

TASMANIA

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**RESIDENTIAL TENANCY AMENDMENT (SMOKE  
ALARMS) BILL 2012**

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# **RESIDENTIAL TENANCY AMENDMENT (SMOKE ALARMS) BILL 2012**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*  
21 August 2012

*(Brought in by the Minister for Corrections and Consumer Protection, the Honourable Nicholas James McKim)*

## **A BILL FOR**

### **An Act to amend the *Residential Tenancy Act 1997***

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### **1. Short title**

This Act may be cited as the *Residential Tenancy Amendment (Smoke Alarms) Act 2012*.

#### **2. Commencement**

The provisions of this Act commence on a day or days to be proclaimed.

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**3. Principal Act**

In this Act, the *Residential Tenancy Act 1997\** is referred to as the Principal Act.

**4. Part 3A inserted**

After section 36A of the Principal Act, the following Part is inserted:

**PART 3A – SMOKE ALARMS**

**36B. Interpretation of Part 3A**

In this Part –

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

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

**36C. Smoke alarms**

(1) In this section –

*relevant period*, in relation to tenanted premises, means the period –

(a) beginning on the day on which a tenant first takes

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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.

(2) An owner of tenanted premises must ensure that smoke alarms are, during the relevant period, in place on the premises in accordance with the requirements, if any, prescribed in regulations for the purposes of this section in relation to such premises.

Penalty: Fine not exceeding 50 penalty units.

(3) The requirements that may be prescribed in regulations for the purposes of this section include, but are not limited to including, requirements of the following kind:

(a) the class or classes of tenanted premises in relation to which smoke alarms are required to be in place;

(b) the type or types of smoke alarms that are required to be in place in

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relation to such a class or classes of premises;

- (c) any standards or codes with which such smoke alarms are to comply;
- (d) where on such premises such smoke alarms are required to be in place.

**36D. Maintenance, &c., of smoke alarms**

- (1) An owner of tenanted premises must not, without reasonable excuse, fail to comply, in relation to a smoke alarm that –

- (a) is required under section 36C to be in place on such premises; and

- (b) is installed in the premises –

with the requirements prescribed, in regulations for the purposes of this subsection, in relation to owners of tenanted premises.

Penalty: Fine not exceeding 10 penalty units.

- (2) A tenant of tenanted premises must not, without reasonable excuse, fail to comply, in relation to a smoke alarm that –

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- (a) is required under section 36C to be in place on such premises; and
- (b) is installed in the premises –

with the requirements prescribed, in regulations for the purposes of this subsection, in relation to tenants of tenanted premises.

Penalty: Fine not exceeding 10 penalty units.

- (3) The regulations may prescribe for the purposes of subsections (1) and (2) requirements, in respect of owners and tenants, respectively, of tenanted premises, in relation to the following:
  - (a) the maintenance, cleaning and testing of smoke alarms required under section 36C to be in place on tenanted premises and installed on such premises;
  - (b) the replacement or repair of such smoke alarms;
  - (c) the replacement of batteries used to power such smoke alarms;
  - (d) the giving of notice to an owner of premises to which section 36C relates that a smoke alarm on the premises has ceased to function properly or at all.

**36E. Defences in relation to sections 36C and 36D**

- (1) It is a defence to a charge of committing an offence against a provision of section 36C or section 36D that another person to whom that provision applied had satisfied the requirements of that provision.
- (2) It is not a defence to a charge of committing an offence against a provision of section 36C or section 36D that another person to whom that provision applied had failed to satisfy the requirements of that provision.

**36F. Removal of, or interference with, smoke alarms**

- (1) A person must not remove, or interfere with the operation of, a smoke alarm that is in place on premises as required under section 36C.

Penalty: Fine not exceeding 20 penalty units.

- (2) It is a defence to a charge of committing an offence against subsection (1) if the person charged proves that –
  - (a) the smoke alarm was removed so as to enable the repair or maintenance of the smoke alarm; and



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- (b) the smoke alarm was removed for no longer than was reasonably necessary to enable the repair or maintenance.
- (3) It is a defence to a charge of committing an offence against subsection (1) in relation to premises if the person charged proves that –
- (a) the smoke alarm was removed so as to enable the replacement of the smoke alarm; and
  - (b) the smoke alarm was, as soon as practicable after being removed, replaced by another smoke alarm that complies with the requirements, prescribed for the purposes of section 36C, that apply in relation to the premises.
- (4) A person must not wilfully cause to malfunction, or to cease to operate effectively, a smoke alarm that is in place on premises as required under section 36C.

Penalty: Fine not exceeding 40 penalty units.

**36G. Right to install smoke alarms in strata title units**

- (1) In this section –

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*body corporate* has the same meaning as it has in the *Strata Titles Act 1998*;

*lot* has the same meaning as it has in the *Strata Titles Act 1998*.

- (2) Nothing in the *Strata Titles Act 1998*, any regulations made under that Act, or any rules made by a body corporate under that Act, is to be taken to prevent any of the following occurring, or to require the permission of the body corporate in relation to a lot to be given before any of the following may occur:
- (a) the installation, repair or maintenance of any smoke alarms that are required under section 36C to be in place on premises;
  - (b) any works, including but not limited to works consisting of or associated with the installation, repair or maintenance of electrical wiring, that are necessary to enable the installation or operation of any smoke alarms that are required under section 36C to be in place on premises;
  - (c) the installation, repair or maintenance of any object, including but not limited to

electrical wiring, that is necessary to enable the installation or operation of any smoke alarms that are required under section 36C to be in place on premises.

**36H. Power of Commissioner to order compliance with this Part**

- (1) The Commissioner may make an order requiring a party to a residential tenancy agreement to comply with a provision of this Part.
- (2) An order made under subsection (1) may be enforced in the same manner as an order made by a magistrate under the *Magistrates Court (Civil Division) Act 1992*.

**5. Repeal of Act**

This Act is repealed on the ninetieth day from the day on which all of the provisions of this Act commence.