

Alterations Notices

Standard Operating Procedure No: TFS - 033

Document Overview:-

This document outlines the procedure for preparing, issuing, and receiving information through the use of an Alterations Notice served under Article 29 of The Regulatory Reform (Fire Safety) Order 2005.

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This document has been Equality Impact Assessed in accordance with Wiltshire FRS procedure. To view the assessment click [here](#).

1.0 Criteria for Service

- 1.1 Under Article 29 of the Regulatory Reform (Fire Safety) Order 2005 (RRO) Wiltshire Fire & Rescue Service (Wiltshire FRS) has the option of serving an Alterations Notice on the responsible person for any premises subject to the legislation. It can be served when premises constitute a serious risk to relevant persons or the likelihood of such a risk is reasonably foreseeable due to the nature and use of the premises.
- 1.2 The purpose of an Alterations Notice is twofold: Firstly, it is intended to assist enforcers in maintaining a risk based inspection programme by highlighting potentially high life risk premises with varying levels of risk, and secondly it notifies the responsible person (and others where 29(5)(a) is used) the premises is considered a high or potentially high risk by Wiltshire FRS, affecting the consideration of risk in the premises.
- 1.3 The criteria laid down in Article 29(1) identifies where the premises
 - a. constitutes a serious risk to relevant persons (whether due to the features of the premises, their use, any hazard present, or any other circumstances)
 - b. may constitute such a risk if a change made to them or the use to which they are put
- 1.4 Examples of buildings meeting such criteria may include premises
 - a. with complex fire engineering solutions which have not demonstrated a considered approach to alterations, and as such alterations could be foreseeable it may endanger relevant persons
 - b. containing significant degrees of physical features, which could endanger relevant persons e.g. sandwich panels of a combustible nature
 - c. demonstrating varying degrees of management resulting in changing risk levels
 - d. having a history of failing to follow due process during development (e.g. failure to gain approval from Local Authority Planning and/or Building Control) and which may result in foreseeable danger to relevant persons

2.0 Process for Serving an Alterations Notice

- 2.1 The decision to serve an Alterations Notice must be taken after a management review between the TFS Office Manager and the Community Inspecting Officer (CSI). A full audit must be carried out before the Notice is served and reference should be made to the Enforcement Management Model. Further guidance and discussion should be sought from the TFS Procedure Manager and/or Group Manager - Protection.
- 2.2 Where an Alterations Notice is served it is important to justify the decision in taking this course of action, and as such appropriate and relevant commentary should be recorded in a Note for File, as CSI's may be required to attend court if an appeal is brought. It is expected decisions to serve the Notice will be based on recent intelligence gathered through enforcement, inspection or operational data gathering.

- 2.3 An Alterations Notice served by Wiltshire FRS must explain why the Authority is of the opinion the premises constitutes or may constitute a serious risk if a change is made to the use of the premises, and the appeal procedure should also be explained. It will be necessary to utilise the Alterations Notice letter template on CFRMIS.
- 2.4 The Alterations Notice must be signed by the TFS Office Manager or other designated person.
- 2.5 The Notice must be served on the responsible person (as defined in the RRO) and an Article 27 Requisition may be required to identify such a person. Article 48 provides for a Notice to be served on the responsible person by either
- a. personal delivery or left at the proper address, with contemporaneous notes made detailing such a delivery
 - b. sending to the proper address using recorded delivery
 - c. using an electronic service, acceptable where the recipient has indicated to Wiltshire FRS they are prepared to accept delivery in that way
- 2.6 As part of the process of serving the Notice, it may be necessary to agree a set of plans of the premises in order to evidence structural changes in the future. Article 27 can again be used to obtain plans from the responsible person. On receipt of the plans the originals should be retained for evidential purposes, and copies taken by the CAD department and attached to the appropriate premises record.

3.0 Duties of the Responsible Person

- 3.1 Where a Notice is in force, the responsible person, or any persons mentioned in article 5(3), must notify Wiltshire FRS of any changes in relation to the premises which may result in a significant increase in risk to persons in the event of fire. The types of change are listed at Article 29(4) and are broad ranging. When considering serving an Alterations Notice, Wiltshire FRS will provide an explanation to ensure responsible persons can reasonably identify the type of change the authority considers necessary to be notified of, and this should be dealt with through written advice.
- 3.2 An Alterations Notice may also contain the requirement to
- a. notify others the Notice has been served and the terms of the Notice
 - b. record the results of a risk assessment
 - c. record fire safety arrangements in accordance with Article 11
 - d. send a copy of the risk assessment before making changes together with a summary of the changes to the general fire precautions to Wiltshire FRS
- These additional requirements are at the discretion of Wiltshire FRS and should be applied as appropriate in the circumstances of the case.

4.0 Appeals

- 4.1 A person on whom an Alterations Notice is served may appeal within 21 days of the Notice being served to the Magistrates' Court. The lodging of the

appeal has the effect of suspending the Notice until the final decision of the court. The court may cancel or affirm the Notice (and in affirming it may do so either in its original form or with modifications). There is a further appeal from Magistrates' to Crown Court.

5.0 Review and Withdrawal

- 5.1 As part of the management of the Notices by Wiltshire FRS, the status of the Alterations Notice must be reviewed annually. The review will usually take the form of an Audit. Subject to the review the Notice may be left in place or withdrawn. Withdrawal of the Notice must be notified using the template on CFRMIS (Appendix C) and should be sent by recorded delivery.

6.0 Environment and Safety Information Act 1988

- 6.1 An entry must be made in Wiltshire FRS Enforcement Register in line with the Enforcement Register SOP.

7.0 CFRMIS Administration

- 7.1 Administration of Alteration Notices should be undertaken in line with the Risk Management Part 3: CFRMIS Administration workflow process.

Name: { }
Premises: { }
Address: { }

ALTERATIONS NOTICE
NOTICE REQUIRING STEPS TO BE TAKEN UNDER ARTICLE 29 OF THE
REGULATORY REFORM (FIRE SAFETY) ORDER 2005

I {name and official position of Authorising Officer} on behalf of Wiltshire Fire & Rescue Service, Manor House, Potterne, Devizes SN10 5PP, hereby give you notice the Fire and Rescue Authority are of the opinion in respect to the above named premises, the premises constitute a serious risk to relevant persons (See notes) due to {Insert appropriate justification for Notice *the features of the premises/their use as/the hazard present/or other circumstances}.

I {name and official position of Authorising Officer} on behalf of Wiltshire Fire & Rescue Service, Manor House, Potterne, Devizes SN10 5PP, hereby give you notice the Fire and Rescue Authority are of the opinion any change made to the premises, or the use to which they are put, may constitute a serious risk to relevant persons (See notes) due to {Insert appropriate justification for Notice}.

The Fire and Rescue Authority hereby direct if you, as a responsible person, (See notes) intend making any of the following –

- (a) a change to the premises
- (b) a change to the services, fittings or equipment in or on the premises
- (c) an increase in the quantities of dangerous substances which are in or on the premises, or
- (d) a change to the use of the premises

which may result in a significant increase in risk, you as the responsible person (See notes) must notify the Fire and Rescue Authority of the proposed changes.

The Fire and Rescue Authority also direct in addition to the notification referred to above, as a responsible person you must –

- (a) take all reasonable steps to notify the terms of this Notice to any other person, or persons, who have to any extent control of the premises, insofar as the requirements in articles 8 to 22 of the Regulatory Reform (Fire Safety) Order 2005, or in regulations made under Article 24, relates to matters under his, or their, control
- (b) carry out or review the risk assessment and record the significant findings, including the measures which have been taken or will be taken and identify any group of persons identified by the risk assessment as being especially at risk
- (c) record the arrangements as are appropriate, having regard to the size of the undertaking and the nature of its activities, for the effective planning, organisation, control, monitoring and review of the preventative and protective measures, and before making any changes referred to in the above paragraph, send to the Fire and Rescue Authority a copy of the risk

assessment and summary of the changes proposed to be made to the existing general fire precautions. This Notice shall be deemed to be in force until such time as it is withdrawn by the Fire Authority or cancelled by the court. You have a right to appeal against this Notice (See notes), by way of complaint for an order, to the Clerk to the Court of the Magistrates' Court acting for the petty sessions area in which your premises is located. If you wish to appeal, you must do so within 21 days of the date of this Notice.

Date: **Signed:**

(On behalf of and duly authorised by Wiltshire Fire & Rescue Service)

Notes to Accompany Alterations Notice Served Under Article 29 of The Regulatory Reform (Fire Safety) Order 2005

- 1 Contravention of any requirement imposed by an Alterations Notice is an offence under Article 32 of The Regulatory Reform (Fire Safety) Order 2005 and renders the offender liable, on summary conviction, to a fine not exceeding the statutory maximum or, on conviction on indictment, to an unlimited fine, or imprisonment for a term not exceeding two years, or both.
- 2 In any proceedings for an offence referred to in Note 1, where the commission by any person of an offence under the Order is due to the act or default of some other person, that person is guilty of the offence, and a person may be charged with and convicted of the offence whether or not proceedings are taken against the first mentioned person.
- 3 Nothing in the Order operates so as to afford an employer a defence in any criminal proceedings for a contravention of those provisions by reason of any act or default of an employee or person nominated to implement measures for fire-fighting and procedures for serious and imminent danger and for danger areas, and appointed to assist in undertaking such preventive and protective measures as necessary.
- 4 Subject to Note 3, in any proceedings for an offence under the Order, except for a failure to comply with articles 8(a) (Duty to take general fire precautions) or 12 (Elimination or reduction of risks from dangerous substances), it is a defence for the person charged to prove that he/she took all reasonable precautions and exercised due diligence to avoid the commission of such an offence.
- 5 In any proceedings for an offence under the Order consisting of a failure to comply with a duty or requirement so far as is reasonably practicable, it is for the accused to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.
- 6 A person on whom an Alteration Notice is served may under Article 35 of the Order appeal to the Magistrates' Court within 21 days from the date on which the Alterations Notice was served. The bringing of an appeal has the effect of suspending the operation of the Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.
- 7 To satisfy the Environment and Safety Information Act 1988 Wiltshire Fire & Rescue Service is obliged to enter details of any Alterations Notice into a register to which the public have access. If you feel any such entry would disclose secret or confidential trade or manufacturing information then you should appeal in writing to the Fire and Rescue Authority within a period of 14 days following the service of the Notice.
- 8 The requirements in the Notice are only intended to maintain the current level of fire precautions whilst proposed changes and possible consequences are considered by the Fire and Rescue Authority.
- 9 The Notice is issued without prejudice to any other enforcement action taken by this or any other enforcement authority.

Recorded Delivery

Dear Sirs,

THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005

{Address}

WITHDRAWAL OF ALTERATIONS NOTICE

With regard to the Alterations Notice served in respect of {Address of premises} on {Date} by {Name of Inspector} on behalf of Wiltshire Fire & Rescue Service (the Authority).

The requirements detailed in the Notice are now withdrawn.

The withdrawal of the Alterations Notice indicates the matters which could have, in the opinion of the Authority, presented a particular risk in case of fire to the employees and other persons present in the premises, have now been removed or remedied.

The withdrawal of the Alterations Notice does not imply the premises are considered satisfactory. Where the Authority considers it appropriate, any remaining fire safety defects will be dealt with by way of other types of Notices.

It will still be necessary to review your Fire Risk Assessment on a regular basis, with a recommendation of at least once a year, and on the occasion there is reason to suspect it is no longer valid, or there has been a significant change to the matters to which it relates

Where, as a result of any such review changes to an assessment is required, the responsible person concerned shall make them.

Any queries concerning these matters may be directed to the inspector named above but all correspondence should be addressed to me.

Yours faithfully

for Chief Officer

Alterations Notice Flowchart

