGE

- Marriage Act, 1994.
- Matriages (Approved Premises) Regulations, 1995.

Section 1 of this Act amended the Marriage Act 1949 to permit civil marriages to take place on premises approved for the purpose by local authorities. Schedule 1 to these Regulations lists the requirements for the grant of approval, which includes fire precautions as may be reasonably required by the local authority having consulted with the fire authority.

PLACES OF SPORT

- Safety of Sports Grounds Act, 1975 (as amended by the Fire Safety and Safety of Places of Sport Act, 1987).

In London and the metropolitan counties, the local authority must send a copy of the application for a safety certificate to the fire authority and must consult them about the terms and conditions to be included in the certificate before it is issued. (Elsewhere, the copy must be sent to the building authority).

SCHOOLS

- Education Act, 1944 (as amended).

Some publicly maintained schools are exempt from the Building Regulations by virtue of section 4 of the Building Act, 1984 (as amended) where the proposed works are approved by the Secretary of State for Education. It is the intention of the DfEE to revoke regulations which currently permit approval of projects by the Secretary of State for Education and Employment and thus render maintained schools no longer exempt from the Building Regulations. Independent schools are not exempted from the operation of the Building Regulations. Also, under the Education (Particulars of Independent Schools) Regulations, 1982 (S.I. 1982/1730) the particulars of advice given by the fire authority on fire safety matters have to be declared in applications for registration of the school and in the annual return to the relevant Registrar.

SPECIAL PREMISES

- Fire Certificates (Special Premises) Regulations, 1976.

The Health and Safety Executive (HSE) has enforcement responsibilities under these Regulations for general fire precautions in special premises (premises such as nuclear installations, explosives factories and magazines or where hazardous substances are stored or used in quantities above specified limits). There is no statutory duty for building control bodies to consult with HSE but it may be beneficial in some circumstances for an informal consultation to take place.

APPENDIX H – LOCAL ACTS

H.1 There are many Local Acts in operation in various areas in England and Wales and some of these include provisions requiring consultation with the fire authority. The local authority will advise where these Acts apply. Some of the provisions contained in these Acts may have been subsumed into Part B of the Building Regulations.

H.2 Some Acts where fire-related provisions occur are listed below:

Berkshire Act 1986	Hampshire Act 1983
Bournemouth Borough Council Act 1985	Hereford City Council Act 1985
Cheshire County Council Act 1980	Humberside Act 1982
Clwyd County Council Act 1985	Isle of Wight Act 1980
County of Avon Act 1982	Leicestershire Act 1985
County of Cleveland Act 1987	Merseyside Act 1980
County of South Glamorgan Act 1976	Poole Borough Council Act 1986
County of Kent Act 1981	South Yorkshire Act 1980
Cumbria Act 1982	Staffordshire Act 1983
Derbyshire Act 1981	Surrey Act 1985
Dyfed Act 1987	West Glamorgan Act 1987
East Sussex Act 1981	West Midlands County Council Act 1980
Essex Act 1987	West Yorkshire Act 1980
Greater Manchester Act 1981	Worcester City Council Act 1985

H.3 In addition to these Acts, there are fire-related provisions in the London Building Acts (Amendment) Act 1939, which applies in Inner London.

H.4 Typical fire-related provisions allow local authorities to impose conditions requiring access for the fire brigade, fire safety precautions in multi-storey car parks, fire precautions in tall buildings and large buildings used for trade or storage, and means of escape.

*Building Regulations
and Fire Safety
Procedural Guidance*

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General Introduction

This guide has been prepared for:

- designers
- developers
- occupiers
- employers
- fire and rescue authorities
- building control bodies

It explains the steps involved in approving the fire safety aspects of building work, and the interaction between Building Regulations and other statutory fire safety requirements in England and Wales.

If the procedures described in this guide are followed, developers and designers will be able to receive all the fire safety information relevant to Building Regulations and other statutory approvals, in time to avoid abortive work. Owners and occupiers will also benefit, as this process will generate the basis of their fire safety management procedures and risk assessment.

There should be no need for extra building work to be undertaken at the end of a building project and before the building can be occupied for its intended purpose.

Throughout this guide it is assumed that applicants are conversant with the technical aspects of fire safety and its regulation, or that they employ professional advisors who have this knowledge.

Although this guide has no legal force it is intended that all building control bodies and fire safety enforcement authorities should use the consultation procedures described in the guide as a model for arrangements they make, so that procedures will be similar throughout England and Wales.

The Department of the Environment, the Welsh Office, the Home Office and the Deregulation Unit of the Department of Trade and Industry issued the first edition of this guide jointly in 1992. A revised edition was published in February 2001 to take account of recent changes to legislation and associated procedures. This document is a third edition to provide guidance on changes brought about by the consolidation and reform of fire safety law by virtue of the Regulatory Reform (Fire Safety) Order 2005.

Terminology

The following terms are used in the guide:

Approved Inspectors Regulations – The Building (Approved Inspectors etc.) Regulations 2000 (S.I. 2000/2532, ISBN 0-11-099898-7, £6.30, The Stationery Office Ltd) as amended.

Building Regulations – The Building Regulations 2000 (S.I. 2000/2531, ISBN 0-11-099897-9, £4.50, The Stationery Office Ltd) as amended.

Fire Safety Order – The Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541, ISBN 0-11-072945-5, £7.50, The Stationery Office Ltd)

Applicant – the person responsible for obtaining approval. In practice this is often the agent of the owner or developer, such as the architect, and it is used in this guide to include anyone acting for the applicant.

Building Control Body – a term used to include both local authority building control and approved inspectors.

Local Authority – the local authority empowered to carry out the building control function and to enforce Building Regulations in their area by virtue of Section 91(2) of the Building Act 1984.

Approved Inspector – a corporate body or individual approved under Section 49 of the Building Act 1984 to carry out certain building control functions.

Consultation – exchange of information and comment between organisations, such as building control bodies and fire safety enforcing authorities, which may include correspondence and face-to-face meetings.

Fire Safety Enforcing Authority – The body responsible for enforcing the Fire Safety Order 2005. This will normally be the fire and rescue authority (see appendix A)

Fire and Rescue Authority – the authority discharging the functions of the fire and rescue authority under the Fire and Rescue Services Act 2004 in the area in which the premises are, or will be, situated. In most cases the enforcement responsibilities of fire and rescue authorities are delegated to the fire and rescue service.

Responsible Person – The person defined in article 3 of the Fire Safety Order and having the duties for compliance with the Order as prescribed in article 5 (see Appendix B).

SECTION 1:

Introduction

WHAT LEGISLATION APPLIES

- 1.1 This guide is mainly concerned with the Building Regulations 2000 (as amended), which apply only in England and Wales. There is separate legislation covering building in Scotland and Northern Ireland.

BUILDING REGULATIONS

- 1.2 The Building Regulations apply to building work as defined in regulation 3 of the Regulations. However, section 4 of the Building Act 1984 provides exemptions for some buildings belonging to statutory undertakers, the United Kingdom Atomic Energy Authority, the British Airports Authority and the Civil Aviation Authority. Schedule 2 of the Building Regulations exempts various types of building according to their use or size. Buildings belonging to, or that are occupied by, the Crown authorities are also currently exempt. Section 5 of the Building Act provides for prescribed public bodies to be exempt from the procedural requirements of the regulations. The Metropolitan Police Authority is currently prescribed for this purpose by regulation 10 of the Building Regulations.
- 1.3 Fire safety requirements are given in Part B of Schedule 1 to the Regulations. These cover means of escape, fire alarms, fire spread, and access and facilities for the fire and rescue service. Guidance on some ways of meeting the requirements is given in Approved Document B (Fire safety).

THE FIRE SAFETY ORDER

- 1.4 The Fire Safety Order reforms the law relating to fire safety in non-domestic premises. Specifically it replaces fire certification under the Fire Precautions Act 1971 with a general duty to take such fire precautions as may be reasonably required to ensure that premises are safe for the occupants and those in the immediate vicinity and a general duty to carry out a risk assessment.
- 1.5 The Order applies to all non-domestic premises, which includes the common parts of apartment buildings and both the common and shared parts of HMOs. Article 6 of the Order does exclude some premises such as certain mines, vehicles and land forming part of an agricultural or forestry undertaking.

PARALLEL APPLICATION

- 1.6 Most building work, and certain changes of use involving buildings that are subject to the Building Regulations will also be subject to the Fire Safety Order once the work is complete and the building is occupied.

- 1.7 The parallel application of the fire safety requirements of the Building Regulations and the Fire Safety Order emphasises the need for consultation between the applicant and the administering bodies involved at the earliest opportunity.
- 1.8 The consultation procedures described in this guide are intended to ensure that there should be **no need for extra building work to be done after the end of a building project and before a building can be occupied for its intended purpose**. This aim can only be achieved where all parties take a methodical joint approach to fire safety, whilst discharging their respective statutory duties and responsibilities.

THE DIVISION OF RESPONSIBILITY

- 1.9 There are two main bodies with whom designers, developers and occupiers of buildings may have dealings concerning fire safety: the building control body and the fire safety enforcing authority.
- 1.10 Building control bodies are responsible for checking for compliance with the requirements of the Building Regulations. The Regulations are concerned with building work and with material changes of use (which may give rise to requirements for building work) and the requirements for fire safety will apply to most buildings. These requirements are intended to ensure that the necessary measures for the safe use of the building are incorporated in the design.
- 1.11 The fire safety enforcing authority is responsible for the enforcement of the Fire Safety Order which concerns the safety of people in relation to the operation and use of certain buildings once occupied.
- 1.12 Building work that complies with the Building Regulations requirements for fire safety will normally be satisfactory when the building is occupied. However, where alterations to an existing building are involved, compliance with Building Regulations will not always result in the fire precautions in all parts of that building being upgraded. There may also be risks associated with the specific operations of the occupier that would not be covered by Building Regulations. There is obvious practical value in taking these other fire safety matters into account, where possible, in the design and construction phases, although the legislation only becomes applicable on occupation of the building.
- 1.13 During the design and construction phase of a project, the building control body will check on compliance with the requirements of the Building Regulations. In order to facilitate the consultation process they should take a **co-ordinating role** with fire safety enforcement authorities and, where appropriate, with other regulatory bodies. Any recommendations and advice given should be channelled through the building control body to the applicant.
- 1.14 Once a building is occupied and in use, the fire safety enforcing authority takes on the co-ordinating role as they have the enforcement role for the Fire Safety Order. Licensing and registration authorities must ensure that the fire safety enforcing authority is consulted about fire safety matters concerning premises that need to be licensed or registered.

BUILDING REGULATIONS – COMPLIANCE IN GENERAL

- 1.15 It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. The Approved Documents associated with the Regulations provide guidance for some of the more common building situations. However, there may well be alternative ways of achieving compliance with the requirements. The design and construction of building work is subject to checks by a building control body. Applicants can decide whether to apply to the local authority for building control services or to appoint an approved inspector.

LOCAL AUTHORITY BUILDING CONTROL

- 1.16 Where the applicant chooses to use the local authority there will generally be a choice of two routes: the full plans procedure, or the building notice option. A full plans application involves seeking formal approval of plans. Approval or rejection must be given within a five week time limit (or two months if the applicant agrees), and there is a facility to request a determination of disagreements from the Secretary of State (see Appendix D). When a full plans application is made the applicant can ask the local authority for a completion certificate when the work is complete. A building notice, however, is simply given to the local authority at least two clear working days before work begins. **Where the building is to be put to a use where the Fire Safety Order applies (see 1.4) or will apply after completion of the work then the building notice procedure cannot be used (see Regulation 12 of the Building Regulations).**

APPROVED INSPECTOR BUILDING CONTROL

- 1.17 If an approved inspector is engaged, the person intending to carry out the work and the inspector must jointly give to the local authority an initial notice. The local authority has five days in which to accept or reject the notice. If the local authority have neither accepted nor rejected the notice by the end of that period, the notice is deemed to be accepted.
- 1.18 Once the notice has been accepted the approved inspector is responsible for supervising the work. If the applicant wishes to have detailed plans of the work certified as complying with the Building Regulations, and the approved inspector is satisfied with the plans, a plans certificate will be issued to the applicant and the local authority by the approved inspector. There is a facility to request a determination of disagreements from the Secretary of State. (see appendix D). When the work is complete the approved inspector must give the local authority a final certificate.

LIAISON BETWEEN BUILDING CONTROL BODIES

- 1.19 It is not uncommon for different building control bodies to deal with different parts or different stages of a single development (e.g. the construction and then fit out of a shopping centre). In such circumstances it is important that building control bodies are made aware of any fire protection arrangements/strategy which are outside the scope of their responsibility but which could have an impact on the works that they are dealing with. **Responsibility for ensuring**

there is adequate liaison between building control bodies lies with the applicant. Building control bodies should make the applicant aware of this responsibility.

FIRE RISK ASSESSMENT AND THE FIRE SAFETY ORDER

- 1.20 By virtue of the Fire Safety Order, the Responsible Person (see Appendix B) is required to carry out a fire risk assessment of their premises. This must be 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 under the Order.
- 1.21 If there are 5 or more employees or the premises is subject to a licence or an alterations notice (see Appendix G) then the significant findings of the fire risk assessment, the fire precautions put in place to address the significant findings and any group of persons identified by the assessment as being especially at risk must all be recorded. This information should be presented on request to the fire safety enforcing authority.
- 1.22 Although these requirements are applicable to a building whilst in operation, it would be useful for the designers of a building to carry out a preliminary fire risk assessment as part of the design process. The level of detail of this assessment will vary depending on the amount of information available to the designer and whether or not the eventual occupier of the building is known at the design stage.
- 1.23 If a preliminary risk assessment is produced it can be used as part of the Building Regulations submission and can assist the fire safety enforcing authority in providing advice at an early stage as to what, if any, additional provisions may be necessary when the building is first occupied. It will also assist the Responsible Person when developing the full fire risk assessment for the purposes of the Fire Safety Order, and it will act as a record of the rationale behind the fire safety design of the finished building.
- 1.24 It is fundamental to the principle of the Fire Safety Order that fire precautions may need to change and evolve with the building throughout its life. Fire risk assessments should be dynamic and kept constantly under review to make sure that precautions are adequate and effective.

OCCUPIED BUILDINGS

- 1.25 Responsibility for ensuring that a building once occupied is provided with appropriate fire safety arrangements rests with the Responsible Person. It is essential therefore, that, when occupying new buildings or existing buildings that have had building works completed, or when contemplating alterations or extensions to existing buildings the Responsible Person ensures that a fire risk assessment has been carried out. The Responsible Person should ensure that the fire safety arrangements in place are adequate and comply fully with the requirements of the Fire Safety Order.
- 1.26 When considering the fire safety measures for the building in use the fire safety enforcing authority should have regard to any risk assessments that may have been undertaken as part of the design and approvals processes and subsequently

by the Responsible Person in the discharge of their duties under the Fire Safety Order. Consultation between the designer/applicant, the building control body and the fire safety enforcing authority, and the recording of risk assessments and other relevant information, throughout the design and approvals process, should ensure that any subsequent need for a variation in the fire safety measures provided is avoided, or kept to a minimum.

- 1.27 Additional fire safety measures should only become necessary because of risks that were not identified or known about prior to occupation of the building, or at the time of the building regulation approval and consultation process. It is essential therefore, that the fire safety enforcing authority is fully consulted on all relevant matters during the design and construction process and that their advice on the fire safety measures for the building is incorporated, if appropriate, into the final building design.
- 1.28 If, in an effort to achieve an acceptable package of fire safety measures, the views of the fire safety enforcing authority and the building control body differ and cannot be resolved then the building control body must ensure that the applicant is made fully aware of the concerns of the fire safety enforcing authority and the possibility that the fire safety enforcing authority may take enforcement action under the Fire Safety Order upon occupation of the building.

CONSULTATION

- 1.29 When a building is likely to be used for a purpose that is subject to the fire safety requirements of other legislation, consultation between the relevant bodies is an essential part of the building control procedure. Whilst there are clear distinctions of jurisdiction between building work and an occupied building, it is often impossible when considering the overall level of safety in a building to separate physical fire safety measures and the way in which the building will be managed when occupied.
- 1.30 This guide describes the statutory consultations that fire safety enforcing authorities and building control bodies are obliged to carry out. It also indicates where discussions may be needed to consider fire safety proposals at an earlier stage than those required for statutory consultation so as to keep all parties informed and avoid delays. These discussions may be between the applicant and the building control body only, or they may also involve the fire safety enforcing authority.
- 1.31 **Where a building control body is formally engaged in checking the compliance of building work with the Building Regulations and the building in question is to be put to a use to which the Fire Safety Order applies (see 1.4) or will apply after completion of the work, there are statutory requirements to consult the fire safety enforcing authority at certain stages of the process.**
- 1.32 These consultations are necessary so that the fire safety enforcing authority is aware of the erection or alteration of buildings in which they may have a direct or indirect interest or responsibility. They also provide an opportunity to make the applicant aware of action that may have to be taken on non-building regulation matters in order to satisfy any other fire safety legislation once the building is occupied.

- 1.33 Fire safety enforcing authorities and building control bodies will often hold useful information relating to the design of existing buildings. The consultation process provides an opportunity to share this information with the other parties (see paragraph 1.19).
- 1.34 There may be occasions where more than one building control body is dealing with different building work within the same building. In these circumstances it would be advisable for them to consult with each other, as necessary, to avoid any conflict that might otherwise arise.
- 1.35 Consultation with all relevant parties can also help to achieve consensus where alternative technical solutions may be available, such as during the specification of fire detection and fire alarm systems. As an example, a fire risk assessment, agreed by the relevant parties, may assist in determining the fitness for purpose of alternative means of providing a fire alarm, e.g., a shouted warning or a simple electrical alarm or a fault monitored electrical alarm. Effective decisions made at the specification stage can save considerable rectification costs if corrective action proves necessary after completion of the building work.
- 1.36 The fire safety enforcing authority must also consult with the local authority and, where an initial notice is in force, the relevant Approved Inspector before issuing an enforcement notice under the Fire Safety Order that would oblige a person to make an alteration to a premises.
- 1.37 The nature and timing of consultations and their statutory basis are described in detail in Section 2.

CONSULTATION – OTHER LEGISLATION

Local Acts

- 1.38 There are provisions in other primary legislation and, in some places, in Local Acts (see appendix I) which require consultation to take place between local authorities and fire authorities. This guidance should also be used in those instances.
- 1.39 Under regulation 13(6) of the Approved Inspectors Regulations, an approved inspector must consult the fire safety enforcing authority if a Local Act would have required the local authority to do so had they been undertaking the building control function. The applicant should check with the building control body to see whether there are any Local Acts in force. These Acts are usually enforced by the local authority only.

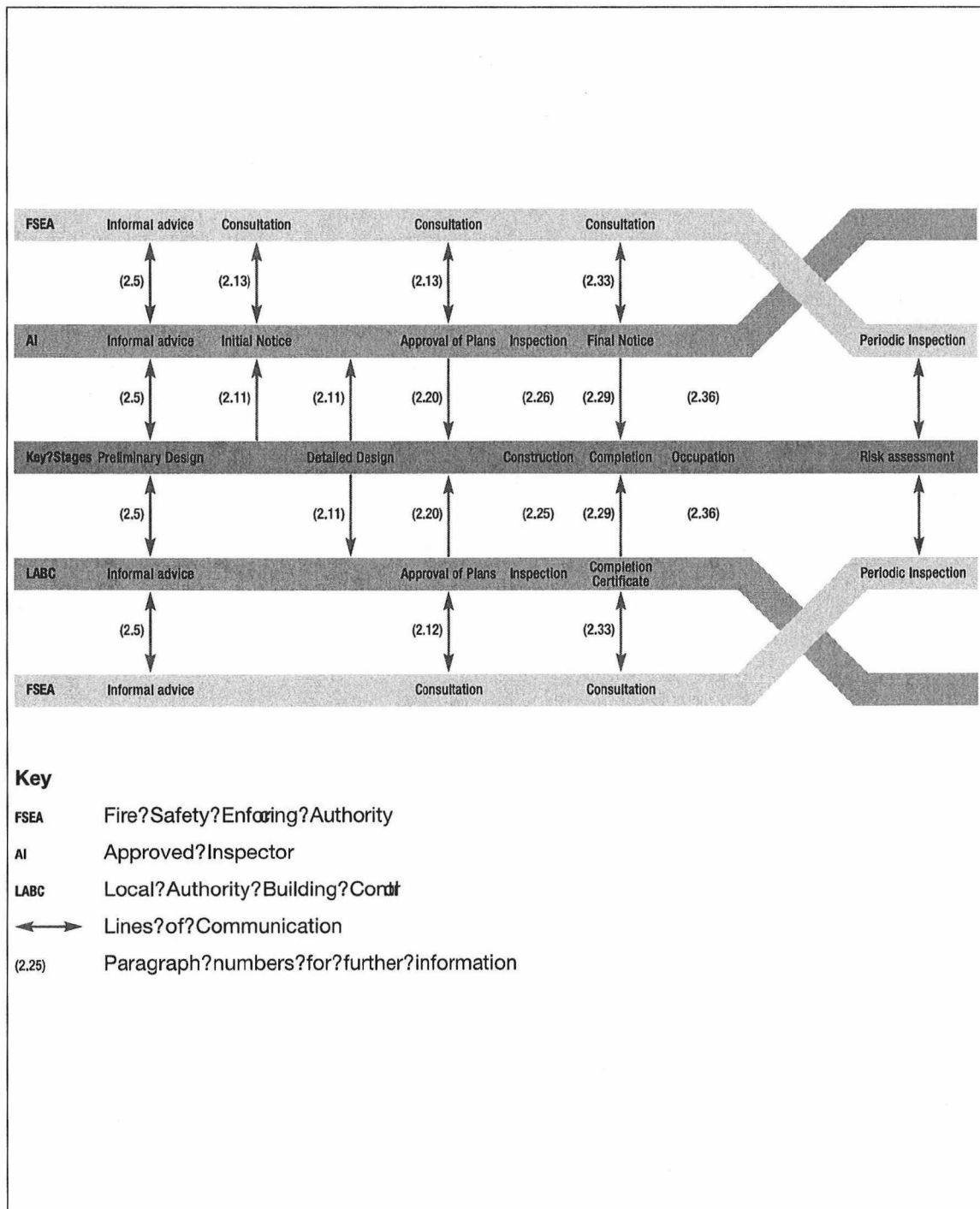
Premises Subject To Licensing Or Registration

- 1.40 Many premises are controlled through a licensing procedure in which fire safety matters are an important concern. Article 43 of the Fire Safety Order has the effect that conditions of licence can have no effect on fire safety matters that could be addressed by the Order. Before issuing a licence in relation to premises to which the Fire Safety Order applies, the licensing authority must first consult with the fire safety enforcing authority (article 42).

SECTION 2:

The Approvals Process Step by Step

This diagram shows some of the key stages of the fire safety process.



INTRODUCTION

- 2.1 This section describes the consultation procedures that should be followed at different stages of the building control process. During these stages the building control body is the co-ordinating authority, as explained above, and their consultation with the fire safety enforcing authority is crucial. It is very important that all parties should respond within agreed timescales, and that they should play an active part in maintaining good communications.
- 2.2 The consultation process should be conducted to ensure that both the building control body and the fire safety enforcing authority fulfil their roles in an efficient and cost-effective way. Where local arrangements exist which already fulfil the aims of this guide it may not be necessary to adopt all the procedures suggested here.
- 2.3 The plans approval process is likely to be delayed if designs are presented without prior consideration of fire safety. Where local authorities undertake building control there are statutory time limits on the period for consideration of plans and so delays may lead to rejection of plans.
- 2.4 The left hand column describes actions of direct concern to the designer or applicant. The right hand column provides commentary or describes actions which deal with interactions between enforcing authorities and so may be of less direct concern to the applicant. Although the process is presented in a chronological sequence this may vary in practice and some of the stages will not be relevant in all cases.

PRELIMINARY DESIGN STAGE ADVICE & CONSULTATION

- | | |
|---|--|
| <p>2.5 At the early stages of a project the designer may wish to seek advice about the fire safety aspects of the scheme. Involving building control bodies and fire authorities at an early stage can often result in reduced costs for the applicant. However, the advice given by the building control body and the fire safety enforcing authority does not extend to providing design consultancy. The designer's first approach should preferably be to the building control body.</p> | <p>2.5.1 <i>Whatever body is contacted first should determine, as far as it is able, which other authorities or bodies are likely to have an interest and inform the applicant of the necessary application or consultation procedures. Therefore, at the earliest opportunity the applicant should be informed of the likely interest of the other organisations and the necessary application or consultation procedures.</i></p> <p>2.5.2 <i>In responding to an independent approach from a designer or occupier, for goodwill advice under the Fire and Rescue Services Act 2004 (see Appendix F) the fire safety enforcing authority should point out that in respect of the</i></p> |
|---|--|

Building Regulations, or other legislation for which they are not directly responsible, they can offer only observations. They should refer the applicant to a building control body, and where appropriate other enforcing authorities, for guidance on what may be required to meet the legislation for which those bodies or authorities are responsible.

2.5.3 Any advice the fire safety enforcing authority does give should be in writing and should clearly indicate which matters in their opinion:

- may need to be addressed to ensure compliance with the Fire Safety Order when the building is occupied; or*
- are only advisory and not enforceable under legislation.*

2.5.4 A copy of the advice should be sent to the local authority and the approved inspector where it is known that a relevant initial notice is in force.

2.6 If the building or part of the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.4) the fire safety enforcing authority will have powers that may influence the design of the building.

2.7 In such cases, if there are aspects of the design which follow an unusual or complex approach to fire safety, it may be desirable for the designer to request a joint meeting with the fire safety enforcing authority and the building control body.

2.8 At this meeting the building control body should take the co-ordinating role. A record of the main points of the meeting should be circulated to all parties, which clearly distinguishes between:

- building regulations' requirements
- requirements of the Fire Safety Order
- advice which is not enforceable under legislation.

STATUTORY CONSULTATION

2.9 Where a building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.4), building control bodies are required to consult with the fire safety enforcing authority at certain stages within the process as prescribed by legislation.

2.9.1 *Whilst the legislation and associated procedures for local authorities and approved inspectors may be different, the purpose of consultation is the same, that is to seek the comments of the fire safety enforcing authority regarding the fire precautions that will be necessary to meet the legislation (other than the Building Regulations) that will apply to the building once it is in use. This should allow them to reach **mutually compatible** views on whether plans and building work are satisfactory from the standpoints of the Building Regulations and of fire precautions for buildings in use.*

Note *In addition to giving such comments, the fire safety enforcing authority may wish to offer **observations** to the building control body in relation to the Building Regulations. These should be clearly and separately identified.*

2.9.2 Consultation also provides the opportunity for the fire safety enforcing authority and the building control body to make recommendations regarding the provision of fire precautions that it believes would be advisable but that are not required by legislation.

2.10 Even if there is no formal requirement to consult, consultation may still be desirable in many cases such as:

- where the building control body proposes to accept measures which are unusual or complex or which deviate from the general guidance for requirement B5 of the Building Regulations.
- where the size or location of the development might have implications for the disposition of fire and rescue service resources.
- where the fire safety enforcing authority is not the fire and rescue authority and the size or location of the development might have implications for the disposition of fire and rescue service resources.

- 2.11 To facilitate consultation the building control body will need two extra copies of those drawings that demonstrate compliance with Part B. In some cases the two extra copies will be needed for statutory consultation purposes.

In cases where no statutory consultation is involved, the local authority or approved inspector may still choose to consult the fire safety enforcing authority. In either case the two extra copies allow the fire safety enforcing authority to keep a set of drawings while returning the other to the building control body, marked up with any comments.

- 2.12 Where plans are deposited with a local authority for approval and the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.4) the local authority is required to consult with the fire safety enforcing authority under article 45 of the Fire Safety Order before passing or conditionally passing the plans.

2.11.1 Under regulation 14 of the Building Regulations, if plans are being submitted to a Local Authority for building work to which Part B of Schedule 1 to the Building Regulations is applicable, unless the building concerned is a house or an individual/self contained flat, two extra copies of those plans which demonstrate compliance with Part B are required to be provided by the applicant for consultation purposes.

2.11.2 Under regulation 13 of the Approved Inspectors Regulations, an approved inspector, when consulting in relation to an initial notice, must provide the fire safety enforcing authority with a set of plans which demonstrate compliance with Part B. When consulting in relation to a plans certificate, an approved inspector must provide the fire safety enforcing authority with a copy of all the plans to which the certificate will relate. Approved inspectors will need to make arrangements to ensure that sufficient copies are available.

2.12.1 Section 16 of the Building Act 1984 only allows local authorities 5 weeks, or 2 months if agreed in writing, to pass or reject plans. The fire safety enforcing authority must therefore, respond in good time (see 2.16).

- 2.13 Where approved inspectors have been appointed and the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.4) they are required to consult with the fire safety enforcing authority before or as soon as is practicable after issuing an initial notice and before giving a plans certificate or final certificate to the local authority.
- 2.14 If the building control body is not satisfied that the proposals comply with Building Regulations, they may send the applicant a list of amendments or additional information considered necessary. They will not normally consult the fire safety enforcing authority until they are reasonably satisfied that compliance with Building Regulations is shown. If the deficiencies are minor they may decide to proceed with consultation, attaching a copy of their list of the necessary amendments (clearly identified as such) with the information they send the fire safety enforcing authority.
- 2.15 Once the building control body is reasonably satisfied that the proposals comply with the Building Regulations they will send to the fire safety enforcing authority two copies of drawings which relate to compliance with Part B, i.e. which identify the intended physical fire precautions, together with any supporting documentation they consider useful. That might include correspondence they have had with the applicant. It may also be helpful at this point for the building control body to advise the fire safety enforcing authority of any unusual aspect of the design.
- 2.13.1 *Approved inspectors may not give a plans certificate or final certificate until 15 working days have elapsed from the date on which they consulted with the fire safety enforcing authority, unless the authority have replied before the end of the 15 days (regulation 13 of the Approved Inspectors Regulations).*
- 2.14.1 *If the proposals need substantial amendment or the information provided is inadequate then the process may be delayed. It is therefore very important that the application shows that full account has been taken of Part B's requirements, if such delays are to be avoided.*
- 2.14.2 *In some cases a local authority may be prepared to consider relaxing or dispensing with a requirement under regulation 11 of the Building Regulations, in which case additional consultation with the fire safety enforcing authority may be required (see appendix E).*
- 2.15.1 *Building control bodies should time their consultations and provide such information to the fire safety enforcing authority as necessary to satisfy the purpose of the consultation (see 2.9.1).*
- 2.15.2 *If the building control body is aware of any information that may assist the fire safety enforcing authority or if they have given goodwill advice on additional precautions that are advisable but not enforceable under legislation (see Appendix F) then the building control body should include this information with the consultation documents.*

2.16 The fire safety enforcing authority should make its comments to the building control body in writing and within agreed timescales (usually within 15 working days) so that the building control body can meet its own obligations.

2.17 The fire safety enforcing authority's comments must clearly distinguish between matters:

- which may have to be complied with under the Fire Safety Order when the building is occupied.
- which may have to be complied with to meet other fire safety legislation **other than Building Regulations**.
- which are only advisory and not enforceable under legislation (see appendix F).

Note In addition to giving such comments, the fire safety enforcing authority may wish to offer **observations** to the building control body in relation to the Building Regulations. These should be clearly and separately identified.

2.18 The building control body must have regard to the fire safety enforcing authority's comments before reaching its decision on plans or in the case of an approved inspector before deciding on a final or plans certificate. In giving their decision, building control bodies should include a copy of any comments from the fire safety enforcing authority so that the applicant is fully aware of the possibility that the fire safety enforcing authority may require additional works on occupation of the building (see 2.22).

2.17.1 *If, in the effort to achieve an acceptable fire safety package, the views of the fire safety enforcing authority and the building control body are incompatible (as a result of the differing scope of their respective powers), the building control body and the fire safety enforcing authority should seek to **resolve the matter quickly and simply** with the applicant.*

2.17.2 *Failing this then the fire safety enforcing authority should set down its concerns and recommendations in a formal written case, which may include details of any enforcement action it may take upon occupation of the building, to the building control body who should retain a copy and ensure that a copy is provided to the applicant.*

APPROVAL OF PLANS

- 2.19 Having plans approved by either the local authority or certified by an approved inspector can give protection from enforcement action under Building Regulations where the approved plans have been followed.
- 2.19.1 *A local authority cannot give a notice under Section 36 of the Building Act 1984 requiring alterations if building work conforms to plans that have been approved by the local authority. In cases where an initial notice ceases to be in force without a final certificate having been given, the local authority may not give a notice under Section 36(1) in relation to work that conforms to plans that are the subject of a plans certificate issued by the approved inspector.*
- 2.20 When, after any necessary consultations with the fire safety enforcing authority, the building control body is satisfied that the plans comply with the requirements of Building Regulations they may issue a notice or certificate approving the plans.
- 2.20.1 *Where a full plans application has been submitted to a local authority they must issue a decision notice within the statutory time limit. They may reject the plans, approve them or issue a conditional approval.*
- 2.20.2 *In cases where an approved inspector is undertaking building control, if an applicant requests a plans certificate, the approved inspector must give one if the approved inspector is satisfied that the plans comply with the Building Regulations (see 2.13.1).*
- 2.21 If a statutory consultation is involved, the building control body should also send a copy of the notice or certificate (or some other mutually acceptable written notification) to the fire safety enforcing authority.
- 2.22 The building control body should supply the applicant with a copy of the comments and advice provided by the fire safety enforcing authority described in paragraph 2.17.
- 2.22.1 *In the **exceptional** event that the fire safety enforcing authority propose to require physical changes in plans or work that are beyond the requirements of the Building Regulations, the building control body should make the applicant aware.*

AMENDED PLANS

- 2.23 On many projects the design of the building will change during both the design and construction stages. Plans may be amended a number of times before and after the statutory consultation stage is reached. If the applicant submits amended plans, following a statutory consultation and before or after the plans are approved, because of changes relating to fire safety, the building control body should, as a matter of good practice, consult the fire safety enforcing authority.
- 2.23.1 *The fire safety enforcing authority should be sent two copies of amended plans, one to put comments on and one to keep. Any comments from the fire safety enforcing authority should be in writing, and should follow the format described in paragraph 2.17, and should be relayed to the applicant by the building control body.*
- 2.24 Where an approved inspector has been appointed, some proposed changes in a building project may require the giving of an amendment notice to the local authority, altering the description of the work given in the original initial notice. The approved inspector will then need to formally consult with the fire safety enforcing authority again, under regulation 13 of the Approved Inspectors Regulations, if work introduced by the amendment notice concerns a building which is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.4) and is subject to Part B requirements.
- 2.24.1 *The procedures for statutory consultation detailed above should be followed. It may be possible to streamline this procedure if the fire safety enforcing authority has been kept up to date during the design process.*

ALTERATIONS NOTICES

- 2.25 Where, under article 29 of the Fire Safety Order, an **alterations notice** has been served in respect of any premises then the Responsible Person must notify the fire safety enforcing authority before making any changes to the premises, to any services, fittings or equipment in the premises or to the quantity of dangerous

substances present in the premises which may result in a significant increase in risk. When notifying the fire safety enforcing authority the Responsible Person may be required to provide details of the changes proposed and a copy of the relevant fire risk assessment if this is stated within the alterations notice (see Appendix G).

CONSTRUCTION

2.26 As work proceeds the building control body will normally make inspections as appropriate. The purpose of these inspections is to assess the works as they progress with regard to compliance with the Building Regulations, which relate to fire safety and other requirements of the Building Regulations for the **finished building only**.

2.27 Building Regulations do not address the risk of fire during the construction work, which is covered by the Construction (Health, Safety and Welfare) Regulations 1996.

2.28 When construction work is being carried out on an existing building which, apart from the construction site part of the building, remains occupied, the fire safety enforcing authority are responsible for the enforcement of the Construction (Health, Safety and Welfare) Regulations in respect of fire. Where the building is unoccupied, the Fire Safety Order will apply and the Health and Safety Executive are responsible for its enforcement (see Appendix A A1.b.iv).

2.27.1 *HSE have issued the following fire safety guidance on these regulations: Construction information Sheet No 51 Construction Fire Safety; and HSG 168 Fire safety in construction work (ISBN 0-7176-1332-1).*

2.28.1 *The fire safety enforcing authority enforce parts of the Construction (Health, Safety and Welfare) Regulations relating to fire safety matters in existing buildings undergoing construction works, by virtue of regulation 33. As a result fire safety enforcing authority officers may, from time to time, inspect premises undergoing works of construction to ensure that the fire safety provisions and measures are and remain adequate for the risk presented.*

COMPLETION

- 2.29 Whilst completion logically falls before occupation it is not unusual for a building to be either fully or partly occupied before it is formally recognised as complete. Paragraphs 2.36 to 2.40 give guidance on the occupation of buildings.
- 2.30 The applicant should notify the building control body that the building work is complete.
- 2.30.1 *Where a local authority is supervising the work regulation 15(4) of the Building Regulations requires that the local authority should be notified of the completion of the building work not more than 5 working days after completion. Approved Inspectors should advise the applicant what notification arrangements should be followed.*
- 2.31 At this stage the applicant should update drawings and any risk assessments they may have made to record the fire safety provisions included in the final building design.
- 2.31.1 *Whilst it is not a statutory requirement to produce "as built" information, it will often be in the client's best interests to do so. These benefits are illustrated in paragraphs 1.19 to 1.23.*
- 2.32 If the building control body is satisfied that the work complies with the requirements of the Building Regulations, they should issue either, in the case of a local authority, a completion certificate or, in the case of an approved inspector, after consultation with the fire safety enforcing authority, a final certificate.
- 2.32.1 *There is no obligation on a local authority to issue a completion certificate unless one has been formally requested, or unless the building will be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.4).*
- 2.32.2 *Approved inspectors must give the local authority a final certificate following completion of the work, if satisfied that the work complies with the applicable requirements of the Building Regulations. Approved inspectors are subject to a statutory time limit for the issue of a final certificate starting from occupation (see paragraph 2.37.2).*

- 2.33 Approved inspectors must consult with the fire safety enforcing authority before issuing a final certificate (regulation 13 of the Approved Inspectors Regulations). Local authorities, as a matter of good practice, may also consult at this stage. Such consultations need not necessarily involve additional plans.
- 2.34 The building control body should send a copy of the completion/final certificate to the fire safety enforcing authority including, where available, a copy of the risk assessment and/or “as built” record drawings.
- 2.35 If, having been notified of completion, the building control body cannot issue a completion certificate or final certificate, they should explain, in writing, why this is so.
- 2.34.1 *The fire safety enforcing authority should have regard to the completion/final certificate when reviewing the fire safety provisions of an occupied building under the Fire Safety Order.*
- 2.35.1 *A copy of this explanation should be sent to the fire safety enforcing authority where fire safety issues are involved. If necessary the fire safety enforcing authority and the building control body should meet to discuss any inadequacies that are thought to exist in the means of escape or structural fire precautions and consider what options are available for advice or enforcement.*

OCCUPATION

- 2.36 Prior to occupying the building the owner/employer must ensure that where relevant the statutory obligations set out in paragraphs 2.37 -2.40 are met.

BUILDING REGULATIONS

- 2.37 If it is proposed to occupy a building where a Building Regulations completion or final certificate has not been issued (see 2.29 to 2.35) by the building control body then the building control body must be notified of the timing and extent of the occupation in advance.
- 2.37.1 *Where a local authority is supervising work involving the erection of a building, regulation 15 of the Building Regulations requires the applicant to give the local authority at least 5 working days' notice prior to occupation. In accordance with Section 92 of the Building Act 1984 any such notice should be in writing.*
- 2.37.2 *Where an approved inspector is engaged and an initial notice relates to the erection, extension or material alteration of a building that is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.4) and the building (or relevant part) is occupied and no final certificate is given, the initial notice will cease to have effect after a grace period of 4 weeks (8 weeks for buildings where the Order does not apply). Building control will then usually revert to the local authority, unless the local authority agree to extend the period.*

THE FIRE SAFETY ORDER

- 2.38 Where the Order applies (see Appendix A) the Responsible Person must have completed the fire risk assessment and the provisions required to address the identified risks must be in place.
- 2.38.1 *There is no period of grace for the Responsible Person to produce the risk assessment. The documentation and any necessary safety measures must be in place on the first day that the building is occupied.*
- 2.38.2 *There may be additional risks associated with the logistics of moving an organisation into a new building that should be addressed by the Responsible Person.*

- 2.39 If the designer has produced a risk assessment as part of the design and approvals process this may form the basis of the Responsible Person's assessment.

LOCAL ACTS

- 2.40 If the proposed building is subject to a Local Act there may be conditions applicable to occupation of the building (see Appendix I). The local authority can advise on any provisions that may be relevant.

APPENDIX A

Enforcing Authority

A.1 For the purposes of the Fire Safety 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 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 and to which those Regulations apply, other than construction sites referred to in regulation 33 of those Regulations (see 2.28).
- 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;
 - 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 (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 (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).

APPENDIX B

Responsible Person

- B.1 Article 3 of the Fire Safety Order defines Responsible Person for the purposes of the order as;
- a. in relation to a workplace, the employer, if the workplace is to any extent under his control;
 - b. in relation to any other premises:
 - 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.
- B.2 Article 5(1) imposes a burden on employers by placing a duty on them to ensure that the requirements of the Order and any regulations made under it are complied with in respect of the premises. This responsibility reflects the employer's responsibility under European Community law to ensure the safety of his employees. Article 5(2) imposes a similar duty on the Responsible Person in relation to non-workplaces. In such cases, the Responsible Person is under a duty to ensure that the requirements of the Order and any regulations made under it are complied with in respect of the premises, so far as they concern matters within his control.
- B.3 Article 5(3) also imposes a similar duty on any person other than the Responsible Person who has to any extent control of the premises (the duty extending only so far as the extent of control). **This could, for example, apply to a contractor who was responsible for maintaining a fire alarm system.**

APPENDIX C

Determination – The Fire Safety Order

- C.1 If the Responsible Person, being under an obligation to do so, has failed to comply with any provision of the Fire Safety Order and they cannot agree with the fire safety enforcing authority on the measures which are necessary to remedy the failure Article 36 of the Order provides for a determination by the Secretary of State.
- C.2 Article 36 may only be used to determine a dispute where the fire safety enforcing authority and the Responsible Person both agree that a failure to comply has occurred and agree to refer the question to the Secretary of State or in Wales, to the National Assembly for Wales.
- C.3 The application for a determination must clearly set out the provisions of the Order in issue, the steps taken by the Responsible Person to comply with the provision, the extent to which those steps fail to meet the provision and the measures proposed by both parties to remedy the failure to meet the provision. The application must also provide the following information:
- The names and addresses of the enforcing authority, the Responsible Person and the address of the premises in question (if different from that of the Responsible Person);
 - A copy of all relevant correspondence between the parties; and
 - A copy of any other documentation supporting the measures proposed to meet the provision in question, including the relevant guide to accompany the Order or any other applicable guidance.
- C.4 The Secretary of State may require by notice further information from either party. This should be provided within the period specified in the notice, and copied to the other party.
- C.5 Once the decision has been issued, the Secretary of State has no further jurisdiction. The fire safety enforcing authority, however, may not take any enforcement action if the effect of the action would be to conflict with the Secretary of State's determination.

APPENDIX D

Determination – Building Regulations

- D.1 If the applicant and a building control body disagree about whether plans of proposed work are in conformity with Building Regulations, the applicant can seek a determination of the question from the Secretary of State or in Wales, from the National Assembly for Wales (NAW) under either Section 16(10)(local authorities) or Section 50(2)(approved inspectors) of the Building Act 1984.
- D.2 An application for a determination should be sent to the Department for Communities and Local Government (DCLG) or in Wales, to the NAW, who will charge a fee of half the relevant plans charge subject to a minimum of £50 and maximum of £500.
- D.3 The applicant should explain why they consider the proposal does comply, accompanying the statement of case with relevant drawings and a copy of any rejection notice.
- D.4 The DCLG and the NAW have jointly published “A Guide to Determinations and Appeals” which can be found on the DCLG Planning Portal website (with an addendum dated June 2006) at www.planningportal.gov.uk

The Guide explains the purpose of, and the distinction between, determinations and appeals and gives details of how to proceed with an application.

APPENDIX E

Dispensation – Statutory Consultation

- E.1 The local authority is obliged by Section 15 of the Building Act 1984 to consult the fire safety enforcing authority before relaxing or dispensing with a requirement of Building Regulations that relates to:
- structural fire precautions
 - the provision of means of escape from buildings in case of fire
 - the provision of means for securing that such means of escape can be safely and effectively used at all material times.
- E.2 Local authorities should also consult with the fire safety enforcing authority where they intend to relax or dispense with requirement B5 (access and facilities for the fire service).
- E.3 The consultation should follow the form described in section 2 with the fire safety enforcing authority responding in writing.

Note Approved Inspectors do not have the power to dispense with any requirements of the Building Regulations.

APPENDIX F

Fire and Rescue Services Act 2004

F.1 Section 6(2)(b) of this Act has particular relevance to this guide. It requires every fire and rescue authority to secure efficient arrangements for giving, when requested, advice in respect of buildings in the area of the fire and rescue authority as to:

- fire prevention
- restricting the spread of fire
- means of escape in case of fire.

F.2 During the consultation process a fire safety enforcing authority may offer goodwill advice to applicants that is not enforceable under legislation. It is important that this advice is clearly differentiated from advice relating to statutory requirements and that the benefits of adopting the advice is clearly explained.

APPENDIX G

Alterations Notices

- G.1 An alterations notice under article 29 of the Fire Safety Order (see 2.25) may be served by the fire safety enforcing authority in relation to high risk premises (or premises which would be high risk if any change is made to them). It alerts the fire safety enforcing authority to any potential problems and allows an intervention before changes are made which significantly increase the risk.
- G.2 Article 35 provides for an appeal to a magistrates' court against the service of an alterations notice. On an appeal, the court may either cancel or affirm the notice (and in affirming it may do so either in its original form or with modifications). There is a further appeal from the magistrates to the Crown Court.
- G.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 G.4 which may result in a significant increase in risk, notify the fire safety enforcing authority of the proposed changes.
- G.4 The changes referred to in paragraph G.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.
- G.5 An alterations notice may include a requirement that, in addition to the notification required by paragraph G.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 fire safety 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.

G.6 An alterations notice served under paragraph (2) 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).

APPENDIX H

Other Related Legislation

Premises where other legislation requires notice to or consultation with the fire safety enforcing authority:

H.1 ANIMAL ESTABLISHMENTS

- Pet Animals Act, 1951
- Animal Boarding Establishments Act, 1963
- Riding Establishments Act, 1964 (as amended)
- Breeding of Dogs Act, 1973
- Zoo Licensing Act, 1981.

These premises are controlled by a licensing system operated by local authorities and, in any decision to grant a licence, the licensing authority is obliged to have regard to the protection of animals in case of fire or in an emergency.

APPENDIX I

Local Acts

1.1 There are many Local Acts in operation in various areas in England and Wales and some of these include provisions requiring consultation with the fire safety enforcing authority. The local authority will advise where these Acts apply. Some of the provisions contained in these Acts may have been subsumed into Part B of the Building Regulations.

1.2 Some Acts where fire-related provisions occur are listed below:

Berkshire Act 1986

Bournemouth Borough Council Act 1985

Cheshire County Council Act 1980

Clwyd County Council Act 1985

County of Avon Act 1982

County of Cleveland Act 1987

County of Kent Act 1981

County of South Glamorgan Act 1976

Cumbria Act 1982

Derbyshire Act 1981

Dyfed Act 1987

East Sussex Act 1981

Essex Act 1987

Greater Manchester Act 1981

Hampshire Act 1983

Hereford City Council Act 1985

Humberside Act 1982

Isle of Wight Act 1980

Leicestershire Act 1985

Merseyside Act 1980

Poole Borough Council Act 1986

South Yorkshire Act 1980

Staffordshire Act 1983

Surrey Act 1985

West Glamorgan Act 1987

West Midlands County Council Act 1980

West Yorkshire Act 1980

Worcester City Council Act 1985

- 1.3 In addition to these Acts, there are fire-related provisions in the London Building Acts (Amendment) Act 1939, which applies in Inner London.
- 1.4 Typical fire-related provisions allow local authorities to impose conditions requiring access for the fire and rescue service, fire safety precautions in multi-storey car parks, fire precautions in tall buildings and large buildings used for trade or storage, and means of escape.

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General Introduction

This guide has been prepared for:

- designers
- developers
- occupiers
- employers
- fire and rescue authorities
- building control bodies

It explains the steps involved in approving the fire safety aspects of building work, and the interaction between Building Regulations and other statutory fire safety requirements in England and Wales.

If the procedures described in this guide are followed, developers and designers will be able to receive all the fire safety information relevant to Building Regulations and other statutory approvals, in time to avoid abortive work. Owners and occupiers will also benefit, as this process will generate the basis of their fire safety management procedures and risk assessment.

There should be no need for extra building work to be undertaken at the end of a building project and before the building can be occupied for its intended purpose.

Throughout this guide it is assumed that applicants are conversant with the technical aspects of fire safety and its regulation, or that they employ professional advisors who have this knowledge.

Although this guide has no legal force it is intended that all building control bodies and fire safety enforcement authorities should use the consultation procedures described in the guide as a model for arrangements they make, so that procedures will be similar throughout England and Wales.

The Department of the Environment, the Welsh Office, the Home Office and the Deregulation Unit of the Department of Trade and Industry issued the first edition of this guide jointly in 1992. The third edition was published in September 2006 to provide guidance on changes brought about by the consolidation and reform of fire safety law by virtue of the Regulatory Reform (Fire Safety) Order 2005. This fourth edition incorporates amendments to address changes brought about by the Building and Approved Inspectors (Amendment) (No. 2) Regulations 2006.

Terminology

The following terms are used in the guide:

Approved Inspectors Regulations – The Building (Approved Inspectors etc.) Regulations 2000 (S.I. 2000/2532, ISBN 0-11-099898-7, as amended).

Building Regulations – The Building Regulations 2000 (S.I. 2000/2531, ISBN 0-11-099897-9, as amended).

Fire Safety Order – The Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541, ISBN 0-11-072945-5).

Applicant – the person responsible for obtaining approval, supplying information or making a notification, as the circumstances require. In practice this is likely to be the person carrying out the work where a requirement is imposed by building regulations, while in other circumstances it is likely to be the owner, developer or his agent (e.g. his architect). In this guide the term is used to include anyone acting on behalf of the applicant.

Building Control Body – a term used to include both local authority building control and approved inspectors.

Local Authority – the local authority empowered to carry out the building control function and to enforce Building Regulations in their area by virtue of Section 91(2) of the Building Act 1984.

Approved Inspector – a corporate body or individual approved under Section 49 of the Building Act 1984 to carry out certain building control functions.

Consultation – exchange of information and comment between organisations, such as building control bodies and fire safety enforcing authorities, which may include correspondence and face-to-face meetings.

Fire Safety Enforcing Authority – the body responsible for enforcing the Fire Safety Order 2005. This will normally be the fire and rescue authority (see Appendix A).

Fire and Rescue Authority – the authority discharging the functions of the fire and rescue authority under the Fire and Rescue Services Act 2004 in the area in which the premises are, or will be, situated. In most cases the enforcement responsibilities of fire and rescue authorities are delegated to the fire and rescue service.

Responsible Person – the person defined in article 3 of the Fire Safety Order and having the duties for compliance with the Order as prescribed in article 5 (see Appendix B).

SECTION 1:

Introduction

WHAT LEGISLATION APPLIES

- 1.1 This guide is mainly concerned with the Building Regulations 2000 (as amended), which apply only in England and Wales. There is separate legislation covering building in Scotland and Northern Ireland.

BUILDING REGULATIONS

- 1.2 The Building Regulations apply to building work as defined in regulation 3 of the Regulations. However, section 4 of the Building Act 1984 provides exemptions for some buildings belonging to statutory undertakers, the United Kingdom Atomic Energy Authority and the Civil Aviation Authority. Schedule 2 of the Building Regulations exempts various types of building according to their use or size. Buildings belonging to, or that are occupied by, the Crown authorities are also currently exempt. Section 5 of the Building Act provides for prescribed public bodies to be exempt from the procedural requirements of the regulations. The Metropolitan Police Authority is currently prescribed for this purpose by regulation 10 of the Building Regulations.
- 1.3 Fire safety requirements are given in Part B of Schedule 1 to the Regulations. These cover means of escape, fire alarms, fire spread, and access and facilities for the fire and rescue service. Guidance on some ways of meeting the requirements is given in Approved Document B (Fire safety) which is split into two volumes; Volume 1 – Dwellinghouses and Volume 2 – Buildings other than dwellinghouses.

THE FIRE SAFETY ORDER

- 1.4 The Fire Safety Order reforms the law relating to fire safety in non-domestic premises. Specifically it replaces fire certification under the Fire Precautions Act 1971 with a general duty to take such fire precautions as may be reasonably required to ensure that premises are safe for the occupants and those in the immediate vicinity and a general duty to carry out a risk assessment.
- 1.5 The Order applies to all non-domestic premises, which includes the common parts of apartment buildings and both the common and shared parts of Houses in Multiple Occupation. Article 6 of the Order does exclude some premises such as certain mines, vehicles and land forming part of an agricultural or forestry undertaking.

PARALLEL APPLICATION

- 1.6 Most building work, and certain changes of use involving buildings that are subject to the Building Regulations will also be subject to the Fire Safety Order once the work is complete and the building is occupied.

- 1.7 The parallel application of the fire safety requirements of the Building Regulations and the Fire Safety Order emphasises the need for consultation between the applicant and the administering bodies involved at the earliest opportunity.
- 1.8 The consultation procedures described in this guide are intended to ensure that there should be **no need for extra building work to be done after the end of a building project and before a building can be occupied for its intended purpose**. This aim can only be achieved where all parties take a methodical joint approach to fire safety, whilst discharging their respective statutory duties and responsibilities.

THE DIVISION OF RESPONSIBILITY

- 1.9 There are two main bodies with whom designers, developers and occupiers of buildings may have dealings concerning fire safety: the building control body and the fire safety enforcing authority.
- 1.10 Building control bodies are responsible for checking for compliance with the requirements of the Building Regulations. The Regulations are concerned with building work and with material changes of use (which may give rise to requirements for building work) and the requirements for fire safety will apply to most buildings. These requirements are intended to ensure that the necessary measures for the safe use of the building are incorporated in the design.
- 1.11 The fire safety enforcing authority is responsible for the enforcement of the Fire Safety Order which concerns the safety of people in relation to the operation and use of certain buildings once occupied.
- 1.12 Building work that complies with the Building Regulations requirements for fire safety will normally be satisfactory when the building is occupied. However, where alterations to an existing building are involved, compliance with Building Regulations will not always result in the fire precautions in all parts of that building being upgraded. There may also be risks associated with the specific operations of the occupier that would not be covered by Building Regulations. There is obvious practical value in taking these other fire safety matters into account, where possible, in the design and construction phases, although the legislation only becomes applicable on occupation of the building.
- 1.13 During the design and construction phase of a project, the building control body will check on compliance with the requirements of the Building Regulations. In order to facilitate the consultation process they should take a **co-ordinating role** with fire safety enforcement authorities and, where appropriate, with other regulatory bodies. Any recommendations and advice given should be channelled through the building control body to the applicant.
- 1.14 Once a building is occupied and in use, the fire safety enforcing authority takes on the co-ordinating role as they have the enforcement role for the Fire Safety Order. Licensing and registration authorities must ensure that the fire safety enforcing authority is consulted about fire safety matters concerning premises that need to be licensed or registered.

BUILDING REGULATIONS – COMPLIANCE IN GENERAL

- 1.15 It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. The Approved Documents associated with the Regulations provide guidance for some of the more common building situations. However, there may well be alternative ways of achieving compliance with the requirements. The design and construction of building work is subject to checks by a building control body. Applicants can decide whether to apply to the local authority for building control services or to appoint an approved inspector.

LOCAL AUTHORITY BUILDING CONTROL

- 1.16 Where the applicant chooses to use the local authority there will generally be a choice of two routes: the full plans procedure, or the building notice option. A full plans application involves seeking formal approval of plans. Approval or rejection must be given within a five week time limit (or two months if the applicant agrees), and there is a facility to request a determination of disagreements from the Secretary of State (see Appendix D). When a full plans application is made the applicant can ask the local authority for a completion certificate when the work is complete. A building notice, however, is simply given to the local authority at least two clear working days before work begins. **Where the building is to be put to a use where the Fire Safety Order applies (see 1.5) or will apply after completion of the work then the full plans procedure must be used (see Regulation 12 of the Building Regulations).**

APPROVED INSPECTOR BUILDING CONTROL

- 1.17 If an approved inspector is engaged, the person intending to carry out the work and the inspector must jointly give to the local authority an initial notice. The local authority has five days in which to accept or reject the notice. If the local authority have neither accepted nor rejected the notice by the end of that period, the notice is deemed to be accepted.
- 1.18 Once the notice has been accepted the approved inspector is responsible for supervising the work. If the applicant wishes to have detailed plans of the work certified as complying with the Building Regulations, and the approved inspector is satisfied with the plans, a plans certificate will be issued to the applicant and the local authority by the approved inspector. There is a facility to request a determination of disagreements from the Secretary of State. (see appendix D). When the work is complete the approved inspector must give the local authority a final certificate.

LIAISON BETWEEN BUILDING CONTROL BODIES

- 1.19 It is not uncommon for different building control bodies to deal with different parts or different stages of a single development (e.g. the construction and then fit out of a shopping centre). In such circumstances it is important that building control bodies are made aware of any fire protection arrangements/strategy which are outside the scope of their responsibility but which could have an impact on the works that they are dealing with. **Responsibility for ensuring**

there is adequate liaison between building control bodies lies with the applicant. Building control bodies should make the applicant aware of this responsibility.

FIRE RISK ASSESSMENT AND THE FIRE SAFETY ORDER

- 1.20 By virtue of the Fire Safety Order, the Responsible Person (see Appendix B) is required to carry out a fire risk assessment of their premises. This must be 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 under the Order.
- 1.21 If there are 5 or more employees or the premises is subject to a licence or an alterations notice (see Appendix G) then the significant findings of the fire risk assessment, the fire precautions put in place to address the significant findings and any group of persons identified by the assessment as being especially at risk must all be recorded. This information should be presented on request to the fire safety enforcing authority.
- 1.22 Although these requirements are applicable to a building whilst in operation, it would be useful for the designers of a building to carry out a preliminary fire risk assessment as part of the design process. The level of detail of this assessment will vary depending on the amount of information available to the designer and whether or not the eventual occupier of the building is known at the design stage.
- 1.23 If a preliminary risk assessment is produced it can be used to develop a fire safety strategy for the Building Regulations submission and can assist the fire safety enforcing authority in providing advice at an early stage as to what, if any, additional provisions may be necessary when the building is first occupied. This preliminary risk assessment, where it exists, can eventually be passed on to the Responsible Person along with the other relevant fire safety information required at the time of completion (see 2.30). It will also assist the Responsible Person when developing their fire risk assessment for the purposes of the Fire Safety Order, and it will act as a record of the rationale behind the fire safety design of the finished building.
- 1.24 It is fundamental to the principle of the Fire Safety Order that fire precautions may need to change and evolve with the building throughout its life. Fire risk assessments should be dynamic and kept constantly under review to make sure that precautions are adequate and effective.

OCCUPIED BUILDINGS

- 1.25 Responsibility for ensuring that a building once occupied is provided with appropriate fire safety arrangements rests with the Responsible Person. It is essential therefore, that, when occupying new buildings or existing buildings that have had building works completed, or when contemplating alterations or extensions to existing buildings the Responsible Person ensures that a fire risk assessment has been carried out. The Responsible Person should ensure that the fire safety arrangements in place are adequate and comply fully with the requirements of the Fire Safety Order.

- 1.26 When considering the fire safety measures for the building in use the fire safety enforcing authority should have regard to any risk assessments that may have been undertaken as part of the design and approvals processes and subsequently by the Responsible Person in the discharge of their duties under the Fire Safety Order. Consultation between the designer/applicant, the building control body and the fire safety enforcing authority, and the recording of risk assessments and other relevant information, throughout the design and approvals process, should ensure that any subsequent need for a variation in the fire safety measures provided is avoided, or kept to a minimum.
- 1.27 Additional fire safety measures should only become necessary because of risks that were not identified or known about prior to occupation of the building, or at the time of the building regulation approval and consultation process. It is essential therefore, that the fire safety enforcing authority is fully consulted on all relevant matters during the design and construction process and that their advice on the fire safety measures for the building is incorporated, if appropriate, into the final building design.
- 1.28 If, in an effort to achieve an acceptable package of fire safety measures, the views of the fire safety enforcing authority and the building control body differ and cannot be resolved then the building control body must ensure that the applicant is made fully aware of the concerns of the fire safety enforcing authority and the possibility that the fire safety enforcing authority may take enforcement action under the Fire Safety Order upon occupation of the building.

CONSULTATION

- 1.29 When a building is likely to be used for a purpose that is subject to the fire safety requirements of other legislation, consultation between the relevant bodies is an essential part of the building control procedure. Whilst there are clear distinctions of jurisdiction between building work and an occupied building, it is often impossible when considering the overall level of safety in a building to separate physical fire safety measures and the way in which the building will be managed when occupied.
- 1.30 This guide describes the statutory consultations that fire safety enforcing authorities and building control bodies are obliged to carry out. It also indicates where discussions may be needed to consider fire safety proposals at an earlier stage than those required for statutory consultation so as to keep all parties informed and avoid delays. These discussions may be between the applicant and the building control body only, or they may also involve the fire safety enforcing authority.
- 1.31 **Where a building control body is formally engaged in checking the compliance of building work with the Building Regulations and the building in question is to be put to a use to which the Fire Safety Order applies (see 1.5) or will apply after completion of the work, there are statutory requirements to consult the fire safety enforcing authority at certain stages of the process.**
- 1.32 These consultations are necessary so that the fire safety enforcing authority is aware of the erection or alteration of buildings in which they may have a direct or indirect interest or responsibility. They also provide an opportunity to make the applicant aware of action that may have to be taken on non-building regulation matters in order to satisfy any other fire safety legislation once the building is occupied.

- 1.33 Fire safety enforcing authorities and building control bodies will often hold useful information relating to the design of existing buildings. The consultation process provides an opportunity to share this information with the other parties (see paragraph 1.19).
- 1.34 There may be occasions where more than one building control body is dealing with different building work within the same building. In these circumstances it would be advisable for them to consult with each other, as necessary, to avoid any conflict that might otherwise arise.
- 1.35 Consultation with all relevant parties can also help to achieve consensus where alternative technical solutions may be available, such as during the specification of fire detection and fire alarm systems. As an example, a fire risk assessment, agreed by the relevant parties, may assist in determining the fitness for purpose of alternative means of providing a fire alarm, e.g., a shouted warning or a simple electrical alarm or a fault monitored electrical alarm. Effective decisions made at the specification stage can save considerable rectification costs if corrective action proves necessary after completion of the building work.
- 1.36 The fire safety enforcing authority must also consult with the local authority and, where an initial notice is in force, the relevant Approved Inspector before issuing an enforcement notice under the Fire Safety Order that would oblige a person to make an alteration to a premises.
- 1.37 The nature and timing of consultations and their statutory basis are described in detail in Section 2.

CONSULTATION – OTHER LEGISLATION

Local Acts

- 1.38 There are provisions in other primary legislation and, in some places, in Local Acts (see appendix D) which require consultation to take place between local authorities and fire authorities. This guidance should also be used in those instances.
- 1.39 Under regulation 13(6) of the Approved Inspectors Regulations, an approved inspector must consult the fire safety enforcing authority if a Local Act would have required the local authority to do so had they been undertaking the building control function. The applicant should check with the building control body to see whether there are any Local Acts in force. These Acts are usually enforced by the local authority only.

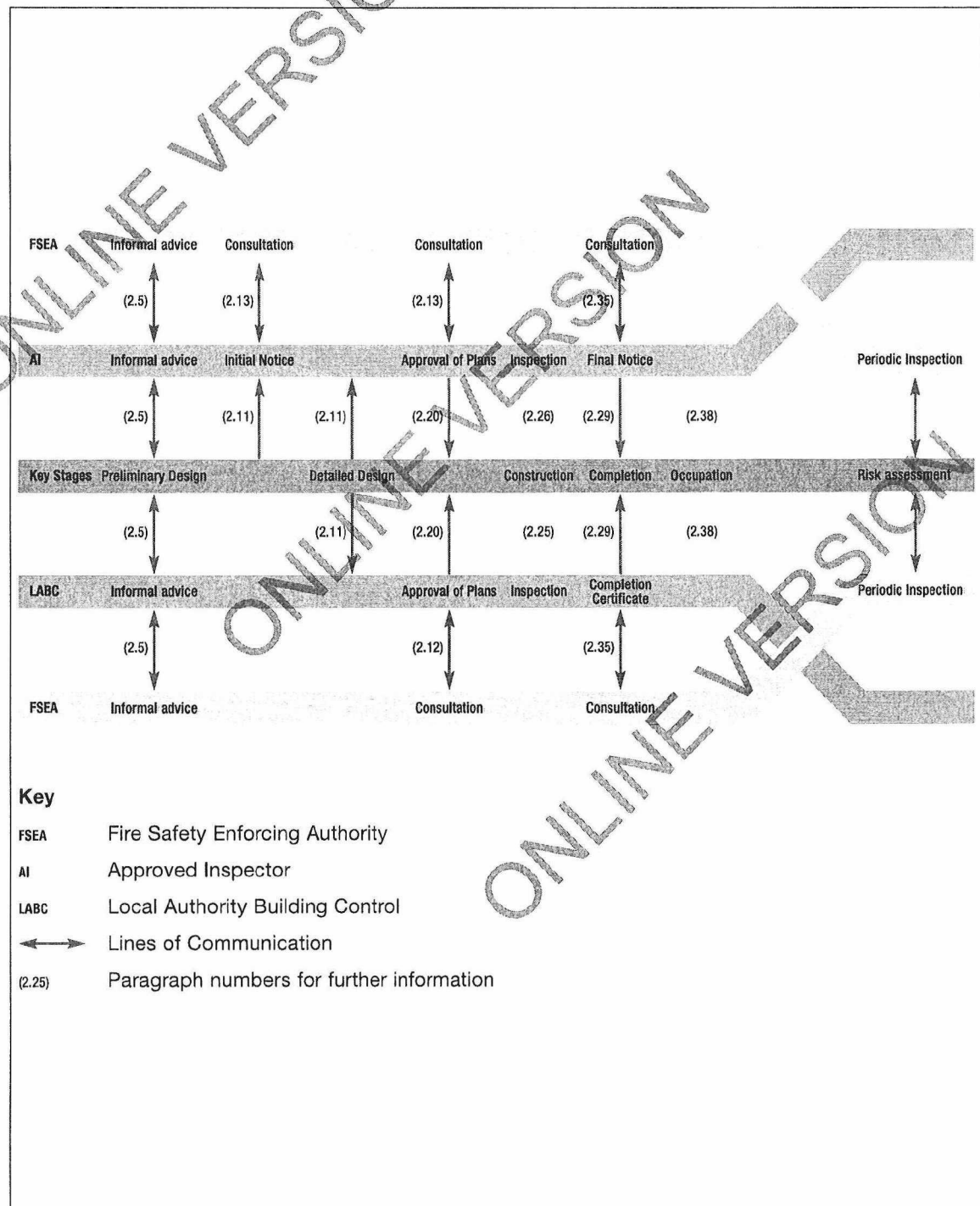
Premises Subject To Licensing Or Registration

- 1.40 Many premises are controlled through a licensing procedure in which fire safety matters are an important concern. Article 43 of the Fire Safety Order has the effect that conditions of licence can have no effect on fire safety matters that could be addressed by the Order. Before issuing a licence in relation to premises to which the Fire Safety Order applies, the licensing authority must first consult with the fire safety enforcing authority (article 42).

SECTION 2:

The Approvals Process Step by Step

This diagram shows some of the Key stages of the fire safety process.



INTRODUCTION

- 2.1 This section describes the consultation procedures that should be followed at different stages of the building control process. During these stages the building control body is the co-ordinating authority, as explained above, and their consultation with the fire safety enforcing authority is crucial. It is very important that all parties should respond within agreed timescales, and that they should play an active part in maintaining good communications.
- 2.2 The consultation process should be conducted to ensure that both the building control body and the fire safety enforcing authority fulfil their roles in an efficient and cost-effective way. Where local arrangements exist which already fulfil the aims of this guide it may not be necessary to adopt all the procedures suggested here.
- 2.3 The plans approval process is likely to be delayed if designs are presented without prior consideration of fire safety. Where local authorities undertake building control there are statutory time limits on the period for consideration of plans and so delays may lead to rejection of plans.
- 2.4 The left hand column describes actions of direct concern to the designer or applicant. The right hand column provides commentary or describes actions which deal with interactions between enforcing authorities and so may be of less direct concern to the applicant. Although the process is presented in a chronological sequence this may vary in practice and some of the stages will not be relevant in all cases.

PRELIMINARY DESIGN STAGE ADVICE & CONSULTATION

- | | |
|---|--|
| <p>2.5 At the early stages of a project the designer may wish to seek advice about the fire safety aspects of the scheme. Involving building control bodies and fire authorities at an early stage can often result in reduced costs for the applicant. However, the advice given by the building control body and the fire safety enforcing authority does not extend to providing design consultancy. The designer's first approach should preferably be to the building control body.</p> | <p>2.5.1 <i>Whatever body is contacted first should determine, as far as it is able, which other authorities or bodies are likely to have an interest and inform the applicant of the necessary application or consultation procedures. Therefore, at the earliest opportunity the applicant should be informed of the likely interest of the other organisations and the necessary application or consultation procedures.</i></p> <p>2.5.2 <i>In responding to an independent approach from a designer or occupier, for goodwill advice under the Fire and Rescue Services Act 2004 (see Appendix F) the fire safety enforcing authority should point out that in respect of the</i></p> |
|---|--|

Building Regulations, or other legislation for which they are not directly responsible, they can offer only observations. They should refer the applicant to a building control body, and where appropriate other enforcing authorities, for guidance on what may be required to meet the legislation for which those bodies or authorities are responsible.

2.5.3 Any advice the fire safety enforcing authority does give should be in writing and should clearly indicate which matters in their opinion:

- may need to be addressed to ensure compliance with the Fire Safety Order when the building is occupied; or
- are only advisory and not enforceable under legislation.

2.5.4 A copy of the advice should be sent to the local authority and the approved inspector where it is known that a relevant initial notice is in force.

2.6 If the building or part of the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5) the fire safety enforcing authority will have powers that may influence the design of the building.

2.7 In such cases, if there are aspects of the design which follow an unusual or complex approach to fire safety, it may be desirable for the designer to request a joint meeting with the fire safety enforcing authority and the building control body.

2.8 At this meeting the building control body should take the co-ordinating role. A record of the main points of the meeting should be circulated to all parties, which clearly distinguishes between:

- Building Regulations' requirements
- requirements of the Fire Safety Order
- advice which is not enforceable under legislation.

STATUTORY CONSULTATION

2.9 Where a building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5), building control bodies are required to consult with the fire safety enforcing authority at certain stages within the process as prescribed by legislation.

2.9.1 *Whilst the legislation and associated procedures for local authorities and approved inspectors may be different, the purpose of consultation is the same, that is to seek the comments of the fire safety enforcing authority regarding the fire precautions that will be necessary to meet the legislation (other than the Building Regulations) that will apply to the building once it is in use. This should allow them to reach **mutually compatible** views on whether plans and building work are satisfactory from the standpoints of the Building Regulations and of fire precautions for buildings in use.*

Note *In addition to giving such comments, the fire safety enforcing authority may wish to offer **observations** to the building control body in relation to the Building Regulations. These should be clearly and separately identified.*

2.9.2 *Consultation also provides the opportunity for the fire safety enforcing authority and the building control body to make recommendations regarding the provision of fire precautions that it believes would be advisable but that are not required by legislation.*

2.10 Even if there is no formal requirement to consult, consultation may still be desirable in many cases such as:

- where the building control body proposes to accept measures which are unusual or complex or which deviate from the general guidance for requirement B5 of the Building Regulations.
- where the size or location of the development might have implications for the disposition of fire and rescue service resources.
- where the fire safety enforcing authority is not the fire and rescue authority and the size or location of the development might have implications for the disposition of fire and rescue service resources.

- 2.11 To facilitate consultation the building control body will need two extra copies of those drawings that demonstrate compliance with Part B. In some cases the two extra copies will be needed for statutory consultation purposes.

In cases where no statutory consultation is involved, the local authority or approved inspector may still choose to consult the fire safety enforcing authority. In either case the two extra copies allow the fire safety enforcing authority to keep a set of drawings while returning the other to the building control body, marked up with any comments.

- 2.11.1 *Under regulation 14 of the Building Regulations, if plans are being submitted to a Local Authority for building work to which Part B of Schedule 1 to the Building Regulations is applicable, unless the building concerned is a house or an individual/self contained flat, two extra copies of those plans which demonstrate compliance with Part B are required to be provided by the applicant for consultation purposes.*

- 2.11.2 *Under regulation 13 of the Approved Inspectors Regulations, an approved inspector, when consulting in relation to an initial notice, must provide the fire safety enforcing authority with a set of plans which demonstrate compliance with Part B. When consulting in relation to a plans certificate, an approved inspector must provide the fire safety enforcing authority with a copy of all the plans to which the certificate will relate. Approved inspectors will need to make arrangements to ensure that sufficient copies are available.*

- 2.12 Where plans are deposited with a local authority for approval and the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5) the local authority is required to consult with the fire safety enforcing authority under article 45 of the Fire Safety Order before passing or conditionally passing the plans.

- 2.12.1 *Section 16 of the Building Act 1984 only allows local authorities 5 weeks, or 2 months if agreed in writing, to pass or reject plans. The fire safety enforcing authority must therefore, respond in good time (see 2.16).*

2.13 Where approved inspectors have been appointed and the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5) they are required to consult with the fire safety enforcing authority before or as soon as is practicable after issuing an initial notice and before giving a plans certificate or final certificate to the local authority.

2.14 If the building control body is not satisfied that the proposals comply with Building Regulations, they may send the applicant a list of amendments or additional information considered necessary. They will not normally consult the fire safety enforcing authority until they are reasonably satisfied that compliance with Building Regulations is shown. If the deficiencies are minor they may decide to proceed with consultation, attaching a copy of their list of the necessary amendments (clearly identified as such) with the information they send the fire safety enforcing authority.

2.15 Once the building control body is reasonably satisfied that the proposals comply with the Building Regulations they will send to the fire safety enforcing authority two copies of drawings which relate to compliance with Part B, i.e. which identify the intended physical fire precautions, together with any supporting documentation they consider useful. That might include correspondence they have had with the applicant. It may also be helpful at this point for the building control body to advise the fire safety enforcing authority of any unusual aspect of the design.

2.13.1 *Approved inspectors may not give a plans certificate or final certificate until 15 working days have elapsed from the date on which they consulted with the fire safety enforcing authority, unless the authority have replied before the end of the 15 days (regulation 13 of the Approved Inspectors Regulations).*

2.14.1 *If the proposals need substantial amendment or the information provided is inadequate then the process may be delayed. It is therefore very important that the application shows that full account has been taken of Part B's requirements, if such delays are to be avoided.*

2.14.2 *In some cases a local authority may be prepared to consider relaxing or dispensing with a requirement under regulation 11 of the Building Regulations, in which case additional consultation with the fire safety enforcing authority may be required (see Appendix E).*

2.15.1 *Building control bodies should time their consultations and provide such information to the fire safety enforcing authority as necessary to satisfy the purpose of the consultation (see 2.9.1).*

2.15.2 *If the building control body is aware of any information that may assist the fire safety enforcing authority or if they have given goodwill advice on additional precautions that are advisable but not enforceable under legislation (see Appendix F) then the building control body should include this information with the consultation documents.*

2.16 The fire safety enforcing authority should make its comments to the building control body in writing and within agreed timescales (usually within 15 working days) so that the building control body can meet its own obligations.

2.17 The fire safety enforcing authority's comments must clearly distinguish between matters:

- which may have to be complied with under the Fire Safety Order when the building is occupied.
- which may have to be complied with to meet other fire safety legislation **other than Building Regulations**.
- which are only advisory and not enforceable under legislation (see Appendix F).

Note In addition to giving such comments, the fire safety enforcing authority may wish to offer **observations** to the building control body in relation to the Building Regulations. These should be clearly and separately identified.

2.18 The building control body must have regard to the fire safety enforcing authority's comments before reaching its decision on plans or in the case of an approved inspector before deciding on a final or plans certificate. In giving their decision, building control bodies should include a copy of any comments from the fire safety enforcing authority so that the applicant is fully aware of the possibility that the fire safety enforcing authority may require additional works on occupation of the building (see 2.22).

2.17.1 *If, in the effort to achieve an acceptable fire safety package, the views of the fire safety enforcing authority and the building control body are incompatible (as a result of the differing scope of their respective powers), the building control body and the fire safety enforcing authority should seek to **resolve the matter quickly and simply** with the applicant.*

2.17.2 *Failing this then the fire safety enforcing authority should set down its concerns and recommendations in a formal written case, which may include details of any enforcement action it may take upon occupation of the building, to the building control body who should retain a copy and ensure that a copy is provided to the applicant.*

APPROVAL OF PLANS

2.19 Having plans approved by either the local authority or certified by an approved inspector can give protection from enforcement action under Building Regulations where the approved plans have been followed.

2.19.1 *A local authority cannot give a notice under Section 36 of the Building Act 1984 requiring alterations if building work conforms to plans that have been approved by the local authority. In cases where an initial notice ceases to be in force without a final certificate having been given, the local authority may not give a notice under Section 36(1) in relation to work that conforms to plans that are the subject of a plans certificate issued by the approved inspector.*

2.20 When, after any necessary consultations with the fire safety enforcing authority, the building control body is satisfied that the plans comply with the requirements of Building Regulations they may issue a notice or certificate approving the plans.

2.20.1 *Where a full plans application has been submitted to a local authority they must issue a decision notice within the statutory time limit. They may reject the plans, approve them or issue a conditional approval.*

2.20.2 *In cases where an approved inspector is undertaking building control, if an applicant requests a plans certificate, the approved inspector must give one if the approved inspector is satisfied that the plans comply with the Building Regulations (see Section 50(1) of the Building Act 1984).*

2.21 If a statutory consultation is involved, the building control body should also send a copy of the notice or certificate (or some other mutually acceptable written notification) to the fire safety enforcing authority.

2.22 The building control body should supply the applicant with a copy of the comments and advice provided by the fire safety enforcing authority described in paragraph 2.17.

2.22.1 *In the **exceptional** event that the fire safety enforcing authority propose to require physical changes in plans or work that are beyond the requirements of the Building Regulations, the building control body should make the applicant aware.*

AMENDED PLANS

2.23 On many projects the design of the building will change during both the design and construction stages. Plans may be amended a number of times before and after the statutory consultation stage is reached. If the applicant submits amended plans, following a statutory consultation and before or after the plans are approved, because of changes relating to fire safety, the building control body should, as a matter of good practice, consult the fire safety enforcing authority.

2.23.1 *The fire safety enforcing authority should be sent two copies of amended plans, one to put comments on and one to keep. Any comments from the fire safety enforcing authority should be in writing, and should follow the format described in paragraph 2.17, and should be relayed to the applicant by the building control body.*

2.24 Where an approved inspector has been appointed, some proposed changes in a building project may require the giving of an amendment notice to the local authority, altering the description of the work given in the original initial notice. The approved inspector will then need to formally consult with the fire safety enforcing authority again, under regulation 13 of the Approved Inspectors Regulations, if work introduced by the amendment notice concerns a building which is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5) and is subject to Part B requirements.

2.24.1 *The procedures for statutory consultation detailed above should be followed. It may be possible to streamline this procedure if the fire safety enforcing authority has been kept up to date during the design process.*

ALTERATIONS NOTICES

2.25 Where, under article 29 of the Fire Safety Order, an **alterations notice** has been served in respect of any premises then the Responsible Person must notify the fire safety enforcing authority before making any changes to the premises, to any services, fittings or equipment in the premises or to the quantity of dangerous

substances present in the premises which may result in a significant increase in risk. When notifying the fire safety enforcing authority the Responsible Person may be required to provide details of the changes proposed and a copy of the relevant fire risk assessment if this is stated within the alterations notice (see Appendix G).

CONSTRUCTION

2.26 As work proceeds the building control body will normally make inspections as appropriate. The purpose of these inspections is to assess the works as they progress with regard to compliance with the Building Regulations, which relate to fire safety and other requirements of the Building Regulations for the **finished building only**.

2.27 Building Regulations do not address the risk of fire during the construction work, which is covered by the Construction (Health, Safety and Welfare) Regulations 1996.

2.28 When construction work is being carried out on an existing building which, apart from the construction site part of the building, remains occupied, the fire safety enforcing authority are responsible for the enforcement of the Construction (Health, Safety and Welfare) Regulations in respect of fire. Where the building is unoccupied, the Fire Safety Order will apply and the Health and Safety Executive are responsible for its enforcement (see Appendix A A1.b.iv).

2.27.1 HSE have issued the following fire safety guidance on these regulations: Construction information Sheet No 51 Construction Fire Safety; and HSG 168 Fire safety in construction work (ISBN 0-7176-1332-1).

2.28.1 The fire safety enforcing authority enforce parts of the Construction (Health, Safety and Welfare) Regulations relating to fire safety matters in existing buildings undergoing construction works, by virtue of regulation 33. As a result fire safety enforcing authority officers may, from time to time, inspect premises undergoing works of construction to ensure that the fire safety provisions and measures are and remain adequate for the risk presented.

COMPLETION

2.29 Whilst completion logically falls before occupation it is not unusual for a building to be either fully or partly occupied before it is formally recognised as complete. Paragraphs 2.38 to 2.43 give guidance on the occupation of buildings.

2.30 Where a building to which the Fire Safety Order applies (see 1.5), or will apply on completion of work, is erected or extended, or is subject to a material change of use the applicant must assemble a package of 'as built' information which records the fire safety design of the building.

At or before completion of building work or any occupation of the building, whichever occurs first, the applicant must pass this fire safety information to the Responsible Person (see Appendix B), and should also send a copy to the building control body.

2.30.1 Regulation 16B of the Building Regulations provides that where a building is erected or extended, or is subject to a material change of use, and that building will be put to a use where the Fire Safety Order applies (see 1.5), or will apply on completion of building work fire safety information must be provided to the Responsible Person.

2.30.2 This information must be passed to the Responsible Person no later than the date of completion of the work or the date of occupation, whichever is the earlier.

2.30.3 In situations where the applicant and the Responsible Person are the same person, a copy of the information should still be forwarded to the building control body.

2.30.4 Whilst it is not a statutory requirement to produce fire safety information where Regulation 16B does not apply, it may often be good practice to do so.

- 2.31 The information provided should include all fire safety design measures in appropriate detail and with sufficient accuracy to assist the Responsible Person to operate and maintain the building in reasonable safety. Where a fire safety strategy or a preliminary fire risk assessment has been prepared these should also be included (see 1.23).

The exact amount of information and level of detail necessary will vary depending on the nature and complexity of the building's design (further guidance on what information should be provided is given in Appendix G of Approved Document B – Volume 2).

Where the package of information includes design details of complex fire protection systems, maintenance schedules or other extensive documentation it may not be necessary to provide copies for the building control body. Applicants should agree with the building control body what information it requires.

- 2.32 Although the purpose of the provision of this information is to enable the Responsible Person to meet the duties imposed by the Fire Safety Order, it may also assist the building control body in assessing the completed building.
- 2.33 If the work is being supervised by the local authority, the applicant must notify them that the building work is complete. If the work is being supervised by an approved inspector, the applicant should notify them that the work is complete.

2.31.1 *Regulation 16B defines 'fire safety information' as information relating to the design and construction of the building or extension, and the services, fittings and equipment provided in or in connection with the building or extension which will assist the responsible person to operate and maintain the building or extension with reasonable safety. The applicant is responsible for ensuring that the accuracy and detail of the information provided is sufficient to comply with regulation 16B.*

2.31.2 *Building control bodies should not give completion certificates (in the case of local authorities) or final certificates (in the case of approved inspectors) unless they have been able to ascertain, as far as reasonably possible, that the appropriate information required by regulation 16B has been provided. See regulation 17 of the Building Regulations and regulation 11(1) of the Approved Inspectors Regulations respectively.*

2.33.1 *Where a local authority is supervising the work regulation 15(4) of the Building Regulations requires that the local authority should be notified of the completion of the building work not more than 5 working days after completion. Approved Inspectors should advise the applicant what notification arrangements should be followed.*

2.34 If the building control body is satisfied that the work complies with the requirements of the Building Regulations, they should issue either, in the case of a local authority, a completion certificate or, in the case of an approved inspector, after consultation with the fire safety enforcing authority, a final certificate.

2.34.1 *The local authority is not obliged to issue a completion certificate unless one has been formally requested along with a full plans application, or unless the building will be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5).*

2.34.2 *Approved inspectors must give the local authority a final certificate following completion of the work, if satisfied that the work complies with the applicable requirements of the Building Regulations. Approved inspectors are subject to a statutory time limit for the issue of a final certificate starting from occupation (see paragraph 2.39.2).*

2.35 Approved inspectors must consult with the fire safety enforcing authority before issuing a final certificate (regulation 13 of the Approved Inspectors Regulations). Local authorities, as a matter of good practice, may also consult at this stage. Such consultations need not necessarily involve additional plans.

2.36 The building control body should send a copy of the completion/final certificate to the fire safety enforcing authority including, where available, a copy of the preliminary risk assessment and/or "as built" record drawings.

2.36.1 *The fire safety enforcing authority should have regard to the completion/final certificate when reviewing the fire safety provisions of an occupied building under the Fire Safety Order.*

2.37 If, having been notified of completion, the building control body cannot issue a completion certificate or final certificate, they should explain, in writing, why this is so.

2.37.1 *A copy of this explanation should be sent to the fire safety enforcing authority where fire safety issues are involved. If necessary the fire safety enforcing authority and the building control body should meet to discuss any inadequacies that are thought to exist in the means of escape or structural fire precautions and consider what options are available for advice or enforcement.*

OCCUPATION

2.38 Prior to occupying the building the owner/employer must ensure that where relevant the statutory obligations set out in paragraphs 2.39 -2.43 are met.

BUILDING REGULATIONS

2.39 If it is proposed to occupy a building where the building control body has not issued a completion or final certificate then, in certain circumstances, the building control body must be notified of the timing and extent of the occupation in advance.

2.39.1 *Where a local authority is supervising work involving the erection of a building, regulation 15(5) of the Building Regulations requires the applicant to notify the local authority at least 5 working days before any occupation prior to completion. In accordance with Section 92 of the Building Act 1984 any such notice should be in writing.*

2.39.2 *Where an approved inspector is engaged and an initial notice including work involving the erection, extension or material alteration of a building to which the Fire Safety Order applies or will apply after completion of the work (see 1.5) and the building (or relevant part) is occupied and no final certificate is given, the initial notice will cease to have effect after a grace period of 4 weeks. This grace period is extended 8 weeks for buildings consisting solely of flats or where the Order does not apply, then Building control will then usually revert to the local authority, unless the local authority agree to extend the period.*

2.40 Where a building is erected or extended, or is subject to a material change of use, and that building will be put to a use where the Fire Safety Order applies (see 1.5), or will apply on completion of building work, the applicant must pass the fire safety information, as described in paragraph 2.30, to the Responsible Person before that building is occupied (see Appendix B) and should send a copy to the building control body.

2.40.1 *Regulation 16B of the Building Regulations requires, in specified circumstances, the person carrying out the work to provide fire safety information to the Responsible Person (see 2.30.1).*

THE FIRE SAFETY ORDER

2.41 Where the Order applies (see Appendix A) the Responsible Person must have completed the fire risk assessment and the provisions required to address the identified risks must be in place.

2.41.1 There is no period of grace for the Responsible Person to produce the risk assessment. The documentation and any necessary safety measures must be in place on the first day that the building is occupied.

2.41.2 There may be additional risks associated with the logistics of moving an organisation into a new building that should be addressed by the Responsible Person.

2.42 If the designer has produced a preliminary risk assessment as part of the design and approvals process this may form the basis of the Responsible Person's assessment together with any other information provided under regulation 16B.

LOCAL ACTS

2.43 If the proposed building is subject to a Local Act there may be conditions applicable to occupation of the building (see Appendix I). The local authority can advise on any provisions that may be relevant.

APPENDIX A

Enforcing Authority

A.1 For the purposes of the Fire Safety 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 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 and to which those Regulations apply, other than construction sites referred to in regulation 33 of those Regulations (see 2.28).
- 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;
 - 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 (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 (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).

ONLINE VERSION

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APPENDIX B

Responsible Person

B.1 Article 3 of the Fire Safety Order defines Responsible Person for the purposes of the Order as;

- a. in relation to a workplace, the employer, if the workplace is to any extent under his control;
- b. in relation to any other premises:
 - 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.

B.2 Article 5(1) places a duty on employers to ensure that the requirements of the Order and any regulations made under it are complied with in respect of the premises. This responsibility reflects the employer's responsibility under European Community law to ensure the safety of his employees. Article 5(2) imposes a similar duty on the Responsible Person in relation to non-workplaces. In such cases, the Responsible Person is under a duty to ensure that the requirements of the Order and any regulations made under it are complied with in respect of the premises, so far as they concern matters within his control.

B.3 Article 5(3) also imposes a similar duty on any person other than the Responsible Person who has to any extent control of the premises (the duty extending only so far as the extent of control). **This could, for example, apply to a contractor who was responsible for maintaining a fire alarm system.**

Fire Safety Information

B.4 Where Regulation 16B of the Building Regulations applies, the applicant is required to provide 'as built' fire safety information to the Responsible Person. In many cases, at the time of occupation or completion, whichever occurs earlier, the identity of the Responsible Person will be clear. However, there will be some cases where there may be more than one person with responsibility for the premises in question, in other cases the identity of the Responsible Person once the premises become occupied for the first time may not yet be known. In such situations, the following guidance may be of assistance.

- a. For some premises there may be more than one person who will have control of the premises and it may not always be possible clearly to identify every person to whom the information should be given. The applicant

should endeavour wherever possible to pass the information on to the person most likely to benefit from and be able to act upon the information provided.

Article 22 of the Fire Safety Order requires that where two or more Responsible Persons share, or have duties in respect of, the same premises they must co-operate with each other. This could include sharing any relevant information they may have been provided with in accordance with Regulation 16B of the Building Regulations.

For example, in the case of work to an individual retail unit in a shopping centre it may be more appropriate to provide the information to the operator of that unit, while information relating to works carried out in the common parts of the centre should be provided to the centre management. However, in both cases the respective Responsible Persons would be expected to communicate any relevant information that may affect the other.

- b. In situations where the person who will have control of the premises when it is first occupied is not known at the time of completion, then the relevant information should be provided to whoever has control of the premises at that time. The information can then be passed on to the appropriate person once they become known.

APPENDIX C

Determination – The Fire Safety Order

- C.1 If the Responsible Person, being under an obligation to do so, has failed to comply with any provision of the Fire Safety Order and they cannot agree with the fire safety enforcing authority on the measures which are necessary to remedy the failure Article 36 of the Order provides for a determination by the Secretary of State.
- C.2 Article 36 may only be used to determine a dispute where the fire safety enforcing authority and the Responsible Person both agree that a failure to comply has occurred and agree to refer the question to the Secretary of State or in Wales, to the Welsh Ministers.
- C.3 The application for a determination must clearly set out the provisions of the Order in issue, the steps taken by the Responsible Person to comply with the provision, the extent to which those steps fail to meet the provision and the measures proposed by both parties to remedy the failure to meet the provision. The application must also provide the following information:
- The names and addresses of the enforcing authority, the Responsible Person and the address of the premises in question (if different from that of the Responsible Person);
 - A copy of all relevant correspondence between the parties; and
 - A copy of any other documentation supporting the measures proposed to meet the provision in question, including the relevant guide to accompany the Order or any other applicable guidance.
- C.4 The Secretary of State may require by notice further information from either party. This should be provided within the period specified in the notice, and copied to the other party.
- C.5 Once the decision has been issued, the Secretary of State has no further jurisdiction. The fire safety enforcing authority, however, may not take any enforcement action if the effect of the action would be to conflict with the Secretary of State's determination.

APPENDIX D

Determination - Building Regulations

- D.1 If the applicant and a building control body disagree about whether plans of proposed work are in conformity with Building Regulations, the applicant can seek a determination of the question from the Secretary of State or in Wales, from Welsh Ministers under either Section 16(10)(local authorities) or Section 50(2)(approved inspectors) of the Building Act 1984.
- D.2 An application for a determination should be sent to the Department for Communities and Local Government or in Wales, to the Welsh Assembly Government, who will charge a fee of half the relevant plans charge subject to a minimum of £50 and maximum of £500.
- D.3 The applicant should explain why they consider the proposal does comply, accompanying the statement of case with relevant drawings and a copy of any rejection notice.
- D.4 "A Guide to Determinations and Appeals" can be found on the Planning Portal website at www.planningportal.gov.uk

The Guide explains the purpose of, and the distinction between, determinations and appeals and gives details of how to proceed with an application.

APPENDIX E

Dispensation – Statutory Consultation

- E.1 The local authority is obliged by Section 15 of the Building Act 1984 to consult the fire safety enforcing authority before relaxing or dispensing with a requirement of Building Regulations that relates to:
- structural fire precautions
 - the provision of means of escape from buildings in case of fire
 - the provision of means for securing that such means of escape can be safely and effectively used at all material times.
- E.2 Local authorities should also consult with the fire safety enforcing authority where they intend to relax or dispense with requirement B5 (access and facilities for the fire service).
- E.3 The consultation should follow the form described in section 2 with the fire safety enforcing authority responding in writing.

Note Approved Inspectors do not have the power to dispense with any requirements of the Building Regulations.

APPENDIX F

Fire and Rescue Services Act 2004

F.1 Section 6(2)(b) of this Act has particular relevance to this guide. It requires every fire and rescue authority to secure efficient arrangements for giving, when requested, advice in respect of buildings in the area of the fire and rescue authority as to:

- fire prevention
- restricting the spread of fire
- means of escape in case of fire.

F.2 During the consultation process a fire safety enforcing authority may offer goodwill advice to applicants that is not enforceable under legislation. It is important that this advice is clearly differentiated from advice relating to statutory requirements and that the benefits of adopting the advice is clearly explained.

APPENDIX G

Alterations Notices

- G.1 An alterations notice under article 29 of the Fire Safety Order (see 2.25) may be served by the fire safety enforcing authority in relation to high risk premises (or premises which would be high risk if any change is made to them). It alerts the fire safety enforcing authority to any potential problems and allows an intervention before changes are made which significantly increase the risk.
- G.2 Article 35 provides for an appeal to a magistrates' court against the service of an alterations notice. On an appeal, the court may either cancel or affirm the notice (and in affirming it may do so either in its original form or with modifications). There is a further appeal from the magistrates to the Crown Court.
- G.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 G.4 which may result in a significant increase in risk, notify the fire safety enforcing authority of the proposed changes.
- G.4 The changes referred to in paragraph G.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.
- G.5 An alterations notice may include a requirement that, in addition to the notification required by paragraph G.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 fire safety 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.
- G.6 An alterations notice may be withdrawn at any time and the notice is deemed to be in force until such time as it is withdrawn or cancelled by the court under article 35(2).

ONLINE VERSION

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APPENDIX H

Other Related Legislation

Premises where other legislation requires notice to or consultation with the fire safety enforcing authority:

H.1 ANIMAL ESTABLISHMENTS

- Pet Animals Act, 1951
- Animal Boarding Establishments Act, 1963
- Riding Establishments Act, 1964 (as amended)
- Breeding of Dogs Act, 1973
- Zoo Licensing Act, 1981.

These premises are controlled by a licensing system operated by local authorities and, in any decision to grant a licence, the licensing authority is obliged to have regard to the protection of animals in case of fire or in an emergency.

APPENDIX I

Local Acts

I.1 There are many Local Acts in operation in various areas in England and Wales and some of these include provisions requiring consultation with the fire safety enforcing authority. The local authority will advise where these Acts apply. Some of the provisions contained in these Acts may have been subsumed into Part B of the Building Regulations.

I.2 Some Acts where fire-related provisions occur are listed below:

Berkshire Act 1986

Bournemouth Borough Council Act
1985

Cheshire County Council Act 1980

Clwyd County Council Act 1985

County of Avon Act 1982

County of Cleveland Act 1987

County of Kent Act 1981

County of South Glamorgan Act
1976

Cumbria Act 1982

Derbyshire Act 1981

Dyfed Act 1987

East Sussex Act 1981

Essex Act 1987

Greater Manchester Act 1981

Hampshire Act 1983

Hereford City Council Act 1985

Humberside Act 1982

Isle of Wight Act 1980

Leicestershire Act 1985

Merseyside Act 1980

Poole Borough Council Act 1986

South Yorkshire Act 1980

Staffordshire Act 1983

Surrey Act 1985

West Glamorgan Act 1987

West Midlands County Council Act
1980

West Yorkshire Act 1980

Worcester City Council Act 1985

I.3 In addition to these Acts, there are fire-related provisions in the London Building Acts (Amendment) Act 1939, which applies in Inner London.

I.4 Typical fire-related provisions allow local authorities to impose conditions requiring access for the fire and rescue service, fire safety precautions in multi-storey car parks, fire precautions in tall buildings and large buildings used for trade or storage, and means of escape.

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