

## **STATUTORY REQUIREMENTS**

### **General**

Various schemes of legislation apply to property and to its use. Statutory obligations may arise by reason of the activities carried on at the property or from the nature of the property or building concerned. Certain legislation provides specific obligations for particular types of property or where property is used for a particular trade or business.

Under a longer term lease, the tenant will normally be obliged to comply with all statutory requirements which apply to the property whether general or arising from the tenant's use of it. In shorter term leases this obligation may be more limited and apply only to operational requirements arising from the tenant's use of the property..

### **Planning and Control Legislation**

Planning and Building Control legislation are two of the most important legal codes which apply to buildings. See our separate guides to Planning and Building Control legislation in our Commercial Development guide. Any works or change of use to a commercial property will require planning permission unless it falls within the Generally Permitted Development Order. Works or a change of use also require compliance with Building Regulations. There are a number of ways to comply with Building Regulations, the submission of plans to the local authority and their approval will be required under certain procedures

### **Health and Safety at Work**

Certain legislation affects a very broad range of properties such as Health and Safety at Work legislation, Fire Safety legislation and Disability Discriminatory legislation. See our detailed guide to Health, Safety and Welfare at Work.

The Health and Safety at Work legislation sets out minimum of standards in relation to work places. The standards are in general terms. There are more specific standards for particular types of business activities. Compliance will be required if a work place is to be used for as such. Different rules apply to work places which were first used before and after 1st January 1993. Stricter more detailed standards apply to properties used as a workplace after 1992.

There are requirements in relation to ventilation, lighting, temperature, room space and dimension, windows, doors, walls, skylights and ventilators. There are also requirements in relation to the availability of sanitary conveniences, washing facilities and drinking water.

The Health and Safety inspectorate has powers to enforce compliance. They can issue improvement notices and prohibition notices. Improvement notices are served where the inspector believes that there is a breach or likely to be a breach of legislation. It sets times for remedying the breach. From the perspective of a commercial investor, these obligations should fall on the tenant. Where the activity involves a risk of injury a prohibition notice can be served. This will require the property to cease to be used as a workplace until defects are remedied. Failure to comply is an offence.

There are positive obligations in relation to fire safety in respect of most commercial premises. It is necessary to undertake a fire risk assessment and ensure that risk reduction steps are taken and are sustained. In the fire safety assessment, fire risks must be established and evaluated. The former requirement for a Fire Safety Certificate has been abolished.

### **Disability Legislation**

The Disability Discrimination Act is significant as it imposes general obligation on commercial premises. Unlike most legislation dealing with building standards, it contains provision which can oblige certain service providers to make adjustments in relation to physical features in order to overcome barriers to access. The legislation will cover most shops and those providing services to the members of the public. The obligations can fall on the landlord or the tenant. Landlords will want to pass the obligation on to their tenant, either directly or in the case of a managed common area pass to a service charge.

Compliance can be costly. In purchasing commercial premises, a surveyor should appraise the property from the perspective of compliance with legislation and the requirements to undertake reasonable adjustments.

The Disability Discrimination Act imposes a duty on service providers to make reasonable adjustments to accommodate persons with disabilities. This can include requirements to take steps to remove physical features. Where a physical obstacle exists which makes it difficult or impossible for a disabled person to use the service it must be altered or removed. The Act can overrule leases in certain circumstances to entitle the occupier to make alterations with the consent of the landlord which is not to be unreasonably withheld.

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This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.