



East Sussex
Fire & Rescue Service

EAST SUSSEX FIRE & RESCUE SERVICE
ENFORCEMENT NOTICE

Notice No
ESFRS/EA/007/E/07

Notice requiring steps to be taken under Article 30 of the Regulatory Reform (Fire Safety) Order 2005

Name: Mr Ramesh Sawhney

**Address: 63-66 Royal Parade
Eastbourne
East Sussex
BN22 7AG**

Premises: Heatherleigh Hotel

I, George O'Reilly on behalf of East Sussex Fire Authority, hereby give you notice that the Fire Authority are of the opinion that, as a person being under an obligation to do so, you have failed to comply with the requirements placed upon you by The Regulatory Reform (Fire Safety) Order 2005 in respect of the above named premises and the persons who may be on the premises or who may be affected by a fire on the premises.

The matters which, in the opinion of the Fire Authority constitute the failure(s) to comply with The Regulatory Reform (Fire Safety) Order 2005 are specified in the Schedule to this Notice.

The Fire Authority is further of the opinion that the steps identified in the Schedule to this Notice must be taken to remedy the specified failure(s) to comply with The Regulatory Reform (Fire Safety) Order 2005.

The steps identified in the schedule are to be completed by the dates indicated in the Schedule.

Unless the steps identified in the Schedule to this Notice have been complied with in the given time limit, you will be deemed not to have complied with this Notice and the Fire Authority may consider a prosecution against you. You may however apply for an extension to this time limit (see notes).

You have the right to appeal against the 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 bring an appeal, you must do so within 21 days of the date this Notice is served on you. The Magistrates' Courts Act 1980 will apply to the proceedings. The bringing of an appeal shall have the effect of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, the appeal is withdrawn, until the withdrawal of the appeal.

Signature

(on behalf and duly authorised by the Fire Authority)

Date

SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO EFRS/EA/007/E/07 REQUIRING STEPS TO BE TAKEN UNDER ARTICLE 30 OF THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005 ISSUED BY EAST SUSSEX FIRE AUTHORITY ON 6 JULY 2007.

Name of Premises: Heatherleigh Hotel

Address of Premises: 63-66 Royal Parade
Eastbourne, BN22 7AG

Where appropriate, a plan may form part of this Schedule to illustrate the steps which, in the opinion of the Fire Authority, need to be taken in order to comply with The Regulatory Reform (Fire Safety) Order 2005.

Note: Notwithstanding any consultation undertaken by the Fire Authority, **before** you make any alterations to the premises, **you** may need to apply for approval from either the Local Authority Building Control or an Approved Inspector and/or the approval of any other local bodies having a statutory interest in the premises.

SCHEDULE

<p>The location and details of matters which are considered to be failures to comply with The Regulatory Reform (Fire Safety) Order 2005 are detailed in the column below.</p>	<p>The steps considered necessary to remedy the failures are detailed in the column below.</p>
<p>1. Failure under Article 9(1) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(The Responsible Person must carry out a suitable and sufficient fire risk assessment. This risk assessment must identify the general fire precautions needed to comply with the legislation).</i></p> <p>1.1 A suitable and sufficient fire risk assessment has not been carried out for the premises.</p> <p>Particular attention should be paid to the adequacy and extent of coverage of the existing fire alarm system. See also item 2 below.</p>	<p>1.1 Carry out a suitable and sufficient Risk Assessment in accordance with the published guidance.</p> <p>Your risk assessment should adequately address the needs of all people, including disabled people who may be on the premises and ensure that they can safely leave the building in the event of a fire.</p> <p>For the purposes of identifying the measures to be taken to comply with the relevant legislation, information on how to carry out a fire risk assessment has been published by HM Government in the form of a series of Fire Safety Risk Assessment Guides for different uses of premises. They are available for free download at: http://www.firesafetyguides.communities.gov.uk or can be purchased at bookshops. If the Responsible Person feels that they do not have the necessary experience or expertise to do this, they must appoint one or more competent persons to assist them in</p>

	<p>identifying the general fire precautions needed to comply with the requirements and prohibitions imposed by this Order. Where an employee is deemed to be a competent person they should be appointed in preference to someone from outside of the workforce.</p> <p>DATE REQUIRED: 6 August 2007</p>
<p>2. Failure under Article 10 of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(Where preventative and protective measures are implemented, the Responsible Person must do so on the basis of the principles specified in Part 3 of Schedule 1 of the legislation).</i></p> <p>2.1 Failure, by the Responsible Person to apply the principles of prevention when implementing preventative and protective measures.</p>	<p>2.1 Implement preventative and protective measures on the basis of the principles specified in Part 3 of Schedule 1 of the legislation.</p> <p>The principles detailed in Part 3 of Schedule 1 of the legislation are—</p> <ul style="list-style-type: none"> (a) avoiding risks; (b) evaluating the risks which cannot be avoided; (c) combating the risks at source; (d) adapting to technical progress; (e) replacing the dangerous by the non-dangerous or less dangerous; (f) developing a coherent overall prevention policy which covers technology, organisation of work and the influence of factors relating to the working environment; (g) giving collective protective measures priority over individual protective measures; and (h) giving appropriate instructions to employees. <p>DATE REQUIRED: 6 August 2007</p>
<p>3. Failure under Article 11(1) and 11(2) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(The responsible person must make and give effect to appropriate arrangements for the effective planning, organisation, control, monitoring and review of the preventative and protective measures).</i></p>	

<p>3.1 The responsible person has failed to produce and implement a fire safety policy document and emergency action plan relating to the fire precautions within the premises.</p>	<p>3.1 Produce, and give effect to, an emergency plan to ensure people in the premises know what to do if there is a fire and to ensure that the workplace can be safely evacuated. In drawing up the emergency plan, you need to take the results of your risk assessment into account.</p> <p>The emergency action plan should provide detailed information explaining the emergency measures that have been implemented at the premises, when action points are required to be carried out and who is responsible for each matter. For example, the plan might explain the procedures in relation to the carrying out of regular fire drills, detail when such drills are to be carried out (e.g. quarterly), including the date of the next scheduled drill, and who is responsible to arranging and carrying out the drill. It might also provide a log sheet to record both planned and actioned drills.</p> <p>DATE REQUIRED: 6 August 2007</p>
<p>4. Failure under Article 13(1) and 13(2) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(The responsible person must ensure that the premises are equipped with appropriate fire detectors and alarms).</i></p> <p>4.1 The existing fire detection and fire warning system currently fitted within the premises provides inadequate coverage and does not meet current standards.</p>	<p>4.1 Upgrade the current fire alarm and fire detection system within the premises to conform to the standards detailed in the appropriate HM Government Guide.</p> <p>The fire alarm system should comply with BS 5839: Part 1 or equivalent. In the Fire Authority's opinion, a Category L2 System would be appropriate.</p> <p>DATE REQUIRED: 1 April 2008</p>
<p>5. Failure under Article 14(2)(f) and 14(2)(g) of the Regulatory Reform (Fire Safety) Order 200</p> <p><i>(The responsible person must ensure that emergency doors are not locked or fastened so that they cannot be easily and immediately opened by any person who may require to use them in an emergency).</i></p>	

<p>5.1 Two emergency exit doors in the lower ground floor were found to be locked with bolts and Yale locks, opening inwards and one would not open without extreme force being exerted against a self closing device.</p>	<p>5.1 Emergency exit doors must be unlocked and readily available for use at all times when persons are on the premises. Consideration must be given within your risk assessment to the type of lock used on these final exit doors.</p> <p>Due regard is to be given to the guidance provided in the HM Government Fire Safety Risk Assessment guide for the premises. The guides are available for free download at: http://www.firesafetyguides.communities.gov.uk or can be purchased at bookshops. If the Responsible Person feels that they do not have the necessary experience or expertise to establish the type of locks required, they must appoint one or more competent persons to assist them.</p> <p>DATE REQUIRED: 6 August 2007</p>
<p>6. Failure under Article 17 of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(The responsible person must ensure that the premises and any facilities, equipment and devices provided in respect of the premises are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair).</i></p> <p>6.1 The responsible person has failed to carry out a suitable system of maintenance in respect of the facilities, equipment and devices within the premises.</p>	<p>6.1 The responsible person must develop, carry out and maintain a suitable system of maintenance in respect of the fire alarm system, emergency lighting and fire fighting equipment within the premises. This testing should be recorded in order to prove compliance.</p> <p>Due regard is to be given to the guidance provided in the HM Government Fire Safety Risk Assessment guide for the premises. The guides are available for free download at: http://www.firesafetyguides.communities.gov.uk or can be purchased at bookshops. If the Responsible Person feels that they do not have the necessary experience or expertise to establish or carry out the required maintenance, they must appoint one or more competent persons to assist them.</p> <p>DATE REQUIRED: 6 August 2007</p>
<p>7. Failure under Article 21 of the Regulatory Reform (Fire Safety) Order 2005.</p>	

(The responsible person must ensure that his employees are provided with adequate safety training).

7.1 The responsible person has failed to provide adequate safety training for all his employees.

7.1 The responsible person must provide adequate safety training for all employees.

The safety training must be provided—

- (a) at the time when they are first employed; and
- (b) on their being exposed to new or increased risk.

This training must—

- (a) include suitable and sufficient instruction and training on the appropriate precautions and actions to be taken by the employee in order to safeguard himself and other relevant persons on the premises;
- (b) be repeated periodically where appropriate;
- (e) be adapted to take account of any new or changed risks to the safety of the employees concerned;
- (f) be provided in a manner appropriate to the risk identified by the risk assessment; and
- (g) take place during working hours;

DATE REQUIRED: 6 August 2007

The Fire Authority considers that the above detailed steps will achieve a satisfactory minimum standard of fire safety in the premises. Alternative ways of achieving an equivalent standard may be available and any request for the Fire Authority to consider alternative proposals should be submitted as a matter of urgency. Additional time is unlikely to be allowed for completion of any alternative proposals unless such requests are received promptly.

**NOTES TO ACCOMPANY ENFORCEMENT NOTICE
SERVED UNDER ARTICLE 30 OF THE
REGULATORY REFORM (FIRE SAFETY) ORDER 2005**

1. Contravention of any requirement imposed by an Enforcement 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 him/her 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 provide 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 Enforcement Notice is served may under Article 35 of the Order appeal to the Magistrates' Court within 21 days from the date on which the Enforcement 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. The Fire Authority may grant, at their discretion, an extension (or further extension) of time specified for the steps to be taken if an appeal against the Notice is not pending. Application for an extension of time should be addressed to the above named Officer.
8. If you are the responsible person you are under an obligation to comply with the provisions of the Order or of any regulations made under it. If you have failed to comply and you and the Fire Authority cannot agree on the measures that are necessary to remedy the failure(s), the question may be referred to the Secretary of State for his determination under Article 36 of the Order.

9. To satisfy the 'Environment and Safety Information Act 1988' the Fire Authority is obliged to enter details of this Enforcement Notice into a register to which the public have access. If you feel that any such entry would disclose secret or confidential trade or manufacturing information, then you should appeal in writing to the Authority within a period of fourteen days following; a) the day on which the appeal period in Note 6 above expires, or b) the day on which the appeal is finally disposed of, where an appeal is brought. The following summary of the contents of the notice will be entered on the public register: -

Index (ESFRS/FS/NO./TYPE/YEAR):	ESFRS/EA/007/E/07
Date Served:	6 July 2007
Premises address or name of person served upon if address not available:	Heatherleigh Hotel 63-66 Royal Parade Eastbourne BN22 7AG
Type of notice served:	Enforcement Notice
Legislation:	The Regulatory Reform (Fire Safety) Order 2005
Particulars:	[This box will contain a link to the actual Enforcement Notice to allow it to be viewed]
Date of any amendment of the notice:	

The actual notice will also appear on the register.

10. The works or actions specified in the Notice are only intended to ensure a satisfactory standard of fire precautions that will comply with the Order. The Notice is issued without prejudice to any other enforcement action that may be taken by this or any other enforcement authority.
11. The Fire Authority would be willing to consider and reasonably assist with any proposals you may have to remedy the matters specified in the Notice.
12. To assist with administration procedures, it would be helpful if you could quote the reference number (at the top of this Notice) when dealing with The Fire Authority.

The Fire Authority considers that the above detailed steps will achieve a satisfactory minimum standard of fire safety in the premises. Alternative ways of achieving an equivalent standard may be available and any request for the Fire Authority to consider alternative proposals should be submitted as a matter of urgency. Additional time is unlikely to be allowed for completion of any alternative proposals unless such requests are received promptly.