

Fire and Emergency Services (Domestic Smoke Alarms) Amendment Bill 2016

Explanatory Notes

Short title

The short title of the Bill is the Fire and Emergency Services (Domestic Smoke Alarms) Amendment Bill 2016 (the Bill).

Policy objectives and the reasons for them

The objective of the Bill is to improve personal safety in domestic dwellings by requiring the installation of photoelectric smoke alarms in all dwellings thereby reducing the loss of life or injury.

The reason for the amendments is to ensure that residents in a domestic dwelling are alerted to the presence of a fire. A working smoke alarm significantly increases their chances of escape.

Smoke alarms provide critical early warning of the presence of a fire. Evidence exists to indicate that the type, positioning and interconnectedness of smoke alarms is crucial in ensuring how effective smoke alarms are in alerting persons to the presence of a fire.

On 23 August 2011, a house fire at Slacks Creek, Queensland claimed the lives of 11 people making it the greatest loss of life in a domestic house fire in Australian history. Following a coronial inquest, on 28 November 2014 the State Coroner made two broad recommendations:

- that legislative amendments be made to mandate the installation of photoelectric and interconnected smoke alarms in every bedroom, between areas containing bedrooms and the rest of the dwelling, in any hallway servicing bedrooms and in any other storey of a domestic dwelling. For new residences, the Coroner recommended that the smoke alarms be hard-wired, while in existing residences, smoke alarms may be hard-wired or powered by a 10-year lithium battery;
- that Queensland Fire and Emergency Services (QFES) conduct enhanced awareness campaigns including promoting the development of practised escape plans.

These measures are supported by QFES as providing best practice in the use of smoke alarms. Evidence exists to suggest that each component of these revised smoke alarm provisions will reduce the risk of harm to residents in a house fire.

Achievement of policy objectives

The Bill achieves the objectives by amending the *Fire and Emergency Services Act 1990* (the Act).

The Bill:

- Requires that smoke alarms that comply with Australian Standard 3786-2014 be installed in domestic dwellings and that the smoke alarms be photoelectric, interconnected and be powered by an enduring power source (hard-wired or 10 year lithium battery); and
- Requires that smoke alarms be installed in locations as prescribed in the Building Fire Safety Regulation 2008 for existing domestic dwellings and the Building Regulation 2006 for new dwellings.

Alternative ways of achieving policy objectives

There are no alternative means of achieving the policy objectives other than by legislative reform as such change is necessary to require the provisions apply to existing homes.

Estimated cost for government implementation

Any costs that may be incurred by the Department of Housing and Public Works in implementing the legislative amendments for social housing and other government-owned properties will be met through the departmental budget.

A public consumer protection and awareness campaign will be conducted in relation to the amendments to the Act. The cost of the campaign will be met from the budget of the QFES, which administers the legislation.

Consistency with fundamental legislative principles

The Bill has been drafted with due regard to the fundamental legislative principles as outlined in the *Legislative Standards Act 1992*.

Consultation

Consultation was undertaken with the following government departments during development of the Bill:

- Department of the Premier and Cabinet;
- Queensland Treasury;
- Department of Justice and the Attorney-General;
- Department of Communities, Child Safety and Disability Services
- Department of Infrastructure, Local Government and Planning; and
- The Office of Best Practice Regulation.

Consistency with legislation of other jurisdictions

Current Queensland legislation is in line with that of all Australian jurisdictions, except the Northern Territory, which requires photoelectric smoke alarms be installed in all dwellings. No Australian jurisdiction has smoke alarm provisions as expansive as those contained in this Bill.

Notes on provisions

Part 1 Preliminary

1. Short title

Clause 1 provides citation of the Act.

Part 2 Amendment of the *Fire and Emergency Services Act 1990*

2. Commencement.

Clause 2 provides that the Act commences on 1 January 2017.

3. Act Amended.

Clause 3 provides that Part 2 amends the *Fire and Emergency Services Act 1990*.

4. Amendment of s 104RA (Definitions for div 5A)

Clause 4 amends section 104RA (Definitions for div 5A). Definitions have been omitted from section 104RA as modern drafting techniques require these definitions to be placed within the relevant sections.

The definitions for *form of assignment*, *home owner*, *manufactured home*, *residential park*, *site* and *site agreement* are omitted from section 104RA and inserted into section 104RM (Notice to buyer of manufactured home about smoke alarms).

The definition for *chief executive (land)*, *property transfer information form* and *registrar* is omitted from section 104RA and inserted into section 104RL (Notice to commissioner about smoke alarms and other matters).

Current definition of *class 1a building* and *sole-occupancy unit* are amended to remove reference to 2005 edition of the Building Code of Australia, thereby ensuring reference is made to a current edition requiring minimal future amendment.

Omit *class 2 building* and capture it in the definition of *sole-occupancy unit*.

Insert reference to *operates when tested* as it applies to section 104RAA.

Insert the definition for *smoke alarm requirement provision* which provides clarity for references in sections 104RC, 104RI and 104RL. Subsection (2) has been inserted to provide an expiry date of the definitions as it will no longer apply after 31 December 2026.

Insert the definition of *tenancy* which is referenced and not currently defined in Part 9A (Building fire safety) of the *Fire and Emergency Services Act 1990*.

5. Insertion of new s 104RAA

Clause 5 inserts new section 104RAA (When smoke alarm operates when tested). The insertion of section 104RAA provides clarity for the term *operates when tested* as a result of the owners responsibilities under section 104RC (Owner must replace smoke alarm).

6. Amendment of s 104RB (Owner must install smoke alarm)

Clause 6 amends the heading of section 104RB (Owner must install smoke alarm) so that 'requirements being phased out' is inserted after 'alarm'. This amendment provides clarity that on 31 December 2026 section 104RB will expire with the commencement of the new provisions in section 104RBA (Owner must install smoke alarm) and 104RBB (Alternative compliance with smoke alarm requirement provision).

Clause 6 subclause (2) is amended to insert a new subsection (1A) which provides a transitional provision for owners of a dwelling where section 104RB does not apply, owners of a domestic dwelling where section 104RB does not apply are referred to section 104RBA (1) and (2) for compliance obligations.

Subclause (4) places an expiry date of 31 December 2026 into section 104RB.

Subsections (3), which relates to the installation of a heat alarm and (4), relating to when it is impractical to install a smoke alarm at a required location, are omitted and inserted into section 104RBA and 104RBB. Current subsections (3) and (4) are replaced with new (3) providing an expiry date for section 104RB of 31 December 2026, and (4) providing the definition for AS3876-2014, which provides reference to the current Australian Standard regarding smoke alarms.

7. Insertion of new ss 104RBA and 104 RBB

Clause 7 inserts new sections 104RBA (Owner must install smoke alarm) and 104RBB (Alternative compliance with smoke alarm requirement provision).

Section 104RBA places an obligation on the owner to install a smoke alarm in compliance with the requirements prescribed by regulation. The section provides implementation timeframes for a phase-in of the installation of smoke alarms:

- when a new dwelling is built or substantial renovations are made to an existing dwelling, compliance is required from 1 January 2017;
- after five years, dwellings that are sold or leased are required to comply immediately;
- all government-owned housing will need to comply within five years; and
- after 10 years all domestic dwellings must comply with the changes.

Subsection (3) places an obligation on the owner of a domestic dwelling to comply with section 104RBA.

Subsection (4) provides that a smoke alarm is installed in a domestic dwelling as prescribed by the regulation.

Subsection (5) provides that each smoke alarm must be powered by an enduring power source as prescribed by regulation and that where more than one smoke alarm is present in the

domestic dwelling that it be interconnected. Subsection (6) defines when the smoke alarms in a domestic dwelling must be interconnected.

Subsection (7) provides an expiry of 31 December 2026 of subsections (1) and (2), which coincides with the expiry of section 104RB and places full compliance of the policy as prescribed by regulation on all owners of a domestic dwelling on 1 January 2027.

Subsection (8) defines terms used within this section, including *substantial renovation*, providing clarity for compliance.

Section 104RBB provides an alternative to compliance for a sole occupancy unit in a class 2 building, ensuring obligations are met under the Australian Building Codes.

8. Replacement of s 104RC (Lessor must replace smoke alarm)

Clause 8 omits section 104RC (Lessor must replace smoke alarm) and replaces it with section 104RC (Owner must replace smoke alarm). Section 104RC extends the obligation to replace smoke alarms on the owner, removing any restriction on this only applying to the lessor. The ability for an agent to act on behalf of the owner under section 104RJ (Agent may act for owner) still applies.

Subsection (3) contains provisions for how the smoke alarm is installed in a domestic dwelling. Subsection (3)(a) provides that where the original smoke alarm is hard-wired to the dwelling electricity supply the replacement smoke alarm must be installed in the same manner. Subsection (3)(b) provides that when an existing smoke alarm is replaced during the transitional period, it must be replaced with a smoke alarm that is photoelectric and complies with AS3786. Subsection (3)(c) provides where section 104RBA applies compliance is in accordance with section 104RBA(4).

9. Amendment of s 104RD (Testing smoke alarms)

Clause 9 amends section 104RD (Testing smoke alarms). Section 104RD(1) and (2) omits ‘with this section’ and replaces it with section 104RAA(3), providing clarity of the term *operates when tested* for the owner when testing smoke alarms.

Subsection (3) is omitted from section 104RD and inserted in to section 104RAA.

10. Amendment of s 104RI (Division applies for all alarms)

Clause 10 amends section 104RI (Division applies for all alarms) to replace the reference to section 104RB with a reference to a ‘smoke alarm requirement provision’ to clarify that smoke alarms that are not required under the new and amended sections 104RB and 104RBA must still comply with the other provisions for smoke alarms for domestic dwellings in Division 5A of the Act, such as testing and cleaning requirements.

11. Amendment of s 104RL (Notice to commissioner about smoke alarms and other matters)

Clause 11 amends section 104RL (Notice to commissioner about smoke alarms and other matters) and inserts a new subsection (5) which defines a ‘chief executive land’; ‘property

transfer information form' and 'registrar'. This clarifies that if a transferor has already lodged the defined form with the Department of Natural Resources and Mines' Titles Registry, they will not be required to provide further written notice to the commissioner about the property transfer.

12. Amendment of s 104RM (Notice to buyer of manufactured home about smoke alarms)

Clause 12 amends section 104RM (Notice to buyer of manufactured home about smoke alarms) to relocate relevant definitions from the start of Division 5A to this section.

13. Amendment of sch 6 (Dictionary)

Clause 14 amends schedule 6 (Dictionary) to insert relevant definitions that were previously located in Division 5A of the Act.