



29 January 2016

The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Research Director

The Residential Tenancies Authority (RTA) appreciates the opportunity to make a submission about the Fire and Emergency Services (Smoke Alarms) Amendment Bill 2015, (the Amendment Bill).

The RTA is a state government statutory body that administers the *Residential Tenancies and Rooming Accommodation Act 2008* (the RTRA Act) and is responsible to the Minister for Housing and Public Works.

We provide tenancy information, bond management, dispute resolution, investigation, and policy and education services for the more than one third of Queenslanders living in more than 530,000 rental properties around Queensland.

The RTA supports measures to improve fire safety in Queensland homes. The RTRA's submission is attached and addresses amendments to the *Fire and Emergency Act 1990* and potential consequential amendments to the RTRA Act impacting Queensland's rental sector.

The timing of obligations is a commonly raised issue for the residential rental sector, in particular ambiguity around the definition of "the start of a tenancy agreement". Consideration should also be given to the financial implications for property owners and tenants to implement the proposed changes.

The RTA has advised peak industry bodies about the Amendment Bill and encouraged them to make submissions to the committee.

If you require further information or assistance regarding this matter, please do not hesitate to contact Ms Janet Arber, Principal Policy Officer, on [REDACTED]

Yours sincerely


Darren Barlow
Chief Executive Officer

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RTA response to the *Fire and Emergency Services (Smoke Alarms) Amendment Bill 2015*

Renting that works for everyone

More than a third of Queensland households rent their homes and the Residential Tenancies Authority (RTA) plays a key role supporting and regulating the sector. In line with the *Residential Tenancies and Rooming Accommodation Act 2008* (the RTRA Act), the RTA delivers impartial tenancy information, bond management, dispute resolution, investigation, and policy and education services. The RTA also provides policy advice to the Minister for Housing and Public Works, provides and analyses sector data, and conducts research.

We work with all sector groups including tenants and residents, property owners and property managers, community and industry stakeholder groups and the Queensland Government.

The RTA was founded in 1989 as the Rental Bond Authority and currently holds more than 540,000 rental bonds. The RTA website receives more than 2 million visits per year, and our Contact Centre staff answer more than 1600 calls per day. Our Client Support service assists more than 5600 clients per year with self-resolution strategies, and we manage more than 26,000 requests each year for free dispute resolution assistance. Each year we conduct around 500 investigations into alleged offences under the Act and our range of education services includes hosting webinars and seminars for clients across Queensland.

Find out more about the RTA and our services at rta.qld.gov.au.

Renting in Queensland

- **35.6%** - Proportion of occupied private dwellings rented in Qld (*2013-14 Housing Occupancy and Costs survey, ABS*)
- **628,300** - Occupied rented dwellings in Queensland, including social housing (*2013-14 Housing Occupancy and Costs survey, ABS*)
- **\$350** - Queensland median weekly rent 2015 (*RTA bond data*)
- **13.5 months** - Median length of tenancies in 2015
Houses – **15.8 months** - Flats – **12.6 months** (*RTA bond data*)
- **70.4%** - Rental properties are located in South East Queensland (*RTA bond data*)
- **93%** - Rental bonds lodged by property managers/agents
- **7%** - Rental bonds lodged by property owners (*RTA bond lodgement data 31 Dec 2015*)

Residential Tenancies and Rooming Accommodation Act 2008

The *Residential Tenancies and Rooming Accommodation Act 2008* (the RTRA Act) requires lessors and agents to comply with all laws about health and safety for rental premises. Specifically the obligations around smoke alarms in residential properties in



Queensland are governed by the *Fire and Emergency Act 1990* (the Fire Act). Property owners must ensure the premises comply with their statutory obligations in relation to smoke alarms.

The RTRA Act provides grounds for entry into residential rental premises to ensure they can meet obligations around smoke alarms. At the start of a tenancy, the lessor / agent and tenant must complete an Entry Condition Report (Form 1), which includes indicating the presence and condition of smoke alarms.

Existing obligations under the *Fire and Emergency Act 1990* for residential rental premises

Property owners must install smoke alarms in all domestic dwellings.

Property owners/managers must:

- install smoke alarms complying with Australian Standard 3786-1993 outside sleeping areas and one on each level of the dwelling,
- replace smoke alarms before the end of their service life (smoke alarms are required to have a recommended service life of at least 10 years under normal conditions of use), and
- test and clean smoke alarms and replace any flat or nearly flat batteries within 30 days before the start or renewal of a tenancy.

Property owners/managers must not remove a smoke alarm, remove the battery (other than for replacement purposes) or do anything to reduce the effectiveness of the alarm (eg paint it).

Tenants must:

- test and clean (by vacuuming or dusting) smoke alarms at least once every 12 months,
- replace any flat or nearly flat batteries,
- advise the property manager/owner if there is any issue with the alarm (apart from batteries), and
- allow the property owner/manager right of entry to install smoke alarms.

The tenant must not remove a smoke alarm, remove the battery (other than for replacement purposes) or do anything to reduce the effectiveness of the alarm (eg paint it).

Penalties apply to both tenants and property manager/owners for not complying with these requirements.

The Fire and Emergency Services (Smoke Alarms) Amendment Bill 2015

The Fire and Emergency Services (Smoke Alarms) Amendment Bill 2015 will establish that

- photoelectric smoke alarms would be required in all residential premises in Queensland, and
- these smoke alarms would be required to be in specified locations within residential premises.



There would be a phased-in approach, with installation required within three years (if the premises are currently compliant). If on the commencement no smoke alarms are installed the owner of the dwelling must install smoke alarms in the dwelling before the first of the following happens:

- any transfer date for the dwelling,
- the day any existing residential tenancy agreement or rooming accommodation agreement for all or part of the dwelling ends,
- the day any new residential tenancy agreement or rooming accommodation agreement for all or part of the dwelling starts, or
- the day that is one year after the commencement.

The owner of a domestic dwelling will be required to test each smoke alarm in the dwelling:

- at least once every one year, and
- within 30 days before the start of a tenancy in the dwelling.

RTRA feedback on the Amendment Bill

The timing for obligations about smoke alarms at the start of a tenancy is unclear. The “start of a tenancy agreement” is ambiguous and can be interpreted as either:

- when a new tenancy commences with all new tenants moving into the premises (starting a new agreement), or
- when the term of the fixed term agreement has ended and a new term has been agreed (renewal of an agreement) and the tenants continue to occupy the same premises.

This creates confusion in the sector when interpreting the provisions and obligations. The Queensland Fire and Emergency Services advises clients that the obligations around smoke alarms apply whether it is a new tenancy or a renewal, whereas the RTRA Act differentiates between obligations around new tenancy agreements and renewal of tenancy agreements. For example between renewals, rental bonds are not refunded and re-lodged and Entry Condition Reports are not required. The median length of a residential tenancy is 13.5 months, and general Queensland practice is for six month fixed term agreements, followed by a six month fixed term renewal. In these instances, property owners could potentially be required to inspect the smoke alarms twice per year if “start of a tenancy agreement” is not clarified.

There are a number of options that could be considered to address confusion about obligations at the start of a new tenancy and when renewing a tenancy, such as:

- clarify in the Fire Act that the obligations for installation relate to the start of a new tenancy, not a renewal of a tenancy agreement where occupancy continues, and/or
- set a regular time period for property owners to conduct test inspections of smoke alarms in rental premises such as every 12 months. Consideration may have to be given to how this option would interact with tenant obligations to test smoke alarms under the current Fire Act.

Installation costs incurred will be borne by home owners, and these costs are likely to be passed onto tenants by way of increased rent. In general, most property managers and



real estate agents engage professional companies to test smoke alarms on behalf of the property owner at a cost of \$75.00 to \$100.00.

Depending on the market, there is the potential for rental properties to remain vacant longer than 30 days. Under current proposals, this could require property owners to conduct multiple inspections in a short period if the property is vacant longer than 30 days.

Further contact:

Janet Arber
Principal Policy Officer

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