

Residential Tenancy (Smoke Alarms) Act 2012 and Residential Tenancy (Smoke Alarms) Regulations 2012

The *Residential Tenancy Amendment (Smoke Alarms) Act 2012* (the Act) requires smoke alarms to be installed in residential rental properties in Tasmania from 1 May 2013.

The Act is supported by the *Residential Tenancy (Smoke Alarm) Regulations 2012* (the Regulations) which set out detailed requirements regarding the:

- Class of premises required to have smoke alarms;
- Type of smoke alarms required;
- Location of alarms in premises; and
- Obligations of property owners and tenants to maintain, test and clean smoke alarms.

Premises required to have smoke alarms

All buildings that are tenanted under a residential tenancy agreement are required to be fitted with smoke alarms from 1 May 2013.

The regulations require smoke alarms to be placed in tenanted premises that are, or are part of, a building that is a Class 1a, Class 1b, Class 2 or Class 3 building or Class 4 premises under the Building Code of Australia. Examples of the premises contained in each class include:

- Houses, town houses, villa units etc. (Class 1a);
- Small guest houses, boarding houses accommodating up to 12 persons (Class 1b);
- Apartments and blocks of flats (Class 2);
- Larger boarding houses (Class 3); and
- Caretaker flats and residences above shops (Class 4).

Type of smoke alarms required

Smoke alarms must comply with *Australian Standard 3786-1993 Smoke Alarms*, as in force from time to time.

The regulations recognise that there may be changes to Standard 3786-1993 over time. In order to ensure that owners are not required to replace alarms every time this occurs, the regulations deem that once an alarm that complies with the Standard is installed in tenanted premises, it is taken to continue to comply with the Standard until such time as it:

- No longer functions; or
- Reaches its expiry date.

When an alarm is replaced, it must meet the requirements of the Standard at the time of replacement.

This provision applies to alarms installed in tenanted premises both before and after commencement of the legislation.

Transitional Arrangements

From 1 May 2013 until 30 April 2016, smoke alarms can be battery (by either a 9-volt removable battery or a 10-year non-removable battery) powered, or mains powered, provided it complies with AS 3786-1993.

This transitional arrangement reduces the immediate cost to property owners and allows them three years to budget and arrange for mains powered or ten year non-removable battery alarms to be installed.

From 1 May 2016, smoke alarms will be required to be either mains powered or 10-year non-removable battery alarms.

Placement of smoke alarms in premises

The regulations set out where alarms are required to be located in each class of premises, in line with the relevant provisions of the Building Code of Australia.

Alarms must be installed on, or near, the ceiling in each class of building/premises as follows:

Class 1a building (Houses, town houses, villa units etc.)

- (a) if any storey of the premises contain a bedroom –
- (i) in every corridor, or hallway, situated in the storey, that is associated with a bedroom; and
 - (ii) if there is no corridor, or hallway, situated in the storey, that is associated with a bedroom, between that part of the premises containing the bedroom and the remainder of the premises; and
- (b) in any other storey of the premises that does not contain a bedroom.

Class 1b building (Small guesthouses, boarding houses accommodating up to 12 persons)

- (a) if any storey of the premises contains a bedroom –
 - (i) in each bedroom in that storey; and
 - (ii) in every corridor, or hallway, associated with a bedroom; and
 - (iii) if there is no corridor, or hallway, associated with a bedroom, between that part of the premises containing the bedroom and the remainder of the premises; and
- (b) in any other storey of the premises that does not contain a bedroom.

Class 2 building (Apartments and blocks of flats)

- (a) if any storey of the premises contains a bedroom –
 - (i) in the premises, in every corridor, or hallway, associated with a bedroom in that storey; and
 - (ii) if there is no corridor, or hallway, associated with a bedroom in that storey, between that part of the premises containing the bedroom and the remainder of the premises; and
- (b) in egress paths in any other storey of the premises that does not contain a bedroom.

Class 3 building (Larger boarding houses)

- (a) if any storey of the premises contains a bedroom –
 - (i) in the premises, in every corridor, or hallway, associated with a bedroom in that storey; and
 - (ii) if there is no corridor, or hallway, associated with a bedroom in that storey, between that part of the premises containing the bedroom and the remainder of the premises; and
- (b) in egress paths in any other storey of the premises that does not contain a bedroom.

Class 4 premises (Caretaker flats and residences above shops)

- (a) if any storey of the premises contains a bedroom –
 - (i) in the premises, in every corridor, or hallway, associated with a bedroom in that storey; and
 - (ii) if there is no corridor, or hallway, associated with a bedroom in that storey, between that part of the premises containing the bedroom and the remainder of the premises; and
- (b) in egress paths in any other storey of the premises that does not contain a bedroom.

Obligations of property owners

Removable battery alarms

At the beginning of a tenancy, owners must ensure that:

- Alarms function effectively;
- Batteries are installed;
- Batteries have not reached their expiry date and will not do so within 30 days of the tenancy commencing;
- Alarms have not reached their expiry date; and
- Alarms are free from dust and debris.

Mains powered smoke alarms

At the beginning of a tenancy, owners must ensure that:

- Alarms are connected to mains power;
- Back-up batteries are installed;
- Back-up batteries have not reached their expiry date and will not do so within 30 days of the tenancy commencing;
- Back up batteries function effectively;
- Alarms are free from dust and debris;
- Alarms function effectively; and
- Alarms have not reached their expiry date.

During the period of a tenancy, owners must ensure that back-up batteries for mains powered alarms are replaced if the batteries:

- Have not been replaced for 12 months or more;
- Have reached their expiry date; or
- No longer function effectively or at all.

10-year non-removable battery alarms

At the beginning of a tenancy, owners must ensure that all alarms:

- Are free from dust and debris;
- Function effectively; and
- Have not reached their expiry date.

During the period of a tenancy, owners must ensure that batteries for 10-year non-removable alarms are replaced if they:

- Have been in use for more than 10 years;
- Have reached their expiry date; or
- No longer function effectively or at all.

Repair of all types of alarms

Owners must ensure that smoke alarms are repaired or replaced as soon as practicable after becoming aware that the alarm has reached its expiry date or no longer functions effectively.

The only exception is where the alarm fails to function effectively due to the failure of removable batteries or the mains power supply, the tenant is responsible for correcting these problems. Under the *Residential Tenancy Act 1997*, property owners will need to give at least 24 hours' notice before entering the premises to undertake any maintenance of or repairs to smoke alarms.

Maintenance, testing and cleaning requirements for tenants

Removable battery alarms

Tenants must ensure that batteries for removable battery alarms are replaced, if the batteries:

- Have not been replaced for 12 months or more since the tenancy commenced;
- No longer function effectively or at all; or
- Have reached their expiry date, more than 30 days after the tenancy commenced

Mains powered smoke alarms and 10-year non-removable battery alarms

Tenants are not responsible for the replacement of batteries providing back up for mains powered smoke alarms, or in 10-year non-removable battery alarms.

Maintenance and testing of smoke alarms

During a tenancy, every six months tenants are required to:

- Test all smoke alarms installed at the premises; and
- Remove any dust and debris from the smoke alarms.

Failure or malfunction of a smoke alarm

Where a smoke alarm fails or malfunctions, for reasons other than the failure of removable batteries or the mains power supply, a tenant must notify the owner as soon as practicable after becoming aware of the failure or malfunction.

Miscellaneous Provisions

The Act makes it an offence to remove, or interfere with the operation of, a smoke alarm in a tenanted property, except where alarms are removed for the purposes of repair or replacement. The Act also imposes penalties for failure to comply with these provisions.

Where it is not practicable to install a smoke alarm on or near the ceiling, the regulations permit a smoke alarm to be installed in a place where it will, if activated, alert people in the property to the presence of smoke.

The Act clarifies that where a rental property is subject to the control of a body corporate under the *Strata Titles Act 1998*, an owner is not required to obtain permission from the body corporate in order to install a smoke alarm in accordance with the Act.

The Act also authorises the Residential Tenancy Commissioner to make an order requiring a party to a residential tenancy agreement to comply with a provision of the Act.

Please Note

The information in this document is correct as at 5 April 2013.

The information provided here is general in nature and does not constitute legal advice. No responsibility is accepted for any errors or omissions it may contain. For precision, reference should be made to the *Residential Tenancy Amendment (Smoke Alarms) Act 2012* and the *Residential Tenancy (Smoke Alarm) Regulations 2012*