



New South Wales

# Building Legislation Amendment (Smoke Alarms) Bill 2005

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to provide for the installation and maintenance of smoke alarms in buildings in which persons sleep.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on 1 May 2006.

**Clause 3** is a formal provision that gives effect to the amendment to the *Environmental Planning and Assessment Act 1979* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Residential Tenancies Act 1987* set out in Schedule 2.

## **Schedule 1      Amendment of Environmental Planning and Assessment Act 1979**

**Schedule 1** inserts proposed section 146A into the *Environmental Planning and Assessment Act 1979* which permits the regulations to make provision for or with respect to:

- (a) the installation of one or more smoke alarms in buildings in which persons sleep, and
- (b) the maintenance of smoke alarms installed in such buildings, and
- (c) prohibiting persons from removing or interfering with the operation of smoke alarms installed in such buildings.

A person who contravenes a provision of any such regulation is guilty of an offence (maximum penalty \$550).

## **Schedule 2      Amendment of Residential Tenancies Act 1987**

**Schedule 2 [3]** inserts proposed section 29A into the *Residential Tenancies Act 1987* (*the Act*) to make it a term of every residential tenancy agreement that the landlord of residential premises is to ensure that smoke alarms are installed in accordance with section 146A of the *Environmental Planning and Assessment Act 1979* if that section requires them to be installed in the residential premises and that neither the landlord nor the tenant may remove or interfere with the operation of a smoke alarm installed in the residential premises.

**Schedule 2 [1]** provides for a landlord, a landlord's agent or a person authorised by a landlord to enter residential premises to install a smoke alarm if the tenant has been given not less than 2 days notice. **Schedule 2 [2]** makes a consequential amendment.

**Schedule 2 [4]** amends Schedule 4 to the Act to enable the regulations to make provision for matters of a savings and transitional nature consequent on the amendments to the Act. **Schedule 2 [5]** inserts a provision of a savings and transitional nature that makes it clear that proposed section 29A extends to a residential tenancy agreement in force immediately before the commencement of that section.



New South Wales

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New South Wales

# Building Legislation Amendment (Smoke Alarms) Bill 2005

No. , 2005

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## **A Bill for**

An Act to amend the *Environmental Planning and Assessment Act 1979* and the *Residential Tenancies Act 1987* to provide for the installation of smoke alarms; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Building Legislation Amendment (Smoke Alarms) Act 2005</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on 1 May 2006.	6
<b>3 Amendment of Environmental Planning and Assessment Act 1979 No 203</b>	7 8
The <i>Environmental Planning and Assessment Act 1979</i> is amended as set out in Schedule 1.	9 10
<b>4 Amendment of Residential Tenancies Act 1987 No 26</b>	11
The <i>Residential Tenancies Act 1987</i> is amended as set out in Schedule 2.	12 13

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<b>Schedule 1</b>	<b>Amendment of Environmental Planning and Assessment Act 1979</b>	1
		2
	(Section 3)	3
<b>Section 146A</b>		4
Insert after section 146:		5
<b>146A</b>	<b>Smoke alarms in buildings providing sleeping accommodation</b>	6
(1)	The regulations may make provision for or with respect to:	7
(a)	the installation of one or more smoke alarms in buildings in which persons sleep, and	8
(b)	the maintenance of smoke alarms installed in such buildings, and	10
(c)	prohibiting persons from removing or interfering with the operation of smoke alarms installed in such buildings.	11
(2)	Regulations made under this section may (without limitation) do any one or more of the following:	12
(a)	specify the types of buildings in which smoke alarms are to be installed,	13
(b)	specify the types of smoke alarms to be installed,	14
(c)	specify where a smoke alarm is to be located,	15
(d)	specify the maintenance that may be required in relation to a smoke alarm that has been installed,	16
(e)	specify circumstances in which development consent under Part 4 is not required in relation to the installation of a smoke alarm,	17
(f)	specify circumstances in which the consent of an owners corporation (within the meaning of the <i>Strata Schemes Management Act 1996</i> ) is not required in relation to the installation of a smoke alarm.	18
(3)	A person must not contravene a provision of a regulation made under this section.	19
	Maximum penalty: 5 penalty units.	20
(4)	In this section:	21
	<b>building</b> includes a manufactured home, a moveable dwelling or associated structure and includes a building erected before the commencement of this section.	22
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<b>Schedule 2</b>	<b>Amendment of Residential Tenancies Act 1987</b>	1
		2
	(Section 4)	3
<b>[1] Section 24 Landlord's access to residential premises</b>		4
Insert after section 24 (1) (c):		5
(c1) to install a smoke alarm in the residential premises in accordance with a requirement under section 146A of the <i>Environmental Planning and Assessment Act 1979</i> (or carry out any other obligation under that section) if the tenant has been given not less than 2 days notice on each occasion,		6 7 8 9 10 11
<b>[2] Section 24 (2)</b>		12
Insert “, (c1)” after “subsection (1) (b), (c)”.		13
<b>[3] Section 29A</b>		14
Insert after section 29:		15
<b>29A Smoke alarms</b>		16
It is a term of every residential tenancy agreement that:		17
(a) the landlord is to ensure that smoke alarms are installed in accordance with section 146A of the <i>Environmental Planning and Assessment Act 1979</i> if that section requires them to be installed in the residential premises, and		18 19 20 21
(b) neither the landlord nor the tenant may, except with reasonable excuse, remove or interfere with the operation of a smoke alarm installed in the residential premises.		22 23 24
<b>[4] Schedule 4 Savings, transitional and other provisions</b>		25
Insert at the end of clause 1 (1):		26
<i>Building Legislation Amendment (Smoke Alarms) Act 2005</i>		27



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<b>[5] Schedule 4, Part 6</b>	1
Insert after Part 5:	2
<b>Part 6 Provisions consequent on enactment of Building Legislation Amendment (Smoke Alarms) Act 2005</b>	3 4 5
<b>8 Application of section 29A to existing tenancies</b>	6
Section 29A, as inserted by the <i>Building Legislation Amendment (Smoke Alarms) Act 2005</i> , extends to a residential tenancy agreement in force immediately before the commencement of that section.	7 8 9 10