

I certify that this is a copy of the authorised version of this Statutory Rule as at 9 July 2014, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 9 July 2014.

Robyn Webb
Chief Parliamentary Counsel
Dated 12 July 2019

TASMANIA

RESIDENTIAL TENANCY (SMOKE ALARMS) REGULATIONS 2012

STATUTORY RULES 2012, No. 140

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**RESIDENTIAL TENANCY (SMOKE ALARMS)
REGULATIONS 2012**

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 17 December 2012.

PETER G. UNDERWOOD
Governor

By His Excellency's Command,

NICK MCKIM
Minister for Corrections and Consumer Protection

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the
*Residential Tenancy (Smoke Alarms)
Regulations 2012*.

2. Commencement

These regulations take effect on the day on
which section 4 of the *Residential Tenancy*

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Part 1 – Preliminary

Amendment (Smoke Alarms) Act 2012
commences.

3. Interpretation

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

10-year lithium battery means a battery that is warranted by its manufacturer to function effectively in an alarm for at least 10 years;

10-year non-removable 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, in relation to premises –

- (a) means an electricity-generating mechanism that powers, at all times, a smoke alarm that is installed in the premises; and
- (b) includes a battery, attached to a mechanism referred to in paragraph (a), that stores and releases electricity, provided by the mechanism, to the premises at all times;

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back-up battery, in relation to a smoke alarm, means a battery (including a 10-year lithium 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
- (b) automatically powers the smoke alarm if the power supply fails to operate the alarm;

Building Code means the Code, as in force on the date on which these regulations take effect, that is produced by the Australian Building Codes Board and that relates to the design and construction of buildings;

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 a back-up battery is attached;

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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;

removable battery means a battery (including a 10-year lithium battery) that is not a 10-year non-removable battery or a back-up battery;

smoke alarm means a device that is designed to emit a loud warning sound when it detects the presence of smoke;

standards upgrade day means the day 3 years after the day on which these regulations come into force;

tenanted premises means premises to which a residential tenancy agreement relates.

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

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Part 2 – Requirements for Purposes of Section 36C of Act

**PART 2 – REQUIREMENTS FOR PURPOSES OF
SECTION 36C OF ACT**

Division 1 – Requirements for placement of smoke alarms

4. Part prescribes requirements in relation to smoke alarms

This Part prescribes requirements for the purposes of section 36C of the Act in relation to tenanted premises.

5. Premises in which smoke alarms are required to be in place

Smoke alarms are required to be in place for the purposes of section 36C of the Act in relation to the following premises:

- (a) tenanted premises that are, or are part of, a building that is a Class 1a, Class 1b, Class 2 or Class 3 building;
- (b) tenanted premises that are Class 4 premises.

Division 2 – Type of smoke alarms required

6. All smoke alarms to comply with either AS 3786 or AS 1670.1-2004

- (1) A smoke alarm that is required to be in place in tenanted premises for the purposes of section 36C of the Act must comply with either Australian Standard 3786 – 1993 *Smoke alarms*,

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as in force from time to time or with Australian Standard 1670.1-2004 *Fire detection, warning, control and intercom systems– System design, installation and commissioning– Fire*, as in force from time to time.

- (2) A smoke alarm that, when it was first installed in tenanted premises, complied with Australian Standard 3786 – 1993 *Smoke alarms*, as in force at the time the smoke alarm was installed, is to be taken to comply with subregulation (1) in relation to the premises for so long as it –
 - (a) functions as intended by its manufacturer; and
 - (b) has not reached its expiry date.
- (3) A smoke alarm that, when it was first installed in tenanted premises, complied with Australian Standard 1670.1-2004 *Fire detection, warning, control and intercom systems – System design, installation and commissioning – Fire*, as in force at the time the smoke alarm was installed, is to be taken to comply with subregulation (1) in relation to the premises for so long as it is maintained in accordance with Australian Standard 1851 – 2012 *Maintenance of fire protection systems and equipment*, as in force from time to time.

7. Smoke alarm may be battery- or mains-powered before 3 years after commencement of regulations

- (1) A smoke alarm that is required to be in place for the purposes of section 36C of the Act must be

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powered by a removable battery or a 10-year non-removable battery.

- (2) A smoke alarm that is a mains-powered smoke alarm or is powered by a 10-year non-removable battery is to be taken to comply with the requirements of this regulation.
- (3) This regulation ceases to apply in relation to premises on and from the standards upgrade day.

8. Smoke alarm to be mains-powered after 3 years after commencement of regulations

On and from the standards upgrade day, a smoke alarm that is required to be in place for the purposes of section 36C of the Act must be –

- (a) a mains-powered smoke alarm; or
- (b) powered by a 10-year non-removable battery.

Division 3 – Placement of smoke alarms in premises

9. Placement of smoke alarms in premises that are 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 a Class 1a building must be installed on or near the ceiling –

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

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- (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.

10. Placement of smoke alarms in premises that are part of 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 part of a Class 1b building must be installed on or near the ceiling –

- (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

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containing the bedroom and the
remainder of the premises; and

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

11. Placement of smoke alarms in premises that are part of 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 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, 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 premises that are part of 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 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, 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 in premises that are Class 4 premises

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 Class 4 premises in a building must be installed on or near the ceiling –

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- (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.

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

- (1) This regulation applies to a part of premises in which smoke alarms are required to be in place in accordance with regulation 9, 10, 11, 12 or 13, if it is not practicable, for the relevant reasons, to install a smoke alarm on or near the ceiling of the part of premises.
- (2) If this regulation applies to a part of premises, whichever of regulation 9, 10, 11, 12 or 13 applies to the premises is to be taken to be complied with in relation to that part of the premises if the smoke alarm is in place –
 - (a) in that part of the premises; or

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- (b) in a part of the premises that is as near as practicable to that part of the premises –

in a place where the smoke alarm will, if activated, alert persons in the premises to the presence of smoke.
- (3) For the purposes of this regulation, the relevant reasons are as follows:
 - (a) the structure of the part of the premises in which the smoke alarm is to be installed does not permit smoke alarms to be attached on or near the ceiling of the part of the premises;
 - (b) the placement of the smoke alarm is likely to result in the smoke alarm emitting a warning of the presence of smoke in circumstances where the smoke does not emanate from a fire that is unattended by a person.

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**PART 3 – MAINTENANCE, TESTING AND CLEANING
REQUIREMENTS FOR PURPOSES OF SECTION 36D
OF ACT**

Division 1 – Application

15. Part only applies to certain smoke alarms

This Part only applies in relation to smoke alarms that –

- (a) are required under section 36C of the Act to be in place in premises; and
- (b) are installed in such premises.

Division 2 – Requirements in relation to owners

16. Prescribed requirements

This Division prescribes, for the purposes of section 36D(1) of the Act, requirements in relation to owners of tenanted premises.

17. Owner to ensure alarm functions at beginning of tenancy

- (1) An owner of tenanted premises must ensure that, on the first day of the relevant period, if a smoke alarm is designed to be powered in all or some circumstances by one or more removable batteries –
 - (a) the batteries are installed in the smoke alarm and are not removed by the owner

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- except as permitted or required by the Act or these regulations; and
- (b) the batteries have not reached their expiry date and will not do so within 30 days after the first day of the relevant period; and
 - (c) the smoke alarm is free from dust, or debris, that may prevent air from entering the smoke alarm; and
 - (d) the smoke alarm functions effectively after the batteries are installed.
- (2) An owner of tenanted premises must ensure that, on the first day of the relevant period, if a smoke alarm is a mains-powered smoke alarm –
- (a) the smoke alarm is connected to a power supply; and
 - (b) any back-up batteries are installed in the smoke alarm and are not removed by the owner except as permitted or required by the Act or these regulations; and
 - (c) the back-up batteries have not reached their expiry date and will not do so within 30 days after the first day of the relevant period; and
 - (d) the back-up batteries function effectively; and

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- (e) the smoke alarm has not reached its expiry date; and
 - (f) the smoke alarm is free from dust, or debris, that may prevent air from entering the smoke alarm; and
 - (g) the smoke alarm functions effectively.
- (3) An owner of tenanted premises must ensure that, on the first day of the relevant period, if a smoke alarm is designed to be powered by a 10-year non-removable battery –
- (a) the smoke alarm has not reached its expiry date; and
 - (b) the smoke alarm is free from dust, or debris, that may prevent air from entering the smoke alarm; and
 - (c) the smoke alarm functions effectively.
- (4) An owner of tenanted premises must ensure that a smoke alarm that, at any time after it was installed in the premises, complied with Australian Standard 1670.1-2004 *Fire detection, warning, control and intercom systems – System design, installation and commissioning – Fire* is maintained in accordance with Australian Standard 1851 – 2012 *Maintenance of fire protection systems and equipment*, as in force from time to time.

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18. Replacement of batteries

An owner of premises must ensure that a back-up battery that powers a smoke alarm is replaced if the battery –

- (a) has not been replaced for 12 months or more, or, if it is a 10-year lithium battery, has been in use for more than 10 years; or
- (b) has reached its expiry date; or
- (c) no longer functions effectively or at all.

19. Replacement of smoke alarms

- (1) An owner of premises must ensure that a smoke alarm is repaired or replaced as soon as practicable after the owner becomes aware that the smoke alarm has malfunctioned, or no longer functions, for reasons other than that the removable battery or batteries, or the power supply, in relation to the smoke alarm has failed.
- (2) An owner of premises must ensure that a smoke alarm that has reached its expiry date is replaced.

Division 3 – Requirements in relation to tenants

20. Prescribed requirements

This Division prescribes, for the purposes of section 36D(2) of the Act, requirements in relation to tenants of tenanted premises.

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21. Replacement of batteries

A tenant of tenanted premises must ensure that a removable battery that powers a smoke alarm is replaced if –

- (a) the battery has not been replaced for 12 months or more since the first day of the relevant period in relation to the premises, unless it is a 10-year lithium battery; or
- (b) the battery no longer functions effectively or at all; or
- (c) the battery has reached its expiry date.

22. Maintenance and testing of smoke alarms

- (1) A tenant of premises to which a residential tenancy agreement relates must ensure that, every 6 months after a tenant first takes possession of the premises under the agreement, a smoke alarm is tested to determine whether it functions effectively.
- (2) A tenant of premises to which a residential tenancy agreement relates must ensure that, every 6 months after a tenant first takes possession of the premises under the agreement, a smoke alarm is free from dust, or debris, that may prevent air from entering the smoke alarm.

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23. Notification of landlord of smoke alarm failure

A tenant of tenanted premises must notify the owner as soon as practicable after the tenant becomes aware that a smoke alarm has failed or malfunctioned, unless the battery or batteries that power the alarm are removable batteries (other than a 10-year lithium battery) and the failure can be rectified by replacing the batteries.

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

Notified in the *Gazette* on 26 December 2012.

These regulations are administered in the Department of Justice.

NOTES

The foregoing text of the *Residential Tenancy (Smoke Alarms) Regulations 2012* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 9 July 2014 are not specifically referred to in the following table of amendments.

Citation	Serial Number	Date of commencement
<i>Residential Tenancy (Smoke Alarms) Amendment Regulations 2013</i>	S.R. 2013, No. 10	1.5.2013
<i>Residential Tenancy (Smoke Alarms) Regulations 2012</i>	S.R. 2012, No. 140	1.5.2013
<i>Residential Tenancy (Smoke Alarms) Amendment Regulations 2014</i>	S.R. 2014, No. 87	9.7.2014

TABLE OF AMENDMENTS

Provision affected	How affected
Regulation 2	Amended by S.R. 2013, No. 10
Regulation 6	Amended by S.R. 2014, No. 87
Regulation 17	Amended by S.R. 2014, No. 87