



Environmental Planning and Assessment Amendment (Fire Sprinkler Systems) Regulation 2012

under the

Environmental Planning and Assessment Act 1979

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

BRAD HAZZARD, MP
Minister for Planning and Infrastructure

Explanatory note

The object of this Regulation is to require that fire sprinkler systems be installed in certain residential aged care facilities, being facilities at which residential care (within the meaning of the *Aged Care Act 1997* of the Commonwealth) is provided immediately before 1 January 2013. The Regulation sets out an implementation schedule outlining the dates by which that installation and certain interim steps must be completed.

The Regulation also deals with applications for, and the issue of, complying development certificates and construction certificates for the installation of fire sprinkler systems in certain other residential care facilities for seniors.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 126 and 157 (the general regulation-making power).

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Clause 1 Environmental Planning and Assessment Amendment (Fire Sprinkler Systems) Regulation 2012

**Environmental Planning and Assessment Amendment
(Fire Sprinkler Systems) Regulation 2012**

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Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Fire Sprinkler Systems) Regulation 2012*.

2 Commencement

This Regulation commences on 1 January 2013 and is required to be published on the NSW legislation website.

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[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

fire sprinkler system means a system designed to automatically control the growth and spread of fire that may include components such as sprinklers, valves, pipework, pumps, boosters and water supplies.

[2] Clause 153 Fire safety certificates: section 109H

Insert after clause 153 (1A):

- (1B) If the need for the final occupation certificate arises solely from the installation of a fire sprinkler system that is required to be installed under Division 7B of Part 9 of this Regulation, the final fire safety certificate referred to in subclause (1) need only deal with the new fire sprinkler system.

[3] Clause 168B

Insert after clause 168A:

168B Installation of fire sprinkler systems in certain residential aged care facilities

- (1) This clause applies to a complying development certificate or a construction certificate that relates only to the installation of a fire sprinkler system that is required to be installed under Division 7B of Part 9 of this Regulation.
- (2) A person issuing such a certificate must also issue:
 - (a) if there is a current fire safety schedule for the building concerned, a schedule (a *fire sprinkler system installation schedule*) for the new fire sprinkler system, or
 - (b) in any other case, a fire safety schedule dealing only with the new fire sprinkler system.
- (3) A fire sprinkler system installation schedule or fire safety schedule issued under this clause:
 - (a) must specify the minimum standard of performance for the new fire sprinkler system, and
 - (b) if the new fire sprinkler system is a critical fire safety measure, must identify the system as such and specify the intervals (being intervals of less than 12 months) at which

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supplementary fire safety statements must be given to the council.

- (4) If a fire sprinkler system installation schedule is issued, a copy of the schedule must be attached to the current fire safety schedule for the building concerned and the copy is taken, for the purposes of this Regulation, to form part of the fire safety schedule.

Note. This means that when the current fire safety schedule is updated, the updated fire safety schedule must incorporate not only the current fire safety schedule but also the fire sprinkler system installation schedule.

- (5) Clause 168 (4) applies to a fire sprinkler system installation schedule and a fire safety schedule issued under this clause.

[4] Part 9, Division 7B

Insert after Division 7A in Part 9:

Division 7B Fire sprinklers in certain residential aged care facilities

186H Definitions

- (1) In this Division:

approved provider means a person who is an approved provider within the meaning of the *Aged Care Act 1997* of the Commonwealth on 1 January 2013 (whether or not the person ceases to be such an approved provider after that date).

Fire Sprinkler Standard means the technical standard entitled Fire Sprinkler Standard dated 18 December 2012 and approved by the Director-General.

Implementation Committee means the Fire Sprinkler System Implementation Committee constituted under clause 186Q.

nominated completion date, for a facility—see clause 186K.

required completion date, for a facility, means the date by which a person who operates the facility is required by this Division to install a fire sprinkler system in the facility.

- (2) The Fire Sprinkler Standard is to be made publicly available on the website of the Department.

186I Application

This Division applies to a facility at which residential care (within the meaning of the *Aged Care Act 1997* of the

Commonwealth) was provided immediately before 1 January 2013, but does not apply to:

- (a) a facility in which a fire sprinkler system was installed before 1 January 2013, or
- (b) a facility in which a fire sprinkler system is required to be installed in accordance with the Act or any other Act or law (including an order or a condition of a development consent), where the requirement arose before 1 January 2013.

186J Requirement to install fire sprinkler systems

- (1) An approved provider that operates a facility to which this Division applies must install a fire sprinkler system in the facility before:
 - (a) the nominated completion date for the facility, or
 - (b) if the required completion date has been postponed to a later date under clause 186L—that later date.
- (2) A person who begins to operate a facility to which this Division applies after 1 January 2013 must install the fire sprinkler system in the facility before:
 - (a) the earlier of the following dates:
 - (i) the nominated completion date for the facility (if any),
 - (ii) the date that is 12 months after the person begins operating the facility, or
 - (b) if the required completion date has been postponed to a later date under clause 186L—that later date.

186K Nominated completion date

- (1) An approved provider that operates a facility to which this Division applies must, before 1 March 2013, nominate one of the following dates as the date by which the approved provider will install the fire sprinkler system in the facility (*the nominated completion date*):
 - (a) 1 September 2014,
 - (b) 1 March 2016.
- (2) A nomination under this clause is to be made by giving notice in writing of the nominated completion date to the Implementation Committee. That notice is to:
 - (a) state the nominated completion date, and

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- (b) include:
 - (i) the name of the approved provider, and
 - (ii) the name and address of the facility, and
 - (iii) details of the residential care provided at the facility, and
 - (c) in relation to a nomination of 1 September 2014 as the nominated completion date:
 - (i) describe any work completed for the purposes of the installation, and
 - (ii) provide an estimate of the date by which the installation will be completed, and
 - (d) otherwise be in the form approved by the Director-General.
- (3) A notice under subclause (2) may relate to more than one facility.

186L Postponement of required completion date for installation

- (1) A person who operates a facility to which this Division applies may apply once to the Implementation Committee for a postponement of the facility's required completion date.
- (2) An application under this clause made by an approved provider must be made before:
 - (a) in relation to a facility for which the nominated completion date is 1 September 2014—1 March 2014, and
 - (b) in relation to a facility for which the nominated completion date is 1 March 2016—1 March 2015.
- (3) An application under this clause made by a person who began operating the facility concerned after 1 January 2013 must be made before the existing required completion date for the facility.
- (4) An application under this clause is to be in the form approved by the Implementation Committee.
- (5) The Implementation Committee may postpone the required completion date for the installation of the fire sprinkler system in the facility by a period of:
 - (a) in relation to a facility for which the nominated completion date is 1 September 2014 (other than a facility to which clause 186J (2) applies)—up to 6 months, and
 - (b) in any other case—up to 1 year.

- (6) In determining whether to grant such a postponement, the Implementation Committee is to consider:
- (a) whether the applicant has substantially complied with the implementation plan for the facility (if any), and
 - (b) whether, if the application were to be refused, the requirement under this Division to complete the installation by the existing required completion date would create such a significant financial burden on the applicant that the provision of residential care at the facility may suffer, and
 - (c) any other matter that the Committee considers relevant.
- (7) A postponement may be granted unconditionally or subject to conditions (including conditions requiring that other fire safety measures be implemented and maintained until the fire sprinkler system is installed).

186M Fire sprinkler systems to be installed in accordance with the Fire Sprinkler Standard

A fire sprinkler system must be installed in accordance with the Fire Sprinkler Standard.

186N Final occupation certificate to be provided to Implementation Committee

A person who is required by this Division to install a fire sprinkler system in a facility must, before the relevant required completion date, provide the Implementation Committee with a final occupation certificate to show that the fire sprinkler system has been installed in the facility.

186O Installation of fire sprinkler systems in facilities with 1 March 2016 as nominated completion date

- (1) If an approved provider of a facility nominated 1 March 2016 as the nominated completion date for the facility, the approved provider must:
- (a) before 1 September 2013, provide an implementation plan to the Implementation Committee, and
 - (b) before 1 March 2014 (and every 1 September and 1 March after that date unless the fire sprinkler system has been installed), provide a progress report to the Implementation Committee.

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- (2) An implementation plan is to:
 - (a) specify details of the proposed installation of the fire sprinkler system (including any approvals required for the installation), and
 - (b) describe any work completed for the purposes of the installation, and
 - (c) provide an estimate of the date by which the installation will be completed, and
 - (d) specify the capital investment value of installing the fire sprinkler system, and
 - (e) be in a form approved by the Implementation Committee, and
 - (f) include any other information that the Implementation Committee directs (in its approved form) is to be included in the plan.
- (3) A progress report is to:
 - (a) specify any changes to information provided to the Implementation Committee in the implementation plan or an earlier progress report, and
 - (b) be in a form approved by the Implementation Committee.
- (4) In this clause, *approval* means an approval under the Act and includes a development consent, a complying development certificate or any other certificate under Part 4A of the Act.

186P Notices relating to residential aged care facilities without fire sprinkler systems

- (1) A person who is required by this Division to install a fire sprinkler system in a facility must, until that fire sprinkler system is installed, display a notice in accordance with this clause.
- (2) The notice must:
 - (a) state that the facility does not have a fire sprinkler system installed, and
 - (b) specify the date by which this Division requires that a fire sprinkler system be installed in the facility, and
 - (c) be in the form approved by the Director-General.
- (3) The notice must be displayed:
 - (a) in a prominent position at the principal pedestrian entrance to the facility, and

- (b) on the website (if any) of the person, or of any related body corporate of the person (within the meaning of the *Corporations Act 2001* of the Commonwealth), that relates to the facility.

- (4) This clause has effect from 30 April 2013.

186Q Implementation Committee

- (1) The Director-General is to constitute a Fire Sprinkler System Implementation Committee (the *Implementation Committee*).
- (2) The Implementation Committee is to consist of not more than 6 persons appointed by the Director-General, of whom:
 - (a) one is to be appointed as Chairperson of the Committee, and
 - (b) one is to be an officer of the Department, and
 - (c) one is to be an officer of Fire and Rescue NSW, nominated by the Commissioner of Fire and Rescue NSW, and
 - (d) one is to have expertise or experience in the aged care industry, and
 - (e) one is to have expertise or experience in fire protection system design and installation, and
 - (f) one is to have expertise or experience in representing seniors in community organisations.
- (3) The Implementation Committee has the following functions:
 - (a) determining the form of implementation plans and progress reports under this Division,
 - (b) reviewing those implementation plans and progress reports,
 - (c) publishing those implementation plans and progress reports on the Department's website,
 - (d) determining applications for the postponement of the required completion dates for the installation of fire sprinkler systems in residential care facilities,
 - (e) monitoring the progress of the installation of fire sprinkler systems in accordance with this Division,
 - (f) any other function conferred or imposed on the Committee by this Regulation or any other law.
- (4) A member of the Implementation Committee:
 - (a) holds office for such term as is determined by the Director-General, and

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- (b) ceases to hold office in such circumstances as are determined by the Director-General, and
 - (c) is entitled to such remuneration, if any, and to the payment of such expenses, if any, as are determined by the Director-General, and
 - (d) holds office subject to such conditions as are determined by the Director-General.
- (5) The procedure at meetings of the Implementation Committee is to be determined by the Director-General or, in the absence of any such determination, by the Committee.
- (6) The quorum at a meeting of the Implementation Committee is a majority of the members for the time being of the Committee.
- (7) The Implementation Committee is to provide the Director-General with the following:
- (a) an annual report of the Committee's operations during the preceding year by 1 March in every calendar year,
 - (b) any other information or report that is requested by the Director-General.
- (8) The Director-General must, as soon as is reasonably practical after receiving the Implementation Committee's annual report:
- (a) provide a copy of that report to the Minister and the Minister for Ageing, and
 - (b) publish a copy of that report on the Department's website.

186R Applications for complying development certificates and construction certificates for installation of fire sprinkler systems

An application for a complying development certificate or a construction certificate for the installation of a fire sprinkler system in a facility to which this Division applies must contain the following information and be accompanied by the following documents:

- (a) building work plans that show:
 - (i) the location of the key components of the system (including sprinkler heads, valves, pumps, boosters and test connections) and associated alarm signalling equipment, and
 - (ii) the layout of pipework associated with the system, and

(iii) any other building work that is necessary to install the fire sprinkler system (including fire separation works),

(b) the specifications of:

(i) the fire sprinkler system to be installed (including the flow and pressure of the water supply), and

(ii) any other building work that is necessary to install the fire sprinkler system.

[5] Clause 189 Prescribed matters for inspection by Fire and Rescue NSW: section 118L (1) (b) of the Act

Insert after clause 189 (c):

(d) such of the provisions of Division 7B as relate to the installation of fire sprinkler systems.

[6] Clause 190A

Insert after clause 190:

190A Complying development certificates and construction certificates for installation of fire sprinkler systems in residential care facilities for seniors

(1) A certifying authority must not issue a complying development certificate or a construction certificate for building work that involves the installation of a fire sprinkler system in a residential care facility for seniors unless the certifying authority is satisfied that the system will comply with the Fire Sprinkler Standard within the meaning of Division 7B.

(2) In this clause, *residential care facility for seniors* has the same meaning as in *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

[7] Clause 227 Technical provisions of the State's building laws

Insert "and the Fire Sprinkler Standard (within the meaning of Division 7B of Part 9)" before "are prescribed".

[8] Schedule 5 Penalty notice offences

Insert in appropriate order in the Schedule under the heading "**Offences under this Regulation**":

Section 125 (2) of the Act in relation to contravention of clause 186K (1) of this Regulation \$2,000

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Section 125 (2) of the Act in relation to contravention of clause 186N of this Regulation \$2,000

Section 125 (2) of the Act in relation to contravention of clause 186O (1) of this Regulation \$2,000

Section 125 (2) of the Act in relation to contravention of clause 186P of this Regulation \$500