

# **Business and Regulatory Impact Assessment (BRIA) – Partial**

## **Practical Fire Safety Guidance for Existing Premises with Sleeping Accommodation**

**November 2017**

# Business and Regulatory Impact Assessment - Partial

## Title of Proposal

**Practical Fire Safety Guidance for Existing Premises with Sleeping Accommodation**

## Purpose and intended effect

### Background

Consultation on the guidance is part of the work programme of the Ministerial Working Group for Building and Fire Safety which was established following the Grenfell fire.

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 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. There is no obligation, however, 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 principal enforcing authority, the Scottish Fire and Rescue Service (SFRS), 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

The guidance offers fire safety advice in respect of certain existing premises with sleeping accommodation. It consolidates and supersedes a number of individual Scottish Government guides and introduces a number of editorial changes aimed at improving dutyholders' understanding of the guidance. The guides superseded are:

- *Practical Fire Safety Guidance for Small Premises Providing Sleeping Accommodation, 2010*
- *Practical Fire Safety Guidance for Medium and Large Premises Providing Sleeping Accommodation, 2008*

- *Practical Fire Safety Guidance for Small Bed and Breakfast and Self-catering Premises, 2010* (The content of this superseded guide has been used as the basis for annex 1, see paragraph 6)

The Scottish Government guide *Practical Fire Safety Guidance for Healthcare Premises, 2008* is withdrawn, giving preference to the fire safety guidance issued by NHS Scotland.

These existing 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 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.

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 but three national outcomes in particular underpin the aims of the guidance:

- We live longer, healthier lives (National Outcome 8):
- 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 Government**

Within the Scottish Government we have consulted with the Scottish Fire and Rescue Service and HM Fire Service Inspectorate.

### **Public Consultation**

This is an exercise to review and consolidate existing guidance. Public consultation on this partial BRIA is being carried out as part of the consultation on the revised guidance which will run from 6 November to 5 February 2018. The consultation will be published on the Scottish Government consultation website and is open 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 invited responses.

### **Business**

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

## **Options**

### **Option 1 – Do nothing. Continue with the existing guidance**

There are no substantial new policies or requirements on those with responsibilities under the legislation. This is principally a revision, consolidation and general updating of existing guidance. Existing guidance contains appropriate information for dutyholders 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**

**Option 1** – There is no impact on businesses, dutyholders and enforcers because the current guides remain unchanged.

**Option 2** - Reducing the number of guides will make the guidance easier to use. A reduced number of guides will also be quicker for the SG to update when necessary, with a subsequent benefit for businesses, dutyholders and enforcers. The guidance 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 are not prescriptively 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 predates 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. No discussions have been held with businesses.

### **Competition Assessment**

Using the Office of Fair Trading (OFT) competition filter questions below, it has been established that the preferred policy option (option 2) is unlikely to have any impact on competition.

#### **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 principally 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?

**Yes** – There is perceived to be some difficulty with persons carrying out poor quality risk assessments and there has been a general move towards risk assessor quality assurance awareness, including text on the FireLaw website, the SFRS website, and new text in the guide. While this may restrict those who have no third party certification, the move is to try to exclude those whose work is sub-standard.

**No** – There are no substantial new policies or requirements on those with responsibilities under the legislation. This is principally 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 substantial new policies or requirements on those with responsibilities under the legislation. This is principally 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 substantial new policies or requirements on those with responsibilities under the legislation. This is principally 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. A full review will take place no later than 10 years after the guidance is published.

**Summary and recommendation**

Option 2 is recommended, i.e. to produce revised and consolidated practical fire safety guidance. The new guidance is now subject to consultation.

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.

There are no monetary cost implications. 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.

### **Declaration and publication**

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

#### **Signed:**



**Date: 1 November 2017**

**Annabelle Ewing MSP  
Minister for Community Safety and Legal Affairs**

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