

1970/42



THE FIRE SAFETY (EVACUATION OF BUILDINGS)  
REGULATIONS 1970

ARTHUR PORRITT, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 16th day of March 1970

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Fire Services Act 1949, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Fire Safety (Evacuation of Buildings) Regulations 1970.

(2) These regulations shall come into force on the twenty-eighth day after the date of their notification in the *Gazette*.

**2. Interpretation**—(1) In these regulations, unless the context otherwise requires,—

“Building” means a building to which these regulations apply:

“Factory” means a factory as defined in section 2 of the Factories Act 1946:

“Office” means an office as defined in section 2 of the Shops and Offices Act 1955:

“Owner”, in relation to any building,—

(a) Means the person for the time being entitled to the whole or substantially the whole of the building for a freehold estate (including a limited freehold estate) in possession; and where appropriate includes his executor, administrator, or other legal personal representative; but

(b) Where the whole or substantially the whole of the building is for the time being leased or subleased and the lessee or sublessee occupies the whole or substantially the whole of the building, means that lessee or sublessee; and includes his executor, administrator, or other legal personal representative; but

(c) Where the building is subject to a mortgage and the mortgagee is for the time being in possession of the building pursuant to the terms of the mortgage, means that mortgagee; and includes his executor, administrator, or other legal personal representative—

and “ownership” has a corresponding meaning:

“Shop” means any building in which goods are kept, exposed, or offered for sale, or in which any part of the business of a shop is conducted; and includes a restaurant, hairdressing saloon, and an auction mart:

“Warehouse” means any building in which is carried on the business of selling goods to persons who are dealers therein and who buy for the purposes of reselling them.

(2) Where in these regulations the term “place of residence” is used in relation to an owner, it shall, in any case where the owner is a body corporate, mean the address of the registered office of the body corporate.

**3. Application of regulations—**(1) These regulations shall apply in respect of the whole of any building of any of the following classes:

- (a) Any building containing one or more shops if the gross floor space of the shop or shops exceeds 4,000 sq ft.
- (b) Any building containing one or more offices, factories, or warehouses, being a building in which 100 persons or more are employed at any one time:
- (c) Any building containing a hotel or tavern licensed under the Sale of Liquor Act 1962, or any tourist house premises licensed under that Act:
- (d) Any building containing a private hotel providing accommodation for 50 or more persons:
- (e) Any building used for the purposes of a home within the meaning of the Old People’s Homes Regulations 1965\*:
- (f) Any licensed hospital within the meaning of section 118 of the Hospitals Act 1957:
- (g) Any separate institution specified in the Second Schedule to the Hospitals Act 1957:
- (h) Any children’s home within the meaning of section 2 of the Child Welfare Amendment Act 1927:
- (i) Any hostel or residential accommodation provided for the pupils of any school established under Part III of the Education Act 1964, or for the students of any teachers’ college established under that Part:

(j) Any hostel or residential accommodation for pupils at or in connection with any private school registered under section 186 of the Education Act 1964:

(k) Any hall of residence provided for the students of any university in New Zealand.

(2) These regulations shall apply in respect of any protected area beyond the district for which an urban fire authority is responsible in the same manner and to the same extent as if the area were within the district.

**4. Owners of buildings to lodge draft fire safety schemes with urban fire authorities—**(1) Except as provided in subclause (2) of this regulation, every owner of a building shall within the prescribed period submit to the urban fire authority of the district in which the building is situated a draft fire safety scheme providing for the following matters:

(a) The procedures whereby persons may be expeditiously and efficiently evacuated in the event of fire endangering the building:

(b) The procedures whereby panic may be prevented among people in the building in the event of fire endangering the building:

(c) The appointment of wardens to supervise any such evacuation:

(d) The instruction of wardens so appointed in the procedures to be followed in the event of evacuation:

(e) The identification during an evacuation of any wardens so appointed:

(f) The display of notices in the building explaining the procedures and routes to be followed in the event of an evacuation being necessary:

(g) The holding of trial evacuations at regular specified intervals.

(2) Where any building is a single storey one, the owner may, instead of submitting a draft fire safety scheme, apply to the authority within the prescribed period to be exempted from having to prepare a draft scheme on the grounds that the building has sufficient exits to facilitate escape from the building in the event of its being endangered by fire.

(3) Every such scheme or application shall be accompanied by the following particulars:

(a) The name and place of residence of the owner:

(b) Particulars of the physical location of the building and the purpose or purposes for which it is used:

(c) The number of storeys in the building:

(d) In the case of a building containing one or more offices, factories, or warehouses, the number of people normally employed in the building:

(e) In the case of a building containing one or more shops, the total square footage of floor space in the building:

(f) In the case of a private hotel, the total number of persons which can be accommodated in the hotel.

(4) For the purposes of this regulation, the term “prescribed period”, means—

(a) In relation to any building which becomes subject to these regulations immediately on their commencement, 12 months from the date of commencement; or

- (b) In relation to any building which becomes subject to these regulations at any time after their commencement, 12 months from the date of commencement, or 3 months from the date on which the building becomes subject to these regulations, whichever is the later.

**5. Executive officer to report to urban fire authority—**(1) As soon as practicable after submitting a draft fire safety scheme or an application for exemption in respect of any building as aforesaid, an executive officer of the urban fire authority shall, during the building's ordinary business hours, visit and inspect the building for the purpose of preparing a report to the authority as to whether or not the draft scheme appears to be adequate for the building or, as the case may be, whether or not there are good grounds for exempting the owner from being required to prepare a scheme in respect of the building.

(2) After inspecting the building the officer shall report to the authority on the state of the building and, where appropriate, may make such recommendations in respect of the draft scheme as he thinks fit.

(3) If the owner of the building so requests, the authority shall supply him with a copy of the report and recommendations.

**6. Urban fire authority may amend draft scheme—**(1) Where any owner has submitted a draft fire safety scheme to an urban fire authority, the authority shall, as soon as practicable after receiving the executive officer's report on the building and any recommendation on the draft scheme, consider the scheme and may then either approve it without amendment or approve it subject to such amendments as may be necessary to provide for the safety of its occupants having regard to the state of the building.

(2) The authority shall then notify in writing its decision to the owner and, in any case where it has amended the owner's draft scheme, shall give particulars of the amendments.

(3) If the authority approves the scheme without amendment, the scheme shall become an operative one on the day after the date on which notice of the authority's decision approving the scheme is given to the owner, but if the authority approves the scheme subject to amendment, the scheme shall not become an operative one—

(a) Where no notice of objection to the amendment is given in accordance with regulation 8 of these regulations, until the expiration of the period limited for giving notice of objection; or

(b) Where notice of objection is given in accordance with the said regulation 8, until the day after the date on which notice of the authority's determination in respect of the objection is given to the owner or, as the case may be, the day after the date of withdrawal of the notice of objection, whichever is the earlier.

**7. Urban fire authority may exempt certain owners from submitting draft schemes—**(1) Where the owner of any building has applied under subclause (2) of regulation 4 of these regulations for exemption from being required to prepare a draft fire safety scheme, the urban fire

authority, on receiving the report of the executive officer as aforesaid, shall consider the application and, if it is satisfied that the building has sufficient exits to facilitate escape in the event of the building being endangered by fire, shall grant the exemption sought by the applicant.

(2) As soon as practicable after arriving at its decision, the authority shall notify the applicant by notice in writing.

(3) If the application is declined, the applicant shall within 28 days of being notified of the authority's decision prepare a draft fire safety scheme and submit it to the authority in accordance with subclause (1) of regulation 4 of these regulations:

Provided that where the applicant objects to the decision of the authority in accordance with regulation 8 of these regulations, the period of 28 days shall not commence to run—

- (a) If the decision of the authority is confirmed (with or without modification), until the day after the date on which notice of the determination of the objection is given to him; or
- (b) If the objection is withdrawn before it is heard, until the day after the date of the withdrawal.

**8. Objections by owners of buildings—**(1) Where the owner of a building is dissatisfied with the decision of an urban fire authority made under regulation 6 or regulation 7 of these regulations, he may object to the authority by giving notice of objection within 28 days of being notified of the authority's decision.

(2) The notice of objection shall be in writing and shall set out the grounds on which the owner bases his objection.

**9. Procedure in respect of hearing of objections—**(1) Where notice of any such objection is given, the authority shall as soon as practicable hear and determine the objection:

Provided that no objection shall be dealt with unless reasonable notice of the date and time when and the place where it is to be considered has been given to the objecting owner.

(2) If either the objecting owner or his counsel, or both, are present at the appointed time and place, they shall be entitled to be heard in support of the objection.

(3) At any such hearing, the authority shall not be bound to follow any formal procedure, but shall observe the rules of natural justice and shall hear all relevant evidence tendered and all relevant representations made by or on behalf of the objector, whether or not they would be admissible in a court of law.

(4) After the completion of the hearing, the authority shall, after considering the evidence and representations, determine that the objection be dismissed or that the decision objected to be confirmed (either with or without modification).

(5) As soon as practicable after the making of the determination, the authority shall notify it to the objecting owner, together with the reasons on which it is based.

(6) Subject to the provisions of these regulations, the authority may regulate its procedure in respect of the hearing and consideration of any such objection in such manner as it thinks fit.

**10. Owner to notify urban fire authority of change of ownership—**

(1) If at any time the ownership of any building which is subject to an operative fire safety scheme changes, the new owner shall within 28 days of the change notify in writing the urban fire authority with which the building is registered of his name and place of residence.

(2) Notwithstanding any such change of ownership, where there is an operative fire safety scheme in force in respect of the building, that scheme shall, subject to the provisions of regulation 11 of these regulations, continue in force.

**11. Change of use of building, etc.—**(1) If at any time there is a change in the use of any building, or any substantial alteration to its interior construction or to its means of egress, the owner shall within 28 days of the change notify in writing the change to the urban fire authority in whose district the building is situated, notwithstanding that a fire safety scheme may already be operative in respect of the building or that an exemption in respect of the building has been granted under regulation 7 of these regulations.

(2) Where the use of a building is changed or its interior construction or means of egress is altered as aforesaid, and a fire safety scheme is operative in respect of the building or an exemption granted under regulation 7 of these regulations is for the time being in force in respect of it, the relevant urban fire authority may require the owner to prepare a new draft scheme, whereupon all the provisions of regulations 5 to 9 of these regulations, so far as they are applicable, shall apply as if the building had not previously been subject to these regulations. On any such new draft scheme becoming operative, any existing operative scheme shall be deemed to be revoked.

**12. Owner to notify urban fire authority where building ceases to be subject to regulations—**Where any building is demolished or for any other reason ceases to be a building to which these regulations apply, the owner shall forthwith notify the relevant urban fire authority of the fact.

**13. Variation of operative fire safety scheme—**(1) Without limiting the provisions of regulation 11 of these regulations, but subject to subclause (2) of this regulation, any urban fire authority may from time to time vary any operative fire safety scheme.

(2) Where any authority proposes to vary any such operative scheme, it shall forthwith notify in writing the owner of the building of the proposed variation, whereupon all the provisions of regulations 6, 8, and 9 of these regulations, so far as they are applicable, and with the necessary modifications, shall apply to the proposed variation as if it were an amendment to a draft fire safety scheme.

(3) Without limiting the provisions of regulation 11 of these regulations or of subclauses (1) and (2) of this regulation, where there is for the time being in force in respect of any building an operative fire safety scheme, the owner of the building may at any time apply to the authority with which the scheme is registered to approve a variation of the scheme. On any such application being made all the provisions of regulations 5, 6, 8, and 9 of these regulations, so far as they are appli-

cable and with the necessary modifications, shall apply to the proposed variation as if it were a draft fire safety scheme submitted under regulation 4 of these regulations.

**14. Inspection of buildings**—(1) Without limiting the powers conferred on executive officers by regulation 5 of these regulations, every executive officer of an urban fire authority (with or without any fireman) may enter and inspect any building situated in the district controlled by the authority at any time during which the building is open for ordinary business for the purpose of ensuring that the requirements of any operative fire safety scheme in force in respect of the building are being fulfilled or, in the case of a building where no such scheme is in force, for the purpose of ascertaining whether or not the building is subject to these regulations.

(2) The owner of a building (and his agents and servants) shall at all times during which the building is open for ordinary business permit any such officer to enter and inspect the building as provided in sub-clause (1) of this regulation.

(3) Every person commits an offence, and is liable to a fine not exceeding \$200, who, without reasonable excuse,—

- (a) Obstructs any executive officer exercising the power of entry and inspection conferred on him by these regulations; or
- (b) Uses threatening language towards any such officer, while he is exercising the said power of entry and inspection; or
- (c) Fails to comply with the lawful requirements of any such officer.

**15. Offences by owners**—(1) Every owner of a building commits an offence who, without reasonable excuse,—

- (a) Fails to comply with any requirement of these regulations; or
- (b) Fails to comply with or contravenes any provision of an operative fire safety scheme for the time being in force in respect of the building.

(2) Every person convicted of an offence against subclause (1) of this regulation shall be liable to a fine not exceeding \$200 in respect of the offence and, in the case of a continuing offence, to a further fine not exceeding \$20 for every day on which the offence has continued.

**16. Offences punishable on summary conviction**—Every offence against these regulations shall be punishable on summary conviction.

**17. Service of notices**—(1) Any notice or other document to be served on or given to any person for the purposes of these regulations may be served or given—

- (a) By causing it to be delivered to that person; or
- (b) By causing it to be left at his usual or last known place of residence or business; or
- (c) By causing it to be sent by registered letter addressed to him at that place of residence or business.

(2) Where any notice or document is sent to any person by registered letter as aforesaid, the notice shall be deemed to have been served or given at the time when the letter would have been delivered in the ordinary course of post.

P. J. BROOKS,  
Clerk of the Executive Council.

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#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

Pursuant to section 84 of the Fire Services Act 1949 (as amended by section 11 of the Fire Services Amendment Act 1967 and section 22 of the Fire Services Amendment Act 1969) these regulations provide for fire safety schemes to be formulated in respect of certain types of buildings, such as shops, factories, warehouses, licensed hotels and taverns, private hotels, and health and educational institutions. The schemes when operative are designed to provide for the expeditious and efficient evacuation of persons from buildings to which the regulations apply and for the prevention of panic among those persons in the event of the buildings being endangered by fire. The regulations prescribe the functions of urban fire authorities in respect of fire safety schemes, and the powers and duties of executive officers of authorities. Provision is made for the owner of any building to object to an urban fire authority if dissatisfied with any amendment made by an urban fire authority to a draft fire safety scheme or with the refusal of an urban fire authority to grant an owner exemption from being required to prepare a draft fire safety scheme in respect of his building.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 March 1970.

These regulations are administered in the Department of Internal Affairs.