



Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 7th day of June 2016

Present:

The Right Hon John Key presiding in Council

These regulations are made under sections 138A and 138B of the Residential Tenancies Act 1986 on the advice and with the consent of the Executive Council.

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Regulations**1 Title**

These regulations are the Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016.

2 Commencement

- (1) These regulations come into force on 1 July 2016, subject to subclauses (2) to (5).
- (2) Subpart 1 of Part 2 comes into force as follows:
 - (a) on 1 July 2016, in relation to income-related rent tenancies:
 - (b) on 1 July 2019, in relation to all other tenancies.
- (3) Regulations 25, 26, and 28 come into force on 1 July 2019.
- (4) Regulations 27 and 29 come into force on 1 October 2019.
- (5) Clauses 5 and 7 of Schedule 1 come into force on 1 July 2019.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Residential Tenancies Act 1986

compliant, in relation to a battery for a smoke alarm, means—

- (a) the battery accords with the manufacturer's instructions for the alarm or, in the case of a replacement battery under regulation 9(3) or 10(3), the battery is of the same type as the battery being replaced; and
- (b) unless the alarm is a hard-wired alarm, the manufacturer's instructions for the battery include a certification, or other statement, to the effect that the battery has a life span of at least 8 years; and
- (c) the battery is not worn out

habitable space means an interior space of a building that is a space for activities normally associated with domestic living

income-related rent tenancy means a tenancy, other than a boarding house tenancy,—

- (a) that commences before 1 July 2016 and in relation to which section 72(1) or 92(1) of the Housing Restructuring and Tenancy Matters Act 1992 applies at the beginning of 1 July 2016; or

- (b) that commences on or after 1 July 2016 and in relation to which section 72(1) or 92(1) of the Housing Restructuring and Tenancy Matters Act 1992 applies at its commencement

manufacturer's instructions, in relation to any item, includes any specification, instruction, recommendation, or other information relating to the item that is provided, or otherwise made available, in any way to buyers, installers, or users of the item by or on behalf of the manufacturer of the item

NZS 4246:2006 means New Zealand Standard NZS 4246:2006 (Energy Efficiency – Installing Insulation in Residential Buildings)

qualifying smoke alarm is to be read in accordance with regulation 7

R-value, in relation to any insulation, means the insulation's thermal resistance (*see* subclause (2))

reasonable condition, in relation to any insulation, is to be read in accordance with regulation 17

zone 1, zone 2, and zone 3 are to be read in accordance with Appendix B (Climate Zones) of New Zealand Standard NZS 4218:2009 (Thermal Insulation – Housing and Small Buildings).

- (2) For the purposes of the definition of *R-value* in subclause (1), **thermal resistance** is resistance to heat flow. It is equal to the air temperature difference (°C) needed to produce unit heat flux (W/m²) through unit area (m²) under steady conditions. The units are °Cm²/W.
- (3) In these regulations, references to a smoke alarm or insulation being originally installed are, if the smoke alarm or insulation has been reinstalled on 1 or more occasions, references to the smoke alarm or insulation being reinstalled on that occasion or on the last of those occasions (as the case may be).

4 **Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Part 1 Smoke alarms

Subpart 1—Landlords' responsibilities

5 **Smoke alarms to be qualifying smoke alarms and installed in certain locations: tenancies other than boarding house tenancies**

- (1) The requirements set out in subclauses (4), (6), and (8) are imposed on all landlords for the purposes of section 45(1)(ba) of the Act.
- (2) The requirements must be met as at the commencement of the tenancy and at all subsequent times during the tenancy.

- (3) The requirements are subject to the following:
 - (a) regulation 8(2) (which relates to hard-wired smoke alarm systems):
 - (b) regulation 9(4) (which relates to tenants' responsibilities to replace worn-out smoke alarm batteries).
- (4) Every smoke alarm that is installed at the premises must be a qualifying smoke alarm.
- (5) Subclause (6) applies to every sleeping space at the premises.
- (6) There must be at least 1 qualifying smoke alarm installed—
 - (a) in the sleeping space; or
 - (b) otherwise at the premises within 3 metres of the entrance (or main entrance) to the sleeping space.
- (7) Subclause (8) applies to every storey or level of the premises on which there is 1 or more habitable spaces.
- (8) There must be at least 1 qualifying smoke alarm installed on the storey or level in the habitable space or in at least 1 of the habitable spaces (as the case may be).
- (9) In this regulation, **sleeping space**—
 - (a) means a space that is for use, or that can otherwise reasonably be expected to be used, as a bedroom or other sleeping space; but
 - (b) does not include a space in a tent or similar type of shelter.

6 Smoke alarms to be qualifying smoke alarms and installed in certain locations: boarding house tenancies

- (1) The requirements set out in subclauses (4), (5), and (7) are imposed on all landlords for the purposes of section 66I(1)(ba) of the Act.
- (2) The requirements must be met as at the commencement of the tenancy and at all subsequent times during the tenancy.
- (3) The requirements are subject to the following:
 - (a) regulation 8(2) (which relates to hard-wired smoke alarm systems):
 - (b) regulation 10(4) (which relates to tenants' responsibilities to replace worn-out smoke alarm batteries).
- (4) Every smoke alarm that is installed at the premises must be a qualifying smoke alarm.
- (5) There must be at least 1 qualifying smoke alarm installed—
 - (a) in the tenant's boarding room; or
 - (b) otherwise at the premises within 3 metres of the entrance (or main entrance) to the tenant's boarding room.

- (6) Subclause (7) applies to every storey or level of the premises on which there is 1 or more habitable spaces.
- (7) There must be at least 1 qualifying smoke alarm installed on the storey or level in the habitable space or in at least 1 of the habitable spaces (as the case may be).

7 Definition of qualifying smoke alarm

- (1) A **qualifying smoke alarm** is a smoke alarm that meets the following requirements:
 - (a) the alarm must be fully operational and otherwise in full working order, with no faults, defects, or damage;
 - (b) the alarm must be installed at a location that accords with the manufacturer's instructions for the alarm;
 - (c) the alarm's recommended replacement date must not have passed;
 - (d) unless the alarm is a hard-wired alarm,—
 - (i) the alarm's recommended replacement date must be displayed on the alarm;
 - (ii) the alarm must be a photoelectric alarm;
 - (iii) the manufacturer's instructions for the alarm must include a certification, or other statement, to the effect that the alarm has been manufactured in accordance with—
 - (A) AS 3786—1993; or
 - (B) an equivalent smoke alarm standard specified in the certification or other statement.
- (2) For the purposes of subclause (1)(a) (but without limiting its generality),—
 - (a) if the alarm requires batteries for any purpose (including back-up batteries if the alarm is a hard-wired alarm), the alarm must contain all necessary batteries, which must all be compliant batteries; and
 - (b) if the alarm is a hard-wired alarm, the alarm must be connected to an electricity supply as necessary.
- (3) In this regulation,—
 - AS 3786—1993** means Australian Standard AS 3786—1993 (Smoke alarms)
 - equivalent smoke alarm standard** means a national or international standard covering the manufacture of smoke alarms that—
 - (a) is equivalent, or substantially equivalent, to AS 3786—1993; or
 - (b) is, overall, more stringent than AS 3786—1993
 - recommended replacement date**, in relation to a smoke alarm, means the alarm's recommended replacement date (however described) as displayed on

the alarm or as otherwise included in the manufacturer's instructions for the alarm.

8 Premises with hard-wired smoke alarm systems

- (1) This regulation applies if a system consisting of a hard-wired smoke alarm with connected sensors is installed at the premises.
- (2) If the system is a qualifying system, the following requirements may be met by the installation at a relevant location of a connected sensor instead of a qualifying smoke alarm:
 - (a) if the tenancy is not a boarding house tenancy,—
 - (i) the requirement set out in regulation 5(6) as it applies to a sleeping space;
 - (ii) the requirement set out in regulation 5(8) as it applies to a storey or level;
 - (b) if the tenancy is a boarding house tenancy,—
 - (i) the requirement set out in regulation 6(5);
 - (ii) the requirement set out in regulation 6(7) as it applies to a storey or level.
- (3) The system is a **qualifying system** if—
 - (a) the system is fully operational and otherwise in full working order, with no faults, defects, or damage; and
 - (b) each component of the system is installed at a location that accords with the manufacturer's instructions for the component; and
 - (c) none of the components of the system is due for replacement.
- (4) For the purposes of subclause (3)(a) (but without limiting its generality),—
 - (a) each component of the system must be connected to an electricity supply as necessary; and
 - (b) if any component of the system requires back-up batteries, the component must contain all necessary back-up batteries, which must accord with the manufacturer's instructions for the component and must not be worn out.
- (5) For the purposes of subclause (3)(c), a component of the system is **due for replacement** if its recommended replacement date (however described), as displayed on the component or as otherwise included in the manufacturer's instructions for the component, has passed.

Subpart 2—Tenants' responsibilities

9 Tenants to replace worn-out smoke alarm batteries: tenancies other than boarding house tenancies

- (1) The requirement set out in subclause (3) is imposed on all tenants for the purposes of section 40(1)(ca) of the Act.
- (2) The requirement applies to a smoke alarm that is installed at the premises if—
 - (a) the alarm requires batteries for any purpose and is not a hard-wired alarm; and
 - (b) the alarm is a qualifying smoke alarm (with all necessary compliant batteries in accordance with regulation 7(2)(a))—
 - (i) at the commencement of the tenancy, if the alarm is installed as at the commencement of the tenancy; or
 - (ii) upon the completion of the original installation of the alarm, if that occurs after the commencement of the tenancy.
- (3) While the smoke alarm remains installed at the premises during the tenancy, the tenant must replace, with a compliant battery, any battery contained in the alarm that becomes worn out, but only if the alarm—
 - (a) would be a qualifying smoke alarm but for the battery being worn out; and
 - (b) is designed to permit the replacement of the battery.
- (4) Where the tenant is required to replace a worn-out battery by subclause (3), the landlord is not in breach of regulation 5(4), (6), or (8) just because the battery is worn out or has not been replaced with a compliant battery.
- (5) Except as set out in subclause (4), nothing in this regulation affects the requirements set out in regulation 5(4), (6), and (8).

10 Tenants to replace worn-out smoke alarm batteries: boarding house tenancies

- (1) The requirement set out in subclause (3) is imposed on all tenants for the purposes of section 66K(1)(ca) of the Act.
- (2) The requirement applies to a smoke alarm that is installed in the tenant's boarding room if—
 - (a) the alarm requires batteries for any purpose and is not a hard-wired alarm; and
 - (b) the alarm is a qualifying smoke alarm (with all necessary compliant batteries in accordance with regulation 7(2)(a))—
 - (i) at the commencement of the tenancy, if the alarm is installed as at the commencement of the tenancy; or

- (ii) upon the completion of the original installation of the alarm, if that occurs after the commencement of the tenancy.
- (3) While the smoke alarm remains installed in the tenant's boarding room during the tenancy, the tenant must replace, with a compliant battery, any battery contained in the alarm that becomes worn out, but only if the alarm—
 - (a) would be a qualifying smoke alarm but for the battery being worn out; and
 - (b) is designed to permit the replacement of the battery.
- (4) Where the tenant is required to replace a worn-out battery by subclause (3), the landlord is not in breach of regulation 6(4), (5), or (7) just because the battery is worn out or has not been replaced with a compliant battery.
- (5) Except as set out in subclause (4), nothing in this regulation affects the requirements set out in regulation 6(4), (5), and (7).

Part 2 Insulation

Subpart 1—Ceiling and underfloor insulation required

Ceiling insulation

11 Ceiling insulation required

- (1) The requirement set out in subclause (3) is imposed on all landlords for the purposes of sections 45(1)(bb) and 66I(1)(bb) of the Act.
- (2) The requirement must be met as at the commencement of the tenancy and at all subsequent times during the tenancy.
- (3) The ceilings of the habitable spaces at the premises must be fully covered by ceiling insulation that is qualifying ceiling insulation (*see* regulations 12 and 13).
- (4) However, subclause (3) does not require the ceiling of a habitable space to be covered by ceiling insulation so far as—
 - (a) another habitable space (whether or not part of the premises) is immediately above the ceiling; or
 - (b) clearances are reasonably required around any other item that is installed in or above the ceiling.
- (5) This regulation is subject to regulations 18 to 21 (exceptions).

12 Qualifying ceiling insulation: general rule

- (1) For the purposes of regulation 11(3), the ceiling insulation is **qualifying ceiling insulation** if,—

- (a) when the insulation was originally installed, the insulation, as a product, had the following *R*-value (at least):
 - (i) 2.9, if the premises are located in zone 1 or zone 2;
 - (ii) 3.3, if the premises are located in zone 3; and
 - (b) upon the completion of the original installation of the insulation, if that occurred on or after 1 July 2016, the original installation accorded with NZS 4246:2006 (so far as that standard was relevant to the original installation); and
 - (c) the insulation is currently in a reasonable condition (or better).
- (2) Subclause (3) applies for the purposes of subclause (1)(a) if—
- (a) the ceiling insulation was originally installed as a new product; and
 - (b) the manufacturer's instructions for the insulation certify, or otherwise state, the *R*-value of the insulation as a product.
- (3) The *R*-value of the ceiling insulation, as a product, when it was originally installed is taken to be the *R*-value as certified, or otherwise stated, in the manufacturer's instructions.
- (4) If different parts of the ceiling insulation were originally installed at different times, subclause (1)(a) and (b) is applied separately to each different part.
- (5) If, in any location, the ceiling insulation consists of 1 product with 1 or more other products installed on top of it, compliance with subclause (1)(a) in respect of that location is determined by using the combined *R*-values of the products calculated by—
- (a) taking the *R*-value of each product when it was originally installed; and
 - (b) adding those *R*-values together.
- (6) This regulation is subject to regulation 13.

13 Qualifying ceiling insulation: special rules for ceiling insulation originally installed before 1 July 2016

- (1) This regulation applies for the purposes of regulation 11(3), despite regulation 12.
- (2) The ceiling insulation is **qualifying ceiling insulation** if—
- (a) the whole of the insulation was originally installed before 1 July 2016; and
 - (b) the insulation, or each part of the insulation, accords with subclause (4); and
 - (c) the insulation has not been the subject of any major repairs on or after 1 July 2016; and
 - (d) the insulation is currently in a reasonable condition (or better).
- (3) The ceiling insulation is **qualifying ceiling insulation** if—

- (a) a part of the insulation was originally installed before 1 July 2016; and
 - (b) the part accords with subclause (4); and
 - (c) the part has not been the subject of any major repairs on or after 1 July 2016; and
 - (d) the part is currently in a reasonable condition (or better); and
 - (e) the requirements set out in regulation 12(1)(a) to (c) are met in respect of the rest of the insulation.
- (4) The ceiling insulation, or a part of it, accords with this subclause if, upon the completion of the original installation of the insulation or part, the insulation or part, as installed, achieved (at least) the *R*-value of—
- (a) 1.9; or
 - (b) 1.5, if the ceiling is in a building of high thermal mass construction (that is, external wall construction with an average area density of at least 215 kilograms per square metre of wall material (for example, masonry construction)).
- (5) For the purposes of subclauses (2)(c) and (3)(c), repairs to the insulation, or the part, are **major** if,—
- (a) before the repairs, the insulation or part was not in a reasonable condition (or better); and
 - (b) as a result of the repairs, the insulation or part is made to be in a reasonable condition (or better).

Underfloor insulation

14 Underfloor insulation required

- (1) The requirement set out in subclause (3) is imposed on all landlords for the purposes of sections 45(1)(bb) and 66I(1)(bb) of the Act.
- (2) The requirement must be met as at the commencement of the tenancy and at all subsequent times during the tenancy.
- (3) The floors of the habitable spaces at the premises, so far as they are suspended floors, must be fully covered by underfloor insulation that is qualifying underfloor insulation (*see* regulations 15 and 16).
- (4) However, subclause (3) does not require the floor of a habitable space to be covered by underfloor insulation so far as—
 - (a) another habitable space (whether or not part of the premises) is immediately below the floor; or
 - (b) clearances are reasonably required around any other item that is installed in or under the floor.
- (5) This regulation is subject to regulations 18 to 21 (exceptions).

15 Qualifying underfloor insulation: general rule

- (1) For the purposes of regulation 14(3), the underfloor insulation is **qualifying underfloor insulation** if,—
 - (a) when the insulation was originally installed, the insulation, as a product, had the *R*-value of 1.3 (at least); and
 - (b) upon the completion of the original installation of the insulation, if that occurred on or after 1 July 2016, the original installation accorded with NZS 4246:2006 (so far as that standard was relevant to the original installation); and
 - (c) the insulation is currently in a reasonable condition (or better).
- (2) Subclause (3) applies for the purposes of subclause (1)(a) if—
 - (a) the underfloor insulation was originally installed as a new product; and
 - (b) the manufacturer's instructions for the insulation certify, or otherwise state, the *R*-value of the insulation as a product.
- (3) The *R*-value of the underfloor insulation, as a product, when it was originally installed is taken to be the *R*-value as certified, or otherwise stated, in the manufacturer's instructions.
- (4) If different parts of the underfloor insulation were originally installed at different times, subclause (1)(a) and (b) is applied separately to each different part.
- (5) If, in any location, the underfloor insulation consists of 1 product with 1 or more other products installed on top of it, compliance with subclause (1)(a) in respect of that location is determined by using the combined *R*-values of the products calculated by—
 - (a) taking the *R*-value of each product when it was originally installed; and
 - (b) adding those *R*-values together.
- (6) This regulation is subject to regulation 16.

16 Qualifying underfloor insulation: special rules for underfloor insulation originally installed before 1 July 2016

- (1) This regulation applies for the purposes of regulation 14(3), despite regulation 15.
- (2) The underfloor insulation is **qualifying underfloor insulation** if—
 - (a) the whole of the insulation was originally installed before 1 July 2016; and
 - (b) the insulation, or each part of the insulation, accords with subclause (4); and
 - (c) the insulation has not been the subject of any major repairs on or after 1 July 2016; and
 - (d) the insulation is currently in a reasonable condition (or better).

- (3) The underfloor insulation is **qualifying underfloor insulation** if—
 - (a) a part of the insulation was originally installed before 1 July 2016; and
 - (b) the part accords with subclause (4); and
 - (c) the part has not been the subject of any major repairs on or after 1 July 2016; and
 - (d) the part is currently in a reasonable condition (or better); and
 - (e) the requirements set out in regulation 15(1)(a) to (c) are met in respect of the rest of the insulation.
- (4) The underfloor insulation, or a part of it, accords with this subclause if, upon the completion of the original installation of the insulation or part, the insulation or part, as installed, achieved the *R*-value of 0.9 (at least).
- (5) For the purposes of subclauses (2)(c) and (3)(c), repairs to the insulation, or the part, are **major** if,—
 - (a) before the repairs, the insulation or part was not in a reasonable condition (or better); and
 - (b) as a result of the repairs, the insulation or part is made to be in a reasonable condition (or better).

Reasonable condition

17 Determining whether insulation is in reasonable condition

- (1) For the purposes of these regulations, the following matters must be taken into account in determining whether any insulation is in a **reasonable condition** (or better):
 - (a) the extent to which the performance of the insulation is compromised by any aspect of the insulation's condition:
 - (b) the extent of any dampness, damage, degradation, or displacement:
 - (c) the condition of any materials or other items that are ancillary to the installation of the insulation (for example, strapping or staples).
- (2) Subclause (1) is not an exhaustive statement of the matters that may be taken into account.

Exceptions

18 Not reasonably practicable to install insulation

- (1) This regulation applies if—
 - (a) regulation 11(3) or 14(3) requires insulation to be installed at a location; and
 - (b) as at the commencement of the tenancy, because of the way in which the premises have been designed or built,—

- (i) an experienced professional installer of insulation cannot access the location to install the insulation without—
 - (A) the carrying out of substantial building work; or
 - (B) the causing of substantial damage to the premises; or
 - (ii) an experienced professional installer of insulation cannot install the insulation at the location without creating risks to the health or safety of any person that are greater than the risks that are normally acceptable when insulation is being installed by an experienced professional installer of insulation; or
 - (iii) it is otherwise not reasonably practicable for an experienced professional installer of insulation to install the insulation at the location.
- (2) The landlord is excepted from the requirement set out in regulation 11(3) or 14(3) in respect of the location.
- (3) The exception given by subclause (2) expires if the circumstances referred to in subclause (1)(b)(i) to (iii) cease (because, for example, any relevant substantial building work is carried out), in which event the insulation must be installed as soon as is reasonably practicable.
- (4) In this regulation, **premises** includes a building in which the premises are located, if the premises do not include the whole building.

19 Compliance with applicable legal requirements relating to thermal insulation

- (1) This regulation applies as follows:
- (a) for the purposes of regulation 11(3), if subclause (2) applies to the ceiling insulation or a part of it:
 - (b) for the purposes of regulation 14(3), if subclause (2) applies to the underfloor insulation or a part of it.
- (2) This subclause applies to any insulation if,—
- (a) when the insulation was originally installed, requirements relating to thermal insulation imposed by or under an enactment or bylaw were applicable to the premises; and
 - (b) the landlord has, in the landlord's possession, a relevant document that includes a certification, or other statement, to the effect that the premises, with the insulation installed, complied with those requirements.
- (3) If the insulation is the ceiling insulation or a part of it, the landlord is excepted from regulations 12(1)(a) and (b) and 13(2)(b) and (3)(b) in respect of the ceiling insulation or part (as the case may be).

- (4) If the insulation is the underfloor insulation or a part of it, the landlord is excepted from regulations 15(1)(a) and (b) and 16(2)(b) and (3)(b) in respect of the underfloor insulation or part (as the case may be).
- (5) Subclause (6) applies if the landlord—
- (a) receives a reasonable request from the tenant to provide the tenant with reasonable evidence of the relevant document referred to in subclause (2); or
 - (b) receives a reasonable request from the chief executive, acting for the purposes of the chief executive's functions or powers under the Act, to provide the chief executive with reasonable evidence of the relevant document referred to in subclause (2); or
 - (c) is requested or required by the Tribunal, in the course of any proceedings before the Tribunal relating to the tenancy, to provide reasonable evidence of the relevant document referred to in subclause (2).
- (6) The exception given by subclause (3) or (4) expires as follows:
- (a) the exception expires if the landlord fails to meet a request referred to in subclause (5)(a) or (b) within 10 working days after the day on which the request is received;
 - (b) the exception expires if the landlord fails to meet a request or requirement referred to in subclause (5)(c) within the period allowed by the Tribunal.
- (7) In this regulation,—
- premises** includes a building in which the premises are located, if the premises do not include the whole building
- relevant document** means a certificate or any other document issued under an enactment or bylaw by a governmental authority or any other person (for example, a code compliance certificate issued under section 95 of the Building Act 2004 or section 43 of the Building Act 1991).

20 Landlord intends to demolish or substantially rebuild premises within 12 months

- (1) The landlord is excepted from the requirements set out in regulations 11(3) and 14(3) if,—
- (a) as at the commencement of the tenancy, the landlord intends to demolish or rebuild the premises, or a substantial part of the premises, within the relevant 12-month period; and
 - (b) before the commencement of the tenancy, the landlord applied for any necessary resource consent or building consent; and
 - (c) the landlord's application for any necessary resource consent or building consent was not refused or withdrawn before the commencement of the tenancy.

- (2) The exception given by subclause (1) expires—
 - (a) at the close of the relevant 12-month period; or
 - (b) if any necessary resource consent or building consent lapses or is otherwise terminated before the close of the relevant 12-month period, when the consent lapses or is otherwise terminated.
- (3) Subclause (4) applies if the landlord—
 - (a) receives a reasonable request from the tenant to provide the tenant with reasonable evidence of the landlord's application for any necessary resource consent or building consent; or
 - (b) receives a reasonable request from the chief executive, acting for the purposes of the chief executive's functions or powers under the Act, to provide the chief executive with reasonable evidence of the landlord's application for any necessary resource consent or building consent; or
 - (c) is requested or required by the Tribunal, in the course of any proceedings before the Tribunal relating to the tenancy, to provide reasonable evidence of the landlord's application for any necessary resource consent or building consent.
- (4) The exception given by subclause (1) expires as follows:
 - (a) the exception expires if the landlord fails to meet a request referred to in subclause (3)(a) or (b) within 10 working days after the day on which the request is received;
 - (b) the exception expires if the landlord fails to meet a request or requirement referred to in subclause (3)(c) within the period allowed by the Tribunal.
- (5) In this regulation,—

building consent has the meaning given in section 7 of the Building Act 2004

relevant 12-month period means the period of 12 months beginning with the date of commencement of the tenancy

resource consent has the meaning given in section 2(1) of the Resource Management Act 1991.

21 Tenant is former owner of premises

- (1) This regulation applies if—
 - (a) a person (the **former owner**) disposes of the person's interest in any premises to another person (the **new owner**) by way of a sale; and
 - (b) the new owner grants the former owner a tenancy in respect of the premises that commences immediately after the disposal.
- (2) The new owner, as the landlord, is excepted from the requirements set out in regulations 11(3) and 14(3).

- (3) The exception given by subclause (2) expires at the close of the period of 12 months beginning with the date of commencement of the tenancy.

Subpart 2—Other requirements

22 Insulation work during tenancy to be carried out in accordance with NZS 4246:2006

- (1) The requirement set out in subclause (2) is imposed on all landlords for the purposes of sections 45(1)(bb) and (bc) and 66I(1)(bb) of the Act.
- (2) Any work in respect of insulation that is carried out during the tenancy in connection with any ceilings or suspended floors that are at the premises must be carried out in accordance with NZS 4246:2006 (so far as that standard is relevant to the work).

23 Insulation originally installed during tenancy to have minimum *R*-values

- (1) The requirements set out in subclauses (3) and (6) are imposed on landlords as follows:
- (a) for the purposes of section 45(1)(bb) of the Act, on the landlord in relation to an income-related rent tenancy that commences on or after 1 July 2016 but before 1 July 2019, until the 90th day after the date of commencement of the tenancy:
- (b) for the purposes of sections 45(1)(bc) and 66I(1)(bb) of the Act, on all landlords.
- (2) Subclause (3) applies where, during the tenancy, any ceiling insulation is originally installed in connection with any ceiling that is at the premises.
- (3) When the insulation is originally installed, the insulation must, as a product, have the following *R*-value (at least):
- (a) 2.9, if the premises are located in zone 1 or zone 2;
- (b) 3.3, if the premises are located in zone 3.
- (4) If, in any location, the insulation is originally installed on top of other ceiling insulation, compliance with subclause (3) in respect of that location is determined using the combined *R*-values, as products, of—
- (a) the insulation when it is originally installed; and
- (b) the other insulation when it was originally installed or, if different parts of the other insulation were originally installed at different times, each different part when it was originally installed.
- (5) Subclause (6) applies where, during the tenancy, any underfloor insulation is originally installed in connection with any suspended floor that is at the premises.
- (6) When the insulation is originally installed, the insulation must, as a product, have the *R*-value of 1.3 (at least).

- (7) If, in any location, the insulation is originally installed so that there is other underfloor insulation on top of it, compliance with subclause (6) in respect of that location is determined using the combined *R*-values, as products, of—
 - (a) the insulation when it is originally installed; and
 - (b) the other insulation when it was originally installed or, if different parts of the other insulation were originally installed at different times, each different part when it was originally installed.
- (8) Subclause (9) applies for the purposes of this regulation if—
 - (a) any insulation is or was originally installed as a new product; and
 - (b) the manufacturer’s instructions for the insulation certify, or otherwise state, the *R*-value of the insulation as a product.
- (9) The *R*-value of the insulation, as a product, when it is or was originally installed is taken to be the *R*-value as certified, or otherwise stated, in the manufacturer’s instructions.
- (10) The landlord is excepted from the requirement set out in subclause (3) or (6) if a code compliance certificate is issued under section 95 of the Building Act 2004 to the effect that the premises, with the ceiling insulation or underfloor insulation (as the case may be) installed, comply with all applicable requirements relating to thermal insulation.
- (11) In subclause (10), **premises** includes a building in which the premises are located, if the premises do not include the whole building.

24 Prohibition of electrically conductive insulation

- (1) The requirement set out in subclause (2) is imposed on all landlords for the purposes of sections 45(1)(bb) and (bc) and 66I(1)(bb) of the Act.
- (2) Electrically conductive insulation is prohibited as follows.
- (3) Electrically conductive insulation must not be installed in connection with any ceiling or suspended floor that is at the premises.
- (4) The prohibition does not apply to electrically conductive insulation that is originally installed before the commencement of the tenancy.

Subpart 3—Amendments to subpart 2

25 Regulation 22 amended

In regulation 22(1), delete “and (bc)”.

26 Regulation 23 amended

Revoke regulation 23(1)(b).

27 Regulation 23 revoked

Revoke regulation 23.

28 Regulation 24 amended

In regulation 24(1), delete “and (bc)”.

29 Subpart revoked

This subpart is revoked at the beginning of 2 October 2019.

Schedule 1

Transitional, savings, and related provisions

r 4

Part 1

Provisions relating to these regulations as made

General

1 Existing tenancies

A provision of these regulations applies to a tenancy whether the tenancy commences before, on, or after the date on which the provision comes into force.

Smoke alarms

2 Paragraph (b) of definition of compliant in regulation 3 and regulation 7(1)(d) not to apply to smoke alarms originally installed before 1 July 2016

The following provisions do not apply to a smoke alarm that is originally installed at the premises before 1 July 2016:

- (a) paragraph (b) of the definition of compliant in regulation 3;
- (b) regulation 7(1)(d).

3 Modification of regulations 5(2), 6(2), 9(2), and 10(2) for tenancies commencing before 1 July 2016

In relation to a tenancy that commences before 1 July 2016, in regulations 5(2), 6(2), 9(2), and 10(2), references to the commencement of the tenancy are to be read as references to the beginning of 1 July 2016.

Insulation

4 Modification of regulations 11(2), 14(2), 18(1), and 20(1) for income-related rent tenancies commencing before 1 July 2019

In relation to an income-related rent tenancy that commences before 1 July 2019, in regulations 11(2), 14(2), 18(1), and 20(1), references to the commencement of the tenancy are to be read as references to the following:

- (a) the beginning of 1 July 2016, if the tenancy commences before 1 July 2016;
- (b) the beginning of the 90th day after the date of commencement of the tenancy, if the tenancy commences on or after 1 July 2016.

5 Modification of regulations 11(2), 14(2), 18(1), and 20(1) for tenancies, other than income-related rent tenancies, commencing before 1 July 2019

In relation to a tenancy, other than an income-related rent tenancy, that commences before 1 July 2019, in regulations 11(2), 14(2), 18(1), and 20(1), references to the commencement of the tenancy are to be read as references to the beginning of 1 July 2019.

6 Modification of regulations 20(5) and 21(3) for income-related rent tenancies commencing before 1 July 2019

In relation to an income-related rent tenancy that commences before 1 July 2019, in regulations 20(5) and 21(3), references to the date of commencement of the tenancy are to be read as references to the following:

- (a) 1 July 2016, if the tenancy commences before 1 July 2016:
- (b) the 90th day after the date of commencement of the tenancy, if the tenancy commences on or after 1 July 2016.

7 Modification of regulations 20(5) and 21(3) for tenancies, other than income-related rent tenancies, commencing before 1 July 2019

In relation to a tenancy, other than an income-related rent tenancy, that commences before 1 July 2019, in regulations 20(5) and 21(3), references to the date of commencement of the tenancy are to be read as references to 1 July 2019.

8 Modification of regulation 24(4) for tenancies commencing before 1 July 2016

In relation to a tenancy that commences before 1 July 2016, in regulation 24(4), the reference to the commencement of the tenancy is to be read as a reference to the beginning of 1 July 2016.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are made under sections 138A and 138B of the Residential Tenancies Act 1986 (the **Act**). Sections 138A and 138B were both inserted into the Act by the Residential Tenancies Amendment Act 2016 (the **Amendment Act**).

Section 138A of the Act allows regulations to be made imposing requirements on landlords and tenants in respect of smoke alarms.

Section 138B of the Act allows regulations to be made imposing requirements on landlords in respect of insulation.

The requirements in respect of smoke alarms are set out in *Part 1*, which comes into force on 1 July 2016.

The requirements in respect of insulation are set out in *Part 2*. *Part 2* comes into force as follows:

- *subpart 1* comes into force on 1 July 2016 for income-related rent tenancies (as defined in *regulation 3*) and on 1 July 2019 for all other tenancies (including all boarding house tenancies):
- *subpart 2* comes into force on 1 July 2016:
- *subpart 3* comes into force on 1 July 2019, except *regulations 27 and 29*, which come into force on 1 October 2019.

This staged approach to commencement is in line with the staged approach to commencement provided for in the Amendment Act.

Schedule 1 contains transitional, savings, and related provisions. These provisions need to be referred to when reading *Parts 1 and 2*. *Schedule 1* comes into force on 1 July 2016, except *clauses 5 and 7*, which come into force on 1 July 2019.

Part 1 Smoke alarms

Subpart 1—Landlords' responsibilities

Regulations 5 to 7 require landlords to ensure that smoke alarms are installed at certain locations at the premises throughout the tenancy and set out technical and other requirements that the smoke alarms must meet.

Regulation 8 modifies the requirements of *regulations 5 to 7* where a hard-wired smoke alarm system is installed at the premises.

Subpart 2—Tenants' responsibilities

Regulations 9 and 10 require tenants to replace worn-out batteries contained in smoke alarms that are installed at the premises or, in the case of a boarding house tenancy, that are installed in the tenant's boarding room. This does not affect the landlord's responsibility for ensuring that a smoke alarm has all necessary batteries at the beginning of the tenancy or when the alarm is originally installed at the premises (if later). The requirements do not apply to back-up batteries contained in hard-wired smoke alarms.

Part 2 Insulation

Subpart 1—Ceiling and underfloor insulation required

Regulations 11 to 13 require landlords to ensure that, throughout the tenancy, ceiling insulation is installed for ceilings of habitable spaces at the premises and set out requirements in relation to the insulation's thermal resistance and condition (*see also regulation 17*).

Regulations 14 to 16 require landlords to ensure that, throughout the tenancy, underfloor insulation is installed for suspended floors of habitable spaces at the premises and set out requirements in relation to the insulation's thermal resistance and condition (*see also regulation 17*).

Regulations 18 to 21 set out exceptions to the requirements in respect of ceiling and underfloor insulation, including an exception that covers circumstances in which it is not reasonably practicable for insulation to be installed.

Subpart 2—Other requirements

Regulation 22 requires the landlord to ensure that any work in respect of ceiling or underfloor insulation that is carried out during the tenancy is carried out in accordance with New Zealand Standard NZS 4246:2006 (Energy Efficiency – Installing Insulation in Residential Buildings).

Regulation 23 requires certain landlords to ensure that any ceiling or underfloor insulation that is installed during the tenancy meets certain requirements in relation to thermal resistance.

Regulation 24 prohibits the installation of electrically conductive ceiling or underfloor insulation.

Subpart 3—Amendments to subpart 2

Subpart 3 makes amendments to *subpart 2* in consequence of the staged approach to commencement in the Amendment Act.

Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 23 June 2015 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://www.mbie.govt.nz/publications-research/publications/housing-and-property/ris-smoke-alarms-insulation-residential-rental-properties.pdf/view>

**Residential Tenancies (Smoke Alarms and Insulation)
Regulations 2016**

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