

PART 12—MAINTENANCE OF BUILDINGS AND PLACES OF PUBLIC ENTERTAINMENT

Division 1—Maintenance of Essential Safety Measures

r. 1202

Subdivision 1—Maintenance of Essential Safety Measures in Buildings and Places of Public Entertainment

1201. Application of this Subdivision

- (1) Subject to sub-regulation (2), this Subdivision applies to—
 - (a) a Class 1b, 2, 3, 5, 6, 7, 8 or 9 building; and
 - (b) a Class 4 part of a building; and
 - (c) a place of public entertainment.
- (2) This Subdivision does not apply to a smoke alarm installed in a sole-occupancy unit in a Class 1b or 2 building or a Class 4 part of a building.

1202. Definitions

In this Subdivision—

"essential safety measure" means—

- (a) any of the following items required by or under the Act or these Regulations to be provided in relation to a building or a place of public entertainment—
 - (i) an item listed in Tables I1.1 to I1.11 of Volume One of the BCA, except the item in Table I1.4 relating to artificial lighting;
 - (ii) an item listed in clause I1.2 of Volume One of the BCA; or
- (b) any other item that is required by or under the Act or these Regulations to be provided in relation to a building or place of public entertainment for the safety of persons in the event of fire and that is designated by the relevant building surveyor as an essential safety measure; or
- (c) any other item that is an essential safety measure within the meaning of Division 1 of Part 12 of the Building (Interim) Regulations 2005 as in force before their revocation;

"maintenance determination" means a determination made by a relevant building surveyor under—

- (a) regulation 1204; or
- (b) regulation 1204 of the Building (Interim) Regulations 2005 as in force before their revocation; or
- (c) regulation 11.4 of the Building Regulations 1994 as in force before their revocation;

"maintenance schedule" in relation to a building or a place of public entertainment means a maintenance schedule prepared by a municipal building surveyor or a private building surveyor under regulation 1206 as updated from time to time under that regulation.

1203. Maintenance requirements for essential safety measures when occupancy permit required

- (1) An occupancy permit issued in respect of a building or place of public entertainment must include a condition which—
 - (a) lists all the essential safety measures pertaining to that building or place of public entertainment; and
 - (b) specifies for each essential safety measure listed, the level of performance determined by the relevant building surveyor to enable the essential safety measure to fulfil its purpose.
- (2) In determining the level of performance of an essential safety measure, the relevant building surveyor must specify the provision of the building regulations with which the installation and operation of the essential safety measure is to comply and the frequency and type of maintenance required.
- (3) In this regulation **"provision of the building regulations"** has the same meaning as in section 160 of the Act.

1204. Maintenance requirements of essential safety measures in other circumstances

- (1) If an essential safety measure is provided in a building or place of public entertainment as a consequence of an emergency order or a building order or the carrying out of building work where an occupancy permit is not required to be issued the relevant building surveyor must determine—
 - (a) the level of performance required to enable the essential safety measure to fulfil its purpose; and
 - (b) the frequency and type of maintenance required.
- (2) A determination under sub-regulation (1) must—
 - (a) be in writing; and
 - (b) be given to the owner of the building or place of public entertainment without delay after it is made.

1205. Owner must comply with maintenance determination

The owner of a building or place of public entertainment must comply with a maintenance determination in relation to that building or place.

Penalty: 10 penalty units.

1206. Building surveyor may create or update a maintenance schedule

- (1) A municipal building surveyor or a private building surveyor may, on the application of the owner of a building or place of public entertainment, create a consolidated list of essential safety measures and the maintenance requirements relating to those essential safety measures—
 - (a) that are the subject of a condition imposed on an occupancy permit issued in respect of the building or place under—
 - (i) regulation 1203(1); or
 - (ii) regulation 1203(1) of the Building (Interim) Regulations 2005 as in force before their revocation; or
 - (iii) regulation 11.3(1) of the Building Regulations 1994 as in force before their revocation; or
 - (b) that are the subject of a maintenance determination in respect of the building or place.
- (2) In creating a maintenance schedule for the first time in respect of a building or a place of public entertainment, a municipal building surveyor or a private building surveyor must ensure that—
 - (a) any essential safety measure referred to under sub-regulation (1) that exists in the building or place of public entertainment at the time of creation of the schedule is listed in the schedule along with any maintenance requirement that relates to it; and
 - (b) the essential safety measures and related maintenance requirements are listed in chronological order in the schedule according to the date of the issue of the occupancy permit or the date of making of the maintenance determination that relates to each of those essential safety measures.
- (3) A municipal building surveyor or a private building surveyor may, on the application of the owner of a building or place of public entertainment, update a maintenance schedule prepared in respect of the building or place by adding any additional essential safety measures and related maintenance requirements required to be provided in relation to the building or place after the date of the creation of the schedule.
- (4) Any additional essential safety measures added to a maintenance schedule under sub-regulation (3) must be listed in chronological order in the schedule according to the date of issue of the relevant occupancy permit or the date of making of the maintenance determination (as the case may be).

1207. Maintenance schedule and maintenance determination to be available for inspection

An owner of a building or place of public entertainment must ensure that a copy of any current maintenance schedule prepared in respect of the building or place, and any current maintenance determination made in respect of the building or place relating to an essential safety measure that is not listed in a maintenance schedule, is available at that building or place for inspection by the municipal building surveyor or chief officer at any time on request after 24 hours notice.

Penalty: 10 penalty units.

1208. Owner must prepare annual report

- (1) An owner of a building or place of public entertainment, in respect of which a condition on an occupancy permit lists an essential safety measure or a maintenance determination has been made, must ensure that an annual essential safety measures report is prepared in accordance with regulation 1209 before each anniversary of the relevant anniversary date.

Penalty: 10 penalty units.

- (2) In this regulation "**relevant anniversary date**" means—
 - (a) the date of issue of the occupancy permit or the date of making of the maintenance determination; or
 - (b) if more than one occupancy permit or maintenance determination or both is issued or made, the earliest date of issue or making of those documents.

Note: Regulation 2001 deems an annual essential safety measures report prepared in accordance with regulation 1209 of the Building (Interim) Regulations 2005 before 13 June 2006 to be an annual essential safety measures report prepared in accordance with this regulation.

1209. Contents and form of annual report

The annual essential safety measures report for the purposes of regulation 1208 must—

- (a) be in a form approved by the Commission; and
- (b) be signed by the owner or an agent of the owner; and
- (c) specify the address of the building or place of public entertainment that it relates to; and
- (d) include the details of any inspection report made under section 227E of the Act in respect of each essential safety measure; and
- (e) include a statement that the owner or an agent of the owner has taken all reasonable steps to ensure that—
 - (i) each essential safety measure is operating at the required level of performance and has been maintained in accordance with the relevant occupancy permit or maintenance determination and will fulfil its purpose; and

- (ii) since the last annual essential safety measures report, there have been no penetrations to required fire-resisting construction, smoke curtains and the like in the building or place, other than those for which a building permit has been issued; and
- (iii) since the last annual essential safety measures report, there have been no changes to materials or assemblies that must comply with particular fire hazard properties, other than those for which a building permit has been issued; and
- (iv) the information contained in the report is correct.

1210. Annual reports may be combined

If an annual essential safety measures report is required under regulation 1208 and under regulation 1214 in relation to the same building or place of public entertainment, the reports may be combined into one consolidated report.

1211. Annual reports and records to be made available

An owner of a building or place of public entertainment must ensure that any annual essential safety measures report required to be prepared under regulation 1208 and records of all maintenance checks and any service or repair work carried out to any essential safety measure are available at the building or place for inspection by the municipal building surveyor or chief officer at any time on request after 24 hours notice.

Penalty: 10 penalty units.

Subdivision 2—Maintenance of Essential Safety Measures in Buildings and Places of Public Entertainment Constructed before 1 July 1994

1212. Application of Subdivision

This Subdivision applies to all Class 1b, 2, 3, 5, 6, 7, 8 and 9 buildings and places of public entertainment constructed before 1 July 1994.

1213. Definition of essential safety measure in this Subdivision

In this Subdivision, "**essential safety measure**" means any measure (including an item of equipment, form of construction or safety strategy) required for the safety of persons using a building or place of public entertainment.

1214. Owner of building or place constructed before 1 July 1994 must prepare annual report

- (1) An owner of a building or place of public entertainment must ensure that an annual essential safety measures report is prepared in accordance with regulation 1215 in respect of any essential safety measure required to be provided in relation to that building or place under the Act or these Regulations or any corresponding previous Act or regulations—
 - (a) in the case of the first report, before 13 June 2009; and

- (b) in the case of each subsequent report, before each anniversary of 13 June 2009.

Penalty: 10 penalty units.

- (2) Sub-regulation (1) does not apply to any essential safety measure in respect of which an annual report is required to be prepared under Subdivision 1 of this Division.

1215. Contents and form of annual report for building or place constructed before 1 July 1994

The annual essential safety measures report for the purposes of regulation 1214 must—

- (a) be in a form approved by the Commission; and
- (b) be signed by the owner or an agent of the owner; and
- (c) specify the address of the building or place of public entertainment that it relates to; and
- (d) include the details of any inspection report made under section 227E of the Act in respect of each essential safety measure; and
- (e) include a statement that the owner or an agent of the owner has taken all reasonable steps to ensure that each essential safety measure—
 - (i) is operating and has been maintained in a state that enables the essential safety measure to fulfil its purpose; and
 - (ii) since the last annual essential safety measures report, there have been no penetrations to required fire-resisting construction, smoke curtains and the like in the building or place, other than those for which a building permit has been issued; and
 - (iii) since the last annual essential safety measures report, there have been no changes to materials or assemblies that must comply with particular fire hazard properties, other than those for which a building permit has been issued; and
 - (iv) the information contained in the report is correct.

1216. Annual reports and records to be made available by owners of buildings constructed before 1 July 1994

- (1) An owner of a building or place of public entertainment must ensure that any annual essential safety measures report required to be prepared under regulation 1214 and records of all maintenance checks and any service or repair work carried out to any essential safety measure are available at the building or place for inspection by the municipal building surveyor or chief officer at any time on request after 24 hours notice.

Penalty: 10 penalty units.

- (2) Sub-regulation (1) does not apply until 13 June 2009.

1217. Maintenance responsibility of owner of building or place constructed before 1 July 1994

The owner of a building or place of public entertainment must ensure that any essential safety measure required to be provided in relation to that building or place under the Act or these Regulations or any corresponding previous Act or regulations—

- (a) is maintained in a state which enables the essential safety measure to fulfil its purpose; and
- (b) is not removed from its approved location except—
 - (i) for the purpose of maintenance; or
 - (ii) in accordance with these Regulations.

Penalty: 10 penalty units.

Subdivision 3—Maintenance of Exits and Paths of Travel Relating to Buildings or Places of Public Entertainment

1218. Maintenance of exits by occupiers of buildings or places of public entertainment

The occupier of a Class 1b, 2, 3, 5, 6, 7, 8 or 9 building or a place of public entertainment must ensure that—

- (a) all exits; and
- (b) any paths of travel to exits; and
- (c) any paths of travel on the allotment from exits to a road—

required to be provided in relation to that building or place are maintained in an efficient condition and kept readily accessible, functional and clear of obstruction so that egress from the building or place is maintained.

Penalty: 10 penalty units.

Division 2—Swimming Pool and Spa Maintenance and Operation

1219. Application of this Division

This Division applies to a swimming pool or spa that is appurtenant to a Class 1, 2, 3 or 10 building or a Class 4 part of a building.

1220. Swimming pool and spa maintenance and operation

- (1) The occupier of an allotment or building containing a swimming pool or spa must take all reasonable steps to ensure that any fence or other barrier, door, gate, lock, latch, catch, bolt or fly screen restricting access to the swimming pool or spa is maintained and operating effectively at all times.

Penalty: 50 penalty units.

r. 1220

(2) The occupier of an allotment or building containing a swimming pool or spa must take all reasonable steps to ensure that any gate or door forming part of a swimming pool or spa barrier or fence that provides access to the swimming pool or spa is in the closed position except when a person is in the act of entering or leaving the part of the allotment or building containing the swimming pool or spa.

Penalty: 50 penalty units.

(3) A person who enters or leaves the part of an allotment or building containing a swimming pool or spa must ensure that any gate or door forming part of the swimming pool or spa barrier or fence that provides access to the swimming pool or spa is in the closed position at all times, except when that person or another person is in the act of entering or leaving that part of the allotment or building.

Penalty: 50 penalty units.