

## Fire safety statements

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### Answers to frequently asked questions about legislated fire safety statements for building owners and safety practitioners

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The following information is designed to help building owners and fire safety practitioners apply the requirements of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* relating to fire safety statements.

#### What is the purpose of a fire safety statement? (Part 12)

A fire safety statement is a declaration from the building owner that the fire safety measures that apply to a building have been checked and continue to perform to the relevant standard. This helps demonstrate that building owners are maintaining fire safety measures in accordance with section 81 of the Regulation. The Regulation requires the annual fire safety statement to be issued by or on behalf of the owner of an affected building.

The building owner is declaring that an fire safety accredited practitioner has assessed each fire safety measure that applies to the building and confirmed that the measure meets the required standard of performance. The assessment by the accredited practitioner would necessarily involve conducting an inspection of the fire safety measure/s whilst physically attending the property.

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

**The person making the declaration is not certifying the performance of the fire safety measures. So they are not expected to have the specialist technical expertise to verify that they meet the relevant minimum standard of performance. That is the role of the accredited fire safety practitioner.**

#### What are the building owner's responsibilities regarding fire safety measures? (Section 81)

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 but are not specified in a fire safety schedule, the measures must be maintained to the standard to which each measure was originally designed and implemented.

An agent cannot be made responsible for this requirement.

#### What form do I use to complete a fire safety statement? (Part 12)

A fire safety statement must be issued in the form approved by the Planning Secretary. The department has updated the template form since the Regulation came into force. The updated [form](#)

(version 4) must be used for fire safety statements from 1 September 2022 and is available on the [NSW Planning Portal](#) and the [Fire safety certification page](#) of the department's website.

### What is a fire safety measure? (Dictionary)

Fire safety measures include items of equipment, forms of construction or fire safety strategies that are provided in a building to promote the safety of people 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' and 'critical' fire safety measures as defined in the Regulation's dictionary.

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 require 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? (Part 10)

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

### What is an annual fire safety statement? (Part 12)

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

- assessed, inspected and verified the performance of each essential fire safety measure that applies to the building
- inspected the exit systems serving the building and found they do not contravene the provisions of part 15 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? (Part 12)

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? (Part 12)

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

The intervals for 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? (Part 12)

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

## Who must issue the fire safety statement? (Part 12)

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

A building owner could be an individual, a company or an owners' corporation. Where a person acting as an agent issues the statement on behalf of the owners, they need to have appropriate prior authority from the owners to do so. An agent may include a strata manager, executive committee of an owners' corporation, an authorised employee of the company that owns the property, the executor of a deceased estate or another 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 fire safety practitioner must not make the declaration 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 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 owners and accredited fire safety practitioners. It also ensures building owners (who are ultimately responsible) remain directly engaged in the fire safety statement process.

### What is an accredited fire safety practitioner?

An accredited fire safety practitioner is a person who is accredited under a government-approved industry accreditation scheme as an ‘accredited practitioner (fire safety)’.

A building owner must select an accredited fire safety practitioner from a government register. The practitioner must hold relevant accreditation from a government-approved scheme 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.

You can find out more on the [Fire safety practitioners](#) page of the NSW Fair Trading website. The department has also developed [Selecting an accredited practitioner \(fire safety\) – A guide for building owners who must issue annual fire safety statements](#) (PDF 1.15 MB) to help building owners.

### Is each accredited practitioner (fire safety) required to sign the form? (Section 92)

The fire safety statement form must contain details and signature of each accredited practitioner who assessed the fire safety measures for the statement.

Alternatively, the person issuing the statement could obtain and attach a separate signed document from each accredited fire safety practitioner to verify that the standard of performance has been met and/or that the building’s fire exit systems comply with the Regulation, prior to issuing the statement.

### Can a fire safety statement be ‘issued’ by an accredited practitioner (fire safety)? (Part 12)

The role of the accredited fire safety practitioner is to assess, inspect and verify the performance of each fire safety measure and inspect the fire exit systems of buildings.

The Regulation allows the fire safety statement to be issued by or on behalf of the building owner. However, the person who makes the declaration by completing section 8 or 9 of the fire safety statement form must not be a practitioner 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 owners and accredited fire safety practitioners 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? (Part 12)

The Regulation requires that a fire safety statement be in the form approved by the Planning Secretary. This means no changes can be made to the standard form published on the NSW

Planning Portal. 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.

### **Am I required to submit an annual fire safety statement for fire safety measures in pre 1988 buildings?**

Only those buildings which have 'essential fire safety measures' are captured by the required ongoing maintenance regime under the Regulation. The owners of these buildings are also required to submit an annual or more frequent fire safety statement to the local council and Fire and Rescue NSW.

An *essential fire safety measure* is a fire safety measure that:

- is or was included in the fire safety schedule for the building, or
- 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
- 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
- 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.

In most cases, the above circumstances would apply to new buildings (other than single dwellings), where the construction approval was issued in or after July 1988. Existing buildings the subject of a change in building classification, addition, alteration, or a fire safety order from this time would also be captured.

Buildings that do not have 'essential fire safety measures' may still have fire safety systems installed that were required as part of the construction of the building or any subsequent building work. Building owners should ensure that any fire safety measures relevant to the building are appropriately maintained as such may be required by other obligations or legislation.