



## Your Questions Answered

### What do the new smoke alarm laws require?

New laws require owners of all homes and units (Class 1 and sole occupancy units in class 2 buildings) to install and maintain smoke alarms in all older (pre 1997) homes by **1 July 2007**.

The new laws only require homes and units that do not already have working smoke alarms installed to install smoke alarms.

To ensure that everyone complies with the laws, a person selling a property will be required to lodge a form with the Queensland Land Registry stating that operational smoke alarms are installed in the property. Compliance will be monitored via an audit of these forms.

### Why make smoke alarms compulsory?

Requiring all homes and units in Queensland to have smoke alarms will increase the number of people who escape fires, and provide greater protection for their property.

This has already resulted in more lives being saved in other states where smoke alarms are compulsory. Queenslanders can have more confidence that, no matter where they live, they will have greater protection from the dangers of fire, at a relatively low cost.

### How will the smoke alarm laws be policed?

On the sale of a property from 1 July 2007, the vendor will have to lodge a Form 24 with the Queensland Land Registry, stating that smoke alarms are installed in the property and the purchaser has been informed alarms are installed.

This will mean that the checking of smoke alarms installed will be a part of buying and selling residences in Queensland.

Fire Officers will also investigate complaints received about residential non-compliance. There will be a maximum fine of \$375 for failing to install alarms by 1 July 2007.

### How many Queensland homes are not fitted with smoke alarms?

Approximately 13% (estimated 200 000 homes) of all Queensland homes do not have smoke alarms installed.

### What is the estimated impact of this new smoke alarm legislation?

By extending alarm coverage to homes currently without alarms there is potential to save 106 lives over the next 20 years and also **save** about \$70M. The savings come from potential reductions in property loss and injuries as a result of smoke alarms.

### How does the option compare with arrangements in other states?

Smoke alarms are compulsory in South Australia, Victoria and New South Wales. The new laws are similar to arrangements in New South Wales and Victoria, which allow householders to install any smoke alarm that complies with Australian Standards.

### What do the new smoke alarm laws mean for tenants?

The new laws place the following obligations on tenants

#### A) Obligations to do something

- **Test** each smoke alarm every **12 months** by
  - Pressing a button or other device to check that the alarm is capable of detecting smoke. This is the most common way of testing to see if a smoke alarm will detect smoke. There are some alarms that can be tested in other ways- for instance by shining a torch on the alarm
  - Otherwise as stated in the Rental Rules booklet (RTA Information Statement, Form 17a), - currently the booklet refers to the QFRS website that has a section dealing with the maintenance of smoke alarms.
- **Clean** each smoke alarm in the way stated in the information statement every **12 months**. This usually requires cleaning with a vacuum cleaner or broom to remove debris ( e.g. dust and cobwebs) that would restrict smoke entering the alarm
- **Replace** each battery that is spent or that the tenant is aware is almost spent. The Australian Standard that regulates smoke alarms requires that an alarm produce a distinctive fault signal at least once every minute over 7 days to warn that the battery is about to fail. Often this is a chirping sound.
- **Advise** the lessor as soon as practicable if the alarm fails or is about to fail other than by reason of the failure of the battery. If the lessor is advised that an alarm has failed or is about to fail than the lessor must replace it.



## B) Obligations not to do something

- Remove a smoke alarm;
- Remove the battery ( otherwise than to replace it);
- Do anything to reduce the effectiveness of the alarm (e.g. paint it).

### **The smoke alarm maintenance obligations on tenants to test and clean must be done every 12 months. What does this mean for shorter tenancies?**

There are two types of tenancy agreements in Queensland. Fixed term and periodic. Fixed term agreements have a definite start and a definite end date, whereby periodic agreements have a definite start and no ending date.

Tenant obligations to clean and test smoke alarms in the rental home only apply to tenancies of 12 months or longer or periodic tenancies that are 12 months or longer in duration.

Tenants who have tenancies of less than 12 months or hold a periodic tenancy of less than 12 months will not be required to clean and test the alarms.

Please note that for public housing tenants the Government has already installed hard-wired smoke alarms in all public housing dwellings.

### **What do owners/lessors have to do?**

- **Install** smoke alarms by 1 July 2007;
- **Test and clean** the alarm in accordance with the manufacturers instructions within 30 days preceding the start of the tenancy (this obligation includes renewals) ;
- **Replace** each battery that is spent or which the lessor is aware is almost spent within 30 days before the start of the tenancy;
- **Replace** the alarm before the end of its service life or if it reaches the end of its service life replace it immediately. Under the Australian Standard a smoke alarm should have a service life of 10 years. However cheaper alarms often only offer warranties of 2 or 3 years. The warranty is a good practical guide to the service life of an alarm. In order to reduce the maintenance burden the QFRS recommends that:
  - Higher quality alarms with longer warranties ( e.g. 10 years) be purchased;
  - Hardwired alarms with long lasting back up battery supply or 10 year battery alarms are installed.
  - Alarms that include a "tamperproof" feature that makes the battery difficult to remove be purchased.

A table with some cost comparisons is included below.

Hardwired alarms are the standard for new houses and provide a more reliable level of protection but are more expensive. 10 year Lithium battery alarms are cheaper over the long term and provide an increased level of reliability than a 1 year alarm, especially if they include a tamperproof feature.

<b>1 year battery alarms</b>	<b>10 year Lithium Battery Tamperproof Battery Alarms</b>	<b>Hardwired Alarms</b>
Single Household - Initial Cost for 2 alarms = \$20-\$60	Single Household - Initial Cost for 2 alarms @\$35-\$75 ea = \$70 - \$150	Single Household - Initial Cost for 2 alarms = \$325-\$420 (includes installation)
Batteries = \$10 per annum Individual householder cost over 10 years- \$120-\$160	Batteries = NIL per annum Individual householder cost over 10 years @\$35- \$75 per alarm= \$70-\$150	Batteries = \$10 per annum Individual householder cost over 10 years \$425 -\$520 (if one year back up batteries)
<b>NB</b> cheaper alarms may need to be replaced within 10 years.	<b>NB-</b> A tamperproof alarm is recommended as reduces the risk of removal of the battery.	

### **Notes**

- Prices vary and the above are indicative only
- The prices for the 1 year battery and 10 year lithium alarms do not include contractor installation or maintenance costs as these alarms are usually DIY installed. Some persons/agents may choose to arrange this commercially;
- "Tamperproof" features vary in effectiveness- for commercial level alarms the battery cannot be removed with destroying the alarm. Others include features that hinder rather than make impossible battery removal.
- Commercial level tamperproof alarms may not be readily available in usual retail outlets.



## Does the lessor have to clean and test the alarm, and replace the battery if they become aware that the battery is flat or almost flat at the time of cleaning and testing?

Yes. The lessor obligations include tenancy renewals. For example; if the tenant starts a 6 month tenancy, the lessor would have to clean and test the alarm within 30 days before the start of that tenancy. If at the end of the 6 month tenancy, the lessor offers a new tenancy agreement to the tenant, and the tenant accepts a new lease offer, the lessor must clean and test the alarm within 30 days before the start of the renewal tenancy agreement. The start of a new tenancy agreement includes renewing existing agreements.

## What happens if the fixed term agreement rolls over to a periodic agreement?

If a fixed term agreement is not renewed, the Residential Tenancies Act allows for the agreement to rollover to a periodic agreement. Because this agreement is rolled over as opposed to a new agreement, the lessor obligations to clean and test the alarm are not required to be met.

If the periodic agreement is renegotiated and a new fixed term agreement is offered to the tenant, the lessor obligations would again have to be met. If there is not an offer of a new agreement, and the tenant remains on a periodic term, the tenant obligations would have to be met if the agreement lasts 12 months or more.

## How many smoke alarms will be required per property?

The location requirements for smoke alarms mirror the location requirements for smoke alarms contained in the Building Code of Australia for new homes. This requires that there be one alarm outside sleeping areas and one alarm on each level of the home. It is estimated that the laws will require the typical home to install one or two alarms.

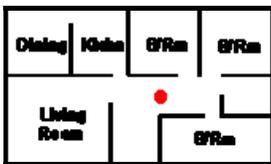
The laws allow some flexibility about location where it is not practicable to locate alarms as stated above (e.g. because of nuisance alarms caused by cooking). In this case the alarm can be located where it will provide a warning to occupants.

The owner of a unit can install a heat alarm in lieu of a smoke alarm where installation of the alarm in that location is likely to result in spurious alarms (e.g. near a kitchen or bathroom). Heat alarms activate at a certain temperature and will operate more slowly than smoke alarms. The risk with heat alarms is that it may be too late to evacuate by the time a heat alarm activates. For this reason there should always be at least one smoke alarm in a unit.

Details of where to locate smoke alarms and how to test, clean and generally maintain smoke alarms is contained in instructions pre-packaged with the alarms. Information on these matters is also available on the Queensland Fire and Rescue Service website. ([www.fire.qld.gov.au](http://www.fire.qld.gov.au)).

The QFRS recommends that for better protection more alarms than the minimum be installed. A house plan showing the location of legally required and recommended alarms is set out below;

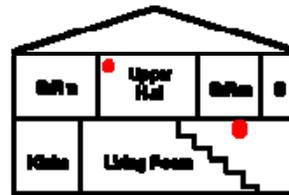
Figure 1:



Between the bedrooms and the rest of the house

**\*\* Minimum by law**

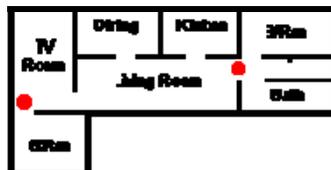
Figure 2:



Near bedrooms and on every storey of a multi-level house

**\*\* Minimum by law**

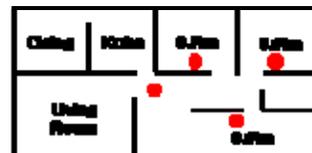
Figure 3:



Additional alarms are needed in homes with separated sleeping areas

**\*\* Minimum by law**

Figure 4:



Inside the bedroom if you are a heavy sleeper or if you close the door

**Additional recommendation for added safety (not law)**



## How will tenants know about these obligations?

The obligations are referred to on the QFRS website ([www.fire.qld.gov.au](http://www.fire.qld.gov.au)), the RTA website ([RTA: Achieving fair rental outcomes in Queensland](#)) and will be included in the rental rules.

It is a matter for owners/ agents how they might help tenants to beware of their obligations. Some agents will provide additional best practice statements to the tenant when they are signing a new agreement. They will also provide awareness and compliance information to tenants during the tenancy at the renewal of agreements and when conducting inspections of the property. To assist Agents and owners to accurately advise tenants about their obligations the QFRS has prepared a checklist that can be given to tenants advising of their obligations.

## If an agent becomes aware that the tenant is not meeting their obligations under the new laws post 1 July 2007 what should they do?

Strictly speaking there is no obligation to do anything. A person is not generally obliged to either stop someone else breaking the law or, indeed, to report it.

However this approach is not very helpful or practical. Suggested approaches include:

- a) advise the tenant of their obligations, perhaps using the QFRS developed checklist;
- b) If the breach includes damage to the smoke alarm ( e.g. smashing the alarm) a notice to remedy process may be available;
- c) Report the suspected breach to the QFRS. The QFRS can investigate suspected breaches though its powers in this respect are limited in that the QFRS has no right to enter a dwelling.

When reporting a matter to the QFRS please provide as much information as possible (e.g. photo of a smoke alarm with the battery removed or of a smoke alarm that is taken down). The QFRS can issue infringement notices for breaches but would only do so where there was sufficient evidence of a breach.

The laws are new and the QFRS will be adopting an enforcement approach that places a significant emphasis on education and awareness, especially in the initial period following 1 July 2007.

The REIQ recommend that special terms are added to the tenancy agreement to outline smoke alarm obligations. The suggested terms are:

The tenant must :

**(a) test each smoke alarm in the premises:**

- (i) At least once every 12 months; or
- (ii) if a fixed term tenancy is of less than 12 months duration, but is held over under a periodic tenancy of 12 months or more, at least once in the 12 month period:

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 other device;

B. Otherwise, by testing the alarm in the way stated in the Information Statement provided to him/her at the commencement of the Tenancy.

**(b) Replace each battery that is spent, or that he/she is aware is almost spent, in accordance with the Information Statement provided to him/her at the commencement of the Tenancy;**

**(c) Advise the Lessor as soon as practicable if he/she becomes aware that a smoke alarm in the premises has failed or is about to fail (other than because the battery is spent or almost spent); and**

**(d) Clean each smoke alarm in the premises in the way stated in the Information Statement provided to him/her at the commencement of the Tenancy:**

- (i) At least once every 12 months; or
- (ii) If a fixed term tenancy is of less than 12 months duration, but is held over under a periodic tenancy of 12 months or more, at least once in the 12 month period.

In the event that the tenant engages a contractor/tradesperson (as listed in Item 17) to meet his/her obligations listed in (a) to (d) herein, such engagement shall be at his/her own cost and expense."

## What effect will making smoke alarms compulsory have on domestic household insurance?

The Insurance Council of Australia was consulted concerning the impact that failure to comply with mandatory smoke alarm requirements might have on home insurance cover.

The Insurance Council of Australia advised that it was a matter for individual insurers to determine what attitude they would take in the event of a fire claim where no smoke alarm had been fitted in contravention of a mandatory smoke alarm requirement.



The Council further advised, "From our experience it is unlikely that an insurer would decline a claim in these circumstances". Enquiries were also made of fire authorities in Victoria and South Australia where mandatory smoke alarm legislation has been in force for seven and six years respectively.

Neither jurisdiction was aware of any instance where an insurance fire claim had been declined as a result of a failure to install a mandatory alarm.

Persons who are concerned about this should check the matter with their insurer.

### **Do smoke alarms provide property protection?**

The early warning provided by a smoke alarm can allow action to be taken that puts out a fire in the early stages, thereby minimising property loss. QFRS statistics support the position that smoke alarms do result in some measure of property protection.

However the main purpose of a smoke alarm is to alert occupants so that they can take action to avoid loss of life and injury.

### **What does the community think about the Smoke Alarm proposals?**

The QFRS retained an independent research firm to conduct focus group research on community attitudes to smoke alarms. The research showed strong community appreciation of the value of smoke alarms

### **Why are smoke alarms important?**

Smoke alarms are very important domestic safety devices. The risk of death from fire in a home is up to three times higher in homes without smoke alarms when compared to homes with smoke alarms.

In Queensland, 78.1% of all home fire deaths occur in homes without smoke alarms and 47.7% of deaths occur between 12am-8am when people are sleeping.

In Queensland since June 2004 19 people have died in house fires in homes that either did not have smoke alarms or had smoke alarms that did not work usually because batteries were removed or dead. In just over a fortnight in late May early June last year 13 people, including 7 children, died in home fires in New South Wales.

Further, recent research conducted in the United States has also indicated that the available escape time for modern homes is less than was available in the 1950s and 1960s. Smoke alarm research in the 1950s and 1960s indicated that there was an escape window of about 17 minutes. More recent research indicates that the current escape window is about 3 minutes. A leading researcher has stated that the research;

### **Confirms what fire scientists have recognised for some time: fires today seem to burn faster and kill quicker because the contents of modern homes (such as furnishing) can burn faster and more intensely"**

Modern conditions and the tragic fire death statistics emphasize the serious risks presented by house fires and the necessity for the government to act to address this risk.

### **How are new homes affected?**

Since July 1997, mains wired smoke alarms have been required in all new and significantly renovated homes and units. Owner occupied homes will not be affected by these changes.

The smoke maintenance obligations will apply to all rented houses and units whether built before or after 1 July 1997.

Homes and units built before 1997 that have not undergone significant renovations are not required to have smoke alarms installed. These older homes will be required to install alarms if they do not already have them.

### **Why have we chosen to allow any smoke alarm rather than specify the more reliable 10-year battery alarm or mains wired alarm?**

The law makes smoke alarms compulsory but leaves it to the householder to select what type of alarm to install. The minimum acceptable alarm will be a one-year battery alarm that meets the applicable Australian Standard.

This type of alarm provides a reasonable level of protection provided that batteries are replaced regularly and the alarm is tested and cleaned in accordance with the alarm manufacturer's instructions. The Queensland Fire and Rescue Service promotes the necessity to change smoke alarm batteries regularly.

Focus group research indicated that there was considerable community resistance to retrofitting hardwired alarms in pre existing homes. These alarms are connected to the homes electricity system and have to be installed by an electrician. The total installed cost can range from \$350 to over \$ 1000. Many people may have trouble meeting this cost.



The level of protection increases with number, quality and type of smoke alarm installed. The fire service encourages the installation of alarms above the minimum standard. For instance it is recommended that hardwired alarms be installed, that alarms be installed in bedrooms and that photoelectric rather than ionization alarms be installed. However these are recommendations not legal requirements.

For those householders or lessors that want to install a better alarm the fire service would certainly recommend this course and information about different types of alarms that are available and other information about the new laws is available on the Queensland Fire and Rescue Service website. ([www.fire.qld.gov.au](http://www.fire.qld.gov.au)).

The fire service runs campaigns to encourage householders to check the batteries in their alarms and change them once a year.

## **What is the difference between ionisation smoke alarms and photoelectric smoke alarms?**

There are 2 main types of smoke alarms. Ionisation smoke alarms and photoelectric smoke alarms. These alarms differ in the way they detect smoke and other products of fire.

### Ionisation smoke alarms

They 'feel' the smoke. This type detects **invisible** particles of combustion e.g. from cooking toast. They activate more quickly for fast, flaming fires and little visible smoke. These are the most common type of alarm.

### Photoelectric (Optical) smoke alarms

These 'see' the smoke (optical). This type detects **visible** particles of combustion e.g. smouldering cigarette smoke. They respond to a wide range of fires, but they are particularly responsive to smouldering fires and the dense smoke given off by foam filled furnishings or overheated PVC wiring.

Recent Australian research indicates that photoelectric smoke alarms are the better technology and the Queensland Fire and Rescue Service recommends that the purchase of this type of alarm.

## **How does the legislation compare with arrangements in other states?**

Smoke Alarms are compulsory in South Australia, Victoria and New South Wales.

The proposals are similar to the arrangement in New South Wales and Victoria which both allow householders to install any smoke alarm that complies with Australian Standards.

## **What if the smoke alarm is still operating at the end of its service life, do I still need to replace it?**

The Australian Standard requires that smoke alarms have a minimum service life of 10 years. A smoke alarm, especially a good quality alarm, may well last longer than the 10 year minimum service life.

It is not necessary to replace an alarm that is still working. Some owners may choose to replace alarms at the end of a specified period as a risk management issue.

## **As a real estate agent, managing properties I have been advised by the lessor that they will check smoke alarms. How do I monitor that?**

As a best practice recommendation, agents should confirm the instruction in writing with the lessor. Ask the lessor to advise your agency in writing each time the alarm is cleaned and tested, and the battery is replaced. Agents should ensure that systems are in place to ensure that confirmation from the lessor is received accordingly.

## **Who is licensed to install a smoke alarm? Do you need a licence to install smoke alarms?**

No licence is required to install a battery operated smoke alarm.

A licensed electrician is required to install an alarm that is connected to mains power.

## **I have purchased smoke alarms and they seem to be malfunctioning, what do I do?**

If within any warranty period return to the place of purchase or the supplier.

## **Who should purchase smoke alarms before they are law, the tenant or lessor?**

Either party could purchase the smoke alarm prior to the law coming into place. The tenant should make a written request to the lessor if they wish for a smoke alarm to be installed, or if they wish to install the smoke alarms themselves. Agents should recommend to the lessor that they install the alarm, as the tenant may take the alarm when they vacate if they have purchased and installed the alarm themselves.

## **What happens if a rental property has signed a lease agreement prior to 1 July 2007, what is required?**

The laws will take effect as of July 1 2007. The obligations of all parties must be met as of July 1 2007. The lessor should ensure that they have a compliant working smoke alarm installed in their property as of the start date of the new laws. Obligations for



cleaning and testing will be met either upon renewal of the tenancy (by the lessor) or if the tenancy reverts to a periodic tenancy of 12 months or longer (the tenant)

### **I have just raised my home, does that mean I need smoke alarms downstairs?**

- Alarms are not required to be installed where the level is predominantly open such as the basement level of a highset house that is used for car-parking or laundry.
- Alarms are not required for a unit in a level containing only sanitary facilities or parking.

### **In a body corporate situation, who is responsible for installing smoke alarms?**

The individual lot owner (unit owners) is responsible for inside the four walls of the unit. The individual unit owner will be responsible for alarms inside their unit. The body corporate is responsible for the common areas of the building. The new laws only apply to alarms in the unit.

### **I have existing tenants on a lease agreement, and one of the tenants is moving out, does that become a new agreement and do smoke alarms have to be checked again?**

This situation is deemed to not be a new tenancy and is only an amendment to an existing agreement. The smoke alarm obligations of the lessor will not be required to be met until the renewal of the agreement.

### **What happens if the tenant breaks their lease agreement? Who is responsible for cleaning and testing the alarm when and if new tenants are secured to take over the lease agreement?**

As with any new lease agreement the landlord is responsible to **Test and clean** the alarm in accordance with the manufacturers instructions within 30 days of the start of the tenancy (this obligation includes renewals); as it is a new tenancy. However, it will depend upon the individual circumstances on each case and the reasons of the breaking of the lease. The Residential Tenancies Act allows for the tenant to be liable to pay the reasonable costs incurred by the lessor in reletting the premises. The lessor may require the tenant to pay any costs that may be incurred for smoke alarm maintenance in this situation.

### **If the lessor/agent is unsure when the smoke alarm was installed, or how old the alarm is, what should be done?**

Under the Australian standard alarms should have a manufacturer date of manufacture stated on them. If the date cannot be found on the alarm or there is uncertainty, it is recommended that the smoke alarm be replaced. Agents should make this recommendation in writing to the lessor and seek confirmation in writing from the lessor of their instruction.

### **What is the definition of testing / checking the smoke alarm (hard wired and/or battery operated)?**

Under the Australian Standard (AS 3786-1993) a smoke alarm (hardwired and battery) must contain a self test facility that mechanically or electronically simulates the presence of smoke in the sensing assembly. In most cases this is a button on the alarm that is depressed for a short period – if it sounds then the test is positive.

The new law states that where an alarm can be tested by pressing a button or other device it can be tested by pressing the button. So if the alarm the subject of the enquiry has a test button then it can be tested by pressing that button. Because of the AS requirement that an alarm must have a self test facility that simulates the presence of smoke all AS alarms should have this facility and should be able to be tested by using the facility.

In commercial buildings it is usual to test by using canned smoke. There may be some agents and contractors who intend to test by this method as well as the button test, but it is in addition to the legal requirements.

Testing by using the self test facility- usually a button that is held down for a few seconds- meets the test requirement. Use of smoke is an additional test which people may wish to use if they want additional assurance that the alarm is working. The QFRS would not discourage people from doing the additional smoke test if they want to as it does provide an additional level of assurance that the alarm is working.

### **As a property owner I do not feel comfortable with installing and testing the alarm myself?**

If agents/property owner do not feel comfortable with attending to smoke alarm installation and testing there are a number of companies that will undertake the work for a fee.

### **Is it compulsory to install smoke alarms in caravans within Queensland?**

Smoke alarms are not compulsory for Caravans. The new legislation applies to mobile homes but not to caravans. It is however recommended that alarms be installed in caravans. The QFRS recommends that optical alarms be used as these are less likely to cause false alarms than ionisation alarms.



## **What if my property is a holiday rental?**

By virtue of the definition of "tenant" in the legislation, tenants of short holiday tenancies (6 weeks or less) are not caught by the smoke alarm maintenance provisions of the new Act. So the landlord of such a premises is not required to test, change spent batteries and clean within 30 days of a tenancy that is 6 week or less. The landlord as an owner is still required to install the alarm/s.

Landlords of holiday rentals that are 6 weeks are best advised to make sure generally that the alarms are maintained as there may well be a general civil duty of care to maintain such alarms. Further information about this general duty is a matter for the landlord to take up with his own legal advisers.