

**80 Providing fire safety schedules and fire safety certificates after fire safety order is given**

- (1) As soon as practicable after giving a fire safety order in relation to a building, the person who gives the order must give a copy of the fire safety schedule for the building to—
  - (a) the council, and
  - (b) the Fire Commissioner.
- (2) A person to whom a fire safety order is given in relation to a building must, within the time specified in the order, give a copy of the final fire safety certificate for the building to—
  - (a) the person who gave the fire safety order, and
  - (b) if the person who gave the fire safety order was not the council—the council.

Maximum penalty (subsection (2))—

- (a) for a corporation—600 penalty units, or
  - (b) for an individual—300 penalty units.
- (3) The final fire safety certificate must be issued after the requirements of the fire safety order have been complied with.

**81 Essential fire safety measures to be maintained**

- (1) The owner of a building must maintain each essential fire safety measure for the building—
  - (a) for an essential fire safety measure specified in a fire safety schedule—to a standard no less than that specified in the schedule, or
  - (b) for an essential fire safety measure applicable to the building but not specified in the fire safety schedule (an *original measure*)—to a standard no less than that to which the measure was originally designed and implemented.

**Note—** Some pre-1997 buildings may not have a fire safety schedule but essential fire safety measures still apply.

Maximum penalty (subsection (1))—

- (a) for a corporation—600 penalty units, or
  - (b) for an individual—300 penalty units.
- (2) The owner of a building to which an original measure applies may request from the council a schedule of the original measures for the building.
  - (3) The council must provide the schedule to the owner as soon as practicable after receiving the request.

- (a) a copy of the reissued schedule, and
- (b) evidence of the errors or omissions that required correction.

**[22] Section 81A**

Insert after section 81—

**81A Essential fire safety measures to be inspected, tested and serviced**

- (1) The owner of a building must ensure that the maintenance activities for each essential fire safety measure for the building are undertaken in accordance with—
  - (a) if a performance solution approved for building work addresses the maintenance activity—the performance solution, or
  - (b) AS 1851—2012, if the maintenance activity—
    - (i) is not addressed by a performance solution approved for building work, and
    - (ii) is addressed by AS 1851—2012.

Maximum penalty—

- (a) for a corporation—600 penalty units, or
- (b) for an individual—300 penalty units.

- (2) The owner of a building must—

- (a) keep the records required by AS 1851—2012, or the approved performance solution, on site at the building for at least 7 years, and
- (b) make the records available for inspection by the Fire Commissioner or the relevant council.

Maximum penalty—

- (a) for a corporation—300 penalty units, or
- (b) for an individual—150 penalty units.

- (3) In this section—

*AS 1851—2012* means AS 1851—2012, *Routine service of fire protection systems and equipment* as in force from time to time.

*maintenance activities* means the following—

- (a) inspection,
- (b) testing,
- (c) servicing.

**[23] Section 83 Final fire safety certificates and interim fire safety certificates**

Omit “the whole of” from section 83(1)(a).

**[24] Section 83(1)(b)**

Omit “whole”.

**[25] Section 83, note**

Insert after section 83(2)—

**Notes—**

- 1 A final fire safety certificate must be provided before an occupation certificate is issued under section 41(1) for—
  - (a) a new building, or



(b) P2.3.2 in Volume 2.

**Category 2 fire safety provision** means the provisions CP9, EP1.3, EP1.4, EP1.6, EP2.2 and EP3.2 in Volume 1 of the *Building Code of Australia*.

**Category 3 fire safety provision** means the provisions EP1.3, EP1.4, EP1.6, EP2.2 and EP3.2 in Volume 1 of the *Building Code of Australia*.

**class**, in relation to a building or part of a building, means—

- (a) in a provision of this Regulation that imposes requirements in relation to a development consent—the class to which the building belongs, as identified by the development consent, or
- (b) otherwise—the class to which the building or part of a building belongs, as ascertained in accordance with the *Building Code of Australia*.

**CodeMark scheme** means the CodeMark scheme for the certification of building products and systems managed by the Australian Building Codes Board, under which certification bodies are accredited and monitored by the Joint Accreditation System of Australia and New Zealand established on 30 October 1991.

**critical fire safety measure**, in relation to a building, means a fire safety measure that—

- (a) requires periodic assessment and certification at intervals of less than 12 months, because of its nature, the environment or the circumstances, and
- (b) is identified as a critical fire safety measure in a fire safety schedule.

**critical stage inspection** means a critical stage inspection referred to in section 61 or 62.

**deemed-to-satisfy provisions** has the same meaning as in the *Building Code of Australia*.

**design quality principles** has the same meaning as in *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.

**dwelling**—

- (a) in relation to a BASIX building—means a room or suite of rooms occupied or used, or constructed or adapted to be capable of being occupied or used, as a separate domicile, or
- (b) otherwise—has the same meaning as in the Standard Instrument.

**entertainment venue** means a building used as a cinema, theatre or concert hall or an indoor sports stadium.

**essential fire safety measure**, in relation to a building, means a fire safety measure that—

- (a) is or was included in the fire safety schedule for the building, or
- (b) was included in the essential services, within the meaning of *Ordinance No 70* under the *Local Government Act 1919*, attached to an approval or order referred to in that Ordinance, Part 59, being an approval or order that was in force immediately before 1 July 1993, or
- (c) was included in the essential services, within the meaning of the *Local Government (Approvals) Regulation 1993*, attached to an approval referred to in that Regulation, clause 22, being the latest approval granted during the period from 1 July 1993 to 30 June 1997, or
- (d) was included in the essential services, within the meaning of the *Local Government (Orders) Regulation 1993*, attached to an order referred to in that Regulation, clause 6(1), being the latest order given during the period from 1 July 1993 to 30 June 1997.

*1.e. after July 1988*