

TASMANIA

**RESIDENTIAL TENANCY (SMOKE ALARMS)
REGULATIONS 2022**

STATUTORY RULES 2022, No. 116

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation

PART 2 – INSTALLATION OF SMOKE ALARMS

4. Smoke alarms to be installed
5. Power source
6. Compliant smoke alarm standards
7. Upgrading of smoke alarm not required in certain circumstances
8. Placement of smoke alarms in Class 1a building
9. Placement of smoke alarms in Class 1b building
10. Placement of smoke alarms in Class 2 building
11. Placement of smoke alarms in Class 3 building
12. Placement of smoke alarms in Class 4 building
13. Placement of smoke alarms where compliance with this Part impracticable

PART 3 – TESTING AND MAINTENANCE OF SMOKE ALARMS

14. Requirements after installation
15. Testing of smoke alarms by owner
16. Maintenance of compliant smoke alarms by owner
17. Testing of smoke alarms by tenants
18. Defective smoke alarms
19. Expired smoke alarms
20. Reimbursement of tenant for repairs

PART 4 – MISCELLANEOUS

21. Interference with smoke alarms
22. Infringement notices
23. Transitional provisions

SCHEDULE 1 – INFRINGEMENT NOTICE OFFENCES AND PENALTIES

**RESIDENTIAL TENANCY (SMOKE ALARMS)
REGULATIONS 2022**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Residential Tenancy Act 1997*.

Dated 13 December 2022.

B. BAKER
Governor

By Her Excellency's Command,

ELISE ARCHER
Minister for Workplace Safety and Consumer Affairs

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the
*Residential Tenancy (Smoke Alarms)
Regulations 2022*.

2. Commencement

These regulations take effect on
26 December 2022.

3. Interpretation

- (1) In these regulations, unless the contrary intention appears –

10-year non-replaceable battery, in relation to a smoke alarm, means a battery that is integrated into the smoke alarm and is warranted by its manufacturer to function effectively in the smoke alarm for at least 10 years;

Act means the *Residential Tenancy Act 1997*;

alternative power supply means a power supply, including a battery, that is capable of maintaining a sufficient power supply to a smoke alarm if the principal power supply to the premises in which the smoke alarm is located is interrupted;

AS 1670.1 means *AS 1670.1 – Fire Detection, Warning, Control and Intercom Systems – System Design, Installation and Commissioning – Part 1: Fire*;

back-up battery, in relation to a smoke alarm, means a battery (including a 10-year non-replaceable battery) that –

- (a) operates independently of any power supply to which the smoke alarm is, or is required under these regulations to be, attached; and

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

Part 1 – Preliminary

r. 3

- (b) automatically powers the smoke alarm if the power supply to the alarm is interrupted;

building regulations means the *Building Regulations 2016* or any regulations preceding those regulations as in force at the relevant time;

expiry date, in relation to a smoke alarm or a battery, means the date specified by its manufacturer as the date on or after which the smoke alarm or battery is not warranted to work effectively;

mains-powered smoke alarm means a smoke alarm –

- (a) that is designed to be powered principally by the power supply in respect of the premises in which the smoke alarm is located; and
- (b) to which an alternative power supply is connected;

maintenance standard means the version of AS1851-2012 – *Routine Service of Fire Protection Systems and Equipment* that applies to the maintenance of a smoke alarm that complies with AS 1670.1;

National Construction Code means the National Construction Code series published by the Australian Building

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

r. 3

Part 1 – Preliminary

Codes Board, as amended or substituted
from time to time;

power supply, in respect of premises, means –

- (a) a mains electricity supply that powers the premises; or
- (b) an alternative power supply in relation to the premises;

relevant period, in relation to tenanted premises, means the period –

- (a) beginning on the day on which a tenant first takes possession of the premises under the residential tenancy agreement in relation to the premises; and
- (b) ending on the day on which all tenants under that agreement cease to be in possession of the premises under the agreement;

replaceable battery means a battery other than a 10-year non-replaceable battery and a back-up battery;

smoke alarm means a device, including a smoke detector installed under AS 1670.1, that is designed to emit a loud warning sound when it detects the presence of smoke;

smoke alarm standard means –

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

Part 1 – Preliminary

r. 3

- (a) AS 3786 – *Smoke Alarms Using Scattered Light, Transmitted Light or Ionization*; or
- (b) AS 1670.1;

tenanted premises means premises to which a residential tenancy agreement relates, including any common areas of those premises.

- (2) In these regulations, a reference to a Class 1a, Class 1b, Class 2, Class 3 or Class 4 building is a reference to a building that is specified in the National Construction Code to be of that class.

PART 2 – INSTALLATION OF SMOKE ALARMS

4. Smoke alarms to be installed

Smoke alarms are required to be in place, for the purposes of section 36C of the Act, in relation to tenanted premises that are, or are part of, a building that is a Class 1a, Class 1b, Class 2, Class 3 or Class 4 building.

5. Power source

- (1) Subject to subsection (2), a smoke alarm that is required to be in place for the purposes of section 36C of the Act must be either –
 - (a) permanently connected to the power supply of the premises, with an alternative power supply as a back-up; or
 - (b) powered by a 10-year non-replaceable battery if the building regulations, as in force at the time when the smoke alarm was installed in the premises, did not require the smoke alarm to be permanently connected to the power supply of the premises with an alternative power supply as a back-up.
- (2) A smoke alarm containing a replaceable battery does not comply with these regulations.

6. Compliant smoke alarm standards

- (1) For the purposes of section 36C of the Act, a smoke alarm must comply with one of the smoke alarm standards.
- (2) The smoke alarm standard applicable to the installation of new or replacement smoke alarms is the standard currently in force, as amended or superseded from time to time.
- (3) A version of a smoke alarm standard applies from the date of its publication by Standards Australia.

7. Upgrading of smoke alarm not required in certain circumstances

Unless otherwise specified, a smoke alarm installed in a building containing tenanted premises is not required to be replaced as a result of a change or revision of a smoke alarm standard, or these regulations, if the smoke alarm –

- (a) complied with the standard, and the regulations, that were applicable at the time of its installation; and
- (b) is still working in the manner as it was originally installed or intended to operate.

8. Placement of smoke alarms in Class 1a building

Smoke alarms, that are required to be in place for the purposes of section 36C of the Act in relation to tenanted premises that are, or are part of, a Class 1a building, must be installed on or near the ceiling –

- (a) if any storey of the premises contains 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.

9. Placement of smoke alarms in Class 1b building

Smoke alarms, that are required to be in place for the purposes of section 36C of the Act in relation to tenanted premises that are, or are part of, a Class 1b building, must be installed on or near the ceiling –

- (a) if any storey of the premises contains a bedroom –

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

Part 2 – Installation of Smoke Alarms

r. 10

- (i) in each bedroom in that storey;
and
 - (ii) in every corridor, or hallway, that
is 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.

10. Placement of smoke alarms in Class 2 building

Smoke alarms, that are required to be in place for the purposes of section 36C of the Act in relation to tenanted premises that are, or are part of, a Class 2 building, must be installed on or near the ceiling –

- (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, that is associated with a bedroom in that storey, between that part of the premises containing the bedroom and the remainder of the premises; and

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

r. 11

Part 2 – Installation of Smoke Alarms

- (b) in egress paths in any other storey of the premises that does not contain a bedroom.

11. Placement of smoke alarms in Class 3 building

Smoke alarms, that are required to be in place for the purposes of section 36C of the Act in relation to tenanted premises that are, or are part of, a Class 3 building, must be installed on or near the ceiling –

- (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, that is 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.

12. Placement of smoke alarms in Class 4 building

Smoke alarms, that are required to be in place for the purposes of section 36C of the Act, in relation to tenanted premises that are a Class 4 building located within a Class 5, 6, 7, 8 or 9

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

Part 2 – Installation of Smoke Alarms

r. 13

building, must be installed on or near the ceiling –

- (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, that is 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.

13. Placement of smoke alarms where compliance with this Part impracticable

If a smoke alarm cannot be installed on or near the ceiling because –

- (a) the structure of the part of the premises in which the smoke alarm is to be installed does not permit the smoke alarm to be placed on or near the ceiling of the part of the premises; or
- (b) the placement of the smoke alarm on the ceiling is likely to result in the smoke alarm emitting a warning of the presence

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

r. 13

Part 2 – Installation of Smoke Alarms

of smoke in circumstances where the smoke does not emanate from a fire that is unattended by a person; or

- (c) in the case of a cathedral ceiling, a dead air space will trap air and thereby prevent smoke from reaching a smoke alarm –

the smoke alarm may be installed on an interior side wall if –

- (d) the smoke alarm is suitable for such application; and
- (e) the top of the smoke alarm is located between 300mm and 500mm from the ceiling; and
- (f) in the case of a cathedral ceiling, the distance from the apex of the cathedral ceiling to the top of the smoke alarm is between 500mm and 1 500mm.

PART 3 – TESTING AND MAINTENANCE OF SMOKE ALARMS

14. Requirements after installation

The requirements of this Part apply to all alarms that are required to be installed, in a building containing tenanted premises, for the purposes of section 36C of the Act.

15. Testing of smoke alarms by owner

- (1) For the purposes of section 36D(1) of the Act, the owner of tenanted premises must ensure that any smoke alarm on, or associated with, the premises has been tested, on the first day of each relevant period in respect of the tenanted premises –
 - (a) as specified in subregulation (2); and
 - (b) to ensure that the alarm is working to the same standard as when it was first installed and in the manner specified by the manufacturer of the smoke alarm.
- (2) The following matters are to be checked or tested:
 - (a) power is supplied to the smoke alarm and it is ready to operate;
 - (b) any alternative power supply is ready to operate and will supply power to the smoke alarm during any interruption to the main power supply;

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

r. 16

Part 3 – Testing and Maintenance of Smoke Alarms

- (c) back-up batteries are installed in respect of the smoke alarm (if required by the manufacturer of the smoke alarm) and are fit for the smoke alarm's operation;
 - (d) the smoke alarm is clean and free from dust or debris that may prevent air from entering it;
 - (e) the smoke alarm tests effectively in accordance with the manufacturer's testing regime;
 - (f) the smoke alarm has not reached its expiry date.
- (3) An owner of tenanted premises may use the services of a contractor or other person to test a smoke alarm, as required under this regulation, on those premises.

16. Maintenance of compliant smoke alarms by owner

- (1) For the purposes of section 36D(1) of the Act, an owner of tenanted premises must ensure that a smoke alarm that complied with AS 1670.1, at the time it was installed in the premises, is maintained in accordance with the maintenance standard, as in force from time to time.
- (2) An owner of tenanted premise may use the services of a contractor or other person to maintain a smoke alarm, as required under this regulation, on those premises.

17. Testing of smoke alarms by tenants

- (1) This regulation applies only to smoke alarms that comply with AS 3786 – *Smoke Alarms Using Scattered Light, Transmitted Light or Ionization*.
- (2) For the purposes of section 36D(2) of the Act, a tenant of tenanted premises must ensure that every 6 months during the relevant period, all smoke alarms on those premises are tested, in accordance with subregulation (3), to determine whether the alarms function effectively.
- (3) The following matters are required to be checked or tested:
 - (a) the smoke alarm is clean and free from dust or debris that may prevent air from entering it;
 - (b) the smoke alarm tests effectively and sounds a warning.
- (4) For the purposes of section 36D(2) of the Act, a tenant must notify the owner, or the agent of the owner, of tenanted premise as soon as practicable after the tenant becomes aware that a smoke alarm on those premises is not functioning effectively.

18. Defective smoke alarms

- (1) For the purposes of section 36D(1) of the Act, the owner of tenanted premises must replace any smoke alarm on the premises as soon as

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

r. 19

Part 3 – Testing and Maintenance of Smoke Alarms

practicable after becoming aware that the alarm is not functioning effectively.

- (2) A repair includes replacing a back-up battery or an alternative power source.

19. Expired smoke alarms

- (1) For the purposes of section 36D(1) of the Act, the owner of tenanted premises must ensure that all smoke alarms on the premises are replaced before their expiry date.
- (2) A smoke alarm powered by a 10-year non-replaceable battery may be replaced with a similar smoke alarm.

20. Reimbursement of tenant for repairs

- (1) If a smoke alarm installed in tenanted premises is not repaired as soon as practicable after the tenant notifies the owner in accordance with regulation 17(4), the tenant may arrange for the repair or replacement of the smoke alarm.
- (2) A tenant must notify the owner of tenanted premises if the tenant intends to arrange for the repair or replacement of a smoke alarm and to seek reimbursement for that repair or replacement.
- (3) Subject to subregulation (5), if a tenant of tenanted premises pays for the repair or replacement of a smoke alarm arranged under subregulation (1), the tenant is entitled to reimbursement from the owner of the premises

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

Part 3 – Testing and Maintenance of Smoke Alarms

r. 20

within 14 days after giving notice to the owner of the relevant expenses.

- (4) A notice under subregulation (3) must include details of the nature and cost of repairs together with copies of any relevant receipts or invoices.
- (5) The owner of tenanted premises is not required to reimburse a tenant under subregulation (3), in respect of the repair or replacement of a smoke alarm under subregulation (1), if –
 - (a) the owner was not notified by the tenant, as required under regulation 17(4), that the smoke alarm was not functioning effectively; or
 - (b) the need to repair or replace the smoke alarm is –
 - (i) the fault of the tenant; or
 - (ii) a consequence of damage to the smoke alarm that was caused by a third party who was on the premises with the consent of the tenant; or
 - (iii) a result of the tenant’s non-compliance with a provision of the residential tenancy agreement.

PART 4 – MISCELLANEOUS

21. Interference with smoke alarms

For the purposes of section 36F of the Act, a person must not, in respect of a smoke alarm installed in tenanted premises –

- (a) remove the smoke alarm’s back-up battery; or
- (b) disconnect its power source; or
- (c) do anything to reduce the effectiveness of the smoke alarm.

22. Infringement notices

- (1) In this regulation –

infringement offence means an offence under the Act or these regulations that is specified in this regulation to be an offence for which an infringement notice may be issued.

- (2) The Commissioner may issue and serve an infringement notice on a person if the Commissioner reasonably believes that the person has committed an infringement offence.
- (3) An infringement notice may not be served on an individual who has not attained the age of 16 years.
- (4) An infringement notice –

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

Part 4 – Miscellaneous

r. 23

- (a) is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*; and
 - (b) is not to relate to more than 3 offences.
- (5) An offence under a provision of the Act specified in column 2 of Schedule 1 is an offence in respect of which an infringement notice may be issued.
- (6) The penalty specified in column 3 of Schedule 1 in respect of an offence in column 2 of that Schedule is the penalty payable under an infringement notice issued in respect of that offence.

23. Transitional provisions

- (1) These regulations do not require an owner to change, or upgrade, a smoke alarm installed in a building containing tenanted premises if the smoke alarm –
- (a) was installed as required under the *Building Regulations 2016* or the *Residential Tenancy (Smoke Alarms) Regulations 2012*; and
 - (b) complied with all of the legislative requirements that applied at the time of its installation; and
 - (c) is still working in the manner as it was originally installed or intended to operate.

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

r. 23

Part 4 – Miscellaneous

- (2) Unless specifically stated, these regulations are in addition to, and do not derogate from, a requirement of any of the following:
- (a) the National Construction Code;
 - (b) a building order issued under the *Building Act 2016*;
 - (c) a requirement under Part 7 of the *Building Regulations 2016* that relate to essential building services.

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

sch. 1

**SCHEDULE 1 – INFRINGEMENT NOTICE OFFENCES
AND PENALTIES**

Regulation 22			
Item	Provision of Act or Regulations	Description	Penalty (penalty units)
1.	Section 36C(2)	Failure to ensure compliant smoke alarm is installed	25
2.	Section 36D	Failure to maintain smoke alarm	5
3.	Section 36F(1)	Removal of or interference with smoke alarm	10

Residential Tenancy (Smoke Alarms) Regulations 2022
Statutory Rules 2022, No. 116

Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 21 December 2022.

These regulations are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations –

- (a) prescribe matters in relation to smoke alarms in premises to which a residential tenancy agreement relates; and
- (b) are made consequentially on the repeal of the *Residential Tenancy (Smoke Alarms) Regulations 2012* under section 11 of the *Subordinate Legislation Act 1992*.