

NEW COMPLIANCE REQUIREMENTS AS OF DECEMBER 2003

The Commonwealth Department of Health and Ageing will be requiring all aged care Approved Providers to complete and return a new “Fire Safety Declaration – 2003” form by the 1st March 2004. All Approved Providers should receive the Commonwealth “Fire Safety Declaration – 2003” (FSD) form by the 31st December 2003.

The FSD does not replace the current 1999 Aged Care Certification compliance requirements but provides the Commonwealth with another system of monitoring a facility’s level of ongoing compliance with the fire safety legislation within their State or Territory.

The FSD will be required to be completed on an annual basis and demonstrate compliance over the previous calendar year. The FSD is intended to emphasize that the onus for fire safety compliance is with the Approved Provider.

The FSD contains five (5) main questions with an Approved Providers Declaration to be signed at the rear of the form.

An Approved Provider will need to fully understand the possible implications of signing the FSD, as the penalties for false or misleading information are very heavy under the Criminal Code.

Given the size of the task to review all Fire Safety legislation across Australia I am unable in this article to cover all questions and possible scenarios, however, some of the issues for the Approved Provider to consider are;

- Compliance with the Regular Maintenance of Essential Services in accordance with State and Territory requirements.
- Is the current use of the building consistent with the approved building classification?
- Are there any outstanding Fire Safety audits undertaken by the local council or Fire Brigade?
- Have all building works obtained the appropriate approval documentation?
- During the previous 12 months have there been any works that required a dispensation to be granted by the building authority or private Building Surveyor?

Question 1a of the FSD presents some of the greater ramifications if answered in ignorance.

Obviously, the level of fire safety legislative compliance will vary from State to State (Territory). It is important that an Approved Provider either make themselves aware of their State requirements or they seek advice from a suitably qualified building control consultant or the local council.

A FSD form will need to be completed for each Service Provider Number per site and will need to identify each building on the site.

What will happen with the information provided?

The Commonwealth Department of Health and Ageing (DHA) have stated that they may pass on information contained within the FSD onto the relevant authority. We have sort clarification on this statement and have been advised by the DHA that if there are issues on concern with non-compliance they have an obligation to inform the relevant authority and on most cases this would be the local council.

The DHA will decide on a case by case basis as to whether any issues identified in the returned FSD form will be passed onto the local authority.

One of the concerns for the DHA as an outcome of the fire in an Aged Care facility earlier this year was that the DHA was seen as the fire safety compliance regulator for Aged Care facilities through the Certification process. The DHA stated at our recent meeting in Canberra that they are not the fire safety regulatory compliance authority in each state but that Certification was developed to provide an additional funding stream for those facilities that met a set of agreed Industry standards.

What will happen if I do not submit an FSD?

At our meeting the DHA outlined several steps available to them for facilities that failed to meet the legislative requirement to accurately complete the FSD. The DHA have stated on the front page of the FSD form the following;

“Failure to return the declaration or provide all of the requested information may result in compliance activity or review of the service’s certification under the Aged Care Act 1997”.

FSD Summary

- Returning the completed FSD is compulsory for all Approved Providers.
- Seek advice from your building control authority or consultant if you are not sure about your level of fire safety compliance.
- Make sure the maintenance of all essential service elements has been accurately recorded throughout the year.
- Ensure the use of your building/s is consistent with the approved building classification as stated on the Occupancy Certificate/Permit i.e. not more than 10% of the floor area of a Class 3 (Hostel) building can be used as a Class 9c (Ageing in Place) or Class 9a (Nursing Home) without having first obtaining a change of use approval/permit from the relevant building approval authority.

- The FSD does not replace the current Commonwealth Aged Care Certification requirements but is a new requirement for all Approved Providers.

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