

## **Legal Alert**

### **Regulatory Reform (Fire Safety) Order 2005 – There is no smoke without fire but who is responsible?**

The Fire Safety Order 2005, made in June 2005, will repeal the familiar Fire Precautions Act 1971 and the Fire Precautions (Workplace) Regulations 1997. It will also amend, repeal and consolidate around 70 pieces of less well known fire safety legislation. The new Order follows the scheme of the 1997 regulations and focuses on risk assessment and responsibility. It will apply to most commercial premises including the voluntary sector and also to the communal areas of residential buildings.

One of the main changes implemented by the Order is that Fire Certificates will be abolished. This is because the fire authorities will no longer be inspecting and advising on the fire safety of a building. This responsibility will now rest with the “*responsible person*”. The fire authorities will remain in charge of enforcement of the Order. As before failure to comply with certain serious duties can result in a fine or up to two years imprisonment.

For most premises it is unlikely that there will be just one “responsible person”. The duties of the “responsible person” are likely to be shared in varying proportions between employers, landlords, tenants, managing agents or any other person that has obligations under a lease or any other contractual agreement for maintenance or safety of the premises. In such a scenario the Order requires all the “responsible persons” to liaise together and to ascertain who will be responsible for each element of the fire safety obligations.

With such a wide definition of the “responsible person” it is highly probable that any of the above parties will to some degree, be responsible under the Order. However, the duties do not appear too onerous. In practice many of them may already be in operation in buildings. One of the main duties is to implement a *fire risk assessment* in order to identify any hazards and to establish how best to remove or minimise them. Any findings that are made following the risk assessment must be recorded, along with details of any action taken. The results of the assessment and any actions taken must be continually monitored and reviewed. Where necessary, all employees must have access to information on the fire risks and suitable training must be provided.

The Order was due to come into force on 1 April 2006, however, the Government announced in January that the Order’s implementation has been deferred so that fire experts and businesses will have more time to familiarise themselves with the new legislation. To this aim, the OPDM is now holding a series of seminars aimed at businesses to provide them with information on how the new law will affect them. For more information on these seminars [click here](#)