

# **BUILDING AND OTHER LEGISLATION AMENDMENT BILL 2001**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Objectives of the legislation**

To achieve a satisfactory standard of fire safety in budget accommodation buildings by requiring:

- budget accommodation buildings not approved under the Building Code of Australia to comply with prescribed minimum fire safety standards; and
- owners of budget accommodation buildings to prepare and implement a fire safety management plan.

#### **Reasons for the Bill**

The Building Fire Safety Taskforce formed to review building fire safety in budget accommodation following the Palace Backpackers Hostel fire in Childers on 23 June 2000 concluded there are inadequate fire safety provisions to protect the lives of occupants in many budget accommodation buildings.

Budget accommodation generally has a higher occupation density than other forms of accommodation and a large number of older buildings are being used as budget accommodation. Given the nature of the occupation, the age of the buildings, the lack of fire safety facilities and predominant timber construction, fire risk is very high in a large proportion of budget accommodation buildings.

Many budget accommodation buildings were built before the introduction of the *Building Act 1975* and only had to comply with the fire safety standards established by individual local governments at that time. Between 1976 and 1992, the Building Act contained only minimal fire safety standards for new buildings of this type. It was not until 1992, when the Building Code of Australia (BCA) commenced in Queensland, that new

budget accommodation buildings were required to comply with contemporary fire safety standards.

Current building and fire safety legislation does not require older buildings to comply with contemporary fire safety standards unless an owner wants to renovate or alter a building, or there is a change of the building's use classification under the Building Code of Australia. However, classifications are broad, and these higher standards would not apply, for example, where a building is converted from hotel accommodation to a backpacker hostel.

The Childers incident demonstrated that fire in older buildings with high-density use can have devastating consequences. Without appropriate improvements in building fire safety in budget accommodation buildings, an ever increasing number of occupants of budget accommodation will continue to be subject to a high level of fire risk.

### **Ways in which the objectives are to be achieved**

The objectives of the Bill are to be achieved by:

- Amending the Building Act to require budget accommodation buildings to meet a fire safety standard for the safe evacuation of all occupants. The fire safety standard will be called up by the *Standard Building Regulation 1993* and will set minimum standards of smoke alarms and emergency lighting. The installation of these minimum standards will be self-assessable development and will not require a development approval under the *Integrated Planning Act 1997*. Owners will be able to approach local governments to confirm that their buildings comply with the standard if they are in doubt.

Where higher risk budget accommodation buildings require additional fire safety improvements other than smoke alarms and emergency lighting this will require a development application which must be accompanied by a fire safety management plan to be assessed by local governments.

Also, local governments will undertake annual inspections of buildings where a performance assessment of the building approved the use of management procedures in lieu of changes to the building fabric.

- Amending the *Fire and Rescue Service Act 1990* to require owners of budget accommodation buildings to prepare fire safety

management plans. The contents of the plans will be described in this Act. Building owners will also be required to maintain and implement the plan. Queensland Fire and Rescue Service officers will conduct random audits on budget accommodation buildings to monitor ongoing compliance with the plans.

- Amending the *Local Government Act 1993* to provide powers of entry for local government officers into budget accommodation buildings to monitor compliance with fire safety standards and local government assessed fire safety management plans. These compliance inspections will be carried out under approved inspection programs. The Bill also amends the *Fire and Rescue Service Act 1990* to increase powers of entry for fire brigade officers to inspect budget accommodation buildings.

### **Why this way of achieving the objectives is reasonable and appropriate**

Encouraging local governments to introduce and enforce local government local laws is a possible regulatory option. Eighty-four local governments have local laws in respect of backpacker or boarding house accommodation. Of these, sixty-six local laws make reference to fire safety.

However, the drawback with local laws is that they are not consistent across local government boundaries nor is it mandatory for a local government to introduce a local law. Legislation is the only way to ensure fire safety standards are applied consistently across the State.

An amendment of the Building Act to prescribe a fire safety standard is the preferred option as this is the only way of ensuring all budget accommodation would meet minimum standards within a prescribed time.

### **Alternatives to the Bill**

There are no alternatives to the amending legislation if there is to be consistent fire safety standards for budget accommodation across Queensland.

### **Administrative cost to government of implementing the Bill**

There are some costs to government of implementing the Bill. A fire safety standard and guidelines for budget accommodation will be developed to complement the proposed amendments to the Building Act.

Research will be undertaken on how budget accommodation buildings can achieve safe evacuation of occupants. This research will be used to develop guidelines on cost effective techniques to upgrade buildings.

### **Consistency with fundamental legislative principles**

The Bill amends section 110 of the Local Government Act and section 55 of the Fire and Rescue Service Act to provide powers of entry for local government and fire brigade officers into budget accommodation buildings, including the residential parts of the buildings. These powers of entry are necessary to enable essential inspections to occur to ensure continued operation of smoke alarms and emergency lighting and other fire safety installations as they are critical elements of safe evacuation of occupants in the event of a fire. The potential loss of life in the event of a fire is justification for increased powers of entry into budget accommodation buildings.

### **Consultation**

The following State agencies were consulted during the preparation of the Bill:

- Department of Premier and Cabinet;
- Department of Treasury;
- Department of Emergency Services;
- Department of Families;
- Disability Services Queensland;
- Department of Tourism, Racing and Fair Trading;
- Department of Public Works;
- Department of Housing;
- Department of State Development.

Other key stakeholder groups consulted include the following:

- Local Government Association of Queensland;
- Queensland Backpacker and Independent Traveller Industry Association;
- Queensland Hotels Association;

- Tourism Queensland;
- Supported Accommodation Providers Association Inc;
- Boarding House Owners and Managers Association;
- Supported Accommodation Providers Association Inc.
- Australian Institute of Building Surveyors;
- Institution of Engineers;
- Brisbane City Council; and
- Emergency Services Advisory Council.

### **Explanation of purpose and intended operation of each clause**

## **PART 1—PRELIMINARY**

### **Short title**

*Clause 1* provides that the short title of the Act is the *Building and Other Legislation Amendment Act 2001*

### **Commencement**

*Clause 2* provides that the Act will commence on a date to be fixed by proclamation.

## **PART 2—AMENDMENT OF BUILDING ACT 1975**

*Clause 3* declares Part 2 amends the *Building Act 1975*.

## **PART 2A—FIRE SAFETY FOR BUDGET ACCOMMODATION BUILDINGS**

*Clause 4* inserts a new Part 2A dealing with fire safety for budget accommodation buildings.

### *Division 1—Interpretation*

#### **New section 12A (Definitions for pt 2A)**

Section 12A inserts a list of definitions for new Part 2A.

#### **New section 12B (Meaning of “budget accommodation building”)**

Section 12B(1) defines budget accommodation buildings as buildings with the following features:

- shared facilities including sanitary and bathroom facilities (other than a laundry); and
- accommodates 6 or more persons.

Included in this definition are backpacker hostels, boarding houses, supported accommodation, and hotels providing sleeping accommodation either as a community service or at commercial rates.

Section 12B(2) excludes several types of buildings from the definition for budget accommodation building. These include motels, corrective services facilities, juvenile detention centres, aged care premises and class 1a, 2 or 9a buildings under the Building Code of Australia.

### *Division 2—Fire safety standard*

#### **New section 12C (Fire safety standard)**

Section 12C(1) allows a regulation making head of power to prescribe a “fire safety standard” for budget accommodation buildings to achieve the safe evacuation of all occupants in the event of a fire in the building.

Section 12C(2) describes what a fire safety standard may provide for; including the allowable number of occupants; the provision and

maintenance of fire safety systems; and training programs for occupants and persons employed in the building about fire management, prevention or emergency evacuation.

Many local governments have local laws regulating shared accommodation premises and include fire safety standards in their requirements. In accordance with section 31 of the *Local Government Act 1993*, the fire safety standard will override local law fire safety standards to the extent of the inconsistency but will allow those local governments which currently register owners of shared accommodation to continue to do so, provided the local government ensures the premises continue to meet the requirements of the legislation.

#### **New section 12D (Guidelines for fire safety standard)**

Section 12D(1) allows the chief executive of the Department of Local Government and Planning to issue guidelines about ways budget accommodation buildings can comply with the fire safety standard.

Section 12D(2) requires the chief executive to consult with any entity considered appropriate before issuing a guideline.

#### **New section 12E (Public notice of guideline)**

Section 12E(1) requires the chief executive, after issuing a guideline under section 12D, to give notice of the guideline.

Section 12E(2) requires the notice referred to in section 12E(1) to be published in an appropriate newspaper to state where the guideline may be inspected or purchased.

#### **New section 12F (Access to guidelines)**

Section 12F(1)(a) requires the chief executive of the Department of Local Government and Planning to keep a copy of any guidelines prepared under section 12D(1) available for inspection without charge and during normal business hours at the head office of the Department of Local Government and Planning.

Section 12F(1)(b) requires the chief executive to also keep a copy of the guidelines available for inspection on the department's web site on the internet.

Section 12F(2) allows a person to obtain a copy of any guidelines prepared under section 12D(1). The chief executive may require a person to pay a fee before obtaining a copy of any guidelines.

Section 12F(3) states any fee referred to in section 12F(2) must not exceed the chief executive's reasonable cost of producing the copy of the guideline.

***Division 3—Budget accommodation buildings built, approved, or applied for, before 1 January 1992***

**New section 12G (Application of div 3)**

Section 12G states this division applies to a budget accommodation building which was built or for which an application to construct the building was made before 1 January 1992 when the current Building Code of Australia commenced in Queensland.

The fire safety standards included in building applications for budget accommodation buildings between 1976 and 1 January 1992 were based on the requirements of the Building Act, and prior to 1976 the fire safety requirements in local government local laws. These requirements were not as stringent as the Building Code of Australia and the new section 12G will ensure all budget accommodation buildings comply with minimum standards to safely evacuate all occupants in the event of a fire.

**New Section 12H (Owner must ensure building conforms with fire safety standard)**

Section 12H(a) requires an owner of a budget accommodation building to install emergency lighting and an early warning system as described in the fire safety standard, if required, within 1 year of the commencement of the *Building and Other Legislation Amendment Act 2001*. An early warning system is usually a smoke alarm system or it could be an alternative where occupants are given early warning of a fire through some other means, such as flashing lights or sirens if, for example, the occupants of the building are unable to comprehend the smoke alarm signal because they have a physical or intellectual disability.

However, there are a number of higher risk buildings, which due to their age, design and occupancy, hinder the safe evacuation of tenants. These buildings will require further upgrading if they are to be safe.



Section 12H(b) requires an owner of a budget accommodation building to install other fire safety measures as described in the fire safety standard, if required, within 3 years of the commencement of the Building and Other Legislation Amendment Act.

**New section (12I Approval of longer period for conformity with fire safety standard)**

Section 12I(1) allows the owner of a budget accommodation building to apply to the local government to extend the period for compliance with the fire safety standard.

Section 12I(2)(a) allows the local government in deciding whether to grant an extension of time to comply with the fire safety standard to consult with any other entity considered appropriate.

Section 12I(2)(b) requires a local government to grant an extension of time to comply with the fire safety standard only if it is satisfied that by not granting the longer period it would cause undue hardship to the occupants of a budget accommodation building. An extension of time may be granted where the local government is satisfied undue hardship would be caused to the building's occupants. This would include consideration as to whether occupants would become homeless.

Section 12I(3) allows a local government in granting an extension of time to comply with the fire safety standard to impose reasonable conditions. These may include, for example, a program of improvements to be implemented over the extension period.

Section 12I(4) requires a local government to make a decision and give the owner written notice of the decision within 20 business days of receiving an application as to whether to grant a longer period for a building owner to comply with the fire safety standard.

Section 12I(5) requires a local government to state in a notice issued under section 12I(2) the reasons for the decision, that the decision is appealable to a tribunal formed under the Integrated Planning Act and an appeal must be made within 20 business days after the building owner receives the notice.

Section 12I(6) requires a building owner to comply with each approval condition. Where a budget accommodation building owner does not comply with the approval conditions a maximum penalty of 165 penalty units applies.

**New section 12J (Advice as to conformity with fire safety standard)**

Section 12J(1) allows an owner of a budget accommodation building to make a written application to a local government for written advice as to whether the building complies with the fire safety standard. Guidelines will be prepared to assist building owners to assess whether their building complies with the fire safety standard. If necessary, building owners could seek the advice of a building professional or fire engineering consultant. Otherwise, owners will also be able to apply to the local government under section 12J to confirm their level of compliance. The Department will prepare a guideline which will include a checklist which applicants should complete when submitting their application.

Section 12J(2)(a) requires a local government that has received an application under section 12J(1), to decide within 20 business days if the building conforms with the fire safety standard.

Section 12J(2)(b) requires a local government to give a building owner, who made an application under section 12J(1), written advice of its decision within 20 business days after receiving the application.

Section 12J(3)(a) requires a local government that has received an application under section 12J(1) and decided the building does not conform with the fire safety standard, to advise the building owner in a notice under section 12J(2) the reasons why the building does not conform with the standard.

Section 12J(3)(b) requires the local government to advise an applicant if there is a dispute over the level of upgrading required, this matter can be appealed to a Building and Development Tribunal established under the Integrated Planning Act.

Section 12J(4) requires a local government to advise an owner of a budget accommodation building in a notice under section 12J(2) what must be done to make the building comply with the fire safety standard.

Section 12J(5) requires an owner of a budget accommodation building to comply with a notice issued under section 12J(2). Where a budget accommodation building owner does not comply with the notice a maximum penalty of 165 penalty units applies.

Section 12J(6) states section 12J(3) does not prevent the local government issuing enforcement notices under section 22 and requiring persons to undertake specific action under section 23 of the Building Act.

**New section 12K (Appeals about conformity with fire safety standard)**

Section 12K allows an owner of a budget accommodation building dissatisfied with a local government decision or with the lack of a local government decision under sections 12I and 12J to appeal to a tribunal formed under the Integrated Planning Act.

Section 12K(3)(a) requires a person lodging an appeal under section 12K(2) must do so within 20 business days after receiving the notice from the local government.

Section 12K(3)(b) allows a person who has not received a decision from a local government within 20 business days from lodging an application under sections 12I and 12J to start an appeal within 20 business days of when a decision should have been made.

**New section 12L (Stay of operation of local government decision)**

Section 12L stays the operation of a local government decision made under sections 12I or 12J when a person lodges an appeal under section 12K. The stay is effective until the tribunal decides otherwise or the appeal is withdrawn or the appeal is dismissed.

**New section 12M (Local government decisions)**

Section 12M applies if a local government makes a decision after 20 business days about whether to grant an owner of a budget accommodation building a longer period to comply with the fire safety standard under section 12I(4) or for deciding whether a budget accommodation building complies with the fire safety standard or issues a notice to the owner about the decision under section 12J(2).

Section 12M(2) states if a local government makes a decision under sections 12I(4) or 12J(2) after 20 business days from receiving an application it does not make the decision or render the notice invalid.

***Division 4—All budget accommodation buildings*****New section 12N (Application of div 4)**

Section 12N applies Division 3 to all budget accommodation buildings regardless of when they were, or are, built.

**New section 12O (Obligation to have, and implement, a fire safety management plan)**

Section 12O applies if the owner of a budget accommodation building prepares a fire safety management plan for a development application for the building and a development approval is given for the application.

Section 12O(2) requires an owner of a budget accommodation to keep the fire safety management plan current and any changes in circumstances affecting the plan must be recorded in the plan no later than one month after the change has occurred.

Section 12O(3) states the change in circumstances referred to in section 12O(2), includes changes as to how the building complies with the fire safety standard.

Section 12O(4) requires an owner of a budget accommodation to implement the fire safety management plan.

An owner of a budget accommodation building who does not comply with the requirements of sections 12O(2) & (4) is liable to fine of up to 100 penalty units.

**New section 12P (Accessing fire safety management plans)**

Section 12P requires the owner of a budget accommodation building to ensure a copy of the plan is kept in the building and is available for inspection, at no charge, by the building occupants or other members of the public whenever the building is open for business. This will allow intending guests in a budget accommodation building to satisfy themselves the building has fire safety systems and procedures (including no overcrowding) in place.

An owner of a budget accommodation building who does not comply with the requirements of section 12P is liable to fine of up to 20 penalty units.

**New section 12Q (Development approval for building work for budget accommodation buildings)**

Section 12Q applies to a development application for a budget accommodation building made after the commencement of this section and the application involves building work.

Section 12Q(2) makes a fire safety management plan a compulsory requirement for a development application as well as the requirements in section 3.2.1(3)(a) of the Integrated Planning Act.

The fire safety standard will set minimum standards of an early warning system, such as a smoke alarm and emergency lighting. The installation of these minimum standards will be self-assessable development and will not require a development approval under the Integrated Planning Act. However, where higher risk budget accommodation buildings require additional fire safety improvements, other than an early warning system such as a smoke alarm and emergency lighting, this will require a development application which must be accompanied by a fire safety management plan to be assessed by local governments.

The purpose of requiring the fire safety management plan to be assessed by local governments is to ensure adequate procedures are put in place to enable occupants to safely evacuate in the event of a fire. Owners are currently required to prepare fire evacuation plans and test fire safety installations under the *Building Fire Safety Regulation 1991*. However, these plans do not recognise some of the other design assumptions that are considered in approving a building. For example, a building with 24 hour staffing may not require the same level of physical standards as a building with no on-site staff.

Section 12Q(3) prohibits a private certifier approving building works under section 12H for budget accommodation buildings to comply with the fire safety standard.

Section 12Q(4)(b)(i) makes it mandatory for an assessment manager under the Integrated Planning Act (the local government) to refuse a development application for building works under section 12H for budget accommodation buildings which do not comply with the fire safety standard. The application is to be refused if the assessment manager is satisfied the building work does not comply with the fire safety standard as the applicable code to be nominated under the *Standard Building Regulation 1993* and compliance with the code cannot be achieved by imposing reasonable conditions. Section 3.5.13(4) of the *Integrated Planning Act 1997* does not apply to these applications.

Section 12Q(4)(b)(ii) compels the assessment manager to refuse a development application for building works where the fire safety management plan, which must accompany the development application, does not comply with the requirements of section 104FE of the Fire and Rescue Service Act or the fire safety standard. The application must also

be refused where compliance with section 104FC or the fire safety standard cannot be achieved by imposing reasonable conditions.

**New section 12R (Annual inspection of buildings for which development approval is given)**

Section 12R applies to a budget accommodation building if a development approval is given for building work after the commencement of this section and involves an alternative solution for achieving compliance with the fire safety standard by utilising fire safety management procedures.

An example is a building which accommodates persons who have an intellectual or physical disability and require full time or part time care, would not be able to provide for safe evacuation of the residents using alarms and emergency lighting because the residents may not respond to the alarms or understand the evacuation procedures. Where staff are available on-site 24 hours a day, and can be available to assist these people to evacuate in the event of a fire, it may not be necessary to install an expensive sprinkler system.

Section 12R(2)(a) requires the local government, where it has granted a development approval for building works on a budget accommodation building, to annually inspect the building to ensure compliance with the fire safety management plan.

Section 12R(2)(b) requires the local government to also inspect any records kept by the building owner to demonstrate compliance with the fire safety management plan.

*Division 5—Miscellaneous*

**New Section 12S (Obligations of entities about guidelines for fire safety standard and fire safety management plans)**

Section 12S(1)(a)&(b) requires an entity such as a local government to have regard to the fire safety standard guidelines made under section 12D of the Building Act and fire safety management plan guidelines made under section 104FD of the Fire and Rescue Service Act when performing a function or power conferred on the entity.

Section 12S(2) requires an owner of a budget accommodation building to have regard to these guidelines when ensuring compliance with the fire safety standard.

Section 12S(3)(a)&(b) requires an owner of a budget accommodation building when preparing a fire safety management plan to have regard to the fire safety standard and the fire safety management plan guidelines. 12S(4) provides a list of definitions for section 12S.

### **Amendment of s 17 (Advice as to compliance)**

*Clause 5* amends section 17 to clarify an anomaly in section 17 concerning advice given by local government about swimming pool fencing. Similar to section 12J(6), new section 17(3) does not limit the power of a local government to issue enforcement notices under section 22 or requiring an owner to undertake specific action under section 23.

### **Amendment of s 52 (Regulation making power)**

*Clause 6* amends section 52(2) to insert a power to make a regulation regarding records required for the purposes of the Act. This will include records of compliance with the fire safety management plan for a budget accommodation building.

## **PART 3—AMENDMENT OF FIRE AND RESCUE SERVICE ACT 1990**

### **Act amended in pt 3**

*Clause 7* declares Part 3 amends the *Fire and Rescue Service Act 1990*.

### **Amendment of s 6(Definitions)**

*Clause 8* inserts definitions for “budget accommodation,” “fire safety management plan,” and “fire safety standard.”

**Amendment of s 55 (Powers of authorised officer for preventative or investigative purposes)**

*Clause 9(1)* amends section 55(1)(b) to allow an authorised fire officer to enter any premises to investigate whether the implementation of a fire safety management plan as required under Part 9A of the Act has occurred.

*Clause 9(2)* inserts a new subsection 55(2A) which allows authorised officers power of entry into budget accommodation buildings to investigate whether the owner of the building is implementing a fire safety management plan. This new section widens the powers of entry for authorised officers. Currently under section 55(2)(a) officers do not have powers of entry into a building used as a dwelling or where part of a building is used as a dwelling. It may be considered a breach of privacy of residents in a budget accommodation building to allow officers power of entry into these buildings. However, inspections are necessary to determine if building owners are complying with the fire safety management plan to ensure resident's lives are not at risk.

**Amendment of pt 9A (Building fire safety)**

*Clause 10* deletes the heading in Part 9A, division 2 and replaces it with 'Division 2-Obligations of persons for fire safety' and 'Subdivision 1-Means of escape and prescribed fire safety installations'.

*Clause 11* inserts a new heading 'Subdivision 2-Fire and evacuation plan' before section 104E.

***Subdivision 3—Fire safety management plan***

*Clause 12* inserts a new 'Subdivision 3-Fire safety management plan' after section 104F.

**New section 104FA (Obligation to prepare fire safety management plan)**

Section 104FA(1) applies section 104FA to the owners of a budget accommodation building which was built or for which an application to construct the building was made prior to the commencement of this section.



Section 104FA(2) requires the owner of a budget accommodation building nominated in section 104FA(1) to prepare a fire safety management plan within 1 year of the commencement of this section.

**New section 104FB (Other obligations about fire safety management plan)**

Section 104FB(1) requires an owner of a budget accommodation to keep the fire safety management plan current and any changes in circumstances affecting the plan must be recorded in the plan no later than one month after the change has occurred.

Section 104FB(2) states the change in circumstances referred to in section 104FB(1), includes changes as to how the building complies with the fire safety standard.

Section 104FB(3) requires an owner of a budget accommodation to implement the fire safety management plan.

An owner of a budget accommodation building who does not comply with the requirements of section 104FB(1) & (3) is liable to fine of up to 100 penalty units.

**New section 104FC (Meaning of “fire safety management plan”)**

Section 104FC(1)(a)(b)(c)(d)&(e) describes the contents of fire safety management plans. The purpose of the fire safety management plan is to ensure adequate procedures are put in place to enable occupants to safely evacuate in the event of a fire. Owners are currently required to prepare fire evacuation plans and test fire safety installations under the *Building Fire Safety Regulation 1991*. However, these plans do not recognise the alternate procedures put in place to support a reduced level of fire safety equipment. For example, a building with sufficient 24 hour staffing may not require a full sprinkler system.

Section 104FC(2) requires the matters mentioned in subsections 104FC(1)(a) to (d) to comply with the requirements of the fire safety standard.

Section 104FC(3) requires a copy of the building plans in a reasonable scale identifying the location of the building’s fire safety installations to be attached to the fire safety plan.

**New section 104FD (Guidelines for preparing fire safety management plan)**

Section 104FD(1) allows the chief executive of the Department of Emergency Services to issue guidelines for preparing fire safety management plans.

Section 104FD(2) requires the chief executive to consult with any appropriate entity before issuing guidelines for preparing fire safety management plans.

**New section 104FE (Public notice of guidelines)**

Section 104FE(1) requires the chief executive, after issuing a guideline under section 104FD, to give notice of the guideline.

Section 104FE(2) requires the notice referred to in section 104FE(1) to be published in an appropriate newspaper and state where the guideline may be inspected or bought.

**New section 104FF (Access to guidelines)**

Section 104FF(1)(a) requires the chief executive to keep a copy of any guidelines and any document applied, adopted or incorporated by the guidelines prepared under section 104FD(1) available for inspection without charge and during normal business hours at the head office of the Department of Emergency Services.

Section 104FF(1)(b) requires the chief executive to also keep a copy of any guidelines prepared under section 104FD(1) available for inspection on the department's web site on the internet.

Section 104FF(2) allows a person to obtain a copy of any guidelines prepared under section 104FD(1). The chief executive may require a person to pay a fee before obtaining a copy of any guidelines.

Section 104FF(3) states any fee referred to in section 104FF(2) must not exceed the chief executive's reasonable cost of producing the copy of the guideline.

**New section 104FG (Accessing fire safety management plan)**

Section 104FG requires the owner of a budget accommodation building to ensure a copy of the plan is kept in the building and is available for

inspection, at no charge, by the building occupants or other members of the public whenever the building is open for business. An owner of a budget accommodation building who fails to comply with section 104FG is liable to a maximum penalty of 20 penalty units.

***Subdivision 4—Obligations of entities about guidelines for fire safety standard and fire safety management plans***

**New section 104FH (Obligations about guidelines for fire safety standard and fire safety management plans)**

Section 104FH(1) requires an entity such as a local government, or the Queensland Fire and Rescue Service, to have regard to the fire safety standard guideline made under section 12D of the Building Act and fire safety management plan guideline made under section 104FD of the Fire and Rescue Service Act when performing a function or power conferred on the entity.

Section 104FH(2) requires an owner of a budget accommodation building to have regard to these guidelines when ensuring compliance with the fire safety standard or preparing a fire safety management plan.

***Subdivision 5—Chief commissioner’s notice about occupier’s and owner’s obligation***

Amendment of s 104G (Notice by chief commissioner about occupier’s obligations)

*Clause 13(1)* amends the heading of section 104G by inserting ‘or owner’s’ after ‘occupier’s’.

*Clause 13(2)* amends section 104G(1) by inserting ‘or owner’ after ‘occupier’.

*Clauses 13(1)&(2)* allow the chief commissioner to serve a notice on the owner of a budget accommodation building to rectify matters relating to fire safety management plans.

## **PART 4—AMENDMENT OF LOCAL GOVERNMENT ACT 1993**

### **Act amended in pt 4**

*Clause 14* declares Part 4 amends the *Local Government Act 1993*.

### **Amendment of s 1082 (Definitions)**

*Clause 15* inserts the definition for “budget accommodation building” into section 1082.

### **Amendment of s 1098 (Approval of inspection program)**

*Clause 16* amends section 1098(1), example 1, by inserting ‘or a budget accommodation building’ after ‘fencing’.

### **Amendment of section 1096 (Monitoring authorisations and notices and processing applications)**

*Clause 17* amends section 1096(1) by inserting new subsection (d) allowing local government officers to inspect records required to be kept by budget accommodation building owners under Part 2A of the Building Act.

### **Amendment of s1101 (Power of entry under approved inspection program)**

*Clause 18* amends section 1101 to give local government officers powers of entry into budget accommodation buildings to monitor compliance with the requirements of the Building Act. Currently under section 1101(2) officers do not have powers of entry into a building used as a dwelling or where part of a building is used as a dwelling. It may be considered a breach of privacy for residents in a budget accommodation building to allow officers power of entry into these buildings. However, inspections are necessary to determine if building owners are complying with the fire safety management plan to ensure resident’s lives are not at risk.

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