South Australian Regulatory Requirements

Technical

Australian Legislative Framework

Act

- Act of Parliament
- Establishes the Law
- Primary legislation

Regulation

- Subordinate legislation authorised by a specific Act
- Therefore there is a lawful requirement to comply with its provisions
- Sets maintenance requirements
- May reference Codes and Standards

Codes

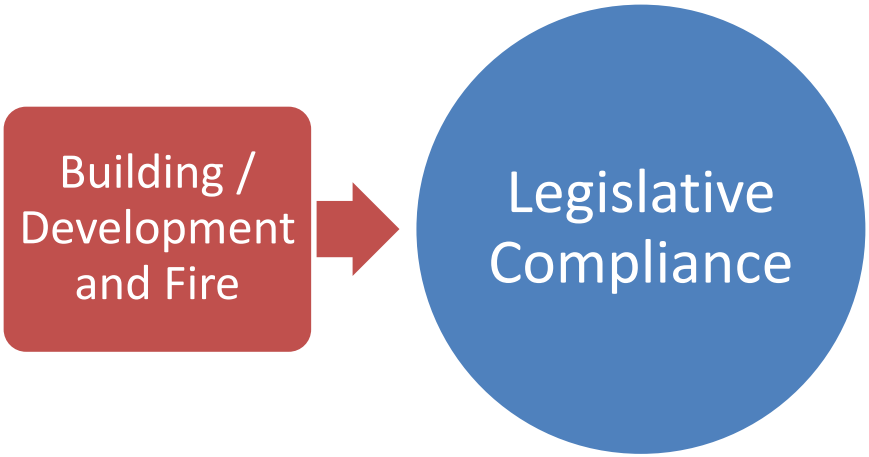
- Compliance only compulsory if referenced by an Act or Regulation (for example Ministers Specification SA76 is called up by the Development Regulations 2008)
- Sets minimum technical requirements as if a building regulation
- May reference other Codes and Standards (i.e. AS1851-2012)

Standards

- Standards are generally voluntary
- But compliance is compulsory if a specific standard is referenced ("Called Up") by an Act or Regulation or a referenced Code
- Can be used to meet a common law duty of care

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

Reconciling the building owner / occupier's legislative compliance obligations



Fire Protection Association Australia Life Property Environment

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

Development Act 1993

RESPONSIBILITY TO MAINTAIN

Schedule 1 – Regulations

"17 The regulation of the design, construction, quality, safety , amenity or upkeep of buildings, including, for example:

(e) The fire safety of buildings, and the provision and maintenance of fire-fighting equipment and other precautions;

(k) The maintenance of buildings;"

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

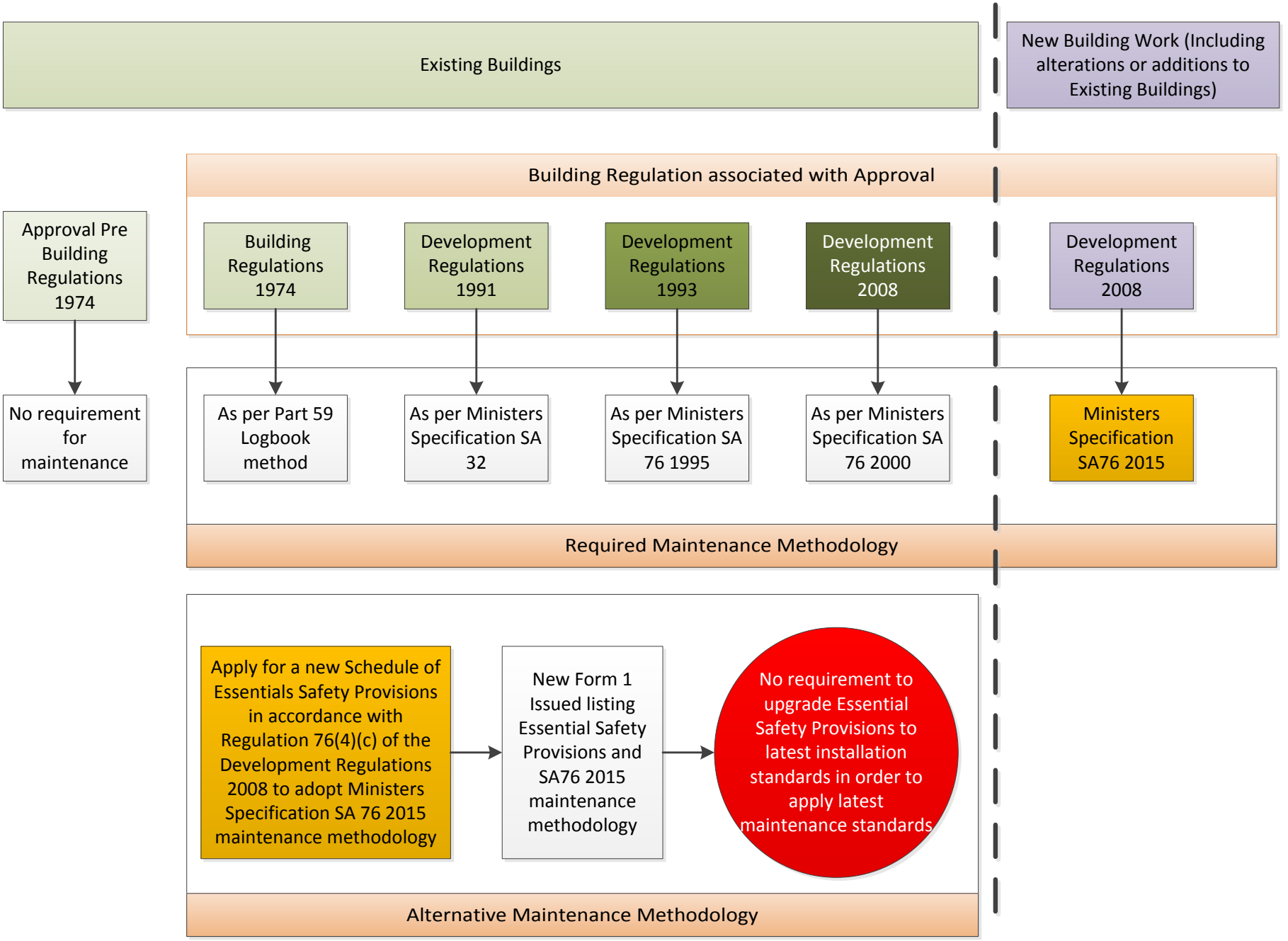
Development Regulations 2008

RESPONSIBILITY TO MAINTAIN

Regulation 76 – Essential safety provisions

*The owner must not use or permit the use of a building to which this regulation applies unless maintenance and testing have been carried out in respect of each **essential safety provision** of the building in accordance with Ministers Specification SA 76 as in force at the time of the consent.*

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095


Existing Buildings
New Building Work (Including alterations or additions to Existing Buildings)
Building Regulation associated with Approval
Approval Pre Building Regulations 1974
Building Regulations 1974
Development Regulations 1991
Development Regulations 1993
Development Regulations 2008
Development Regulations 2008
No requirement for maintenance
As per Part 59 Logbook method
As per Ministers Specification SA 32
As per Ministers Specification SA 76 1995
As per Ministers Specification SA 76 2000
Ministers Specification SA76 2015
Required Maintenance Methodology
Apply for a new Schedule of Essentials Safety Provisions in accordance with Regulation 76(4)(c) of the Development Regulations 2008 to adopt Ministers Specification SA 76 2015 maintenance methodology
New Form 1 Issued listing Essential Safety Provisions and SA76 2015 maintenance methodology
No requirement to upgrade Essential Safety Provisions to latest installation standards in order to apply latest maintenance standards
Alternative Maintenance Methodology

Regulatory Compliance & SA76

Mary Andruchowycz
Chief Project Officer
Department of Planning, Transport & Infrastructure

Technical

Maintenance of Essential Safety Provisions in Buildings

Mary Andruchowycz
Chief Project Officer, Building Policy
Department of Planning, Transport and Infrastructure
June 2015

Government of South Australia
Department of Planning, Transport and Infrastructure

Introduction

Background to maintenance provisions

- **1977 legislation**
  Fire Safety logbooks
- **1993 legislation**
  Minister's Specification SA 76
  Individual AS 1851 standards

LOTTERY *TODAY'S DRAW

THE NEWS

Adelaide: Tuesday, April 22, 1975 9c

WEATHER

7 BURNT TO DEATH—89 FLEE

People's Palace ablaze

By Jim Kernahan and Greg Reid

Seven men were burnt to death in a blaze which swept through the Salvation Army's People's Palace in Pirie street, City, early today.

VICTIMS

Eighty-nine people sleeping on the premises fled for their lives.

FIREMEN sift through the rubble of the burnt out People's Palace today — See other fire pictures Pages 2 and 3.

MANILA'S FAKE HEALERS—Page 5

GAS can make it a warm 'n' wonderful winter with BONaire 'SEASONMAKER' TOTAL COMFORT CONDITIONING • HEATS IN WINTER • COOLS IN SUMMER

South Australian Gas Company

Background

People's Palace fire in 1975: 7 people died because an exit door may have been locked

Building regulations amended in 1977 to introduce new maintenance provisions

The Advertiser

Incorporating "The Register"

ADELAIDE, WEDNESDAY, APRIL 23, 1975

44 Pages 8c

FIRE TRAGEDY THEORY

Door may have been locked

By Police Reporter MIKE O'REILLY

It is believed that a rear exit door from the ... ooms of seven men who died in the Salvation ... rmy Congress Hall fire early yesterday may ... ve been locked.

Lord Mayor opens appeal

Above: Firemen look for bodies in the wreckage of the Congress Hall at the rear of the People's Palace.

Below: The burnt out shell of the Congress Hall. It is believed the rear exit (right) was locked.

MAIN PART OF PEOPLE'S PALACE

DOORWAY TO MAIN BUILDING

WHERE VICTIMS WERE SLEEPING

SIDE ENTRANCE TO CONGRESS HALL

REAR EXIT FROM ROOMS

STOP PRESS

1977 maintenance requirements:

Building Regulation 59.2a required owners to-

- Inspect, test and maintain in good working order required fire safety matters/things in a building
- Maintain and keep **logbooks** of inspections, tests and maintenance of the fire safety matters
- Notify council regarding *approved* maintenance arrangements for *required* systems

Part 59 Log-book requirements:

Log-books must record:

- the date of inspection or test of items
- the identity of person making inspection or test
- the fire-safety matter being inspected or tested
- whether the matter was in good working order
- if not, what remedial action was proposed, and
- when remedial action was completed and inspected or tested, and the results

1991 maintenance requirements:

From 6 June 1991, regulations under the *Building Act 1971* required a **relevant authority** to issue a schedule of essential safety provisions (ESPs) when granting a building approval or on application by a building owner.

The building owner could not permit the building to be used unless the ESPs had been maintained.

The standards or requirements for maintenance of ESPs were set out in Minister's Specification SA 32

Part 59 Log-book requirements:

Log-book records had to be-

- retained by the building owner for 6 years;
- kept in an approved fire resistant location; and
- made available for inspection at all reasonable times by-
  the building surveyor;
  the chief officer (or his nominee); or
  a member of the Building Fire Safety Committee

1994 maintenance requirements:

Regulation 76 requires a **relevant authority** to issue a schedule of essential safety provisions (ESPs) when-

- Granting a building rules consent
- Assigning a change of building classification
- A building owner applies for one to be issued
- Issuing any other certification for building work that complies with the Building Rules

Form 1 - list of ESPs to be maintained

Essential safety provision	Maintenance and testing required
Fire pump sets	As prescribed in AS 1851 sections 1 and 3
Fire hydrant installations, including fire mains and booster assemblies	As prescribed in AS 1851 sections 1 and 4
Fire sprinkler installations	As prescribed in AS 1851 sections 1 and 2

1994 maintenance requirements:

The **owner** of a building with ESPs must-

- provide a certificate of compliance to the council for each installed ESP (signed by the installer)
- not use or permit a building to be used unless maintenance and testing of the ESPs have been carried out in accordance with ***Minister's Specification SA 76*** or any former regulations; and
- provide adequate annual proof to council that maintenance and testing has been carried out

Schedule 16 – Compliance certificate

Form 2 of Schedule 16 is the appropriate form for providing an ESP certificate of compliance.

A Form 2, to be completed by installers and sent to council by the building owner, is usually issued to the applicant with a building rules consent.

The Form 2 will list all ESPs to be installed as part of the building rules consent and the Standards to which they must comply.

Form 2 - list of ESPs to be installed

Essential safety provision	DTS installation standards
Fire pump sets	Section 6 of AS 2419; sections 4 and 12 of AS 2118.1; and AS 2941
Fire hydrant installations, including fire mains and booster assemblies	NCC Volume One – Clause E1.3 and AS 2419.1
Fire sprinkler installations	NCC Volume One – Clause E1.5, Table E1.5, Spec E1.5 and relevant parts of AS 2118.1

Form 3 - ESPs that have been maintained

Essential safety provision	Maintenance and testing carried out
Fire pump sets	As prescribed in AS 1851 sections 1 and 3 – monthly and six-monthly service routines
Fire hydrant installations, including fire mains and booster assemblies	As prescribed in AS 1851 sections 1 and 4 - monthly and six-monthly service routines
Fire sprinkler installations	As prescribed in AS 1851 sections 1 and 2 – monthly, six-monthly and yearly service routines

Regulation 76(3) – records to be kept:

'A reference to maintenance in respect of essential safety provisions includes a reference to replacing the safety provisions and to keeping records relating to the carrying out of maintenance work of the safety provisions'.

AS 1851 specifies the service records and reports that must be produced and maintained in relation to required maintenance and testing procedures.

AS 1851 - Service records

Service records may be captured in the form of –

- A hardcopy logbook;
- Electronic log; or
- Tags and labels with hardcopy summary records.

Table 1.16.2 of AS 1851 shows what is required for each system or equipment (logbook or tags/labels)

AS 1851 - Logbooks

Service records in logbooks must include-

- identification of the building and its owner
- the date and type of service routine undertaken
- the identity of person making inspection or test
- the ESP serviced and/or checked and its location
- details of any non-conformance or defect found
- what remedial action was undertaken
- name of person who carried out the maintenance

AS 1851 - Yearly condition reports

Yearly condition reports, which summarise the service records for the year's maintenance activities, are required under AS 1851 to be provided by maintenance service providers to building owners.

Building owners will rely on these records when certifying each year that maintenance and testing have been carried out on the ESPs in the building.

Minister's Specification SA 76 - 2015

A performance requirement has been introduced into the 2015 edition of Min Spec SA 76 and the maintenance service routines in AS 1851- 2012 are deemed to satisfy the performance requirement.

ESPs must continue to be capable of performing to a standard no less than the standard they were originally required to achieve.

Minister's Specification SA 76 - 2015

Alternative maintenance procedures to those listed in Min Spec SA 76 may be allowed but they must be listed on the schedule 16 forms issued by the relevant authority (ie they must be approved).

The appendices to Min Spec SA 76 contain advice about alternative solutions; existing buildings; maintenance records; and referenced documents.

Minister's Specification SA 76 - 2015

When an existing building is being altered or added to and the work involves ESPs, Min Spec SA 76 now requires the relevant authority to issue a new schedule that includes all the ESPs installed in the building, whether existing or new.

This means that the building owner will then have to change over to AS 1851- 2015 maintenance routines for all ESPs in that building.

Summary

Building owner must ensure installed ESPs comply.
Relevant authority must issue a schedule of ESPs
- Form 1 – ESPs to be installed and maintained
- Form 2 – Installation standards for ESPs
- Form 3 – ESPs that have been maintained.

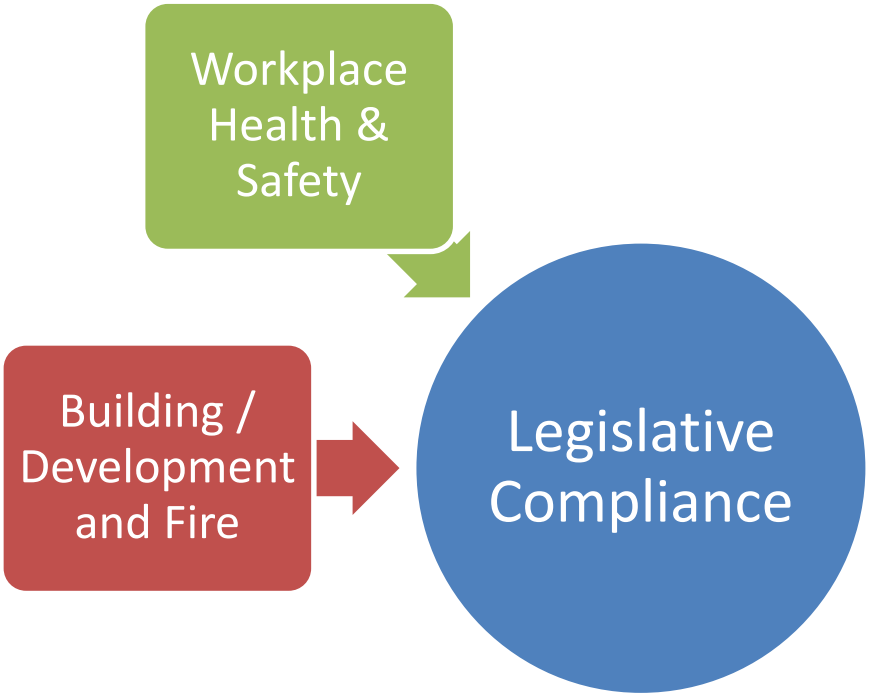
Contractors must maintain ESPs in accordance with Min Spec SA 76 or any former regulations that applied at the time of installation.

Reconciling other Regulatory Compliance Obligations

Chris Wyborn
Engagement and Education Manager
FPA Australia

Technical

Reconciling the building owner / occupier's legislative compliance obligations



All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

Legislative Requirements for Maintenance (WHS)

Work Health and Safety Act

Section 17. Management of risks

A duty imposed on a person to ensure health and safety requires the person –

a) to eliminate risks to health and safety, so far as is ***reasonably practicable***; and

b) if it is not ***reasonably practicable*** to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable.

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

Legislative Requirements for Maintenance (WHS)

Work Health and Safety Act

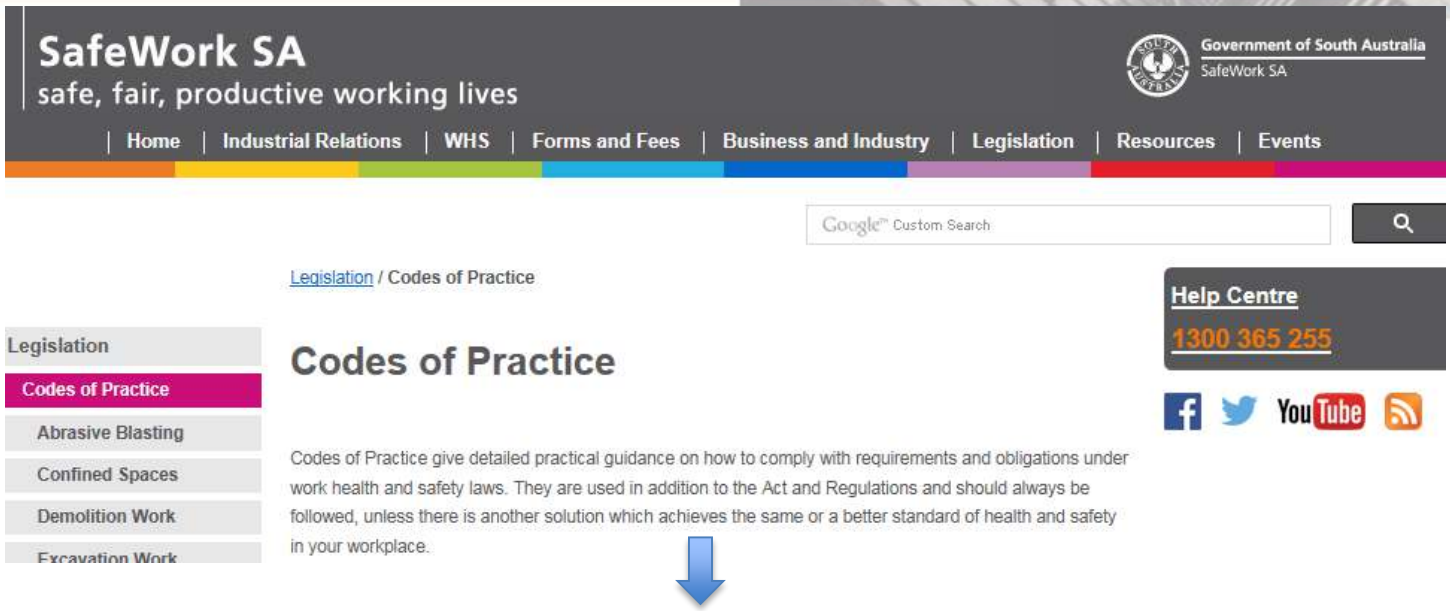
Section 275 - Use of codes of practice

An approved code of practice is admissible in the proceeding as evidence of whether or not a duty or obligation under this Act has been complied with.

The court may rely on the code in determining what is ***reasonably practicable*** in the circumstances to which the code relates.

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

SafeWork SA – Use of Codes of Practice



Codes of Practice give detailed practical guidance on how to comply with requirements and obligations under work health and safety laws. They are used in addition to the Act and Regulations and should always be followed, unless there is another solution which achieves the same or a better standard of health and safety in your workplace.

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

Legislative Requirements for Maintenance (WHS)

Work Health and Safety Regulations

Regulation 43. Duty to prepare, maintain and implement emergency plan

A person conducting a business or undertaking at a workplace must ensure that an emergency plan is prepared for the workplace

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

Legislative Requirements for Maintenance (WHS)

Code of Practice

WH&S Act

Fire Protection Association Australia Life Property Environment

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

Legislative Requirements for Maintenance (WHS)

5. EMERGENCY PLANS

5.1 Preparing emergency procedures

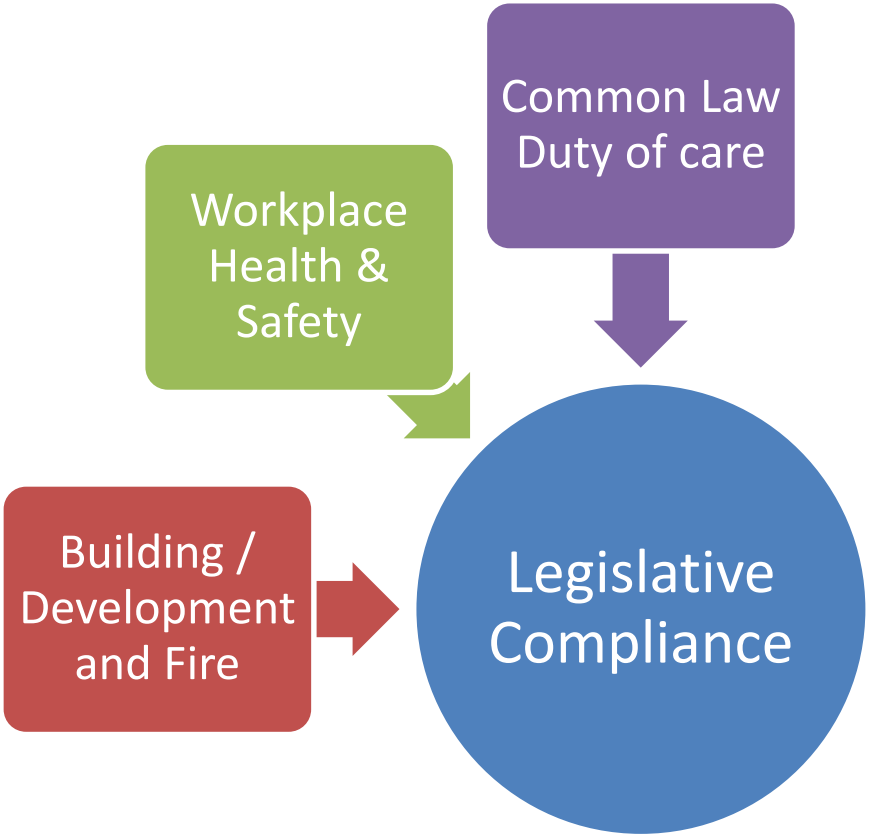
The emergency procedures in the emergency plan must clearly explain how to respond in various types of emergency, including how to evacuate people from the workplace in a controlled manner.

The procedures should be written clearly and simple to understand. Where relevant, the emergency procedures should address:

"*the use and maintenance of equipment required to deal with specific types of emergencies (for example, spill skits, fire extinguishers, early warning systems such as fixed gas monitors or smoke detectors and automatic response systems such as sprinklers*"

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

Reconciling the building owner / occupier's legislative compliance obligations



Fire Protection Association Australia Life Property Environment

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

Duty of Care

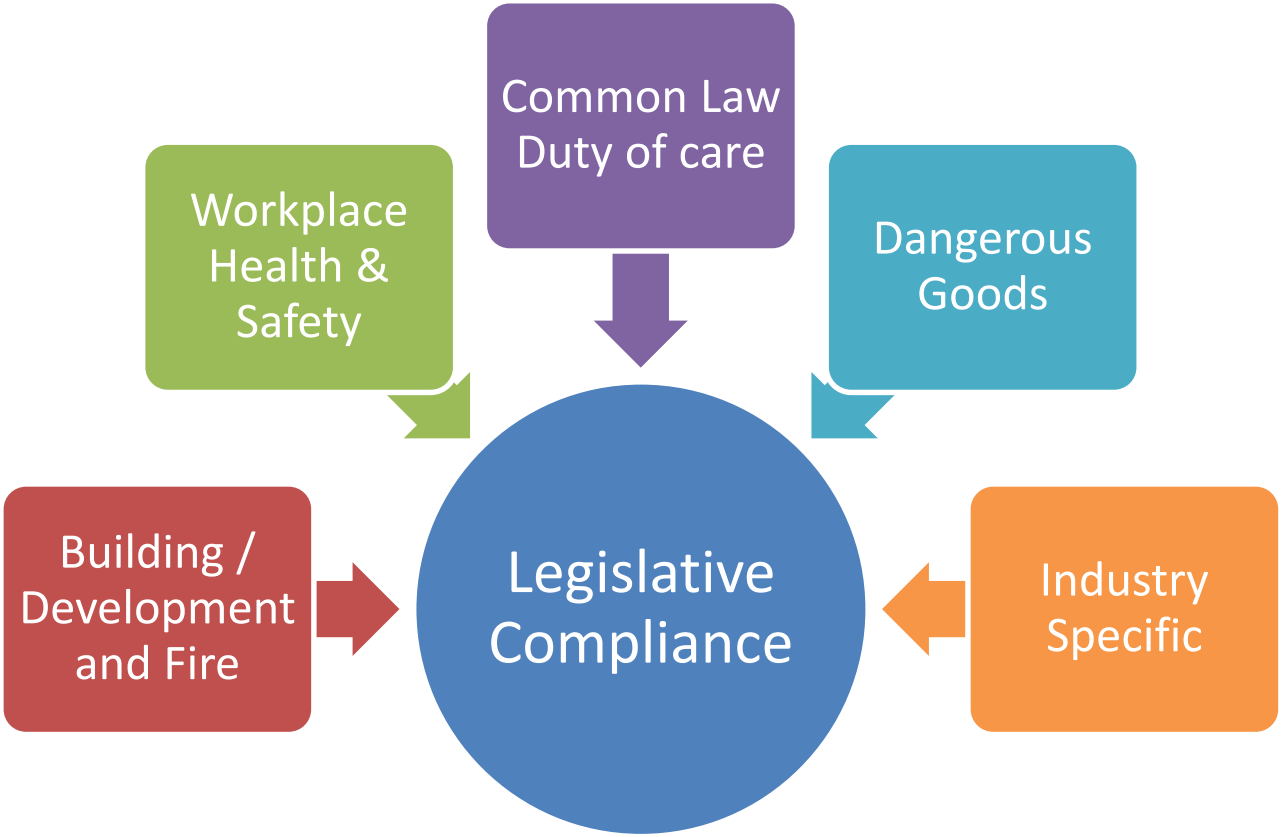
"a requirement that a person act toward others and the public with watchfulness, attention, caution and prudence that a reasonable person in the circumstances would."

An individual or a corporation such as the owner, occupier, employer or manager will have a common law duty of care to maintain fire protection systems and equipment to demonstrate that they have met their duty to others under their supervision or care

If a person's actions do not meet this standard of care, then the acts are considered negligent, and any damages resulting may be claimed in a lawsuit for negligence

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095

Reconciling the building owner / occupier's legislative compliance obligations



Fire Protection Association Australia Life Property Environment

All slides are Copyright © of FPA Australia 2015
Content from AS1851-2012 reproduced with permission from SAI Global Ltd under Licence 1301-c095