



ADMINISTRATION:

Essential Safety Provisions

The Building Policy Branch of Planning SA has been receiving numerous enquiries relating to the administration of the provisions in the Development Regulations for the maintenance of Essential Safety Provisions (ESP's). This Advisory Notice seeks to address those queries.

GENERAL

The term 'essential safety provisions' (ESP's) is defined in Schedule 1 of the *Development Regulations* and it includes any safety systems, equipment or other provisions defined as such, or required to be installed in a building under the *Development Regulations*, Building Code or Minister's Specification 76. It also includes any safety systems, equipment or other provisions required under Part 59 of the revoked *Building Regulations 1973*.

Regulation 76 of the *Development Regulations* prescribes administrative arrangements for the installation, inspection and maintenance of essential safety provisions. Note that Regulation 76 (1a), Class 1a and 10 buildings are excluded from the provisions for essential safety provisions.

IDENTIFYING ESSENTIAL SAFETY PROVISIONS AND THEIR MAINTENANCE REQUIREMENTS.

The relevant authority (council or private certifier) is required to identify the essential safety provisions and their maintenance requirements in a schedule of essential safety provisions for a building which must be issued (Regulation 76 (3)) when;

- granting a provisional building rules consent.
- assigning a change of classification for a building where there is no building work.
- the owner of a building applies for such a schedule to be issued.
- issuing any other certification with respect to building work complying with the Building Rules, e.g. Crown buildings or major developments.

The required schedule **must be in the form as set out in Form 1 of Schedule 16 in the *Development Regulations*** and must specify the requirements for maintenance with respect to each provision as set out in Minister's Specification 76. (Note: Minister's Specification 76 does not in itself constitute a Form 1)

Section 3 of Minister's Specification 76 lists the safety provisions considered to be essential under the deemed-to-satisfy provisions of the Building Code in the first column, and the maintenance

requirements for those provisions in the third column.

Regulation 92 requires a private certifier to include a required schedule of essential safety provisions in the information provided to the relevant authority (council) when granting a provisional building rules consent. On receiving this information the relevant authority (council) should record in a database the buildings that have been issued with schedules of essential safety provisions. Such a database makes the future tracking of maintenance and safety records of the building much easier and can form the basis for an inspection policy based on an assessment of risk that is related to the building's maintenance records.

CERTIFICATION ON COMPLETION OF INSTALLATION

When the installation of the scheduled essential safety provisions is completed, the building owner is required under Regulation 76 (3a) to provide the council with a certificate of compliance, for each essential safety provision installed in the building, in accordance with **Form 2 in Schedule 16**. A certificate of compliance must be signed by the installer of the safety provision (or the manager of the company responsible for the installation), so a number of such certificates may be required to cover all of the items in the schedule of essential safety provisions for the building.

Regulation 83 provides that a Form 2 certificates of compliance are a prerequisite for a certificate of occupancy. Accordingly, all such certificates for the essential safety provisions installed in a building must be provided to the council before a certificate of occupancy is issued enabling the owner to use the building.

The installation standards for each essential safety provisions installed under the Building Code are listed in the second column of Section 3 of Minister's Specification SA 76 to provide guidance for installers of essential safety provisions who are required to complete a Form 2 compliance certificate.

ANNUAL CERTIFICATION

The building owner has a responsibility under Regulation 76 (4) not to use a building unless all of the designated essential safety provisions are being properly maintained and tested. To verify this the building owner has an obligation under Regulation 76 (5) & (6) to provide annual certification (**Form 3, Schedule 16**) to the council that the necessary essential safety provisions are being tested and maintained in accordance with the requirements identified in the Form 1 Schedule of essential safety provisions issued for the building.

The consequences of not providing this certification are that the council has grounds for revoking the Certificate of Occupancy under Regulation 83 (10), making occupation of the building illegal under Section 67 of the Act. That is, the building cannot be used.

The absence of annual certificates could cause the council to have concerns regarding adequacy of fire safety provisions in a building and it could refer the matter to the Building Fire Safety Committee for consideration under Section 71 of the Act.

Through the provisions for essential safety provisions and Building Fire Safety Committees, there is a clear intent in the *Development Act and the Regulations* for councils to pursue issues of fire safety in

existing buildings.

Accordingly it is suggested that councils should have administrative systems that:

- Identify all the buildings in their area that are required to have annual certificates of maintenance provided by the owners.
- Identify if such certificates have been received.
- Initiate follow-up action in accordance with a policy that is based on a risk management assessment of the possible consequences and that identifies the circumstances when council will utilise the provisions of Regulation 83 (10) to revoke the Certificate of Occupancy.

An annual certificate is not required for every building having a schedule of essential safety provisions, only the larger buildings where the risk to life safety is much higher. Regulation 76 (7) does not require this verification of maintenance for;

- Class 1b buildings.
- A Class 2 building having either a rise of less than four storeys or a floor area of 2000 square metres or less.
- A Class 3, 4, 5, 6, 7, 8, or 9b building having either a rise of less than three storeys or a floor area of 500 square metres or less.

However even these buildings can be included in circumstances where the council has determined that annual certification is required because;

- The provisional building rule consent was by virtue of a variation to the performance requirements of the Building Code.
- The building has been the subject of a Building Fire Safety Committee notice under Section 71 of the Act.

Although an annual certificate may not always be required the building owner's obligations regarding maintenance of the safety provisions for the continuing use of the building (Regulation 76 (4)) remains.

Further information

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