

Smoke alarms

In residential premises

To enhance safety and minimise loss-of-life in building fires, the NSW Parliament enacted the *Building Legislation Amendment (Smoke Alarms) Act* in July 2005. The Act allows regulations to be made to require smoke alarms to be installed in existing buildings in which people sleep.

A smoke alarm is an effective early warning device designed to detect smoke and alert building occupants to the presence of a fire. Installed in the correct location, it increases the time available for safe escape.

From 1 May 2006, when the Environmental Planning and Assessment Amendment (Smoke Alarms) Regulation 2006 came into effect, owners of residential property are responsible for ensuring smoke alarms are installed.

The Smoke Alarms Regulation specifies which types of buildings will need smoke alarms installed, the types of alarms, where they are to be located and other matters. Contact details for more information about the requirements under the Regulation are listed in this factsheet.

Changes to fair trading laws

Several fair trading laws and regulations have been revised as a result of the new smoke alarm laws and this information summarises these changes for the people that are affected.

Landlords and tenants

Under the *Residential Tenancies Act* and the Residential Tenancies (Residential Premises) Regulation:

- Landlords are responsible for the installation of smoke alarms in rented premises.
- Landlords have the right of access to rented premises to fit smoke alarms after giving the tenant at least 2 days notice.
- Neither the landlord nor the tenant are, except with reasonable excuse, permitted to remove or interfere

with the operation of a smoke alarm fitted in the rented premises.

- Where a smoke alarm is of the type that has a replaceable battery, the landlord must put a new battery in at the commencement of a tenancy.
- After the tenancy begins, the tenant is responsible for replacing the battery if needed. However, if the tenant is physically unable to change the battery the tenant is required to notify the landlord as soon as practicable after becoming aware of the need for it to be replaced.
- The tenant is not responsible for the replacement of batteries in 'hard-wired' smoke alarm systems that have battery back-up. This is the responsibility of the landlord.
- The condition report section of the tenancy agreement must include a specific reference to smoke alarms so that tenants and landlords are able to note and comment on the presence of smoke alarms at the beginning and end of the tenancy.

IMPORTANT – Owners of residential property who rent out their premises as holiday accommodation are responsible for installing smoke alarms and replacing batteries.

Owners and residents of residential parks

Under the Residential Parks Regulation:

- Park owners who rent out on-site accommodation under tenancy agreements are responsible for installing smoke alarms in rented premises.
- Park owners have the right of access to rented premises to fit smoke alarms after giving the tenant at least 2 days notice.
- Neither the park owner nor the resident is, except with reasonable excuse, permitted to remove or interfere with the operation of a smoke alarm fitted in the rented premises.

- Where a smoke alarm is of the type that has a replaceable battery, the park owner must put a new battery in at the commencement of a tenancy.
- After the tenancy begins, the resident is responsible for replacing the battery if needed. However, if the resident is physically unable to change the battery the resident is required to notify the park owner as soon as practicable after becoming aware of the need for it to be replaced.
- The resident is not responsible for the replacement of batteries in 'hard-wired' smoke alarm systems that have battery back-up. This is the responsibility of the park owner.
- The condition report section of the tenancy agreement must include a specific reference to smoke alarms so that residents and park owners are able to note and comment on the presence of smoke alarms at the beginning and end of the tenancy.

The above obligations on park owners equally apply to residents who sub-let their moveable dwellings.

Strata scheme lot owners

In a strata scheme:

- Owners of lots can install smoke alarms in their lots without having to obtain approval of the owners corporation.
- There is an obligation on lot owners to repair any damage to common property caused by the installation of a smoke alarm.

Lot owners who rent out their strata scheme residential property should note their responsibilities as landlords in relation to smoke alarms under the *Residential Tenancies Act* and the Residential Tenancies (Residential Premises) Regulation.

Operators and residents of retirement villages

Under the Retirement Villages Regulation:

- Operators are responsible for the installation of smoke alarms and the replacement of all required batteries in premises occupied by residents.

- Operators, or persons authorised by operators, have the right of access to premises occupied by residents to install smoke alarms and to replace batteries after giving the resident at least 2 days notice.
- The condition report section of the occupancy agreement must include a specific reference to smoke alarms so that residents and operators will be able to note the presence of smoke alarms at the beginning of the occupancy.

More information

For more information about the type, location and number of smoke alarms that are required to be fitted to the various classes of residential premises, contact:

NSW Fire Brigades
www.fire.nsw.gov.au

Department of Planning
www.planning.nsw.gov.au
Tel: 1300 858 812

For any questions about the changes to fair trading laws resulting from the Smoke Alarms Regulation, contact the Office of Fair Trading.

www.fairtrading.nsw.gov.au
Fair Trading enquiries 13 32 20
TTY 1300 723 404
Language assistance 13 14 50

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.

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