



EAST SUSSEX FIRE & RESCUE SERVICE

ENFORCEMENT NOTICE

Notice No: ESFRS/BH/PS/0229/E1/24

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

Name of Premises: Rutland Court
Address of Premises: 37-39 New Church Road, Hove BN3 4AE
Responsible Person: Rutland Court Freehold Limited, C/O Ellman Henderson Ltd (Trading as Ellmans), 43 Church Road, Hove BN3 2BE

I, [REDACTED], 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.

Unless the steps identified in the Schedule to this Notice have been completed within 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of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.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

[REDACTED]

Date: 29th February 2024

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

**SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO ESFRS/ BH/PS/0229/E1/24
REQUIRING STEPS TO BE TAKEN UNDER ARTICLE 30 OF THE REGULATORY REFORM
(FIRE SAFETY) ORDER 2005 ISSUED BY EAST SUSSEX FIRE AUTHORITY ON 29TH
FEBRUARY 2024**

Name of Premises: Rutland Court

Address of Premises: 37-39 New Church Road, Hove BN3 4AE

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)(b) of the Regulatory Reform (Fire Safety) Order 2005.
(The responsible person must take such general fire precautions as will ensure the safety of any of his employees and/or relevant persons present).

1.1 Failure

The Responsible Person has failed to take measures to reduce the risk of the spread of fire and smoke throughout the premises.

Remedy

All internal fire resisting doors (or alternatively their respective door frames) are to be fitted with intumescent strips and cold smoke seals.

In addition, all flat entrance doors and the doors leading onto each stair or adjoining corridors, should be a minimum of FD30S and fitted with self-closing devices of the equivalent standard of fire resistance and maintained as self-closing.

DATE REQUIRED – 30 August 2024

Supporting Information

In the Fire Authorities opinion, carrying out the remedial works highlighted in the flat entrance door and communal door surveys completed on the 23rd of February and the 2nd of March 2023 by Jamie Ballan associates, and the Fire Risk Assessments completed on 13th March 2019, 19th November 2020 and 22nd March 2023 by Jamie Ballan Associates should be appropriate.

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 ensure that the fire risk assessment is reviewed on a regular basis.

Remedy

The matters identified during the fire safety audit carried out on 26th January 2024 indicate that the existing fire risk assessment is not 'suitable and sufficient'. The fire risk assessment should therefore be reviewed and re-addressed with specific consideration given to the following areas: -

Basement area – works are currently being undertaken on the premises and the contractors are using part of the basement area as their restroom/storage area. A review of the fire risk assessment should be undertaken to ensure no further risks are imposed on all relevant persons.

Rear Staircase – Recycling and rubbish bins are stored on every floor within the rear staircase, the Fire Risk Assessment shows a picture of these and states these are providing a fire loading but are well managed, however these should be a sterile environment free from any combustible materials.

DATE REQUIRED – 29 March 2024

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:

<https://www.gov.uk/government/collections/fire-safety-legislation-guidance-for-those-with-legal-duties>

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 24, Regulatory Reform (Fire Safety) Order 2005

(The responsible person in relation to high-rise buildings must comply with the requirements of the Fire Safety (England) Regulations 2022).

3.1 Failure under Regulation 8 of The Fire Safety (England) Regulations 2022.

(The responsible person in relation to a high-rise residential building must ensure that the building contains clear markings of floor identification and identification of domestic premises).

Failure

The Responsible Person has not installed clear markings of floor identification and identification of domestic premises. within The Premises, which is a high-rise residential building.

Remedy

The Responsible Person must ensure that the building contains clear markings of floor identification and identification of domestic premises within The Premises, which is a high-rise residential building.

DATE REQUIRED – 30 August 2024

Supporting Information

For the purposes of paragraph (1), the “markings” means an identification designed and located in accordance with the guidance in Volume 1 of Approved Document B5 section 15 on each landing within the stairways and in the lift lobbies of the floor level marked in such a way as to be visible both in low level lighting conditions or when illuminated with a torch.

The Fire Authority considers that the above detailed steps will reduce the excessive risk to an acceptable level 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.

**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 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 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: -

Served On	Notice Type	Premises Name	Location	Notice Number
29/02/2024	Enforcement	Rutland Court	Hove	ESFRS/ BH/PS/0229/E1/24

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.