

Serial 130
Fire and Emergency Amendment (Smoke Alarms) Bill 2010
Mr Styles

A Bill for an Act to amend the *Fire and Emergency Act*

NORTHERN TERRITORY OF AUSTRALIA

FIRE AND EMERGENCY AMENDMENT (SMOKE ALARMS) ACT 2010

Act No. [] of 2010

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2010

An Act to amend the *Fire and Emergency Act*

[Assented to [] 2010]
[Second reading [] 2010]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Fire and Emergency Amendment (Smoke Alarms) Act 2010*.

2 Act amended

This Act amends the *Fire and Emergency Act*.

3 Part 3, Division 4 inserted

After section 27B

insert

Division 4 Smoke alarms for residential premises

27C Definitions

In this Division:

Australian Standard means a standard published by Standards Australia Limited ABN 85 087 326 690.

Building Code means the Building Code of Australia published by the Australian Building Codes Board, as in force from time to time.

class 1a building means a building that, under the Building Code, is classified as a class 1a building.

class 2 building means a building that, under the Building Code, is classified as a class 2 building.

landlord, see section 27E(1).

manufacturer's instructions, for a smoke alarm, means the instructions from the manufacturer, packaged with the alarm, dealing with the operation, testing and maintenance of the alarm.

residential building means:

- (a) a class 1a building; or
- (b) a sole-occupancy unit in a class 2 building.

residential premises means:

- (a) a residential building or part of a residential building; or
- (b) a caravan permanently sited in a caravan park.

sole-occupancy unit means a room or other part of a building that, under the Building Code, is defined as a sole-occupancy unit.

tenancy means the right to occupy residential premises under a tenancy agreement.

tenancy agreement means an agreement under which a person grants to another person for valuable consideration a right (which may be, but need not be, an exclusive right) to occupy residential premises for residency.

27D Owner's obligation to install smoke alarms in residential building

- (1) The owner of a residential building must install smoke alarms in the building in accordance with this section.

Maximum penalty: 6 penalty units.

- (2) Each smoke alarm must comply with AS 3786-1993 published by Standards Australia and must be installed in accordance with:
 - (a) for a class 1a building – specification 3.7.2.3 of the Building Code; or
 - (b) for a sole-occupancy unit in a class 2 building – clause 3(c)(i) of specification E.2.2a of the Building Code.

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- (3) If it is not practicable for the owner to install a smoke alarm at the location required under subsection (2), the owner may install the alarm in another location that will provide a warning to occupants of the building.

Example for subsection (3)

A smoke alarm that is regularly activated by steam from a bathroom or smoke or fumes from a kitchen may be moved to another appropriate location.

- (4) This section commences 18 months after the day on which the Administrator's assent to the *Fire and Emergency Amendment (Smoke Alarms) Act 2010* is declared.
- (5) Subsection (4) and this subsection expire the day after this section commences.

27E Landlord's obligations

- (1) Subsection (2) applies if a person (the *landlord*):
- (a) grants a right of occupancy of residential premises to someone (the *tenant*) under a tenancy agreement; or
 - (b) agrees to grant a right of occupancy of residential premises to someone (also the *tenant*) under a tenancy agreement and allows the tenant to enter into occupation of the premises before entering into the agreement.
- (2) Before the tenant enters into occupation of the premises, the landlord must do the following:
- (a) replace the battery or back-up battery in each smoke alarm in the premises;
 - (b) after complying with paragraph (a), test each smoke alarm in accordance with section 27G;
 - (c) replace a smoke alarm that does not function when tested;
 - (d) give the tenant written information about testing and maintaining the smoke alarms.

Maximum penalty: 6 penalty units.

- (3) Subsection (4) applies if:
- (a) at any time during the tenancy, the tenant tests a smoke alarm in the premises in accordance with section 27G; and
 - (b) the smoke alarm does not function other than because the battery or back-up battery is spent; and

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- (c) the tenant tells the landlord that the smoke alarm does not function as mentioned in paragraph (b).

- (4) The landlord must immediately replace the smoke alarm.

Maximum penalty: 6 penalty units.

- (5) If a smoke alarm in the premises reaches the end of its service life at any time during the tenancy, the landlord must replace it immediately after the end of its service life.

Maximum penalty: 6 penalty units.

27F Tenant's obligations

- (1) This section applies to batteries in smoke alarms installed in residential premises the subject of a tenancy agreement.

- (2) During the tenancy, the tenant must test each smoke alarm in the premises, in accordance with section 27G, at least once every 12 months.

Maximum penalty: 6 penalty units.

- (3) During the tenancy, the tenant must immediately replace the battery and back-up battery in each smoke alarm in the premises, in accordance with the information given to the tenant under section 27E(2)(d), if:

- (a) the battery is spent; or
- (b) the tenant is aware the battery is almost spent.

Maximum penalty: 6 penalty units.

Note for subsection (3)

A smoke alarm may emit a warning signal (for example, a beeping sound) when its battery is almost spent.

- (4) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes a reasonable excuse.

- (5) During the tenancy, the tenant must clean each smoke alarm in the premises at least once every 12 months by cleaning the alarm to remove dust and other material that may hinder the alarm's performance.

Maximum penalty: 6 penalty units.

27G Testing smoke alarms

A smoke alarm must be tested as follows:

- (a) for an alarm that can be tested by pressing a button or other device to indicate whether the alarm is capable of detecting smoke – by pressing the button or device; or
- (b) otherwise – by testing the alarm in the way stated in the manufacturer's instructions.

27H Interfering with smoke alarm

(1) A person must not:

- (a) remove a smoke alarm installed in residential premises; or
- (b) remove the battery or back-up battery from a smoke alarm installed in residential premises; or
- (c) do anything else that would reduce the effectiveness of a smoke alarm installed in residential premises.

Maximum penalty: 6 penalty units.

(2) However, this section does not stop a person from:

- (a) removing a smoke alarm to comply with section 27D; or
- (b) removing a smoke alarm to install it in a location that complies with section 27D; or
- (c) replacing the battery or back-up battery from a smoke alarm.

27J Agent may act for owner

- (1) A requirement imposed on an owner of residential premises to comply with this Division in relation to a smoke alarm in the premises may be complied with by the owner's agent for the owner.
- (2) However, if the premises are subject to a tenancy, the tenant must not be the landlord's agent for complying with this Division.

27K Division applies to all alarms

- (1) Sections 27E to 27J apply in relation to a smoke alarm installed in residential premises even though the smoke alarm is not required to be installed under this Division or another Act.

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- (2) However, this Division does not stop the owner of residential premises from removing a smoke alarm that is not required to be installed under this Division or another Act.

27L Owner's obligation to install smoke alarm in pre-1997 building

- (1) This section applies if the owner of pre-1997 building:
- (a) enters into a contract to sell the building; or
 - (b) agrees to renew or extend a tenancy of the building.
- (2) The owner must install smoke alarms in the building in compliance with this section before:
- (a) the date of settlement of the contract; or
 - (b) the renewal or extension of the tenancy takes effect.

Maximum penalty: 6 penalty units.

- (3) Each smoke alarm must comply with AS 3786-1993 published by Standards Australia and must be installed in accordance with:
- (a) for a class 1a building – specification 3.7.2.3 of the Building Code; or
 - (b) for a sole-occupancy unit in a class 2 building – clause 3(c)(i) of specification E.2.2a of the Building Code.
- (4) If it is not practicable for the owner to install a smoke alarm in the location required under subsection (3), the owner may install the alarm at another location that will provide a warning to occupants of the building.

Example for subsection (4)

A smoke alarm that is regularly activated by steam from a bathroom or smoke or fumes from a kitchen may be moved to another appropriate location.

- (5) This section expires 18 months after the day on which the Administrator's assent to the *Fire and Emergency Amendment (Smoke Alarms) Act 2010* is declared.

- (6) In this section:

pre-1997 building means a residential building the construction of which is completed in accordance with the building permit for the premises under the *Building Act* before 1 January 1997 regardless of when the occupancy permit for the building is granted under that Act.

4 Section 35 amended

Section 35(1)(j), after "of fire"

insert

(other than a smoke alarm in residential premises to which Part 3,
Division 4 applies)

5 Section 54 amended

After section 54(2)(d)

insert

(da) regulating the installation, requirements and maintenance of
smoke alarms;