

CLAUSE NOTES

Residential Tenancy Amendment (Smoke Alarms) Bill 2012

Clause 1: **Short title**
The Act is referred to as the *Residential Tenancy Amendment (Smoke Alarms) Act 2012*.

Clause 2: **Commencement**
Provides that the Act commences on a day or days to be proclaimed.

Clause 3: **Principal Act**
Provides that the *Residential Tenancy Act 1997* is the Principal Act.

Clause 4: **Part 3A inserted**
Inserts a new Part 3A that provides as follows:
Section 36B – Interpretation of Part 3A
Defines the meaning of ‘smoke alarm’ and ‘tenanted premises’.
Section 36C – Smoke Alarms
Requires an owner of tenanted premises to ensure that smoke alarms are in place in the premises, in accordance with any prescribed requirements, while a tenant is in possession of the premises under a residential tenancy agreement.

This provision also enables the following requirements to be prescribed by regulation:

- The class or classes of tenanted premises in which smoke alarms are required to be in place;
- The type or types of smoke alarms required to be in place;
- Any standards or codes with which smoke alarms must comply; and
- Where in premises smoke alarms must be located.

Section 36D – Maintenance, &c., of smoke alarms

Provides that an owner and/or a tenant must not, without reasonable excuse, fail to comply with any prescribed requirement in relation to an owner or tenant regarding a smoke alarm that is required to be in place under section 36C.

This provision also enables requirements to be prescribed in relation to owners and tenants in relation to the maintenance, cleaning and testing of smoke alarms, the replacement or repair of smoke alarms, the replacement of batteries used to power smoke alarms and the giving of notice to an owner that a smoke alarm had ceased to function properly or at all.

Section 36E – Defences

Provides that it is a defence to a charge of committing an offence under section 36C or section 36D that another person to whom that provision applied had satisfied the requirement of that provision. This is intended to apply to situations where there are joint owners or

tenants and one or more owners or tenants have failed to satisfy a requirement of these provisions but another owner or tenant has satisfied such a requirement.

This provision also provides that it is not a defence to a charge against section 36C or section 36D that another person to whom that provision applied had failed to satisfy the requirements of that provision.

Section 36F – Removal or interference with smoke alarms

Provides that a person must not remove or interfere with the operation of a smoke alarm that is in place as required under section 36C.

However, this provision provides that it is a defence to a charge under this provision if the smoke alarm was removed to enable it to be repaired, maintained or replaced and the smoke alarm was removed for no longer than necessary to enable it to be repaired, maintained or replaced.

This provision also provides that a person must not wilfully cause a smoke alarm that is in place as required under section 36C to malfunction or cease to operate effectively.

Section 36G – Right to install smoke alarms in strata title units

Provides that nothing in the *Strata Titles Act 1988* or any regulations or body corporate rules made under that Act prevents the owner from installing, or requires the owner to obtain the permission of a body corporate to install, smoke alarms as required under section 36C,

conduct any works necessary to enable smoke alarms to be installed under that section or install any object necessary to enable smoke alarms to be installed or operate as required under that section.

Section 36H – Power of Commissioner to order compliance with this Part

Provides that the Residential Tenancy Commissioner may make an order requiring a party to a residential tenancy agreement to comply with a provision of this Part. An order made by the Commissioner may be enforced in the same manner as an order by a Magistrate under the *Magistrates Court (Civil Division) Act 1992*.

Clause 5: Repeal of the Act

Provides for the repeal of the Act on the ninetieth day from commencement.