



New South Wales

Building Legislation Amendment (Smoke Alarms) Act 2005 No 57

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Building Legislation Amendment (Smoke Alarms) Act 2005 No 57

Act No 57, 2005

An Act to amend the *Environmental Planning and Assessment Act 1979* and the *Residential Tenancies Act 1987* to provide for the installation of smoke alarms; and for other purposes. [Assented to 1 July 2005]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Building Legislation Amendment (Smoke Alarms) Act 2005*.

2 Commencement

This Act commences on 1 May 2006.

3 Amendment of Environmental Planning and Assessment Act 1979 No 203

The *Environmental Planning and Assessment Act 1979* is amended as set out in Schedule 1.

4 Amendment of Residential Tenancies Act 1987 No 26

The *Residential Tenancies Act 1987* is amended as set out in Schedule 2.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979

(Section 3)

Section 146A

Insert after section 146:

146A Smoke alarms in buildings providing sleeping accommodation

- (1) The regulations may make provision for or with respect to:
 - (a) the installation of one or more smoke alarms in buildings in which persons sleep, and
 - (b) the maintenance of smoke alarms installed in such buildings, and
 - (c) prohibiting persons from removing or interfering with the operation of smoke alarms installed in such buildings.
- (2) Regulations made under this section may (without limitation) do any one or more of the following:
 - (a) specify the types of buildings in which smoke alarms are to be installed,
 - (b) specify the types of smoke alarms to be installed,
 - (c) specify where a smoke alarm is to be located,
 - (d) specify the maintenance that may be required in relation to a smoke alarm that has been installed,
 - (e) specify circumstances in which development consent under Part 4 is not required in relation to the installation of a smoke alarm,
 - (f) specify circumstances in which the consent of an owners corporation (within the meaning of the *Strata Schemes Management Act 1996*) is not required in relation to the installation of a smoke alarm.
- (3) A person must not contravene a provision of a regulation made under this section.
Maximum penalty: 5 penalty units.
- (4) In this section:
building includes a manufactured home, a moveable dwelling or associated structure and includes a building erected before the commencement of this section.

Schedule 2 Amendment of Residential Tenancies Act 1987

(Section 4)

[1] Section 24 Landlord's access to residential premises

Insert after section 24 (1) (c):

- (c1) to install a smoke alarm in the residential premises in accordance with a requirement under section 146A of the *Environmental Planning and Assessment Act 1979* (or carry out any other obligation under that section) if the tenant has been given not less than 2 days notice on each occasion,

[2] Section 24 (2)

Insert “, (c1)” after “subsection (1) (b), (c)”.

[3] Section 29A

Insert after section 29:

29A Smoke alarms

It is a term of every residential tenancy agreement that:

- (a) the landlord is to ensure that smoke alarms are installed in accordance with section 146A of the *Environmental Planning and Assessment Act 1979* if that section requires them to be installed in the residential premises, and
- (b) neither the landlord nor the tenant may, except with reasonable excuse, remove or interfere with the operation of a smoke alarm installed in the residential premises.

[4] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Building Legislation Amendment (Smoke Alarms) Act 2005

[5] Schedule 4, Part 6

Insert after Part 5:

**Part 6 Provisions consequent on enactment of
Building Legislation Amendment (Smoke
Alarms) Act 2005**

8 Application of section 29A to existing tenancies

Section 29A, as inserted by the *Building Legislation Amendment (Smoke Alarms) Act 2005*, extends to a residential tenancy agreement in force immediately before the commencement of that section.

[Second reading speech made in—

Legislative Assembly on 21 June 2005

Legislative Council on 23 June 2005]

BY AUTHORITY