

What is an Essential Safety Measure?

Essential Safety Measures are the fire and life safety items installed or constructed in a building to ensure adequate levels of fire safety over the life of the building.

Essential Safety Measures include all traditional building fire services such as sprinklers, mechanical services, but also include passive fire safety such as fire doors, fire rated structure and other building infrastructure items such as paths of travel to exits.

As some examples, Essential Safety Measures defined under the *Building Regulations* include the following:

Air conditioning systems
Emergency lifts and lighting
Exit doors and exit signs
Emergency power supply
Emergency warning systems
Fire hydrants
Fire windows

Fire isolated stairs, passages & ramps
Fire curtains and doors
Fire control centres
Fire rated materials
Fire detectors & alarm systems
Fire extinguishers

Mechanical ventilation
Path of travel to exits
Smoke alarms
Smoke control systems
Sprinkler systems

Why maintain Essential Safety Measures?

When the construction of a building is complete, the building owner is responsible for its upkeep and maintenance, particularly its safety features or Essential Safety Measures.

The maintenance of Essential Safety Measures will ensure that the safety systems mainly dealing with fire situations within the building remain at the required operational level throughout the life of the building. The type of maintenance depends on the complexity of the service, equipment or feature and the experience of the person carrying out the inspection or test.

Who determines the maintenance requirements?

For new buildings or alteration and additions to existing buildings completed after 1 July 2004, the Building Surveyor who issues the Occupancy Permit for the building determines a schedule of prescribed essential safety and health features and measures appropriate to the building for which maintenance is required.

For buildings built before 1 July 2004, the owner will need to establish the appropriate maintenance requirements for their building. For most buildings it will be necessary for owners to initially engage a specialist to determine the ongoing maintenance requirements. The specialist could be an engineer, a building surveyor or a maintenance specialist. As a basis to start from, the provisions for new buildings can be used and modified to take account of when the particular features of the building were built and how they were originally required to perform.

How do we comply with the law?

Building owners must maintain any essential health and safety features of their building and any essential safety and health measure necessary to ensure the safety of everyone using their building.

An owner must also keep records of when the maintenance or inspection of each safety feature or measure took place and by whom.

What happens if we don't comply?

The municipal building surveyor or chief officer of the relevant fire brigade is responsible for the enforcement of these Regulations.

Non-compliance may result in an infringement notice issued by Council or the Fire Brigade up to \$1000 and furthermore, non compliance may result in prosecution in which a fine may be imposed of \$10,000 for an individual or \$50,000 for companies for each breach of the Regulations.

More importantly, non-compliance could place not only building occupants at risk but also those of passers-by and the occupants of adjoining buildings.

Adequate maintenance is the best means of ensuring that fire safety systems will operate reliably in an emergency.

Who is the owner and who is the agent?

For most of our Baptist churches, the BUV is the legal entity that owns the property which is held in Trust for the Church. The Duty Of Care Officer at the church is authorised to act as Agent in regards to the Essential Safety Measures on this property and may sign the Annual Essential Safety Measures Report. For churches who are incorporated or who operate in a building owned by another organisation or trustees, it is important that you are aware of your responsibilities as you may be contractually obliged to maintain all or some essential safety features also.

Is an occupier (other than the owner) responsible for the maintenance?

Yes. The occupier must ensure exits and paths of travel are maintained in an efficient condition and kept readily accessible functional and clear of obstruction so that egress from the building is maintained. This regulation does not remove the responsibility of the owner, but makes the makes occupier **also** responsible.

Occupiers of buildings in which the prescribed essential safety and health features or measures are installed, with a *contractual* responsibility for the maintenance of these features or measures in the building or part of the building, must ensure they are inspected and maintained.

If your church rents property you may be responsible and you should check your lease agreement.

What is the legal responsibility of the Duty of Care Officer?

(a) The Duty of Care officer does not have a specific personal liability if there was an incident, in that the church and the Union are not absolving themselves of legal responsibility by the appointment of a Duty of Care Officer. Although, if someone decided to take legal action, they may use a scattergun approach, possibly naming the church's leadership, pastors, possibly even the members, the Baptist Union, and of course the Duty of Care officer may be included in this. How legal responsibility plays out would be for the courts to decide in such an instance.

(b) Any legal action would be about proving negligence – in this respect the appointment of a Duty of Care Officer and the establishment and following of a Redbook program would be things that would count in favour of the church – verifying that we were taking our responsibilities to care for people seriously. We believe a church would be more likely to be found negligent if they had refused to adopt the Redbook program (or an alternate systematic means of addressing issues of responsibility).

(c) This is what our liability insurance is in place for – and it would respond if the church (including the Duty of Care officer) was sued.

What is a person committing to when they sign any of the Inspection Records?

When you sign an Inspection Record, you are saying that the instructions have been followed and you are comfortable it has been completed correctly to the best of your knowledge– generally speaking by you.

Any genuine oversight, when every effort has been made in good faith to complete an Inspection Record correctly, is unlikely to cause council planning officers any concern.

The Union recommends that the Duty of Care Officer be appointed by the members at a meeting, and therefore acts on behalf of the church – not just as an individual.

What if someone completes an Inspection Record and signs it in all good faith and subsequently there is found to be a related incident/breach for that item?

With regards to the Duty of Care Inspection Records, there are no specific legal consequences of this. For Building Code Compliance Inspection Records where there is specific legal consequence, but a genuine oversight when every effort has been made in good faith is unlikely to cause council planning officers any concern.

The BUV recommends that the Duty of Care Officer ought to be appointed by the members at a meeting, so that if there was a breach the actions are on behalf of the church – not an individual.

To date in instances where churches have failed to comply with Building Code requirements, the churches in question were issued with a letter demanding compliance within 30 days, but without additional penalty.

Do I need to be qualified or licensed to check Essential Safety Features?

For some types of simple safety features a layperson could undergo some basic training or induction to understand what they are checking, how to do it, and why this work is being performed.

In general, if the testing and maintenance of a safety feature involves electrical, mechanical, fire protection or other technical skills then a contractor who possesses specialist skills should perform the maintenance.

Exit & Emergency Lighting can have the basic 90 minute power out test performed by a lay person, but this person needs to be competent and understand the test requirements and fill in the prescribed AS2293.2 logbook (which your electrician should be able to provide).

However where a battery or fitting fails the test or requires replacement which exposes live wires, it should only be done by a licensed and fully insured qualified electrician.

Do we need to know what the Building Code of Australia (BCA) standard is for each safety measure? Where would we get a copy?

The Duty of Care Officer is not required to know what the relevant Building Codes are. This is why we pay for the Redbook software to be updated each year and why a qualified tradesperson is required to do the inspections on things such as fire equipment, electrical and lighting.

The qualified professional is required to know the relevant BCA standards and ensure it has been maintained.

If you really want to know what the standards are, please don't go buying a copy of the BCA regulations (they are expensive) but look online or ask the BUV office and we will send you a copy.

Is our Church "required" to use the Redbook?

No, Redbook is just one of many resources churches can use, but you must be using some sort of reliable system to maintain all the Essential Safety Measures and features.

Other systems may not entitle you to an automatic Insurance Premium discount like Redbook does. No matter what system you use, you still need to meet the legal requirements.

Can we use specialists from our congregation if they don't have their own insurance?

Churches should only use contractors who are fully qualified and hold their own public liability insurance.

Duty of Care: Ministry – Children: Is a 'Sign In/Sign Out' procedure a legal requirement?

A sign in/sign out procedure is not a legal requirement. However, a very important aspect of leading or supervising children's ministry is to actually know which children are present at the activity. This will also clarify who is responsible for the children and when this responsibility begins and ends. In addition, this will prevent the child being collected by an inappropriate person after the program is over. For this reason we suggest that all children's activities consider using a sign in/sign out book. Such a book should include the following information:

- Emergency contact numbers for the duration of the activity
- Date and time of arrival & initials of the parent / carer
- Details of any other people permitted to collect the child
- Date and time of collection & initials of the parent / carer

What is an example of a "Confined Space"?

Confined spaces include spaces such as those in a vat, tank, pit, pipe, duct, flue, oven, chimney, silo, reaction vessel, container, receptacle, underground sewer, well, shaft, trench, tunnel or other similar enclosed or partially enclosed structure, which meet certain conditions.

A confined space is determined by the hazards associated with a set of defined circumstances (restricted entry or exit, hazardous atmospheres or risk of engulfment) and not just by the fact that work is being performed in a physically restrictive location. The effect of physical or chemical agents may be exacerbated in a confined space.

For more information, contact the BUV Office or go to <http://www.worksafe.vic.gov.au>

Exit Signs

Strictly speaking a non-illuminated exit sign is not a current essential safety measure and there is no prescribed maintenance standard or procedure. However, some churches have taken the view that they were required previously under old standards as a Fire Safety Measure and should be reasonable maintained. Alternatively, you could consider upgrading these to Illuminated Signs. You should also be aware that some local councils are now actively auditing churches and requesting Illuminated Emergency & Exit Signs be installed.

Food Safety

All businesses and community groups (including churches) that sell food in Victoria are collectively known as "food premises" and all have obligations under the Food Act to ensure that the food they sell is safe for human consumption.

There is now a new food premises classification system. It applies to community groups as well as to businesses. A community group is a not for profit organisation such as a local sporting club, senior citizens group, church group or any other similar body.

The new system establishes four separate classes of food premises. The general effect is as follows:

- Class 1: hospitals, child care centres and nursing homes and hostels for the aged at which ready to eat potentially hazardous food is served;
- Class 2: other premises at which potentially hazardous food is prepared (such as restaurants, manufacturers and certain community group activities);
- Class 3: premises handling unpackaged low risk foods, selling potentially hazardous pre-packaged foods, and some community group activities; and
- Class 4: a number of low risk activities, including most community cake stalls and sausage sizzles.

Temporary premises such as community halls and stalls are "food premises" under the Act. Councils will assess whether a community group temporary activity at such a premises falls within class 2, 3 or 4. Different requirements apply, depending upon the classification.

The new classification system under the Act takes into account the unique nature of some occasional activities conducted for the purposes of fundraising. This is to ensure that the regulation of such small scale activities is not excessive. The aim is for the level of regulation to be proportionate to the activity, whilst protecting public health.

Typical community group occasional activities are classified under the new system from 1 July 2010 as follows:

Sausage sizzles are **class 4** where sausages are cooked and served immediately, with or without onions that are cooked at the same time, and served with bread and sauce. Community groups must notify council about these activities. A food safety program or a food safety supervisor is not required.

Food Stalls operated by a community group are **class 4** if only packaged or covered cakes are sold (This does not include cakes with a cream filling) and/or biscuits, tea or coffee (with or without milk or soymilk) are sold. Community groups must notify council about these activities. A food safety program is not required. A food safety supervisor is not required.

1 or 2 day events where ready-to-eat, potentially hazardous food is cooked on site and served immediately by a community group falls within **class 3**, provided that:

- All of the food is cooked on site with the intention of being served immediately;
- The majority of persons involved in the handling of the food are volunteers; and
- This activity takes place at the premises for a maximum of two consecutive days at any one time.

For example, a one or two day barbeque involving hamburgers or other meat (which can include sausages), or eggs, which are all cooked and served immediately. These premises will be class 3.

The community group must contact the council to ensure that it obtains the appropriate approval to operate this type of food premises.

If the food handling activity takes place at a class 3 premises for more than two days at any one time, the only "cook and serve" activity that may be carried out is one that involves sausages that have been cooked and served immediately, with or without onions, bread and sauce.

Local Councils are responsible for classifying every food premises within their municipal districts and monitoring compliance so contact yours if you are not sure what class your activity fits into or go to <http://www.health.vic.gov.au/foodsafety/index.htm>.

Working With Children Checks: Interim Negative Notices & Negative Notices

If an "interim negative notice" has been issued, it is not a final decision and a Child Worker is still legally allowed to continue their "child related work" while a final decision about the application is made.

However the Child Worker cannot continue "child related work" if the application has been finally decided and the Worker has received a negative notice.

Where there is an interim negative notice we note that the Department's website states that the employer (church etc) "may wish to put in place other arrangements" while the application is being decided.

It is the view of the BUV that churches should have a policy in place to address what will happen if one of their workers/volunteers is issued an Interim Negative Notice, i.e. that the person will voluntarily take a break from child related work until the situation is resolved one way or the other for example. The action to be taken at the time may depend on the circumstances and advice should be sought if those circumstances arise.

Notifying the BUV immediately in these circumstances, so we can help guide you at this time, is recommended.

What is the Fire Indices Inspection Record referring to?

The Fire Indices Inspection Record relates to any building materials, assemblies, linings and surface finishes (i.e. carpets, floor vinyl, and large areas of cork board, fixed seating and large drapes) that have been introduced in the last 12 months.

It makes you check that the products used do actually meet the standards in terms of their ability to resist spread of flame and generation of smoke.

If they have been brought into the building as part of a build or renovation project which requires building approval, this aspect should be included as part of the issued permit (i.e. certificate of final inspections or occupancy permit).

Where there has been no building approval required, the material safety data sheet (MSDS) is required to be assessed for compliance with the BCA as detailed above.

If you have not added or replaced any of these types of items in the last 12 months you can just tick the box on the IR and move on!

Testing & Tagging:

Testing and tagging does not fall under Building Code compliance as an essential safety measure, but many churches choose to do it as part of their Occupational Health & Safety program. You must use a qualified person for testing and tagging electrical equipment. Keep a register!

Contractor Induction:

More information about Contractor Induction is available from the BUV website including sample checklists and a contractor register.

Displaying Occupancy Permits & Annual Essential Safety Measures Report:

If your building was built or altered since 1 July 1994, the Regulations require you to display the current copy of your buildings Occupancy Permit together with an Annual Essential Safety Measures Report (AESMR) in the building. The Occupancy Permit will state specifically where you need to display it, i.e. "adjacent to main entry to building" etc.

All AESMRs, records of maintenance checks, services and repair work to the building must also be kept on the premises so it is easily accessible for a municipal building surveyor or Chief Officer of the relevant fire brigade to randomly check for compliance. These documents are important as collectively they ensure that owners are fulfilling these obligations.

For churches built before July 1994, the Regulations do not require an owner to display the AESMR but Owners must make it available within 24 hours notice from the Municipal Building Surveyor or the Chief Officer. This requirement is to prevent the "wallpapering" effect that may occur in some buildings and allow the AESMR to be stored in more appropriate locations.

The BUV asks each church to send us copy of their AESMR each year so there is a backup copy available for this purpose.

How long do we need to keep paperwork?

All essential safety measure reports, records of maintenance checks & repair work are to be kept on the premises for inspection and must be made available for inspection with 24 hours of notification.

Although the Building Regulations do not specify how long records to be kept for the Australian Baptist Insurance Scheme recommends that documentation be kept for a minimum of 7 years, and that all Hazard/Incident Reports and Church OH&S Guidelines be kept indefinitely (in hard copy or soft copy) in case a claim is made under their Public Liability Insurance.

For more information please contact:

BUV Administration Department

03 9880 6111

Kylie.kendall@buv.com.au

www.buv.com.au

Building Commission

1300 815 127

technicalenquiry@buildingcommission.com.au

www.buildingcommission.com.au

WorkSafe Victoria

1800 136 089 (toll free)

info@worksafe.vic.gov.au

www.worksafe.vic.gov.au

Food Safety Victoria

1300 364 352

foodsafety@health.vic.gov.au

www.health.vic.gov.au/foodsafety