

REPEAL OF LOCAL ENACTMENTS – GUIDANCE

Overview

On the 17 December 2012 'The Building (Repeal of Provisions of Local Acts) Regulations 2012 SI No. 3124' and 'The Building Regulations &c. (Amendment) (No.2) Regulations 2013 SI No. 1959' has resulted in the repeal of certain provisions of certain local Acts, which came into force on the 9 January 2013.

This guidance note provides advice to those who may be considering the removal of fire safety measures that were incorporated into existing buildings under the auspices of the now repealed Acts.

Building Regulations Compliance

The repeal of local Acts was based on the assumption that compliance with the current building regulations is satisfactory and therefore it would be reasonable to use these regulations and associated Approved Documents as a benchmark when considering the removal of fire safety measures required under the repealed local Act.

Importantly, it should be noted that for some existing buildings it is possible that the fire safety measures incorporated under the auspices of the local Act may have been used as a trade-off to meet building regulation compliance. For example, the provision of a sprinkler system may have been used to vary the means of escape provision, firefighting access & facilities, boundary conditions and/or fire resisting construction standards.

It is therefore recommended that prior to the removal, abandonment or decommissioning of any fire safety measure in an existing building that a full building survey is undertaken and a fire strategy should be provided that demonstrates compliance with the fire safety elements of the building regulations. In addition a satisfactory fire risk assessment should be undertaken in compliance with the FSO.

Insurer's Interests

Notwithstanding the above, it is possible and even likely in some cases that the provision of fire safety measures will have been taken into account by an insurer and that reduced premiums or other beneficial considerations may have been allowed as a consequence of this provision. Accordingly, owners of property considering the removal of such measures should ensure that any changes to these are notified to the relevant parties. Most insurance policies require such notifications as a matter of contract and failure to do this could result in the avoidance of cover in the event of a claim.

Approval Process

The Responsible Person should undertake such enquiries or seek expert advice where appropriate to ensure that any actions proposed do not affect compliance with the FSO for which the fire authority have the enforcement role.

The Responsible Person should determine if the proposal:

- ✓ is building work that is subject to building regulations
- ✓ will have a detrimental effect on the safety of the occupants including fire fighters in the event of fire
- ✓ will impact on fire service access and facilities

If the works being undertaken require building regulations approval, an application should be made to a Building Control Body, who will undertake the necessary consultation with the Fire Authority.

If the works being undertaken do not require building regulations approval, it is the 'Responsible Person' who must determine if it is appropriate to remove any fire safety measures having taken expert advice where appropriate. The relevant Fire Authority may provide advice if approached.

Maintenance of Fire Safety Measures

The range of fire safety measures required under local Acts varies dependent upon both relevant circumstances (e.g. fire risk) and location of building but may include automatic fire detection systems, fire suppression systems, smoke ventilation facilities, hose reels, enhanced fire resisting construction and fire control centres. Measures provided for the safety of relevant persons must not be removed and must continue to be maintained as required by Article 17 (1) of the FSO. Failure to do so could result in enforcement action being undertaken under the FSO.