

# It's not all that new... Regulatory Reform Order, a case of old wine in new bottles or a vintage of its own?

Geoff Rendall,  
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its antecedents and assess the  
increasing role of Certification  
Bodies in the process.

Much has been written in these pages and elsewhere on the topic of the Regulatory Reform (Fire Safety) Order (RRFSO), which was approved by Parliament on 7th June 2005, and is now due to come into force in October 2006. Some of you will sincerely hold the view that it is a retrograde step and may not achieve its intended purpose. Others will argue with equal passion that it is a further step in the right direction. Some reader's eyes may even be glazing over at the prospect of another article on the topic, but I would ask you to persevere while I try to present it from a different perspective - that of an accredited Certification Body, which undertakes inspections of firms which install fire alarm systems. However, before getting to the latter, I must briefly set the scene.

## RRFSO - What is it?

The RRFSO applies to non-domestic premises and has the effect of revoking parts of existing fire legislation in favour of a risk-based approach which places responsibility where it more properly lies i.e. the occupant who is materially in charge of the premises. There are two key elements at the heart of this new regime: the responsible person and the risk assessment.

## The Responsible Person

Firstly, there is the establishment of a legal duty on the occupant(s) of a building or part thereof to undertake (or cause to be undertaken) an assessment of the fire risks associated with that property, and to take such actions as are necessary to eliminate or reduce the risk and consequences of fire. This person is defined as "the Responsible Person", (RP). In a workplace situation, this will normally be the employer and any other person who may have control of any part of the premises. In other premises, the Responsible Person(s) will be those in control of the premises.

The RRFSO requires the Responsible Person(s) to put fire precautions in place "where necessary" and to the extent that is reasonable and practicable in the circumstances of the case. The RRFSO recognizes that to do achieve this successfully, there has to be a "suitable and sufficient assessment of the risks", and this brings me to the second key element of the RRFSO, the Risk Assessment.

## The Risk Assessment

The RRFSO states that:

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

There is a requirement to make a record of the Risk Assessment where five or more persons are employed, and in certain other circumstances. Prudent advice to any Responsible Person would be to record it (the risk) even where he is not legally obliged to.

The Risk Assessment may be carried out by the Responsible Person directly where he has the competence, or it may be delegated or contracted-out to a competent third party. Within the RRFSO, competence is generally defined as follows:

*"A person is to be regarded as competent where he has sufficient training and experience or knowledge and other qualities to enable him properly to implement the measures referred to."*

Clearly the competence required for assessing a petrochemical plant is of a different order to that for a small commercial site and there will be a spectrum of premises and risks between these extremes. We are perhaps all too well aware of the variability of skills required and the difficulties a RP may have in determining the true skill levels of those in whom they put their faith.

Nevertheless, the Risk Assessment should take due account of any hazardous substances which may be present, the activities undertaken, the means of warning of fire, means of escape, mobility of people and other relevant topics. There is already detailed guidance beginning to appear on Fire and Rescue Service websites, and this will be supplemented in the near future by official Guidance Documents published by the Office of Deputy Prime Minister.



## But haven't we seen this all before?

Yes, we certainly have. The concept of a legal obligation upon employers to undertake a risk assessment has been around since 1997. Nevertheless, it is still surprises me how many employers I meet who seem to be in blissful ignorance of the responsibilities they have had for years under the (soon to be revoked) Fire Precautions (Workplace) Regulations 1997 (as amended 1999). These regulations place the responsibility on the employer and/or building owner to undertake a written fire risk assessment of the workplace as part of their duty to ensure employees' safety in the event of a fire. Whilst the main ethos of these Regulations is to encourage everyone within the workplace to take more responsibility for their own safety, it is for employers to ensure that they had taken all appropriate safeguards to protect their workforce in the event of a fire. Employers need to ensure that fire detection, fire fighting and means of escape provision are adequate and that equipment and devices provided are properly maintained.

Despite the best efforts of the Fire and Rescue Services and the Fire Protection Industry, this 1997 legislation never seemed to generate the widespread awareness that it deserved. Let us hope that the RRFSO will achieve a better level of understanding in the business community.

The RRFSO extends the responsibility to undertake a Risk Assessment and act upon it beyond just employers to a wider range of duty holders including employers, other occupants and owners. The responsibility will lie where the material control of the premises lies.

Detailed advice and risk assessment checklists are beginning to appear on some Fire and Rescue service websites. One that I commend to your attention is the Hampshire Fire and Rescue Service, which provides guidance on risk assessment and links to the FPA on-line risk assessment for businesses. This is based upon the valuable work done by Adair Lewis and William Dailey, and was originally published by the Fire Protection Association in 1997 under the title "Fire Risk Management in the Workplace".

My point here is that risk assessment is not a new idea and in fact employers should by now be accustomed to their responsibilities in this respect. The key factor for its success this time around will be a suitably extensive publicity campaign during 2006, and I understand that just such a campaign and seminars are planned to

commence in January 2006. Details can be obtained from the ODPM website.

## Consequences...

To complement the duties it imposes, the RRFSO also creates offences for which prosecution can be initiated. In the main, these relate to failures to comply with these duties. A defence is permitted whereby the person charged may prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence. One way of demonstrating due diligence is to show that any outsourced fire precautions have been sourced from a certificated supplier.

## Third Party Certification

The official guidance documents to the RRFSO are promised early in 2006. They are widely expected to make reference to Third Party Certification as a means by which the Responsible Person can make an informed choice of supplier of fire protection products and services. Third Party Certification is the means by which a supplier (or first party) can demonstrate to a customer (or second party) that it has been independently inspected and assessed as competent in its activities by an independent third party (a certification body). The Certification Body (CB) is itself assessed by a government-approved supervisory body, the United Kingdom Accreditation Service, UKAS, which attests that the CB operates its certification activity in an impartial, competent and independent manner.

## Fire Detection and Alarm Systems Certification

Certification Bodies (such as SSAIB) offer a number of schemes which are of interest to the fire safety community. British Approvals for Fire Equipment (BAFE) is well known in this area. It is not itself a CB but it has been instrumental in establishing a number of respected assessment schemes which are licensed by CBs. One scheme of particular interest in association with the RRFSO is the BAFE SP203 scheme. This is a scheme for the assessment of firms which undertake the Design, Installation, Commissioning and Maintenance of fire detection and alarm systems, and it consists of four modules. The full criteria of assessment at each level are detailed in the Scheme specification, but a brief overview of each module requirement is given here to demonstrate the nature of competence required:

### Systems Design -

The designer(s) will be named and have clear authority for the project and its compliance with standards, interfaces with other elements of building services, structures and connection to electrical supplies. Comprehensive design records shall be maintained and available to those responsible for other modules. Provision

for design input must continue until the project is commissioned and a Certificate of Compliance issued. The designer remains responsible for the project from conception to completion.



### Installation -

The installer must demonstrate competence and an ability to meet the requirements of all relevant standards and codes of practice. In addition, a comprehensive understanding of electrical, mechanical and other safety issues relevant to the installation is required. Comprehensive installation records must also be maintained, with clear notification that the installation is considered complete and is certificated. Installation records must be available to other module suppliers.

### Commissioning and Handover -

Those responsible for this phase must demonstrate an in-depth understanding of all aspects of the equipment that is to be tested, commissioned and handed over. Comprehensive test, commissioning and configuration records shall be kept and made available to other module suppliers.

### Maintenance -

The provider of maintenance services should demonstrate its competence to maintain the installed equipment and in compliance with the specified requirements. The provider must have adequate resource to undertake the maintenance work to which it is committed. Comprehensive records of the maintenance programme and work undertaken must be kept.

The use of third party certificated providers gives the duty holder the assurance that their fire detection and alarm system has been designed, installed, commissioned and will be maintained by a competent provider. This last factor is of vital importance, as insurers are increasingly requiring the provision of an ongoing maintenance contract as a provision of cover. Not only is the RRFSO having an impact

on the need for certificated fire detection and alarm system, but the Chief Fire Officers Association (CFOA) Policy for remotely monitored fire alarm system will impact as it is progressively enforced over the coming years.

The CFOA Policy became effective on 1st April 2005 and will be fully enforced by 2008. This Policy required the issue of a unique reference number (URN) for all remotely monitored fire alarm systems, with alarm activations passing through an alarm receiving centre (ARC) for verification prior to being passed to the fire authority. This Policy places a good deal of emphasis on the role and duty of the responsible person and requires their attendance (or that of a key holder) at any alarm activation that triggers a fire and rescue service response. The Policy (amongst other things), aims to

limit the number of false alarms and it aims to do this by working with alarm systems providers to improve troublesome systems and by working with employers to improve fire safety management within the premise; the synergy between the aims of RRFSO and the CFOA Policy therefore being apparent. The role of the Certification Body is to ensure that the systems provided to generate the alarms are designed, installed, commissioned and maintained to appropriate standards and the ARCs through which the signals pass, are competently managed and appropriately certificated. At the heart of the changes imposed by the RRFSO and the CFOA Policy are those who design, install, maintain and monitor fire alarm and detection systems. The role of the Certification Body is to ensure that purchasers, specifiers and end users have a pool of competent providers on whom they can rely.

SSAIB is one of a limited number of certification bodies accredited by UKAS and licensed to certificate companies against the criteria laid down in BAFE SP 203. For more information on Fire Services certification see [www.ssaib.co.uk](http://www.ssaib.co.uk)