

Business and Regulatory Impact Assessment (BRIA) – Partial

Practical Fire Safety Guidance for Existing Non-Residential Premises

November 2016



Scottish Government
Riaghaltas na h-Alba
gov.scot

Business and Regulatory Impact Assessment - Partial

Title of Proposal

Practical Fire Safety Guidance for Existing Non-Residential Premises

Purpose and intended effect

Background

Non-domestic fire safety is a matter devolved to the Scottish Parliament. Provision for fire safety in non-domestic premises in Scotland is contained principally in Part 3 of the Fire (Scotland) Act 2005 (the Act) and the Fire Safety (Scotland) Regulations 2006.

In general, the Act and associated regulations place a responsibility on businesses to put in place appropriate fire safety measures based on an assessment of risk in respect of their premises, and as such, affects almost all businesses in Scotland.

When the Fire (Scotland) Act 2005 came into being, a series of sector specific guides was produced by the Scottish Government to provide practical fire safety guidance for those with responsibilities under Part 3 of the Fire (Scotland) Act 2005, as amended, and the Fire Safety (Scotland) Regulations 2006. This revised and updated guidance will replace some of those sector specific guides.

The guidance provides recommendations regarding the fire safety risk assessment process, the reduction of risk and guidance on fire safety measures that can be implemented to mitigate risk. However, there is no obligation to adopt any particular solution in the guides if the outcomes of a fire safety risk assessment can be met in some other way.

The enforcing authority, the Scottish Fire and Rescue Service, is required to take into account the content of the guides to assist in determining whether enforcement action may be necessary, but in doing so it should have a flexible approach to enforcement.

Objective

Evidence gathered by RRG showed that opinions on the existing guidance varied, with some respondents saying it is adequate, some calling for more detail and others for less detail. Regardless of opinion on the content of the guidance, all of it pre-dates the creation of a single Scottish Fire and Rescue Service, e.g. it refers to Fire Authorities rather than SFRS, so is in need of a general update.

A draft volume of guidance, covering existing non-residential premises without sleeping accommodation, such as offices, shops and entertainment venues, has been prepared for public consultation. It will consolidate and supersede the following existing guides:

- Practical Fire safety Guidance for Educational and Day Care for

Children Premises: February 2008

- Practical Fire Safety Guidance for Places of Entertainment and Assembly: December 2007
- Practical Fire Safety Guidance for Factories and Storage Premises: February 2008
- Practical Fire safety Guidance for Offices, Shops and Similar Premises: February 2008
- Practical Fire Safety Guidance for Transport Premises: February 2008

These five guides contain a substantial amount of duplication and we believe that by reducing the number of guides duty holders and enforcers will find them easier to use, with greater clarity on the relevant guide for a particular premises. A reduced number of guides will also be quicker for the SG to update when necessary, with a subsequent benefit for dutyholders and enforcers.

Rationale for Scottish Government intervention

In 2014, The Regulatory Review Group (RRG), which is an independent body supported by the Scottish Government with members drawn from the main business and employee organisations in Scotland, established a sub-group to progress a review of Part 3 of the Fire (Scotland) Act 2005.

Contained within the report of that review are a number of recommendations, which include the following;

- Sector specific guidance which has been issued in support of Part 3 of the Fire (Scotland) Act 2005 should be reviewed.
- The Scottish Government should work with SFRS to put in place a programme to review and transpose the sector guides using the most recently updated guides as templates. (This refers to the Practical Fire safety Guidance for Care Homes Guidance, which was published in 2014)

The Scottish Government's Purpose places sustainable economic growth as the central ambition across the Scottish public sector, and the safety of individuals from fire on non-domestic premises has a crucial role to play in helping to achieve that Purpose. The Purpose is underpinned by five strategic objectives: to make Scotland **wealthier and fairer, smarter, healthier, safer and stronger, and greener**. This guidance makes a contribution across all five of these strategic objectives, although its core contribution is in making our communities **safer and stronger**.

Sixteen national outcomes support these strategic objectives and the work of the SFRS contributes to many of these, although three in particular underpin our shared aspirations:

- **we live longer, healthier lives** (National Outcome 6);
- **we live our lives safe from crime, disorder and danger** (National Outcome 9);

- **we have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others** (National Outcome 11).

Consultation

Within Scottish Government

Within the Scottish Government, we have consulted with colleagues from the Fire and Rescue Unit, HM Fire Service Inspectorate, and Building Standards. We have also consulted with colleagues in the Scottish Fire and Rescue Service who have responsibility for fire safety enforcement.

Public Consultation

A public consultation will be undertaken. The consultation will be published on the Scottish Government consultation website and Citizen Space, and is open to the public for responses from individuals and organisations.

In addition to the general invitation to respond, the Scottish Government will contact stakeholders/stakeholder organisations to advise them of the consultation and invite responses.

Business

Included in the list of stakeholders referred to above will be business representative bodies and any other business contacts identified.

Options

Option 1 – Do nothing. Continue with the existing guidance

There are no new policies or requirements on those with responsibilities under the legislation – this is merely a revision, consolidation and general updating of existing guidance. Therefore existing guidance contains appropriate information for duty holders to carry out fire risk assessments, though it may carry out of date references.

Option 2 – Produce revised and consolidated practical fire safety guidance.

Sectors and groups affected

The existing Act and associated regulations already place a responsibility on businesses to put in place appropriate fire safety measures based on an assessment of risk in respect of their premises, and as such, affects almost all businesses in Scotland.

This guidance is intended to be of assistance to those with responsibility for fire safety in non-domestic premises across a range of businesses. It does not prescribe any particular measures to be put in place and, whilst it may make recommendations which might have financial impacts on businesses, these are not new, and not

required by legislation.

Benefits

Option 1 – There are no benefits.

Option 2 – Revision and consolidation of existing guidance will make the guidance more user-friendly. It will also update terminology in existing guidance, which pre-dates the creation of a single fire and rescue service for Scotland.

Costs

Option 1 – no monetary cost. The current guides do not set down prescriptive standards, but instead provide recommendations regarding the fire safety risk assessment process, the reduction of risk and guidance on fire safety measures that can be implemented to mitigate risk.

Option 2 – no monetary cost. The revised guidance does not set down prescriptive standards, but instead provides recommendations regarding the fire safety risk assessment process, the reduction of risk and guidance on fire safety measures that can be implemented to mitigate risk.

Scottish Firms Impact Test

Whilst this guidance is produced specifically for those with fire safety responsibilities in Scottish firms, there are no new policies or requirements on those with responsibilities under the legislation – this is merely a revision, consolidation and general updating of existing guidance.

Competition Assessment

Using the Office of Fair Trading (OFT) competition filter questions below, it has been established that the preferred policy option is unlikely to have any impact on competition. We have concluded therefore that the guidance will not limit the number or range of suppliers directly or indirectly nor will it limit the ability or reduce the incentives of suppliers to compete.

Directly limit the number or range of suppliers?

e.g will it award exclusive rights to a supplier or create closed procurement or licensing programmes?

No – There are no new policies or requirements on those with responsibilities under the legislation – this is merely a revision, consolidation and general updating of existing guidance.

Indirectly limit the number or range of suppliers?

e.g will it raise costs to smaller entrants relative to larger existing suppliers?

No – There are no new policies or requirements on those with responsibilities under the legislation – this is merely a revision, consolidation and general updating of existing guidance.

Limit the ability of suppliers to compete?

e.g. will it reduce the channels suppliers can use or geographic area they can operate in?

No – There are no new policies or requirements on those with responsibilities under the legislation – this is merely a revision, consolidation and general updating of existing guidance.

Reduce suppliers' incentives to compete vigorously?

e.g. will it encourage or enable the exchange of information on prices, costs, sales or outputs between suppliers?

No – There are no new policies or requirements on those with responsibilities under the legislation – this is merely a revision, consolidation and general updating of existing guidance.

Test run of business forms

The proposed guidance will not introduce any statutory business forms.

Legal Aid Impact Test

The guidance does not create any new criminal sanctions or civil penalties. It is not anticipated that this document will have any impact on use of the legal aid fund.

Enforcement, sanctions and monitoring

SFRS is required to take into account the content of this guidance to assist in determining whether enforcement action may be necessary, but in doing so it should have a flexible approach to enforcement.

Implementation and delivery plan

The guidance will be published on the Scottish Government FireLaw web pages. The Scottish Government and the Scottish Fire and Rescue Service will consider how best to promote awareness and use of the revised guidance among those who have responsibilities under the legislation.

Post-implementation review

The Scottish Government and the Scottish Fire and Rescue Service will keep the relevance and usefulness of the guidance under review.

Summary and recommendation

Practical fire safety guidance has been revised following a review of Part 3 of the Fire (Scotland) Act 2005 which recommended that Scottish Government review existing guidance.

In addition, it has been three years since the establishment of a single Scottish Fire and Rescue Service and terminology in the existing guidance pre-dates this.

The new guidance is drafted in a more user friendly and concise format, and updates terminology in the existing guidance which has become out of date since the inception of a single fire and rescue service for Scotland.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a fair and reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact will be assessed with the support of businesses in Scotland.

Signed: 

Date: 24/11/16

Annabelle Ewing MSP
Minister for Community Safety and Legal Affairs

Scottish Government contact point:

Siân Ledger
Fire and Rescue Unit
1W
St Andrew's House
Edinburgh
EH1 3DG

Sian.Ledger@gov.scot

0131 244 3369