



East Sussex
Fire & Rescue Service

EAST SUSSEX FIRE & RESCUE SERVICE
ENFORCEMENT NOTICE

Notice No
ESFRS/WE/003/E/08

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

Name of Premises: Costcutter
Address of Premises: 23 High Street, Hailsham, BN27 1AN
Name of Responsible Person: Mr Y Kugathasan & Mr K Chandraraja

I, Neil Biffen 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 failures 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 failures to comply with The Regulatory Reform (Fire Safety) Order 2005.

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

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of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.

Signature

Date: 24 July 2008

(On behalf of, and duly authorised by, East Sussex Fire Authority)

SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO ESFRS/WE/003/E/08 REQUIRING STEPS TO BE TAKEN UNDER ARTICLE 30 OF THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005 ISSUED BY EAST SUSSEX FIRE AUTHORITY ON 24 JULY 2008.

Name of Premises: Costcutter

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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, along with the steps considered necessary to remedy the failures.

1. Failure under Article 8(1)(a) & 8(1)(b) of the Regulatory Reform (Fire Safety) Order 2005.
(The responsible person must take such general fire precautions as will ensure the safety of all persons present).

1.1 Failure

The Responsible Person has failed to adequately maintain the integrity of the fire protected single staircase resulting in the loss of fire separation between ground and first floor.

Remedy

The fire resistance of the single concrete and brick staircase is to be reinstated and the holes in two of the stair risers infilled with materials having a fire resistance of at least half an hour.

DATE REQUIRED: 25 AUGUST 2008

1.2 Failure

The Responsible Person has failed to maintain adequate fire separation between the ground floor shop area and the single staircase.

Remedy

The existing fire resisting double leaf door is to be made self closing and fitted with appropriate mechanisms to ensure that each leaf closes fully against its stops. Fire doors should include intumescent strips and cold smoke seals.

DATE REQUIRED: 25 AUGUST 2008

1.3 Failure

The Responsible Person has failed to provide adequate means of escape from the first floor office/sleeping accommodation and storage area.

Remedy

Provide an appropriately protected escape route from the first floor via the single stair to open air in accordance with the standards detailed in the appropriate Government Fire Safety Guide.

DATE REQUIRED: 26 JANUARY 2009

2. Failure under Article 9 of the Regulatory Reform (Fire Safety) Order 2005.

(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).

2.1 Failure

The Responsible Person has failed to carry out a fire risk assessment for the premises.

Remedy

Carry out a fire risk assessment in accordance with the published guidance.

DATE REQUIRED: 25 AUGUST 2008

Supporting Information

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.

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 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 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.

3. Failure under Article 11(1) and 11(2) of the Regulatory Reform (Fire Safety) Order 2005.

(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).

3.1 Failure

The responsible person has failed to make and give effect to appropriate fire safety arrangements relating to the fire precautions within the premises.

Remedy

The responsible person should make and give effect to appropriate fire safety arrangements relating to the fire precautions within the premises.

DATE REQUIRED: 25 AUGUST 2008

Supporting Information

Such arrangements should show what is to be done, who is responsible for ensuring that it is done and when it is scheduled to take place. In making and giving effect to such arrangements, the following matters should be considered:

- Has a manager within the organisation been appointed to take responsibility for all matters relating to fire safety?
- Have other staff been delegated fire safety duties relevant to their role?
- Has a fire risk assessment been planned, completed, reviewed, etc.?
- Has staff training (including induction and refresher training) been scheduled?
- Have fire drills been planned and scheduled?
- Has appropriate equipment maintenance been scheduled and booked?
- Are records (of training, maintenance etc.) being maintained and updated?
- Are all of the above matters written into a fire safety policy document?

4. Failure under Article 13(1)(a), of the Regulatory Reform (Fire Safety) Order 2005.

(The responsible person must ensure that the premises are equipped with appropriate fire fighting equipment and with fire detectors and alarms).

4.1 Failure

The responsible person has failed to ensure that the existing fire detection and warning system currently fitted within the premises provides adequate coverage and meets current standards.

Remedy

Upgrade the current fire detection and alarm system within the premises so as to comply with the standard detailed in the appropriate HM Government Guide. The fire alarm system should comply with BS 5839: Part 1 or equivalent.

In the Fire Authority's opinion, a BS 5839: Part 1: Category L2 System would be appropriate if the three rooms on the first floor continue to be used to provide sleeping accommodation.

DATE REQUIRED: 26 JANUARY 2009

5. Failure under Article 14(1), 14(2)(b), 14(2)(f), 14(2)(g) and 14(2)(h) of the Regulatory Reform (Fire Safety) Order 2005.

(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 and that emergency routes and exits are indicated by signs).

5.1 Failure

The responsible person has failed to ensure that emergency exit doors are not locked shut.

Remedy

Emergency exit doors must be provided with appropriate door fastenings to ensure that they are readily available for use at all times when persons are on the premises.

DATE REQUIRED: 25 AUGUST 2008

Supporting Information

A suitably signed push bar door fastening on the right hand leaf of the rear double exit doors (as viewed from inside) would be considered appropriate. The left hand leaf may remain fixed.

(The responsible person must ensure that emergency routes and exits are indicated by signs).

5.2 Failure

The responsible person has failed to ensure that the escape routes from the premises are provided with adequate signage.

Remedy

Provide suitable and sufficient fire escape signage throughout the premises, in accordance with BS 5499 Part 4, to indicate all fire exits and routes of exit.

DATE REQUIRED: 25 AUGUST 2008

(The responsible person must ensure that emergency routes and exits requiring artificial illumination are provided with suitable emergency lighting and that the emergency lighting will operate if the normal lighting fails).

5.3 Failure

The responsible person has failed to ensure that adequate emergency lighting is provided within the premises and to illuminate the emergency exit routes from the premises.

Remedy

Provide emergency lighting throughout the premises so as to comply with the standard detailed in the appropriate HM Government Guide. The emergency lighting system should comply with BS 5266: Part 1 or equivalent.

DATE REQUIRED: 26 JANUARY 2009

6. Failure under Article 17 of the Regulatory Reform (Fire Safety) Order 2005.

(The responsible person must ensure that any facilities, equipment and devices provided in relation to fire safety matters within the premises are maintained in an efficient state, in efficient working order and in good repair).

6.1 Failure

The responsible person has failed to adequately maintain the firefighting equipment provided within the premises.

Remedy

The firefighting equipment is to be maintained and tested regularly as required by the current British Standard. Appropriate records of this maintenance and testing are to be kept.

DATE REQUIRED: 25 AUGUST 2008

Supporting Information

The requirements for the testing and maintenance of firefighting equipment are detailed in Appendix L of BS 5588: Part 12. Such testing should include a daily inspection by the premises occupier and an annual service and detailed test of the extinguishers by a competent engineer.

7. Failure under Article 21 of the Regulatory Reform (Fire Safety) Order 2005.

(The responsible person must ensure that their employees are provided with adequate safety training. Such training should be repeated on a regular basis).

7.1 Failure

The Responsible Person has failed to provide adequate fire safety training to enable employees etc. to safeguard themselves and other persons on the premises.

Remedy

Provide appropriate fire safety training to all staff. The training is to include suitable and sufficient instruction on appropriate precautions and actions to be taken by the employee in order to safeguard him/herself and other relevant persons on the premises in the event of fire. A competent person must carry out the training and instruction. A record of all training is to be maintained and made available to the Enforcing Authority on request.

DATE REQUIRED: 25 AUGUST 2008

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: -

Notice	Name and Address of Premises	Legislation	
Enforcement Notice: ESFRS/WE/003/E/08	Costcutter 23 High Street Hailsham BN27 1AN	The Regulatory Reform (Fire Safety) Order 2005.	
		Particulars	Date
		Notice Issued. Click [here] to view the notice.	24 July 2008

The Public Register can be accessed via the internet at **www.esfrs.org** and this actual notice may be viewed by clicking on the link shown in the table above.

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, enforcing 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.