

# Investors BULLETIN

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Hi - welcome to our first Investor Bulletin which has been a long time coming. In this newsletter we are aiming to cover issues more closely aligned to the property investment sector. We hope you enjoy the read. We are in the process of upgrading our website [www.malcolmmorris.co.nz](http://www.malcolmmorris.co.nz) which has been slow, but over the next month we'll get it bristling with good content just for you. As part of the planned improvements we have also started a blog which will cover a wide variety of issues regarding real estate. You can subscribe to this on the website now to start receiving good useful content. We have also commenced filming short video clips talking

with people involved in the property market. You can view all these on my website and my Facebook page. Any comments or suggestions whether good or bad, would be greatly appreciated.

Regards

**Malc, Kirsty and the Team**



## The Residential Tenancies Amendment Bill

The Residential Tenancies Amendment Bill (the Bill) has passed its 3rd and final Reading in Parliament after being amended to include a few changes from the original Bill. The Bill will amend the Residential Tenancies Act 1986 (the Act). In addition to the increase in some of the fines for unlawful acts under the Act, there are several other substantial changes.

### Insulation requirements

Rental properties that already have insulation installed must be upgraded if the ceiling and underfloor insulation did not meet the R-value levels set out in the table below at the time the insulation was installed. These R-values are shown in the table below.

Level of insulation below which rental properties must be upgraded (product R-values)			
Timber-framed minimum		Masonry minimum	
Ceiling	R 1.9	Ceiling	R 1.5
Underfloor	R 0.9	Underfloor	R 0.9

These levels approximate the requirements for new properties built between 1978 and 2001 (NZS4218P:1977).

If the insulation has become very compressed, is damp, damaged or is incomplete it must be upgraded to meet the requirements in the table below. For existing insulation, guidance from MBIE will set out a simple test for landlords and tenants, including the requirements that insulation should be dry and in reasonable condition with no gaps.

All rental properties that currently have no insulation in ceilings and underfloor, must have new insulation installed to levels that have been set to approximate the current Building Code requirements for new homes. The map illustrates the Building Code climate zones that the table refers to, with Zone 1 being the warmest areas and Zone 3 the coldest.

Minimum new and topped up insulation requirements for rented homes (product R-values)			
Zone 1 and 2		Zone 3	
Ceiling	R 2.9	Ceiling	R 3.3
Underfloor	R 1.3	Underfloor	R 1.3

There will be a two-stage approach for landlords to implement the insulation requirements:

- Social housing providers (housing where tenants pay an income-related rent for a Housing New Zealand (HNZC) or community housing provider homes) by 1 July 2016; and
- The remainder of the residential rental market (including boarding houses) by 1 July 2019

Local authority housing and housing owned by Government other than HNZC (for example, properties owned by school Boards of Trustees), will be required to comply with insulation requirements by 1 July 2019.

For a new tenancy commencing after 1 July 2016 where a tenant pays an income related rent, a landlord would have 90 days from the commencement of the tenancy to retrofit insulation.



The proposal is to require any new installations of insulation to comply with the existing voluntary insulation installation standard, NZS4246, to maintain the intended thermal performance of insulation products.

The advantages of adopting NZS4246 are that it:

- covers most housing designs and construction types as well as the most common insulation products;
- better defines good post-installation labelling practice to ensure that it is clear what levels of insulation have been installed;
- provides hazard management/risk identification processes for the people undertaking the work to follow; and,
- provides specific guidance on protecting the health and safety of the installer.

installers. You can find the requirements of insulation standard here: [NZS4246](#).

Do-it-yourself landlords who are unsure about how to meet the thermal requirements may wish to seek professional advice. This advice would include discussions of options such as top-ups of insulation.

Landlords are able to install their insulation themselves. However, if landlords install the insulation incorrectly they could face insurance and liability consequences for faulty or negligent installation. MBIE recommends that landlords refer to NZS4246 and/or consider hiring professional installers, as this likely to reduce health, safety and quality assurance risks. Professional installers can often buy insulation in bulk and pass these savings onto clients, reducing costs for landlords.

Using actual averages from EECA's Warm Up New Zealand scheme, the average cost

MBIE has heard concerns expressed about the life safety risks of retrofitting electrically conductive foil insulation under floors. To address this issue, MBIE's Chief Executive is considering using his powers, under section 26 of the Building Act 2004, to declare a ban on the installation of conductive insulation materials in residential properties.

The scope of this ban would be limited to "installing conductive insulation into a residential property with an existing electrical installation". This would be the first use of this power under the Building Act and would require MBIE to undertake public consultation, as required by the Act.

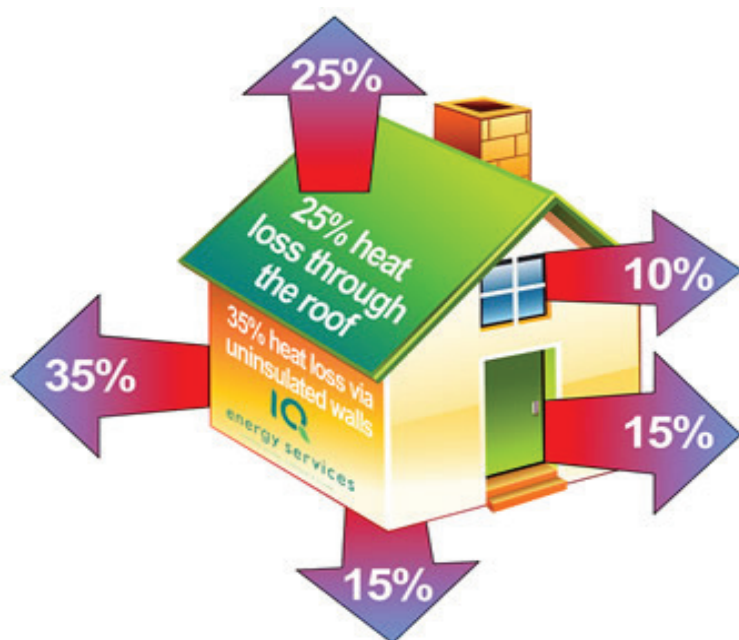
In conjunction with a ban on the installation of conductive insulation into a residential property with an existing electrical installation, the Residential Tenancies Regulations will also require that conductive insulation not be used. Additionally, installing conductive foil insulation products in residential properties would not comply with the requirements of NZS4246 as they are out of scope of the standard.

The following three categories of residential rental properties are excluded from the insulation requirements in the regulations:

- where it is not practical to retrofit insulation because of the physical design or construction of the property, but only until such time as access to these spaces becomes possible;

Ceiling insulation will have to cover all applicable habitable spaces i.e. spaces used for daily activities. A suspended floor must have underfloor insulation in reasonable condition covering all applicable habitable spaces. However it may not always be practical to retrofit insulation in all habitable places. The Energy Efficiency and Conservation Authority provides guidance on what it considers to be 'practical'. It includes: minimum clearance space, size of the access hole, and type of roof.

- where, within 12 months of the commencement of a tenancy, the landlord intends to demolish or substantially rebuild all or part of the property, and can provide evidence of having applied for the necessary resource consent and/or building consent for the redevelopment or building work; and
- where a property is purchased and immediately rented back to the former owner-occupier – in which case a 12 month exemption will apply from the date of purchase.



The regulations will permit insulation top-ups over existing ceiling installations where the total R-value of the existing and new insulation combined would meet the new thermal performance requirements.

The proposed regulations will clarify that, in total, any top-up installation must meet the required R-values.

Decisions on when top-ups are appropriate may require professional judgement. Requiring insulation installation to meet NZ4246 will provide guidance on this for

of retrofitting both ceiling and floor insulation is approximately \$3,300 (excluding GST). It is worth noting, however, that those in the South Island and the Central Plateau in the North Island, the colder parts of New Zealand, are likely to have higher costs to purchase insulation products because of the higher level of ceiling insulation required.

Landlords are responsible for the costs of insulating their homes. If landlords increase rent they must comply with the Residential Tenancies Act, and give clear written notice 60 days before imposing rent increases.

## Smoke alarms

Smoke alarms must be installed in all residential rental properties by 1 July 2016.

The proposed new smoke alarm standards will require a minimum of one working smoke alarm within three metres of each bedroom door. In a self-contained sleep-out, caravan or similar, a minimum of one working smoke alarm will be required. In a multi-level unit, there must be a working smoke alarm on each level.

The landlord must ensure that the alarm is operational at the beginning of each new tenancy. The tenant will be responsible for changing batteries during their tenancy.

Where there are currently no smoke alarms, long-life photoelectric alarms will need to be installed. Long-life alarms cannot have their batteries easily removed, and are more cost-effective over time because batteries do not need to be replaced every six to 12 months.

If a property has existing smoke alarms that are not long-life photoelectric, landlords will not need to replace them immediately. But when they do need replacing they should be replaced with long-life photoelectric alarms. This proposal would see older style, replaceable battery smoke alarms progressively replaced over time with new long life photoelectric alarms as they reach the end of their life.

The proposal for regulations has been clarified to provide that, in addition to identifying the required locations for smoke alarms, that:

- all new and replacement smoke alarms in residential rental properties are installed in accordance with placement requirements identified in the manufacturer's instructions; and
- there must be, at a minimum, one working smoke alarm in the hall or similar, within three metres of each bedroom and, in a self-contained caravan, sleep out or similar and, in multi-storey units, there shall be at least one smoke alarm on each level within the household unit.

The alarms commonly used now take a 9-volt battery and cost about \$12, with batteries needing replacement every six to 12 months. Long-life photoelectric alarms cost approximately \$40 and last for up to 10 years before requiring replacement. The number of smoke alarms needed (and the total cost) will depend on the size and layout of the property.

Submissions from landlords, property managers and tenant advocacy groups identified that some tenants remove the batteries, or tamper with alarms.

The proposal is that it will be the duty of tenants to replace smoke alarm batteries. While the responsibility for battery replacement in standard 9-volt battery alarms would remain with the tenant, the need to replace batteries would reduce over time as landlords replace existing alarm types with long life ones. This would help reduce the financial burden on the tenant of replacing batteries.

MBIE will support the legislative amendments through a public education and information campaign, and issue guidelines that will communicate the changes to landlords and tenants to inform them of their new obligations.

This campaign will inform tenants of their rights so that they can check tenancy agreements, prior to committing to a tenancy, and can seek further assurance from landlords that rental properties meet the smoke alarm and insulation quality and installation standards. Information will also be provided to tenants informing them of their options should a property not meet the standards prescribed in the regulations.

## Other changes

Other changes the Bill will introduce include but are not limited to:

- A prohibition in providing cash payments to tenants in exchange for them carrying out work orders relating to health and safety under any legislation;
- The Tribunal will have new powers to order consequential orders as part of the original work order. Such an order could say that if the landlord has not made a repair by a certain date, then the tenant may arrange the repair themselves and deduct the cost from the rent;
- In the above situation, the tenant will be allowed to pay their rent to the Chief Executive of MBIE instead of their landlord where it would be held in trust until enough money has accumulated to enable the tenant to pay for the work;
- The Tribunal's records will be able to be stored electronically, and people will be able to apply for copies of records online;
- Parties will be able to make applications to the Tenancy Tribunal online;

- An increase in the maximum amount a Landlord can be fined if:
  1. They fail to comply with the regulations about smoke alarms or insulation (as well as any of the other requirements about health and safety, buildings, cleanliness or maintenance) from \$3000 to \$4000; and
  2. They end a tenancy in retaliation to a tenant asking them to comply with their legal obligations from \$2000 to \$4000;
- Certain records (created after 1 July 2016) must be kept for 7 tax years after the tax year to which they relate (fine up to \$200);
- Certain documents (created after 1 July 2016) must be kept for 12 months after the termination of the tenancy, including the tenancy agreement, any reports of inspections of the property, or any notices or correspondence between the parties in relation to the tenancy;
- New procedures to allow for a quicker resolution where there is a suspected abandonment of tenancy;
- A power permitting persons authorised by the Chief Executive to enter and inspect premises in relation to alleged breaches. The Tribunal must authorise this inspection;
- It will be an unlawful act if somebody breaches a work order imposed by the Tribunal without reasonable excuse; and
- A power for the Chief Executive of MBIE to publish certain comments about people who have been landlords.

The regulations can be viewed [here](#).

Source: REINZ and MBIE



# Insurance cover – important information for landlords

It is important that landlords have some form of insurance cover for their rental properties and that they check with their insurer to be clear about landlord and tenant obligations regarding smoke alarms and fires. Landlords should be aware that:

- Where tenants cause a fire through carelessness (negligence) which damages or destroys the property, they may be entitled to immunity from liability if the landlord has insurance coverage.
- Tenants' immunity exists unless the fire is caused intentionally by them or their guests, by a criminal act on the property (such as manufacturing methamphetamine), or if the tenants have caused the landlord's claim to insurance coverage to be irrecoverable.

# Insurance cover – important information for tenants

Tenants should be aware that:

- They should regularly check their smoke alarms to ensure they are working properly and report faults to the landlord to ensure their immunity from liability for a negligent (careless) fire, as they may face potentially significant liability in the event of a fire they or a guest causes, if they tamper with, remove or cause a smoke alarm to be inoperative.
- A landlord may be able to pursue a tenant for damages of a negligently caused fire, if an insurer will not pay because the tenant or a guest has done something that interferes with the landlord's insurance coverage, such as causing a smoke alarm to not work because the battery has been removed.

Tenants who have a serious concern about the quality or performance of the smoke alarm/s in their property and are unable to resolve the issue with their landlord, can take a case to mediation and/or to the Tenancy Tribunal. If agreement can't be reached through mediation, the Tenancy Tribunal can issue a work order, and also fine the landlord if they do not meet the requirements of the intended regulations for smoke alarms. The new law will no longer allow landlords to pay a tenant money or reduce rent instead of completing a work order relating to smoke alarms, however if a landlord does not comply with a work order the tenant may be given the option to set off the cost in carrying out any required work against rent payable.

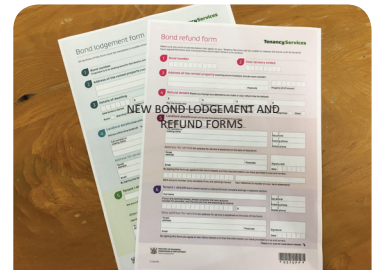
Source: MBIE and REINZ



# Bond Lodgement and Bond Refund Forms Updated

Tenancy Services has updated the forms used to lodge a bond or request a bond refund. The new forms are now available on the Tenancy Services website as editable PDFs and have a few more questions than the existing forms. Tenancy Services encourages people to use the new forms straight away as the old ones will be phased out.

You can access the forms [here](#).



## CHECK OUT MY VIDEO INTERVIEWS:

[With Carl Mann of The Mortgage Supply Company on the topic of apartment lending](#)

[With Andrew Wratt of P Tector on the problem of P contamination in houses and rental properties](#)

[With Matthew Underwood Chartered Accountant of the subject of rental property expense deductions](#)

[With Matthew Underwood Chartered Accountant discussing property financing](#)

[With Allan Henderson of Rothbury Insurance Brokers on the topic of insurance for both landlords and tenants](#)

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