



1 February 2016

Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
Brisbane QLD 4000

**Attention:** Ms Bernice Watson, Research Director

*By email:* [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Ms Watson

*Fire and Emergency Services (Smoke Alarms) Amendment Bill 2015 ("Bill")*

The Real Estate Institute of Queensland ("REIQ") appreciates the opportunity to provide its comments in relation to the Bill.

**Our background**

The Real Estate Institute of Queensland is the peak professional association for the Queensland real estate profession. Our membership comprises approximately 5,800 agency offices and individual members. Collectively, we represent around 15,000 real estate practitioners.

REIQ members specialise in all facets of real estate including, property management, residential sales, commercial and industrial sales, auctions, business broking and buyers agency work. Our members are spread across the state in city, rural and regional areas.

The REIQ is recognised as the state's leading authority on real estate and property related issues.

**Executive Summary**

The REIQ supports a staged transition to photoelectric smoke alarms as proposed in the Bill. The implementation of these new laws will provide the Queensland community with greater protection against fire and will improve safety in our homes.

Whilst the REIQ supports the key objective of the Bill, we do have concerns about some aspects of the Bill, as outlined below.

In particular, we are concerned that the Bill may impose earlier compliance requirements on sellers and owners of properties that already comply with existing smoke alarm requirements. In **T** 07 3249 7347  
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addition, we are concerned by the imposition of different testing requirements in relation to tenanted properties.

## The REIQ's response to the Bill

### Staged transition to photoelectric smoke alarms

The REIQ supports a 3 year transition period to photoelectric smoke alarms as recommended by the Coroner in the Slack's Creek Coronial inquest. There is a large volume of evidence that photoelectric smoke alarms offer the best detection across a range of fires.

The REIQ supports these proposed reforms on the basis they provide greater protection against fire in all Queensland homes regardless of whether they are owner occupied or tenanted.

We understand there is a discernible difference in cost between photoelectric and ionisation smoke alarms. Although the former is more expensive, the proposed three year transition period allows owners sufficient time to budget for the cost. Further, based on feedback from our Property Management Chapter Committee members, many smoke alarms suppliers are already replacing ionisation alarms with photoelectric ones when batteries fail or the alarm is due for replacement. In many cases this replacement is included in the standard fee for smoke alarm compliance programs.

### New testing procedures – Clause 6

The REIQ welcomes the proposed introduction of consistent testing procedures across all domestic dwellings as set out in Clause 6.

We note that the existing provisions for testing are only applicable in tenancy situations and do not extend to owners of domestic dwellings. The REIQ supports the adoption of consistent testing requirements across all "owners of a domestic dwelling". This removes the distinction between owner occupied and tenanted dwellings.

The REIQ notes that in some circumstances an owner of a domestic dwelling may have to comply with the new smoke alarm requirements prior to the end of the 3 year transition period set out in the Bill<sup>1</sup>.

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<sup>1</sup> Clause 7 inserts a new s104RDA and s104RDB. In accordance with Clause 7 of the Bill, an owner of a domestic dwelling may have to comply with the new smoke alarm requirements prior to the end of the 3 year transition period set out in the Bill. This may occur if:

- a battery powered smoke alarm does not operate when tested. If this occurs, the owner must immediately replace the battery or smoke alarm (depending on whether the alarm still operates) with a battery or alarm that complies with section 104RB of the Act (proposed section 104RDA); and
- a hardwired smoke alarm does not operate when tested. If this occurs, the owner must immediately replace the smoke alarm with one that complies with section 104RB of the Act (proposed section 104RDB).

The REIQ considers the earlier replacement provisions (set out in Clause 7) to be fair and reasonable. In conjunction with Clause 6, this creates consistent requirements across all domestic dwellings and removes a tenanted dwelling distinction.

The proposed section 207 of the Bill appears to be an attempt to combine a number of the Coroner's recommendations into one section. It is not clear from the current wording of proposed section 207(1) whether the section is intended to apply to dwellings without compliant smoke alarms under existing requirements or dwellings that do not comply with the new requirements as at the commencement date of the Bill.

If it is the latter, proposed section 207(2)(d) is inconsistent with proposed section 206(2) in that it only provides a maximum compliance period of 1 year (instead of 3 years) with the new requirements. In addition, where the dwelling in question is:

- o to be transferred (sold); or
- o the subject of a new/renewed residential tenancy agreement or rooming accommodation agreement;

the owner of the dwelling would have to comply with the new requirements prior to the above events.

The REIQ is opposed to earlier compliance requirements triggered by the sale or lease of property. There is no justification for imposing earlier obligations on sellers and landlords who already comply with existing requirements.

Fire safety is important for the entire Queensland community and laws designed to administer this should be fairly and consistently applied.

All dwellings in Queensland should have the benefit of a three year compliance period *provided* that immediately prior to the commencement date of the Bill, the dwelling complies with existing requirements.

Consistent with the above comments (and the recommendations of the Coroner) we consider that the wording of proposed sections 206(1) and 207(1) should be identical. In this respect, we consider that proposed section 207(1) should read as follows:

*"This section applies if, immediately before the commencement, no smoke alarms were installed in a domestic dwelling in compliance with the Act as in force immediately before the commencement."*

### **Testing alarms in tenanted properties**

Despite Clauses 6 and 7 being drafted to capture *all* domestic dwelling owners, we note that Clause 6 contains an additional requirement to conduct testing "*within 30 days before the start of a tenancy*"<sup>2</sup>.

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<sup>2</sup> See proposed s104RD(1)(b).

As outlined above, the REIQ considers that the proposed new requirements should apply to all dwellings in a consistent manner.

The existing requirement to test a smoke alarm within 30 days *before* the start of a tenancy is problematic. It is impractical for an owner (or property manager acting on their behalf) to predict the commencement of a tenancy. In circumstances where a property smoke alarm is tested and remains vacant for greater than 30 days thereafter, it arguably creates a requirement to re-test the alarm on a continual basis until such time as a tenancy is established within the relevant timeframe. Most property managers utilise smoke alarm suppliers to test smoke alarms within tenanted properties. Consequently, this can create additional financial and administrative burden.

It is our view that the proposed section 104RD(1) should be amended to exclusively require testing at least once every year. This could be simply achieved by removing sub-section 1(b). Tenants would subsequently be required to comply with existing requirements relating to testing of smoke alarms and associated requirements within the dwelling.

In the alternative, if tenanted properties are to be treated differently (which is not the REIQ's preferred position), we propose sub-section 1(b) be amended to read:

*within 7 days of the start of any new residential tenancy agreement or rooming accommodation agreement for all or part of the dwelling.*

This amendment would allow a limited time period for testing smoke alarms in tenanted dwellings when *new* agreements were entered into. It would not apply to renewed tenancy agreements.

### Definition of "domestic dwelling"

The Bill contains a reference to "*sole occupancy unit*" in the definition of domestic dwelling in proposed section 104RA of the Bill. It appears that this term should be hyphenated and read "*sole-occupancy unit*".

The definition of *sole-occupancy unit* is amended by the Bill to make reference to the 2015 edition of the Building Code of Australia and if passed, the Act will provide the following:

*"sole-occupancy unit means a room or other part of a building that, under the 2015 edition of the Building Code of Australia, part A1.1, is defined as a sole-occupancy unit".*

Part A1.1 of the 2015 edition of the Building Code of Australia provides the following definition for *sole-occupancy unit*:

*"Sole-occupancy unit means a room or other part of a building for occupation by one or joint owner, lessee, tenant, or other occupier to the exclusion of any other owner, lessee, tenant, or other occupier and includes-*

- (a) *a dwelling; or*
- (b) *a room or suite of rooms in a Class 3 building which includes sleeping facilities; or*
- (c) *a room or suite of associated rooms in a Class 5, 6, 7, 8 or 9 building; or*
- (d) *a room or suite of associated rooms in a Class 9c building, which includes sleeping facilities and any area for the exclusive use of a resident.*

It would appear that by removing the reference to a Class 2 building, the Bill broadens the definition of sole-occupancy unit. It is not clear whether this is the intention given that the Division 5A of the Act relates to smoke alarms for domestic dwellings and a Class 5 building is an office building used for professional or commercial purposes, excluding buildings of Class 6, 7, 8 or 9.

We recommend that further consideration be given to whether the definition should still make reference to Class 2 buildings.

### Conclusion

The REIQ appreciates the opportunity to provide its feedback in relation to this important matter.

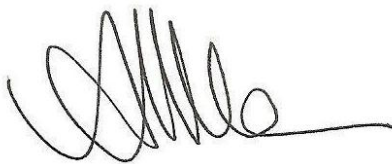
Subject to the comments made above, the REIQ supports the introduction of these legislative amendments aimed at enhancing protection against fire. If and when these new laws are implemented, we are happy to provide support to educate the Queensland real estate community about these important changes.

The REIQ welcomes the opportunity to discuss any aspect of this submission in further detail.

We confirm that no aspect of this submission is confidential.

If you would like to discuss any aspect of this submission, please do not hesitate to contact the writer on email: [REDACTED]

Yours faithfully



Antonia Mercorella  
Chief Executive Officer