Healthy Homes Guarantee Act 2017

Public Act	2017 No 46
Date of assent	4 December 2017
Commencement	see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Healthy Homes Guarantee Act 2017.

2 Commencement

(1) The following provisions come into force on the day after the date on which this Act receives the Royal assent:

(a) sections 3 and 8(1) and the Schedule, but in relation only to the item in the Schedule relating to Schedule 1AA of the principal Act:

(b) section 8(2) and (3).

(2) The rest of this Act comes into force on 1 July 2019.

3 Principal Act

This Act amends the Residential Tenancies Act 1986 (the **principal Act**).

4 Section 13A amended (Contents of tenancy agreement)

(1) Repeal section 13A(1A)(c).

(2) After section 13A(1C), insert:

(1CA) The landlord must also include in the tenancy agreement a statement, made and signed by the landlord,—

(a) that, on and after the commencement of the tenancy, the landlord will comply with the healthy homes standards as required by section 45(1)(bb) or 66I(1)(bb) (as the case may be); and

(b) including the information (if any) prescribed by regulations under section 138B(5).

(1CB) If there is a written variation or renewal of the tenancy agreement in accordance with section 13B(1), the landlord must include in the written variation or renewal a statement, made and signed by the landlord,—

(a) that, on and after the time when the variation or renewal takes effect, the landlord will comply with the healthy homes standards as required by section 45(1)(bb) or 66I(1)(bb) (as the case may be); and

(b) including the information (if any) prescribed by regulations under section 138B(5).

(3) In section 13A(1D), after “subsection (1A)”, insert “or (1CA)”.

(4) After section 13A(1D), insert:

(1DA) The requirement that the landlord’s statement under subsection (1CB) be signed by the landlord is in addition to the requirement under section 13B(1) that the landlord sign the variation or renewal.

(5) Replace section 13A(1E) with:

(1E) The landlord’s statement under subsection (1A), (1CA), or (1CB) does not affect the landlord’s duties in respect of insulation or the healthy homes standards under section 45(1) or 66I(1) or otherwise.

(6) In section 13A(1F)(a) and (b), after “subsection (1A)”, insert “, (1CA), or (1CB)”.

5 Section 45 amended (Landlord’s responsibilities)

(1) Replace section 45(1)(bb) with:

(bb) comply with the healthy homes standards; and

(2) Repeal section 45(1)(bc), (1B), and (1C).

6 Section 138B replaced (Regulations in respect of insulation)

Replace section 138B with:

138B Healthy homes standards

(1) The Governor-General may, by Order in Council, make regulations that provide for, in accordance with this section, standards (the **healthy homes standards**) with which landlords must comply for the purposes of section 45(1)(bb) or 66I(1)(bb).

(2) The healthy homes standards may include any of the following:

(a) standards about the indoor temperatures that must be capable of being achieved in the premises:

(b) standards about other outcomes (for example, levels of moisture or humidity) that must be capable of being achieved in the premises and that may be affected by any of the things referred to in paragraph (c)(i) to (vii):

(c) standards imposing requirements in relation to any of the following:

(i) heating:

(ii) insulation:

(iii) ventilation:

(iv) moisture ingress:

(v) draught stopping:

(vi) drainage:

(vii) any material or other thing relating to a thing referred to in subparagraphs (i) to (vi).

(3) The requirements that may be imposed by standards under subsection (2)(c) include the following (for example):

(a) requirements that things be installed or provided at the premises:

(b) requirements about the inspection, maintenance, or replacement of things that are installed or provided at the premises:

(c) requirements about the quantities, locations, condition, types, or technical specifications of things that are installed or provided at the premises and requirements about methods of installing or providing things at the premises.

(4) Regulations under subsection (1) may—

(a) specify methods for determining whether standards have been complied with (including any assumptions that may be made for the purpose):

(b) include exceptions to standards.

(5) The Governor-General may, by Order in Council, make regulations—

(a) prescribing information relating to the healthy homes standards that must be included in a landlord's statement for the purposes of section 13A(1CA)(b) or (1CB)(b):

(b) prescribing the records or other documents that must be retained by a landlord for the purposes of section 123A(1)(ca) (which may include records or other documents relating to work or other things done before the commencement of the tenancy).

(6) Regulations under this section may—

(a) make different provisions for different descriptions of landlords, premises, areas in New Zealand, or other circumstances:

(b) make provisions applying to all landlords or provisions that apply only to particular descriptions of landlords, premises, areas in New Zealand, or other circumstances.

(7) In this section, **premises**, in relation to a tenancy that is not a boarding house tenancy, includes facilities.

138C Powers to make regulations under sections 138A and 138B not limited by other enactments

To avoid doubt, nothing in the Building Act 2004, or in any other enactment relating to buildings, health, or safety, limits the provision that may be made by regulations under section 138A or 138B.

7 Schedule 1A amended

(1) In Schedule 1A, item relating to section 13A(1F), replace "13A(1A)," with "13A(1A), (1CA), or (1CB),".

(2) In Schedule 1A, replace the item relating to section 45(1A) with:

45(1A)	(Landlord's failure to meet obligations in respect of cleanliness, maintenance, smoke alarms, the healthy homes standards, or buildings, health, and safety requirements)	4,000

8 Related and consequential amendments

(1) Amend the principal Act as set out in the Schedule.

(2) Subsection (3) amends the Residential Tenancies Amendment Act 2016.

(3) Repeal sections 2(3) and (4), 4(2), 6(4), 14(2), (3), and (5), 18(2), and 44(2).

Schedule
Related and consequential amendments to principal Act

s 8

Section 2

In section 2(1), insert in its appropriate alphabetical order:

> **healthy homes standards** means the standards provided for in regulations under section 138B(1)

In section 2(1), repeal the definitions of **income-related rent tenancy** and **New Zealand Standard**.

In section 2(1), definition of **work order**, replace paragraph (b) with:

> (b) includes (without limiting paragraph (a)) an order by the Tribunal requiring—
>
> (i) a party to carry out any work, or to attend to any matters, as specified in the order for the purpose of complying with any requirement in respect of smoke alarms imposed on the party by regulations made under section 138A; or
>
> (ii) the landlord to carry out any work, or to attend to any matters, as specified in the order for the purpose of complying with the healthy homes standards

Section 48

Replace section 48(2)(ca) with:

> (ca) for the purpose of complying, or preparing to comply, with any requirements in respect of smoke alarms imposed, or prospectively imposed, on landlords by regulations made under section 138A, at any time between 8 o'clock in the morning and 7 o'clock in the evening of any day, after giving to the tenant notice of the intended entry and the reason for it at least 24 hours before the intended entry; or
>
> (cb) for the purpose of complying, or preparing to comply, with the healthy homes standards (including any prospective requirements of those standards), at any time between 8 o'clock in the morning and 7 o'clock in the evening of any day, after giving to the tenant notice of the intended entry and the reason for it at least 24 hours before the intended entry; or

Section 66I

Replace section 66I(1)(bb) with:

> (bb) comply with the healthy homes standards; and

Section 66S

Replace section 66S(1)(ca) with:

Section 66S—*continued*

(ca) without limiting paragraph (c), to comply, or to prepare to comply, with any requirements in respect of smoke alarms imposed, or prospectively imposed, on landlords by regulations made under section 138A:

(cb) without limiting paragraph (c), to comply, or to prepare to comply, with the healthy homes standards (including any prospective requirements of those standards):

Section 78

Replace section 78(2AA)(b) with:

(b) a failure to comply with the healthy homes standards:

Section 123

After section 123(1)(c), insert:

(ca) the monitoring and assessment of compliance by landlords with the healthy homes standards:

Section 123A

After section 123A(1)(c), insert:

(ca) the records or other documents that relate to the landlord's compliance with the healthy homes standards and that are prescribed by regulations under section 138B(5):

New section 123CA

After section 123C, insert:

123CA Programmes of inspections to monitor and assess compliance with healthy homes standards

The chief executive may, for the purposes of the chief executive's function under section 123(1)(ca), prepare and implement programmes for inspecting premises (including fixtures, fittings, and chattels in them) or facilities.

Section 123E

After section 123E(2), insert:

(2A) The chief executive may, for the purpose of implementing a programme of inspections prepared under section 123CA, apply to the Tribunal for an order authorising an inspection under section 123D.

(2B) The Tribunal may make an order authorising the inspection if it is satisfied that the chief executive has reasonable grounds for believing that the order is reasonably necessary for the purpose of implementing the programme.

In section 123E(3), after "authorisation", insert "under subsection (2) or (2B)".

Schedule 1AA

In Schedule 1AA, after clause 10, insert:

Part 2
Provisions relating to Healthy Homes Guarantee Act 2017

11 Interpretation

In this Part, **HHG Act** means the Healthy Homes Guarantee Act 2017.

12 Application of HHG Act

General

(1) An amendment made by the HHG Act applies to a tenancy whether the tenancy commences before, on, or after the date on which the amendment comes into force.

Landlords' statements

(2) Subclauses (3) and (4) apply to a tenancy agreement that is made before 1 July 2019.

(3) Section 13A(1CA), as inserted by section 4(2) of the HHG Act, does not apply to the tenancy agreement.

(4) Section 13A(1CB), as inserted by section 4(2) of the HHG Act, applies to the tenancy agreement only if the written variation or renewal is signed by the landlord on or after 1 July 2019.

Application of sections 45(1)(bb) and 66I(1)(bb) (compliance with healthy homes standards)

(5) If a tenancy commences before 1 July 2019, section 45(1)(bb) or 66I(1)(bb), as replaced by section 5(1) or 8(1) of the HHG Act, applies to the landlord only at and after the prescribed time (which may be the beginning of 1 July 2019 but must be no later than the beginning of 1 July 2024).

(6) If a tenancy commences on or after 1 July 2019 but before 1 July 2024, section 45(1)(bb) or 66I(1)(bb), as replaced by section 5(1) or 8(1) of the HHG Act, applies to the landlord only at and after the prescribed time (which may be the commencement of the tenancy but must be no later than the beginning of 1 July 2024).

(7) In subclauses (5) and (6), **prescribed** means prescribed by, or determined in accordance with, regulations under subsection (1) of section 138B, as replaced by section 6 of the HHG Act, and regulations under that subsection may include provision as contemplated by this subclause accordingly.

(8) Without limiting subsection (6) of section 138B, as replaced by section 6 of the HHG Act, different times may be prescribed in relation to different standards included in the healthy homes standards.

Schedule 1AA—*continued*

Other provisions

(9) The following apply before 1 July 2019 as if they were in force:

(a) the definition of healthy homes standards in section 2(1), as inserted by section 8(1) of the HHG Act:

(b) sections 48(2)(cb) and 66S(1)(cb), as inserted by section 8(1) of the HHG Act:

(c) the powers to make regulations (including to amend and revoke regulations made) under section 138B, as replaced by section 6 of the HHG Act.

(10) Sections 48(2)(ca) and 66S(1)(ca), as in force on the date this subclause comes into force, apply before 1 July 2019 in relation to insulation disregarding the HHG Act.

13 Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016

(1) Regulations under subsection (1) of section 138B, as replaced by section 6 of the HHG Act, may—

(a) revoke the 2016 insulation regulations at the beginning of 1 July 2019; or

(b) provide for the 2016 insulation regulations to continue in force on and after 1 July 2019, and (as applicable) to come into force on or after that date, as if they had been made under subsection (1) of section 138B, as replaced by section 6 of the HHG Act.

(2) If provision is made under subclause (1)(b), the 2016 insulation regulations—

(a) are, accordingly, standards included in the healthy homes standards; and

(b) may be amended or revoked accordingly by regulations under subsection (1) of section 138B, as replaced by section 6 of the HHG Act.

(3) In this clause, **2016 insulation regulations** means the Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016 to the extent that those regulations are regulations under section 138B disregarding the HHG Act.

Schedule 1A

In Schedule 1A, item relating to section 66I(4), replace “insulation, or building, or health” with “the healthy homes standards, or buildings, health,”.

Legislative history

15 October 2015	Introduction (Bill 77–1)
4 May 2016	First reading and referral to Government Administration Committee
29 June 2017	Reported from Government Administration Committee
26 July 2017	Second reading
28 November 2017	Committee of the whole House (Bill 77–2)
30 November 2017	Third reading
4 December 2017	Royal assent

This Act is administered by the Ministry of Housing and Urban Development.

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