

FIRE ESSENTIAL SERVICES MAINTENANCE - PART - 2

BUILDING OWNERS PROSECUTED

Peter Chenoweth – Director, C H Group Pty Ltd
Building Surveyors and Aged Care Building Certification Consultants

It has been some time since I wrote the article 'Essential Service Maintenance (ESM) Fire Safety - An Owner's Responsibility' published in the March 2000 edition of the previous ANHECA Newsletter. It would be a good time now to research whether Councils are enforcing the new ESM legislation given that the time for the installation of fire sprinkler systems in all Aged Care buildings runs out in August 2002. Some of our findings may be of concern to those who have not taken steps to comply with the Victorian State Legislation on ESM.

Before I move onto the findings of our research over a sample of Metropolitan Councils it is important to understand what are the implications of Essential Service Legislation and what it requires owners and occupiers of buildings to do to comply.

OVERVIEW - OWNERS AND OCCUPIERS RESPONSIBILITIES

Victoria Building Regulations (VBR's) Part 11 relates to maintaining of Essential Services (ES) that came into force in Victoria on 1 July 1999.

These regulations apply to all buildings that have been constructed in Victoria, except for a residential house (Class 1a). Buildings constructed after the 1st July 1994 will need to comply with the current Australian Standards, whereas prior to this date the Essential Service equipment within a building need only be maintained to fulfill their purpose at the time of installation

Essential Services are safety equipment, fittings, systems and management measures required in the event of fire to protect against loss of life i.e. firewalls, smoke walls fire detection systems, exit doors, exit routes etc.

Essential Services need to be maintained to ensure that the safety system within the building will operate throughout the life of the building and not just at the time of installation.

Failure to comply with the maintenance requirements of Essential Services could result in fines of up to \$50,000 and the possibility of a criminal prosecution if the individuals are held to be responsible.

Other legal issues in failing to fully comply with Part 11 of the Building Regulations may include;

- Failure to comply with regulations by the owner of the building may break the lease
- Possible increase in exposure to civil liability

-Negligence or breach of statutory duty for damage or injury

An annual Essential Services Report must be prepared and signed by the building's owner or their agent.

Listed below are some basic dot points that show the overview of the building owner's or tenants responsibility:

- Maintaining the essential service element (by suitably qualified persons) that are listed on the Certificate of Occupancy or identified by the Relevant Building Surveyor. This will also require the level of frequency of inspection required by the relevant Australian Standard.
- Prepare annual Essential Services reports before each anniversary date of the Occupancy Permit.
- Ensure the content and Form 15 of the report complies with Regulation 11.6.
- Display the ES report in the building in the same prominent location as the Occupancy Permit, which is accessible to the public.
- Reports and records of maintenance checks, services and repairs work to be kept on premises for inspection by Municipal Building Surveyor (M.B.S.) or Chief Fire Officer.
- The prescribed Form 15 to be signed by the owner of the building or an agent of the owner. The regulations do not define the "agent of owner" but, to minimise the risk to an owner, it is advisable to have a suitably qualified person who is fully conversant and understands VBR's Part 11 and associated Standards to sign the Form 15

With a compliant program in place, the owner can sign the Essential Services Form 15 with a high degree of confidence that their obligations have been met.

WHO ENFORCES COMPLIANCE

The Local Council Building Surveyor and the Fire Brigades are responsible for the enforcement and monitoring of maintenance requirement for Essential Services.

FINDINGS OF COUNCIL RESEARCH

A small randomly selected sample of Councils in the Melbourne Metropolitan area were contacted to gauge if they were enforcing the Victoria Building Regulations on ESM.

The Councils contacted included;

Boroondara City Council
Brimbank City Council
Casey City Council
City of Greater Dandenong
Frankston City Council
Hume City Council
Kingston City Council
Manningham City Council
Stonnington City Council
Whitehouse City Council

Our research found that all of the Councils contacted have been actively reviewing building owners compliance documentation with the ESM regulations.

Some Councils were more proactive than others as in the case of Brimbank City Council who said they undertake an ESM compliance audit of approximately 500 inspections over 300 buildings every year within their Municipal area.

All Councils have had to issue Building Orders and Notices on several owners to ensure they comply with ESM requirements.

Some Councils such as the Hume City have in extreme cases had to proceed with court action to force some owners to comply with ESM.

Most of the Councils have issued an on the spot Building Infringement fine on owners and occupiers for non-compliance.

Most Councils indicated that the expiry date for the requirement to have a Residential Fire Sprinkler system install in an Aged Care facility by August 2002 will also be the catalyst to undertake a review of a facilities compliance with the ESM regulations.

FUTURE DIRECTIONS TO MONITOR COMPLIANCE

The MFB have developed a strategy with several Municipal Councils to prioritize building inspections and fulfill their responsibilities under the Building Regulations

A committee was formed back last year to develop a consistent approach between the two authorities and a paper was published by this committee called "Building Inspection Prioritisation Project - A Risk Management Approach" in November 2000.

This paper details the frequency of ESM inspections agreed by both authorities and rates each type of building into either a High, Medium or Low Risk building.

The frequency of an on site ESM audit has been agreed as follows:

High Risk = Annually
Medium Risk = 2 yearly
Low Risk = 5 years

Nursing Homes and Hostels have been considered as a High Risk building above all other types of buildings including Night Clubs, Hospitals, Residential part of a detention centre etc.

The MFB and Council now prioritise their program of ESM compliance auditing based on the agreed "Typical Risk Assessment Rating Table" contained within this report.

Aged Care buildings are at the top of this hit list and will be guaranteed of an ESM audit by Council or the MFB. The authorities will be wanting to ensure that all fire safety systems and equipment are being regularly maintained and that a trail of documentation is in place that demonstrates compliance with the relevant Codes and Regulations.

ESSENTIAL SERVICES SUPPORT SERVICES

C H Group uses a systematic team approach which helps building owners and occupiers through the complete compliance process: set up, management and review.

This support service provides the owner with documentation that can be incorporated within their existing maintenance program, and be used to seek tenders from external contractors for the maintenance of Essential Services.

A step by step approach to compliance would incorporate but be not limited to, the following:

- Examination of the facilities maintenance documentation on ES elements
- Peruse existing Building Permit documentation
- Undertake a site survey
- Record visible condition of ES elements.
- Record missing ES elements.
- Identify which of the 44 ES elements listed within the Building Regulations could reasonably be expected to be in place within a facility.
- Documenting of maintenance program levels required on ES items.
- Recommend any areas that require further investigations.

- ❑ Provide an Essential Services Maintenance Manual that satisfies the owners and tenants' legal obligations under Part 11 of the Building Regulations.

At the core of the system is a software program which organises Essential Services details present in a building and automates the production of the Building Owners Manual. The Manual is a hard copy record of Essential Services maintenance activity. It is required to be kept on the premises and be available for review by the Municipal Building Surveyor or Chief Officer of the relevant Fire Brigade.

Peter Chenoweth has over 15 years experience building regulatory compliance and is registered as a Building Surveyor with the Building Practitioner's Board and has also undertaken post-graduate studies in Performance Based Building Regulations and Fire Codes. Peter was also heavily involved in the development of the Commonwealth's Certification Assessment Instrument and is on the Working Party writing the new BCA 9c Aging In Place Building Code Classification. Further information is available by contacting Peter on (03) 9775 0871 or Mail: Level 1, 2 Rutherford Road Seaford, VIC 3198. Email; chgroup@bigpond.com