

FACT SHEET - ESSENTIAL FIRE SAFETY MEASURES

WHAT IS AN ESSENTIAL FIRE SAFETY MEASURE?

An essential fire safety measure means a fire safety measure in a building that is included in:

The fire safety schedule for the building or;

- The essential services (within the meaning of Part 59 – Fire Safety Measures, Ordinance 70 under the Local Government Act 1919) attached to an approval that was in force immediately on or after 1 July 1988 or;
- The essential services (within the meaning of Ordinance 70 under the Local Government Act 1919) attached to an approval or order that was in force immediately before 1 July 1993 or;
- The essential services (within the meaning of the Local Government (Approvals) Regulation 1993) attached to an approval referred to in clause 22 of that regulation being the latest approval granted during the period from 1 July 1993 to 30 June 1997 or;
- The essential services (within the meaning of the Local Government (Orders) Regulation 1993) attached to an order referred to in clause 6(1) of that regulation being the latest order given during the period from 1 July 1993 to 30 June 1997.

FIRE SAFETY SCHEDULES

A Fire Safety Schedule lists all essential fire safety measures that must be installed in a building and specifies the minimum standard of performance for each fire safety measure.

A Fire Safety Schedule is issued as part of a:

- Development consent for a change of building use (other than complying development).
- Complying development certificate to erect a building or for a change of building use.
- Construction certificate for proposed building work.

Fire safety order to upgrade fire safety in a building.

The Environmental Planning and Assessment Act 1979 require all essential fire safety measures specified in a Fire Safety Schedule to be installed in the building before the building is occupied.

FIRE SAFETY CERTIFICATES

A Fire Safety Certificate is a certificate issued by or on behalf of the owner of a building to the effect that all essential fire safety measures specified in the current Fire Safety Schedule have been assessed by a properly qualified person and found, when assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building.

WHAT INFORMATION MUST A FIRE SAFETY CERTIFICATE CONTAIN?

The assessment and inspection of an essential fire safety measure or building must have been carried out within the period of three months prior to the date on which the fire safety certificate is issued.

The choice of person to carry out an assessment or inspection is up to the owner of the building. The person who carries out an assessment must inspect and verify the performance of each fire safety measure being assessed and must test the operation of each new item of equipment installed in the building premises that is included in the current fire safety schedule for the building.

A fire safety certificate for a building or part of a building must be made in the form approved by the planning secretary and must contain the following information:

- The name and address of the owner of the building or part.
- A description of the building or part, (including its address).
- A list identifying each essential fire safety measure in the building or part, together with the minimum standard of performance specified in the relevant fire safety schedule in relation to each such measure.
- The date or dates on which the essential fire safety measures were assessed.
- The type of certificate being issued (that is, final or interim).
- A statement to the effect referred to in clause 170 (for a final certificate) or clause 173 (for an interim certificate).
- The date on which the certificate is issued.

A fire safety certificate for a building or part of a building must be accompanied by a fire safety schedule for the building or part.

WHEN MUST A FINAL FIRE SAFETY CERTIFICATE BE ISSUED?

A Final Fire Safety Certificate or Interim Fire Safety Certificate must be issued on completion of building work or before occupation of the premises. The person who carries out the assessment must inspect and verify the performance of each fire safety measure listed in the Fire Safety Schedule and must test the operation of each measure.

An occupation certificate authorising occupation or use of a new building or to commence a change of use for an existing building must not be issued unless a Fire Safety Certificate has been issued for the building.

ANNUAL FIRE SAFETY STATEMENTS

An Annual Fire Safety Statement is a statement issued by or on behalf of the owner of a building to the effect that each essential fire safety measure specified in the statement has been assessed by a competent fire safety practitioner and was found, when assessed, to be capable of performing to the standard specified in the schedule or in the case of an essential fire safety measure not the subject of a Fire Safety Schedule, to a standard not less than that to which the measure was originally designed and implemented.

The fire safety measures relating to the building may not be installed to current Australian Standards, but those applicable when the building was constructed, modified or upgraded. In any case maintenance standards are not acceptable.

WHO CARRIES OUT THE ASSESSMENT AND INSPECTION FOR THE ANNUAL FIRE SAFETY STATEMENT?

The choice of the person to carry out an assessment or inspection is made by the owner of the building. The building must be inspected by a competent fire safety practitioner and at the time of the inspection was found, when it was inspected, to be in a condition that did not disclose any grounds for a prosecution concerning matters including but not limited to, the display of fire safety notices, the obstruction or impedance of fire exit passageways, the interference with or obstruction of fire exit doors, not keeping paths of travel to fire exits clear and unobstructed.

The assessment and inspection of an essential fire safety measure or building must have been carried out within the period of three months prior to the date on which the Annual Fire Safety Statement is issued. The person who carries out an assessment must inspect and verify the performance of each fire safety measure being assessed.

WHAT INFORMATION MUST AN ANNUAL FIRE SAFETY STATEMENT CONTAIN?

An annual fire safety statement for a building or part of a building must be made in the form approved by the planning secretary and must contain the following information:

- The name and address of the owner of the building or part;
- A description of the building or part, (including its address);
- A list identifying each essential/critical fire safety measure in the building or part, together with the minimum standard of performance specified in the relevant fire safety schedule in relation to each such measure;
- the date or dates on which the essential fire safety measures were assessed;
- the date on which the building or part was inspected;
- the type of statement being issued (that is, annual or supplementary),
- a statement to the effect referred to in clause 175 (for an annual statement) or clause 178 (for a supplementary statement);
- the date on which the statement is issued the name and contact details of the person who issued the statement;
- the name and contact details of the competent fire safety practitioner who endorsed the statement

A fire safety statement for a building or part of a building must be accompanied by a fire safety schedule for the building or part.

WHEN DOES A BUILDING OWNER ISSUE AN ANNUAL FIRE SAFETY STATEMENT?

Each year the owner of a building to which an essential fire safety measure is applicable must cause the Council to be given an Annual Fire Safety Statement for the building. An Annual Fire Safety Statement must be given:-

- within twelve months after the date on which an Annual Fire Safety Statement was previously given or;
- if a Fire Safety Certificate has been issued within the previous twelve months, within twelve months after the Fire Safety Certificate was issued, whichever is the later.

Failure to give an [Annual Fire Safety Statement](#) to the council within the time prescribed by sub clause (2)(b) constitutes a separate offence for each week beyond the expiry of that time for which the failure continues.

WHAT IS A SUPPLEMENTARY FIRE SAFETY STATEMENT?

A supplementary fire safety statement is the assessment of a critical fire safety measure, this being a fire safety measure identified in a fire safety schedule or fire link conversion schedule as a critical fire safety measure, being a measure which is of such a nature, or is implemented in such an environment or in such circumstances, that the measure requires periodic assessment and certification at intervals of less than 12 months. The assessment must have been carried out within the period of one month prior to the date on which the supplementary fire statement is issued.

The choice of person to carry out the assessment is up to the owner of the building.

The person who carries out the assessment must inspect and verify the performance of each fire safety measure being assessed.

WHAT OTHER MATTERS MUST THE BUILDING OWNER ATTEND TO?

As soon as practicable after the Fire Safety Certificate/ Annual Fire Safety Statement is issued the owner of the building must cause a copy of the certificate/statement together with a copy of the Fire Safety Schedule to be given to Council along with a Registration Fee in accordance with Council's fees and charges, and **email an electronic copy only** to the Commissioner of Fire & Rescue to afss@fire.nsw.gov.au and must cause a copy of the certificate/statement together with a copy of the Fire Safety Schedule to be prominently displayed in the building.

PENALTIES

Failure to maintain essential fire safety measures, display fire safety certificates/fire safety statements or provide annual fire safety statements to Council when due is a breach of the Environmental Planning and Assessment Act 1979. Penalty Infringement Notices ranging from \$1000 to \$4000 apply to overdue annual fire safety statements. Failure to display an annual fire safety statement is \$580.

