

**MEMORANDUM OF UNDERSTANDING BETWEEN THE HEALTH AND SAFETY EXECUTIVE AND THE HOME OFFICE ON ENFORCEMENT RESPONSIBILITIES FOR REGULATIONS 19, 20 AND 21 OF THE CONSTRUCTION (HEALTH, SAFETY AND WELFARE) REGULATIONS 1996**

**Purpose**

1. This Memorandum of Understanding summarises the *enforcement* responsibilities of the Health and Safety Executive (HSE) and local fire authorities (FA) in relation to the fire provisions set out in Regulations 19,20 and 21 of the Construction (Health, Safety and Welfare) Regulations 1996 (CHSW Regulations) which came into force on 2 September 1996 (Annex 1).
2. It addresses only those fire provisions which are required by the CHSW Regulations, and applies only to construction sites as defined in the CHSW Regulations.
3. The Memorandum does not deal with enforcement responsibilities for any other fire provisions, which remain unchanged.
4. The Memorandum also gives practical guidance to the respective enforcement authorities on *inspection* and liaison arrangements for the fire provisions of the CHSW Regulations.

**Enforcement responsibilities**

5. The *general* purpose of visits by the enforcing authorities can be summarised as -
  - (a) HSE inspectors visit construction sites for the general purposes of health and safety at work.
  - (b) Fire safety officers of the FA (and Crown Premises Inspection Group for Crown Premises) visit premises which are in occupation to ensure compliance with any legislative fire safety requirements which the FA has a statutory duty to enforce or to fulfil their statutory duties to obtain information or to give advice.

6. Regulation 33 of the CHSW Regulations (Annex 1) provides enforcement powers to FAs for the fire provisions only in respect of Regulations 19, 20, and 21 as they apply to those parts of premises which are or become construction sites *while other parts of the premises remain in occupation by persons other than those carrying out the construction work or any activity arising from such work*. If the premises are not in occupation, then HSE will carry out enforcement on the construction site in respect of fire provisions.

7. While it would be a question of fact in each case, as a general rule, when a construction site (or sites) is physically separated from other existing structures by space or fire resisting walls so that it may be said to constitute separate premises, it should be treated as separate premises. For enforcement purposes, where an existing occupied structure is being extended and there is a risk of fire spreading from one part of the structure to the other (eg through doors or other openings in separating walls) the fire authority will be the enforcing authority for the fire provisions of the CHSW Regulations. Where there is no risk of fire spreading from one part of the structure to the other, HSE will be the enforcing authority.

### **Liaison arrangements where the visiting authority is not the enforcing authority for the fire provisions of the CHSW Regulations**

8. In premises where the visiting authority is not the enforcing authority for the fire provisions of the CHSW Regulations, it will inform the enforcing authority of matters of evident concern (A non-exhaustive list of such matters is contained in Annex 2). The visiting authority will also notify the duty holders under the CHSW regulations of those matters and that these are being reported to the relevant enforcing authority.

### **Exchange of information**

9. Matters of evident concern should be communicated to the authority with enforcement responsibilities as soon as is practicable by telephone. Arrangements should be made either for a joint visit if necessary, or the matters discussed should be confirmed in writing to the enforcing authority as soon as possible. The enforcing authority should notify the visiting authority in writing of any enforcement action it has taken on the fire provisions of the CHSW Regulations.

**Action in serious cases**

10. Where an inspector or officer, who does not have the enforcement powers in respect of the fire provisions of the CHSW Regulations for the premises concerned, is of the opinion that a situation might pose a serious risk to health and safety, then immediate enforcement action under any statutory powers available to that inspector/officer should be considered. Where possible, this intention should be communicated to the relevant enforcing authority *before* the enforcement action is taken (this action is necessary in order to allow each enforcing authority to fulfil its statutory duty to consult the other on such action). As soon as practicable after that arrangements should be made for a joint visit and any enforcement in respect of the fire provisions of the CHSW Regulations should be taken by the relevant enforcing authority.

**Exception to the arrangement**

11. HSE remains the sole enforcing authority for the fire provisions of the CHSW Regulations where they apply to premises specified in Part 1 of Schedule 1 to the Fire Certificates (Special Premises) Regulations 1976 (Annex 3).

**Future arrangements**

12. In the event that one or both of the enforcing authorities intend to prepare guidance on enforcement and inspection arrangements for its officers or inspectors on matters in this Memorandum, then such guidance will be discussed and agreed with the other authority.

Signed .....  
on behalf of the Health and Safety Executive  
Date .....

Signed .....  
on behalf of the Home Office  
Date .....

## ANNEX 2

### **EXAMPLES OF GENERAL FIRE PRECAUTIONS GIVING RISE TO EVIDENT CONCERN**

Below is a non-exhaustive list of examples of those general fire matters which might cause an HSE inspector or fire safety officer evident concern. Such matters may be self-evident or may be drawn to an inspector's/officer's attention by a third party.

#### **MEANS OF ESCAPE IN CASE OF FIRE**

1. Fire exit doors which cannot be easily and immediately opened from the inside by emergency door hardware, eg by panic bolts.
2. Fire escape routes which are required to enable escape to a place of safety outside the structure or building not provided or obstructed.
3. External escape routes which are required to enable escape to a place of safety clear of the structure or building not provided or obstructed.
4. Significantly obstructed exit doors or passageways in a substantially enclosed structure or building.
5. Significant quantities of flammable or combustible materials which are stored in such a way that they may in the event of their involvement in fire cause rapid fire spread affecting means of escape and the production of large quantities of smoke that may enter escape routes and prevent their use in an emergency.
6. In existing, largely completed or enclosed structures and buildings, breaches of fire protection such as missing or permanently-open fire doors on escape routes.
7. Alternative escape routes not provided to give two way travel, ie the creation of excessive dead-end travel conditions.
8. The extensive sub-division of large floor areas which cause significant extensions to escape-route travel distances.
9. Escape routes not adequately identified by fire exit notices.

10. The extensive use of temporary protective wall, floor or ceiling coverings which would contribute to rapid fire spread, particularly when located on primary escape routes.

### **MEANS FOR FIGHTING FIRE**

11. Fire fighting equipment not provided or obviously inadequate in relation to number and type for the fire risk present.
12. Fire-fighting equipment provided but obscured or obstructed.
13. Fire-fighting equipment not properly maintained and in poor condition.

### **FIRE ALARMS**

14. Inadequate or dangerously sited means for raising the alarm.
15. Fire alarms not in working order or not provided.

### **EMERGENCY LIGHTING**

16. Areas without emergency lighting (Annex 1, reg 19(3)) which:
  - (a) are occupied at night; or
  - (b) are windowless areas devoid of natural light (eg basements),

and where failure of the normal lighting would result in insufficient illumination being available to enable persons to find their way to safety.

### **FIRE ROUTINE AND STAFF TRAINING**

17. The absence of or clearly inadequate fire routine procedures and/or staff training on the action to be taken in the event of a fire.

## ANNEX 1

### Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

"Construction site" means any place where the principal work activity being carried out is construction work;

### Emergency routes and exits

19.—(1) Where necessary in the interests of the health and safety of any person on a Construction site, a sufficient number of suitable emergency routes and exits shall be provided to enable any person to reach a place of safety quickly in the event of danger.

(2) An emergency route or exit provided pursuant to paragraph (1) shall lead as directly as possible to an identified safe area.

(3) Any emergency route and exit provided in accordance with Paragraph (1), and any traffic route or door giving access thereto, shall be kept clear and free from obstruction, and, where necessary, provided with emergency lighting so that such emergency route or exit may be used at any time.

(4) Any provision for emergency routes and exits made under paragraph (1) shall have regard to—

- (a) the type of work for which the construction site is being used;
- (b) the characteristics and size of the construction site and the number and location of places of work on that site;
- (c) the plant and equipment being used;
- (d) the number of persons likely to be present on the site at any one time; and
- (e) the physical and chemical properties of any substances or materials on or likely to be on the site.

(5) All emergency routes or exits shall be indicated by suitable signs.

### Emergency procedures

20.—(1) Where necessary in the interests of the health and safety of any person on a construction site, there shall be prepared and, when necessary, implemented suitable and sufficient arrangements for dealing with any foreseeable emergency, which arrangements shall include procedures for any necessary evacuation of the site or any part thereof.

(2) Without prejudice to the generality of paragraph (1), arrangements prepared Pursuant to that paragraph shall have regard to those matters set out in paragraph (4) of regulation 19.

(3) Where arrangements are prepared pursuant to paragraph (1), suitable and sufficient steps shall be taken to ensure that—

- (a) every person to whom the arrangements extend is familiar with those arrangements; and
- (b) the arrangements are tested by being put into effect at suitable intervals,

#### Fire detection and fire-fighting

21.—(1) Without prejudice to the provisions of any other enactment, there shall be provided on a construction site where necessary in the interests of the health and safety of any person at work on that site—

- (a) suitable and sufficient fire-fighting equipment; and
- (b) suitable and sufficient fire detectors and alarm systems which shall be suitably located.

(2) Any provision for fire-fighting equipment, fire detectors and alarm systems made under paragraph (1) shall have regard to those matters set out in paragraph (4) of regulation 19.

(3) Any fire-fighting equipment, fire detector or alarm system provided under paragraph (1) shall be properly maintained and subject to examination and testing at such intervals as to ensure that such equipment, detector or system remains effective.

(4) Any fire-fighting equipment which is not designed to come into use automatically shall be easily accessible.

(5) Every person at work on a construction site shall, so far as is reasonably practicable, be instructed in the correct use of any fire-fighting equipment which it may be necessary for him to use.

(6) Where a work activity may give rise to a particular risk of fire, a person shall not carry out such work unless he is suitably instructed so as to prevent, so far as is reasonably practicable, that risk.

(7) Fire-fighting equipment shall be indicated by suitable signs.

#### Enforcement in respect of fire

33.—(1) Subject to paragraph (2), the fire authority within the meaning of section 43(1) of the Fire Precautions Act 1971(b) shall be the enforcing authority as regards—

- (a) regulations 19 and 20 insofar as those regulations relate to fire; and
- (b) regulation 21,

in respect of a construction site which is contained within, or forms part of, premises which are occupied by persons other than those carrying out the construction work or any activity arising from such work.

(2) Paragraph (1) shall not apply in respect of any premises of a description specified in Part I of Schedule 1 to the Fire Certificates (Special Premises) Regulations 1976(c).