

## Frequently asked questions for building owners and practitioners

### Introduction

On 1 October 2017, changes to the *Environmental Planning and Assessment Regulation 2000* (the Regulation) were introduced to enhance requirements relating to fire safety in new and existing buildings. The following information is designed to assist building owners and fire safety practitioners in applying the requirements of the Regulation relating to fire safety statements and to provide answers to some frequently asked questions.

Further information about the changes to the Regulation made in October 2017 can be found on the 'Fire safety' page of the Department of Planning, Industry and Environment's website at [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au).

### What form do I use to complete a fire safety statement? (cl. 181)

A fire safety statement must be issued in the form approved by the Planning Secretary. The Department has updated the template form in response to feedback from stakeholders. The updated form (Version 3.1) must be used for fire safety statements from 1 March 2021 and is available on the 'Fire safety' page of the Department's website.

### What is a fire safety measure? (cl. 165)

Fire safety measures include items of equipment, forms of construction or fire safety strategies that are provided in a building to ensure the safety of persons using the building in the event of fire. It can include items such as portable fire extinguishers, fire hydrants, fire sprinklers, fire detection and alarm systems and lightweight construction. Fire safety measures include both essential fire safety measures and critical fire safety measures as defined in clause 165 of the Regulation.

Essential fire safety measures are often identified in the building's fire safety schedule, where a schedule was required to be issued, or they could be included in the essential services list attached to an approval or order issued under the *Local Government Act 1919* or the *Local Government Act 1993*. Essential fire safety measures are the fire safety measures that form part of an annual fire safety statement.

Critical fire safety measures are the fire safety measures that are of a nature or installed in a manner which requires periodic assessment and inspection at intervals of less than 12 months. These measures are specifically identified on the fire safety schedule and form part of a supplementary fire safety statement. A critical fire safety measure is also an essential fire safety measure.

### What is a fire safety schedule? (cl. 168)

A fire safety schedule specifies each of the fire safety measures that apply to the building premises. The fire safety measures specified in the fire safety schedule will vary for each building and can be both essential fire safety measures and critical fire safety measures. The schedule also specifies the minimum standard of performance for each of the measures. This standard reflects the standard to which each measure is designed, installed and capable of operating.

### What are the building owner's responsibilities in relation to fire safety measures? (cl. 182)

The building owner is responsible for maintaining each fire safety measure to the required minimum standard of performance contained in the fire safety schedule. For fire safety measures that apply to buildings by means other than a fire safety schedule, the measures must be maintained to the standard to which each measure was originally designed and implemented.

### What is an annual fire safety statement? (cl. 175)

An annual fire safety statement is a declaration by or on behalf of a building owner that an accredited practitioner (fire safety) (APFS) has:

- assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building, and
- inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 7 of Part 9 of the Regulation.

A building owner must ensure that an annual fire safety statement for the building is issued each year and that a copy of the statement is provided to the local council and Commissioner of Fire and Rescue NSW.

### Who do the requirements for annual fire safety statements apply to? (cl. 175)

The requirements apply to the owners of buildings that contain essential fire safety measures and are required by the Regulation to issue an annual fire safety statement.

### What is a supplementary fire safety statement? (cl. 178)

A supplementary fire safety statement is a declaration by or on behalf of a building owner that an accredited practitioner (fire safety) has assessed, inspected and verified the performance of each existing critical fire measure that applies to the building.

The intervals when supplementary fire safety statements must be issued for each critical fire safety measure is listed in the fire safety schedule.

### Who do the requirements for supplementary fire safety statements apply to? (cl. 178)

The requirements apply to the owners of buildings that contain critical fire safety measures as listed in the fire safety schedule for the building.

### What is the purpose of a fire safety statement? (cl. 175 and 178)

A fire safety statement is a declaration from the building owner(s) that the fire safety measures that apply to a building have been checked and continue to perform to the relevant standard. This assists in demonstrating that building owner(s) are complying with the requirement that they maintain fire safety measures in accordance with clause 182 of the Regulation. As such, the Regulation requires the annual fire safety statement to be issued by or on behalf of the owner of an affected building.

In issuing a fire safety statement, the building owner is declaring that an accredited practitioner (fire safety) has assessed each fire safety measure that applies to the building and confirmed that the measure meets the required standard of performance.

For annual fire safety statements, the building owner is also declaring that an accredited practitioner (fire safety) has inspected the building's fire exit systems for compliance with the Regulation.

As the person issuing the statement is not certifying the performance of the fire safety measures, they are not expected to have the specialist expertise to verify that they meet the minimum standard.

## Who must issue the fire safety statement? (cl. 175 and 178)

The Regulation requires that the fire safety statement be issued by or on behalf of the owner by signing the declaration in section 8 of the form for annual fire safety statements and section 9 for supplementary fire safety statements.

Building owners could include individuals, a company or an owner's corporation.

A person may be provided with the appropriate authority from the building owner to issue the statement on behalf of the owner(s). This may include a strata manager, executive committee of an owners corporation, an authorised employee of the company that owns the property or the executor of a deceased estate or other person appointed to manage the affairs of the building owner.

In the case of a building with multiple owners, one owner may issue the statement, however each of the other owners must authorise the owner who issues the statement to act as their agent.

An accredited practitioner (fire safety) must not issue a fire safety statement where they have assessed a fire safety measure or inspected the building's exit system (for an annual fire safety statement). This includes any employer/employee or direct associate of the accredited practitioner (fire safety) who undertook the assessment or inspection. This is consistent with the fire safety statement process in the Regulation, which recognises the different and separate roles and responsibilities for building owner(s) and an accredited practitioner (fire safety). It also ensures building owners (who are ultimately responsible) remain directly engaged in the fire safety statement process.

## What is an accredited practitioner (fire safety)?

An accredited practitioner (fire safety) is a person who is accredited under a Government approved industry accreditation scheme or, where the Commissioner for Fair Trading is satisfied there is no person accredited to carry out the assessment of a particular fire safety measure, a person deemed by the building owner to be competent to carry out the work.

From 1 July 2020, a building owner must select an accredited practitioner (fire safety) from a register of accredited practitioners. The practitioner must hold the relevant accreditation to assess the specific fire safety measure or inspect the fire exit systems serving the building.

Where the Commissioner for Fair Trading is satisfied there is no person accredited to assess a specific fire safety measure, the Commissioner may authorise the building owner to determine and document that the person selected to assess the measure is competent. Further information about the approved industry accreditation schemes and the circumstances when a building owner is required to determine the competence of a practitioner can be found on the 'Fire safety practitioners' page of the NSW Fair Trading website at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au).

The Department has also developed guidance material to assist building owners in this process. The guide *Selecting an accredited practitioner (fire safety) – A guide for building owners who must issue annual fire safety statements* is available on the 'Fire safety' page of the Department's website.

### Is each accredited practitioner (fire safety) required to sign the form? (cl. 181)

The fire safety statement form must contain details of each accredited practitioner (fire safety) who endorsed the statement. An accredited practitioner (fire safety) can sign the fire safety statement to demonstrate that they have endorsed it.

Alternatively, the person issuing the statement could obtain and attach a separate signed document from each accredited practitioner (fire safety) endorsing the relevant part of the fire safety statement.

The document could be in the form of a signed letter or certificate that contains all the necessary information to demonstrate that the accredited practitioner (fire safety) has fulfilled the relevant functions of the Regulation.

### Can a fire safety statement be 'issued' by an accredited practitioner (fire safety)? (cl. 175 and 178)

The role of the accredited practitioner (fire safety) is to assess, inspect and verify the performance of each fire safety measure and inspect the fire exit systems of buildings. Each accredited practitioner (fire safety) must also endorse the statement to this effect.

The Regulation allows the fire safety statement to be issued by or on behalf of the building owner. However, the person who issues the statement by completing the declaration in section 8 or 9 of the fire safety statement form must not be an accredited practitioner (fire safety) who was involved in the assessment of any of the measures or the inspection of the building for the purposes of the statement, or their employer/employee or direct associate. This recognises the different roles and responsibilities for building owner(s) and an accredited practitioner (fire safety) in the fire safety statement process. It also ensures building owners remain directly engaged in the fire safety statement process.

### Can changes be made to the new fire safety statement form? (cl. 181)

The Regulation requires that a fire safety statement be in the form approved by the Planning Secretary, meaning that no changes can be made to the standard form published on the Department of Planning, Industry and Environment's website. Any changes to the form including adding or altering letterheads and logos or adding and removing sections of the form may contravene the requirements of the Regulation.

The use of a standardised fire safety statement form ensures greater consistency in terms of content and presentation of fire safety information, which will help improve compliance and make the building regulation system easier to navigate.

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