



East Sussex
Fire & Rescue Service

EAST SUSSEX FIRE & RESCUE SERVICE
ENFORCEMENT NOTICE

Notice No
ESFRS/RO/002/E/07

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

Name: Company Secretary

Address: Musgrave Budgens Londis Limited
Musgrave House
Widewater Place
Moorhall Road
Harefield
Middlesex UB9 6NS

Premises: Budgens Store, Market Square, Battle, East Sussex TN33 0XB

I, Richard Fowler, 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 Friday 18th May 2007.

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effect of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, the appeal is withdrawn, until the withdrawal of the appeal.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/RO/002/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 17TH APRIL 2007.

Name of Premises: **Budgens Store**

Address of Premises: **Market Square, Battle, East Sussex TN33 0XB**

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

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.	The steps considered necessary to remedy the failures are detailed in the column below.
<p>1. Failures under Article 8(1)(a) & 8(1)(b) of the Regulatory Reform (Fire Safety) Order 2005 supported by Article 4.</p> <p><i>(The responsible person must take such general fire precautions as will ensure the safety of those persons present).</i></p> <p>1.1 Failure to maintain the fire resisting, self-closing doors in efficient working order.</p> <p>These doors were being held open by wedges, chains and/or hooks.</p>	<p>1.1 All fire resisting self-closing doors should be maintained in efficient working order so as to operate automatically at all times.</p>

<p>2. Failures under Article 9 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>2.1 A suitable and sufficient fire risk assessment has not been carried out for the premises.</p>	<p>2.1 Carry out a suitable and sufficient Risk Assessment in accordance with the published guidance.</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 him in identifying the general fire precautions he needs, to comply with the requirements and prohibitions imposed on him 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>3. Failure under Article 11(1) & 11(2) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(The responsible person must make and give effect to such arrangements as are appropriate, having regard to the size of his undertaking and the nature of its activities, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures. The responsible person must record the arrangements referred to in above where he employs five or more employees).</i></p> <p>3.1 The responsible person has failed to make and give effect to an effective emergency plan relating to fire safety matters within the premises.</p>	<p>3.1 Make and give effect to an emergency plan to ensure that people in the premises know what to do if there is a fire and to ensure that the workplace can be safely evacuated.</p> <p>In drawing up the emergency plan, it will be necessary to take account of the results of the fire risk assessment.</p>

<p>4. Failure under Article 14(1) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(Routes to emergency exits from the premises and the exits themselves are to be kept clear at all times).</i></p> <p>4.1 Failure to maintain emergency exit routes clear and free of combustible materials at all times (boxes, cages and other general materials were being stored on the emergency exit routes).</p> <p>Boxes, cages and other general materials were being stored on the emergency exit routes.</p>	<p>4.1 All routes to emergency exits from the premises and the emergency exits themselves are to be kept clear at all times.</p>
<p>5. Failure under Article 17(1) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(The responsible person must ensure that any facilities, equipment and devices provided in relations to fire safety matters within the premises are maintained in an efficient state, in efficient working order and in good repair).</i></p> <p>5.1 Failure to adequately maintain the fire alarm system in accordance with guidance contained in BS 5839 Part 1.</p> <p>5.2 Failure to adequately maintain the emergency lighting system within the premises in accordance with guidance contained in BS 5266.</p> <p>5.3 Failure to carry out regular routine testing of portable electrical appliances.</p> <p>Portable Appliance Testing (PAT) is required to ensure that appliances are safe and not likely to cause a fire.</p>	<p>5.1 The fire alarm is to be tested weekly using a different call point for each successive test to ensure that the system operates satisfactorily in accordance with guidance in BS 5839 Part 1. The result of each alarm test is to be recorded.</p> <p>5.2 The emergency lighting system is to be tested regularly, as required by BS 5266 Part 8. The result of each test is to be recorded.</p> <p>5.3 Implement a suitable programme for testing portable electrical appliances. Records of such testing are to be maintained.</p> <p>Further guidance may be found in: <i>Maintaining portable electrical equipment in offices and other low-risk environments</i>, INDG236 HSE Books, 1996.</p>

<p>6. Failure under Article 18(1) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(The responsible person must appoint one or more competent persons to assist him/her in undertaking the preventative and protective measures required).</i></p> <p>6.1 Failure to appoint one or more competent persons to assist the responsible person in undertaking the required preventative and protective measures.</p>	<p>6.1 Appoint suitable competent persons to assist with preventative and protective measures.</p>
<p>7. Failure under Articles 19(1) and 19(4) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(Comprehensible and relevant information, regarding matters relating to fire safety, is to be provided to employees).</i></p> <p>7.1 The employer has failed to provide comprehensible and relevant information on matters relating to fire safety.</p>	<p>7.1 Following the completion of the fire risk assessment, all relevant matters relating to fire safety within the premises must be notified to employees.</p>
<p>8. Failure under Article 21(1) and 21(2) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p><i>(The responsible person must ensure that their employees are provided with adequate safety training. Such training should be repeated on a regular basis).</i></p> <p>8.1 Employees are not being given adequate and appropriate fire safety training in line with their levels of responsibility.</p>	<p>8.1 Provide all members of staff with instruction and training appropriate to their level of responsibility which covers the actions they should take in the event of fire. The training should be based on written instructions and a record of all such training is to be maintained.</p>

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/RO/002 /E/2007
Date Served:	17 th April 2007
Premises address or name of person served upon if address not available:	Budgens Supermarket Market Square Battle TN33 0XB
Type of notice served:	Enforcement Notice
Legislation:	The Regulatory Reform (Fire Safety) Order 2005
Particulars:	<ol style="list-style-type: none"> 1. Failures under Article 8(1)(a) & 8(1)(b) of the Regulatory Reform (Fire Safety) Order 2005 supported by Article 4. <ol style="list-style-type: none"> 1.1 Failure to maintain the fire resisting, self-closing doors in efficient working order. 2. Failures under Article 9 of the Regulatory Reform (Fire Safety) Order 2005. <ol style="list-style-type: none"> 2.1 A suitable and sufficient fire risk assessment has not been carried out for the premises. 3. Failure under Article 11(1) & 11(2) of the Regulatory Reform (Fire Safety) Order 2005. <ol style="list-style-type: none"> 3.1 The responsible person has failed to make and give effect to an effective emergency plan relating to fire safety matters within the premises. 4. Failure under Article 14(1) of the Regulatory Reform (Fire Safety) Order 2005. <ol style="list-style-type: none"> 4.1 Failure to maintain emergency exit routes clear and free of combustible materials at all times (boxes, cages and other general materials were being stored on the emergency exit routes). 5. Failure under Article 17(1) of the Regulatory Reform (Fire Safety) Order 2005. <ol style="list-style-type: none"> 5.1 Failure to adequately maintain the fire alarm system in accordance with guidance contained in BS 5839 Part 1. 5.2 Failure to adequately maintain the emergency lighting system within the premises in accordance with guidance contained in BS 5266. 5.3 Failure to carry out regular routine testing of portable electrical appliances.

	<p>6. Failure under Article 18(1) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p>6.1 Failure to appoint one or more competent persons to assist the responsible person in undertaking the required preventative and protective measures.</p> <p>7. Failure under Articles 19(1) and 19(4) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p>7.1 The employer has failed to provide comprehensible and relevant information on matters relating to fire safety.</p> <p>8. Failure under Article 21(1) and 21(2) of the Regulatory Reform (Fire Safety) Order 2005.</p> <p>8.1 Employees are not being given adequate and appropriate fire safety training in line with their levels of responsibility.</p>
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.