

# Smoke alarm legislation

## What the law requires

Since 1 July 2007, all domestic dwellings in Queensland must have installed at least one 9 volt battery powered smoke alarm. As a minimum legal requirement, a smoke alarm must be installed on or near the ceiling on any storey:

- between any area containing bedrooms and the rest of the house or unit e.g. hallways; or
- on a storey not containing bedrooms on the most likely evacuation route from the storey

## Types of smoke alarms

1. A 9 volt battery operated smoke alarm. Batteries will need to be replaced annually. Note: This type of alarm meets the minimum legal requirement, but is not recommended by Queensland Fire and Rescue Service.
2. A mains power supply or hard-wired 240 volt alarm. Some of these alarms come with either a 9 volt battery back-up or a re-chargeable battery back-up. Note: the 9 volt battery will need to be replaced annually.
3. A 9 volt long-life (10 year) lithium battery smoke alarm.

For dwellings built before 1 July 1997, at least one 9 volt battery operated smoke alarm must be installed.

For dwellings built after 1 July 1997, as well as dwellings which have undergone major renovations, mains power supply or hard-wired smoke alarms must be installed at the time of construction or alteration.

It is recommended that owners seek out information on the best smoke alarm options by visiting the Queensland Fire and Rescue Service website – <https://www.fire.qld.gov.au/communitysafety/smokealarms/choosing.asp>

The Queensland Fire and Rescue Service recommend that where possible, a photoelectric smoke alarm is installed as they are the most effective across a wider range of fires.

## Obligations of the lessor

Lessors are required to clean and test each smoke alarm installed in a property in the way stated in the manufacturer's specifications within 30 days before the commencement of a tenancy. The start of each new tenancy includes the renewal of an existing tenancy.

Lessors are also required to replace each battery that is flat or almost flat in accordance with the manufacturer's instructions within 30 days before the commencement of a tenancy.

Further, lessors are required to replace smoke alarms before they reach the end of their service life.

## Where the lessor refuses to fulfil their legal obligations

Where the lessor refuses to provide instructions to install or replace a smoke alarm or in any way refuses to comply with their obligations, the agent should write to the lessor identifying their obligations and noting their refusal to comply. Any such correspondence should be retained on the property file.

Further, as is generally recommended where lessors refuse to comply with their obligations, it is advised that the agent give careful consideration as to whether they should continue to manage the property. It may be appropriate to seek legal advice on this issue.

## Obligations of the tenant

Tenants are required to clean and test smoke alarm/s at least once every 12 months. This is required where the tenant has either a fixed term tenancy of 12 months or longer or a periodic tenancy.

Tenants are also required to replace the battery in a smoke alarm where the battery is flat or where the tenant is aware that the battery is almost flat. The tenant must replace the battery in the way stated in the Pocket guide for tenants (RTA Form 17a).

Further, tenants are required to advise the lessor or agent if they become aware that a smoke alarm has failed or is about to fail other than because of a flat battery.

## Resident letting agents

Building fire safety laws were amended with the introduction of the *Building Fire Safety Regulation 2008*. All buildings must now have evacuation plans which are required to be:

- building specific;
- reviewed annually;

- include details of the persons responsible for developing, changing and reviewing the plan; and
- include the name of the fire safety advisor (only required if 30 or more employees are normally employed OR a class 2 or 3 building that is more than 25 metres in height)

The body corporate (or resident letting agent) must ensure that the whole of the building evacuation plan takes into account the evacuation plans of separate tenants (called secondary occupiers) and evacuation drills or practice are required to be conducted every 12 months.

There are also requirements which prohibit the locking of doors on evacuation routes. Some doors may need to be replaced or modified to ensure they comply with the door requirements.

Fire safety installations have to be maintained by an appropriately qualified person which is defined as one who holds a license that is of a class specified in the *Queensland Building Services Authority Regulation 2003*.

Due to the complexity and the importance of these laws, the REIQ recommends that agents seek advice from professional providers in regards to compliance and if required, request quotes from providers and then seek written instruction from the body corporate.

### **Obligations of the seller**

The transferor (the seller) of residential land is required to advise the transferee (the buyer) in writing on or before the date of possession of the property, whether compliant smoke alarms are installed in the domestic dwelling.

The seller of residential land is required to provide the Chief Executive of the *Department administering the Land Act 1994* and the *Land Title Act 1994* with a written notice stating whether smoke alarms are installed in the property at the date of possession by the buyer; and if the seller has provided the buyer with written notice of whether compliant smoke alarms are installed in the property as at the date of possession. The requirement will be met through the provision of a Queensland Land Registry Form 24 Property Transfer Information, completed during the conveyancing process.

### **Best Practice Recommendations**

In addition to these legislative requirements, it is advisable that agents have regard to the following recommendations:

1. It is recommended that agents conduct visual inspections of smoke alarms during their scheduled property maintenance inspections and consider whether there is any evidence of problems, tampering or battery removal. Unfortunately, situations may arise where a tenant has removed the battery or the smoke alarm entirely. In the event of a fire, other parties may attempt to impose liability on the agent. By ensuring to check smoke alarms as part of the regular property inspection procedure, this risk can be minimised.
2. Prior to the commencement of any tenancy, including a renewal, it is recommended that agents engage an appropriately qualified contractor to clean and test the smoke alarms. The agent should appoint the contractor using the REIQ Contractor Appointment form found on Realworks. The use of this form requires the contractor to warrant that they hold appropriate public liability insurance. If this form is not used, the agent should endeavour to ensure that the contractor holds such insurance and should provide instructions only in writing.
3. It is important that agents inform lessors of their legal obligations with respect to smoke alarms and direct them to where they can seek further information including the Queensland Fire and Rescue Service website.
4. Agents should seek written authority from the lessor to engage contractors where required to install, clean and test smoke alarms. It may not be necessary to seek such instructions where the management agreement includes an adequate expenditure limit which is sufficient to cover the cost. However, as a matter of best practice, it is advised that agents always advise lessors of their intention to engage a contractor.
5. As a further matter of best practice, agents should ensure to document any maintenance, testing, cleaning or battery replacement activity on the respective property file.
6. Agents should provide an instruction sheet to tenants outlining their legal obligations in relation to smoke alarms as outlined in this fact sheet. These instructions should form part of the new tenant kit provided to the tenant upon commencement of a tenancy. The agent should then obtain verification from the tenant that they have been provided with the information and that they understand their obligations.
7. Where the smoke alarm operates by battery, a sticker should be placed on the smoke alarm which indicates the battery replacement date. This will allow the tenant, lessor and any engaged contractor to verify the shelf-life of the battery.
8. Agents should ask the seller at the time of listing the property for sale whether they have compliant smoke alarms installed. If the seller does not have compliant smoke alarms, agents should make a recommendation in writing to the seller client that they install required smoke alarms in order to comply with the law.

For further information about smoke alarm legislation, please refer to the Queensland Fire and Rescue website:

<https://www.fire.qld.gov.au/communitysafety/smokealarms/legislation.asp>

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