



New South Wales

Environmental Planning and Assessment Amendment (Fire Safety) Regulation 2014

under the

Environmental Planning and Assessment Act 1979

The Administrator, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

PRU GOWARD, MP
Minister for Planning

Explanatory note

The objects of this Regulation are as follows:

- (a) to require a certifying authority, when carrying out certain inspections in relation to development that affects only part of an existing building, to inspect those affected parts and the egress routes from those parts,
- (b) to require a certifying authority to whom an application has been made for a complying development certificate or Part 4A certificate affecting an existing building to notify the council if the certifying authority becomes aware of a significant fire safety issue with the building,
- (c) to require a principal certifying authority appointed in relation to building work affecting an existing building to notify the council if the certifying authority becomes aware of a significant fire safety issue with the building,
- (d) to prevent the issue of a complying development certificate for a change of building use, or for building work involving the internal alteration of an existing building, unless the building contains measures that are adequate, in the event of a fire, to facilitate the safe egress of persons from those parts of the building affected by the change of building use or the building work,
- (e) to remove a requirement that applications for complying development certificates be accompanied by a report from an accredited certifier about matters concerning fire safety.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 81A, 85A, 109E and 157 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Fire Safety) Regulation 2014*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

fire safety order means an order of the kind referred to in item 6 of the table to section 121B (1) of the Act and includes, if an order is subsequently made under section 121R of the Act, an order under that section.

[2] Clause 129B Restriction on issue of complying development certificate

Insert after clause 129B (1):

- (1A) If the development affects an existing building that is a class 1b, 2, 3, 4, 5, 6, 7, 8 or 9 building, an inspection of the site of the development must include an inspection of:
- (a) the parts of the building affected by the development, and
 - (b) the egress routes from those parts of the building.

[3] Clause 129D

Insert after clause 129C:

129D Council to be notified of significant fire safety issues

- (1) A certifying authority is required to give written notice to the council in accordance with this clause if:
- (a) an application has been made to the certifying authority for a complying development certificate affecting an existing building, and
 - (b) the building is a class 1b, 2, 3, 4, 5, 6, 7, 8 or 9 building, and
 - (c) at any time between the application being received and the issue of the complying development certificate, the certifying authority becomes aware (when carrying out an inspection or otherwise) of a significant fire safety issue with any part of the building.
- (2) The notice:
- (a) must describe the fire safety issue and the parts of the building affected by the issue, and
 - (b) must be made within 2 days after the certifying authority becomes aware of the fire safety issue.
- (3) However, the certifying authority is not required to give notice if the fire safety issue is being addressed:
- (a) by the proposed development, or
 - (b) by a fire safety order, or
 - (c) by some other development consent (including a complying development certificate) that affects the building.
- (4) To avoid doubt, this clause extends to a council that is a certifying authority.

[4] Clause 130 Procedure for determining application for complying development certificate and notification requirements

Omit clause 130 (4) (e).

[5] Clause 131 Development standards for change of building use

Insert before clause 131 (2) (a):

- (a1) that, whether or not any building work is carried out, the building will contain measures that are adequate, in the event of fire, to facilitate the safe egress of persons from the part of the building affected by the change of building use,

[6] Clause 132 Development standards for building work involving the alteration, enlargement or extension of an existing building

Omit clause 132 (2). Insert instead:

- (2) The development standards applicable to such development include the requirements that on completion of the building work:
 - (a) if the building work involves the reconfiguration of any internal part of the building (being a part that is to be occupied)—the building will contain measures that are adequate, in the event of fire, to facilitate the safe egress of persons from the reconfigured part of the building, and
 - (b) the fire protection and structural capacity of the building will not be reduced.

[7] Clause 132A Additional requirements in relation to fire safety

Omit the clause.

[8] Clause 143B Restriction on issue of certain construction certificates without inspection

Insert at the end of the clause:

- (2) If the development affects an existing building that is a class 1b, 2, 3, 4, 5, 6, 7, 8 or 9 building, an inspection of the site of the development must include an inspection of:
 - (a) the parts of the building affected by the development, and
 - (b) the egress routes from those parts of the building.

[9] Clause 154D Restriction on issue of occupation certificate

Omit the clause.

[10] Clause 162D

Insert after clause 162C:

162D Council to be notified of significant fire safety issues

- (1) A certifying authority is required to give written notice to the council in accordance with this clause if:
 - (a) an application has been made to the certifying authority for a Part 4A certificate affecting an existing building, and
 - (b) the building is a class 1b, 2, 3, 4, 5, 6, 7, 8 or 9 building, and
 - (c) at any time between the application being received and the issue of the Part 4A certificate, the certifying authority becomes aware (when carrying out an inspection or otherwise) of a significant fire safety issue with any part of the building.

- (2) A principal certifying authority is required to give written notice to the council in accordance with this clause if:
 - (a) the principal certifying authority has been appointed under section 109E of the Act in relation to building work affecting an existing building, and
 - (b) the building is a class 1b, 2, 3, 4, 5, 6, 7, 8 or 9 building, and
 - (c) at any time between the appointment under section 109E and the issue of an occupation certificate in respect of the building work, the principal certifying authority becomes aware (when carrying out an inspection or otherwise) of a significant fire safety issue with the building.
- (3) The notice:
 - (a) must describe the fire safety issue and the parts of the building affected by the issue, and
 - (b) must be made within 2 days after the certifying authority or principal certifying authority becomes aware of the fire safety issue.
- (4) However, the certifying authority or principal certifying authority is not required to give notice if the fire safety issue is being addressed:
 - (a) by a fire safety order, or
 - (b) by development that affects the building, being development that is the subject of a development consent (including a complying development certificate) or a construction certificate.
- (5) To avoid doubt, this clause extends to a council that is a certifying authority or principal certifying authority.

[11] Clause 165 Definitions

Omit the definition of *fire safety order*.