

Circular number	39/2009	Date issued	08 July 2009
This circular is	For response		
Status	This circular draws attention to the recently published Consultation document on the transposition of the Framework Directive on Health and Safety of Workers into the Regulatory Reform (Fire Safety) Order 2005.		

Consultation on the transposition of the Framework Directive on Health and Safety of Workers into the Regulatory Reform (Fire Safety) Order 2005

Issued by:

Rhian Blackman

Fire Safety Policy Team

Addressed to:

**The Chair of the Fire and Rescue Authority
The Chief Executive of the County Council
The Clerk to the Fire and Rescue Authority
The Clerk to the Combined Fire and Rescue Authority
The Commissioner of the London Fire and Emergency Planning Authority
The Chief Fire Officer**

Please forward to:

Officers responsible for fire safety

Summary

This Circular draws FRAs attention to the publication of a consultation on proposals to complete the transposition of the Framework Directive on Health and Safety of Workers 89/391/EEC into the Regulatory Reform (Fire Safety) Order 2005.=

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Consultation on the transposition of the Framework Directive on Health and Safety of Workers into the Regulatory Reform (Fire Safety) Order 2005

1.0 Introduction

1.1 Since the introduction of the Regulatory Reform (Fire Safety) Order 2005 (the FSO), Communities and Local Government (CLG) has been working to complete the transposition tables for the FSO. These are designed to satisfy the European Commission that EU legislation is properly transposed into Member State law. In completing the transposition tables, CLG has discovered a gap in the implementation of the Framework Directive which needs to be rectified.

2.0 The Consultation

2.1 The consultation presents the Government's preferred option to deal with the full transposition of the Framework Directive on Health and Safety of Workers 89/391/EEC.

2.2 Article 6(3)(b) of the Framework Directive says:

'the employer shall, taking into account the nature of the activities of the enterprise and/or establishment...where he entrusts tasks to a worker, take into consideration the worker's capabilities as regards health and safety'

2.3 The Framework Directive has been transposed into UK law via the Health and Safety at Work Act 1979 (HSWA) and any regulations made under it. The obligation is replicated in regulation 13(1) of the Management of Health and Safety at Work Regulations 1999 (MHSWR). Article 47 of the FSO disapplied the MHSWR in relation to fire safety to avoid overlapping legislation between the FSO and the HSWA and its regulations. This has had the unintended effect of disapplying article 6(3)(b) of the Framework Directive as no similar article was included in the FSO.

2.4 The Government's preferred option is therefore to make a short set of regulations under article 24 of the FSO to cover the omission. A draft is included with the consultation document which is published at

www.communities.gov.uk/publications/fire/consultationhealthsafetyrro

2.5 It would be helpful if you could indicate if you think new regulations are the best course of action and make any other comments you think appropriate.

2.6 We do not think that there will be any costs resulting from the proposed regulations, but it would be helpful if you could indicate if you think there are any costs to enforcers.

3.0 Replying to the consultation

3.1 Please send your responses to Rhian Blackman, rhian.blackman@communities.gsi.gov.uk by 6 October 2009.

Rhian Blackman

Fire Safety Policy Team