



Residential Tenancies (Healthy Homes Standards) Regulations 2019

Patsy Reddy, Governor-General

Order in Council

At Wellington this 13th day of May 2019

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 138B of the Residential Tenancies Act 1986 on the advice and with the consent of the Executive Council.

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Regulations

- 1 Title**
These regulations are the Residential Tenancies (Healthy Homes Standards) Regulations 2019.
- 2 Commencement**
 - (1) These regulations come into force on 1 July 2019.
 - (2) *See—*

- (a) clauses 2 and 3(2) of Schedule 1 for dates for compliance with the healthy homes standards under sections 45(1)(bb) and 66I(1)(bb) of the Act; and
- (b) clauses 11 and 13 of Schedule 1 for application dates for Part 3.

Part 1

Preliminary matters

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Residential Tenancies Act 1986

bathroom means a domestic living space in which a bath or shower is installed

building element means a wall, floor, ceiling, window, skylight, roof, door, or other built component of any premises

domestic living space means an interior space of a building that is a space for activities normally associated with domestic living

extractor fan means an extractor fan that vents extracted air to the outdoors

habitable space means a domestic living space excluding any bathroom, laundry, toilet, pantry, walk-in wardrobe, corridor, hallway, lobby, clothes-drying room, or other space of a specialised nature occupied neither frequently nor for extended periods

installed, in relation to insulation, has the meaning set out in subclause (2)

installed or provided thing means any thing that is installed or provided at, or in connection with, residential premises or a tenancy building the installation or provision of which enables the premises or building to comply with the standards set out in subparts 2 to 6 of Part 2

kitchen means a domestic living space in which an indoor cooktop is installed

living room means a room that consists of, or includes, a habitable space that is for use, or could reasonably be expected to be used, for general everyday living, whether as a lounge room, dining room, sitting room, family room, or other similar use

main living room, in relation to residential premises, has the meaning set out in regulation 8(2) or (3)

not reasonably practicable to install has the meaning set out in regulation 4

NZS 4218:2009 means New Zealand Standard NZS 4218:2009 (Thermal Insulation—Housing and Small Buildings)

NZS 4246:2016 means New Zealand Standard NZS 4246:2016 (Energy efficiency—Installing bulk thermal insulation in residential buildings)

professional installer, in relation to a thing, means a professional tradesperson experienced at installing things of that kind

qualifying ceiling insulation has the meaning set out in regulation 14

qualifying heater has the meaning set out in regulation 9(1)

qualifying underfloor insulation has the meaning set out in regulation 16

qualifying window or door has the meaning set out in regulation 21(3)

R-value, in relation to insulation, means its thermal resistance (in °Cm²/W), being the air temperature difference (in °C) needed to produce unit heat flux (in W/m²) through unit area (in m²) of the material under steady conditions

required heating capacity has the meaning set out in regulation 10(1)

room means an area within residential premises that—

- (a) consists of, or includes, 1 or more habitable spaces; and
- (b) is or can be fully enclosed by the floor, the ceiling, floor-to-ceiling walls, and closeable windows and doors

section 13A statement has the meaning set out in regulation 33

tenancy building, in relation to residential premises, means,—

- (a) if the premises are part only of a building, that building; or
- (b) otherwise, the premises.

(2) A reference to insulation being **installed** is a reference to—

- (a) the original installation of the insulation; or
- (b) if the insulation has been reinstalled on 1 or more occasions, the reinstallation on that occasion or the last of those occasions.

4 **Meaning of not reasonably practicable to install**

It is **not reasonably practicable to install** something at any premises or tenancy building if, because of the way the premises or tenancy building is designed or built,—

- (a) a professional installer cannot access the relevant area of the premises or tenancy building to install the thing without—
 - (i) carrying out substantial building work; or
 - (ii) causing substantial damage to the premises or tenancy building; or
- (b) a professional installer cannot install the thing without creating greater risks to the health or safety of any person than are normally acceptable when something of that kind is being installed by a professional installer; or
- (c) it is otherwise not reasonably practicable for a professional installer to install the thing.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Part 2 Healthy homes standards

Subpart 1—Healthy homes standards

6 Healthy homes standards

- (1) This regulation prescribes the healthy homes standards for the purposes of sections 45(1)(bb) and 66I(1)(bb) of the Act.
- (2) The healthy homes standards are that the landlord of residential premises must—
 - (a) ensure that the premises meet the standards set out in subparts 2 to 5; and
 - (b) ensure that,—
 - (i) if the premises are part only of a building, the premises are in a building that meets the standards set out in subpart 6; or
 - (ii) otherwise, the premises meet the standards set out in subpart 6; and
 - (c) ensure that all installed or provided things are appropriate for the purpose for which they are installed or provided; and
 - (d) ensure that all installed or provided things—
 - (i) are maintained in good working order; or
 - (ii) if they cannot be maintained in good working order, are replaced within a reasonable time; and
 - (e) ensure that work covered by NZS 4246:2016 that is carried out during the term of the tenancy is carried out in accordance with NZS 4246:2016.
- (3) In this regulation, **work covered by NZS 4246:2016** means work that is carried out at the premises or tenancy building in relation to—
 - (a) insulation covering any ceiling or suspended floor in a domestic living space in the premises; or
 - (b) a ground moisture barrier of the kind referred to in regulation 28(2)(a)(i).

7 Exemptions

- (1) The healthy homes standards in regulation 6 are subject to the exemptions from specific standards set out in subparts 2 to 6 and the general exemptions set out in subpart 7.

- (2) If an exemption that applies at the commencement of a tenancy ceases to apply during the term of the tenancy, the landlord must comply with the relevant healthy homes standard,—
 - (a) in the case of the exemption under regulation 31, if it ceases to apply under regulation 31(2)(c), within 90 days after the exemption ceases to apply (but subject to regulation 31(3)); or
 - (b) in any other case, as soon as is reasonably practicable after the exemption ceases to apply.

Subpart 2—Heating standard

8 Main living room must have qualifying heaters

- (1) The main living room of the premises must be heated by 1 or more qualifying heaters with a total heating capacity of at least the required heating capacity for the main living room.
- (2) If the premises are not in a boarding house, the **main living room** of the premises is,—
 - (a) if the premises have 1 living room, that living room; or
 - (b) if the premises have 2 or more living rooms, the largest of them.
- (3) If the premises are in a boarding house, the **main living room** of the premises is,—
 - (a) if the facilities (as defined in section 66B of the Act) include 1 living room, that living room; or
 - (b) if the facilities include 2 or more living rooms, the largest of them.

9 Qualifying heaters

- (1) A heater is a **qualifying heater** if—
 - (a) it is installed as a fixture to the premises; and
 - (b) either—
 - (i) the heater (or if it is a fixed heat pump, the indoor unit) is in the living room; or
 - (ii) the heater supplies heat directly into the living room (for example, through a duct or vent located in the living room); and
 - (c) it has a heating capacity of at least 1.5 kW; and
 - (d) if it is an electric heater or a fixed heat pump, it has a thermostat; and
 - (e) it is not an unacceptable heater.
- (2) Each of the following is an **unacceptable heater**:
 - (a) an open fire:
 - (b) an unflued combustion heater:

(c) if the required heating capacity for the living room is greater than 2.4 kW, an electric heater.

(3) In this regulation,—

electric heater means an electric heater that is not a fixed heat pump

fixed heat pump means a heat pump that is permanently wired into the premises' electrical system.

10 Required heating capacity

(1) The **required heating capacity** for a living room is the required heating capacity determined in accordance with Schedule 2.

(2) If a heating capacity calculator is made available,—

(a) the calculator is presumed to determine required heating capacity in accordance with Schedule 2, unless the contrary is shown; and

(b) any person using the calculator in good faith is entitled to rely on the result produced by the calculator as the correct result based on the data provided by the person.

(3) A heating capacity calculator may provide assumed construction R-values for living room building elements (including different values for building elements made of different materials) that a person using the calculator may (but is not required) to use.

(4) In this regulation,—

construction R-value has the same meaning as in Schedule 2

heating capacity calculator means a tool for determining the required heating capacity of a living room in accordance with Schedule 2 that is made publicly available by, or on behalf of, the chief executive on an Internet site maintained by, or on behalf of, the department (as defined in section 2(1) of the Act) or any other department.

11 Exemption for certified passive buildings

(1) The main living room need not comply with regulation 8 if the tenancy building is a certified passive building.

(2) A building is a **certified passive building** if—

(a) one of the following applies:

(i) the building has been certified as a passive house under the Passive House Standard of the Passivhaus Institut, Germany:

(ii) the International Living Future Institute has issued one of the following in respect of the building:

(A) a Living Building Certification:

(B) a Petal Certification that includes a heating related requirement:

- (C) a Zero Energy Certification; and
- (b) that certification has not lapsed, expired, been cancelled, or otherwise ceased to be in force.

12 Exemption from heating standard if not reasonably practicable to install

- (1) The main living room need not comply with regulation 8 if, at the commencement of the tenancy,—
 - (a) the living room does not comply with that regulation; and
 - (b) it is not reasonably practicable to install qualifying heaters so as to comply with that regulation.
- (2) This exemption ceases to apply if, during the term of the tenancy, it becomes reasonably practicable to install qualifying heaters so as to comply with regulation 8.

Subpart 3—Insulation standards

13 Ceiling insulation

- (1) The ceiling of each domestic living space in the premises must be fully covered by qualifying ceiling insulation.
- (2) However, the ceiling is not required to be fully covered so far as—
 - (a) another domestic living space (whether or not part of the premises) is immediately above the ceiling; or
 - (b) clearances are reasonably required around any other item that is installed in or above the ceiling.

14 Qualifying ceiling insulation

- (1) Ceiling insulation is **qualifying ceiling insulation** if all of the following apply:
 - (a) the insulation's R-value, when it was installed, was,—
 - (i) if the premises are in zone 1 or zone 2, at least 2.9; or
 - (ii) if the premises are in zone 3, at least 3.3:
 - (b) the insulation was installed in accordance with NZS 4246:2016;
 - (c) the insulation is in a reasonable condition (or better).
- (2) If the ceiling insulation for an area of ceiling consists of 2 or more products installed on top of each other, the insulation's R-value for the purposes of subclause (1)(a) is to be determined by—
 - (a) determining the R-value of each product when it was installed; and
 - (b) adding those R-values together.
- (3) If insulation was installed on different areas of the ceiling at different times, subclause (1) applies separately to the insulation in each different area.

- (4) In this regulation, **zone 1**, **zone 2**, and **zone 3** have the same meanings as in Appendix B of NZS 4218:2009.

15 Underfloor insulation for suspended floors

- (1) If a domestic living space in the premises has a suspended floor, that floor must be fully covered by qualifying underfloor insulation.
- (2) However, the floor is not required to be fully covered so far as—
- (a) another domestic living space (whether or not part of the premises) is immediately below the floor; or
 - (b) clearances are reasonably required around any other item that is installed in or under the floor.

16 Qualifying underfloor insulation

- (1) Underfloor insulation is **qualifying underfloor insulation** if all of the following apply:
- (a) the insulation's R-value, when it was installed, was at least 1.3;
 - (b) the insulation was installed in accordance with NZS 4246:2016;
 - (c) the insulation is in a reasonable condition (or better).
- (2) If the underfloor insulation for an area of floor consists of 2 or more products installed on top of each other, the insulation's R-value for the purposes of subclause (1)(a) is to be determined by—
- (a) determining the R-value of each product when it was installed; and
 - (b) adding those R-values together.
- (3) If insulation was installed under different areas of the floor at different times, subclause (1) applies separately to the insulation in each different area.

17 Determining R-value of insulation

- (1) This regulation applies if, when insulation is installed,—
- (a) the insulation is a new product; and
 - (b) the manufacturer's instructions for the product specify its R-value.
- (2) The R-value of the insulation when it is installed is the R-value of the product specified in the manufacturer's instructions.
- (3) In this regulation, **manufacturer's instructions**, in relation to an insulation product, includes any specification, instruction, recommendation, or other information relating to the product that is provided, or otherwise made available, in any way to buyers, installers, or users of the product by or on behalf of the product's manufacturer.

18 Determining whether insulation is in reasonable condition

- (1) In determining whether insulation is in reasonable condition (or better), the following matters must be taken into account:
 - (a) the extent to which the performance of the insulation is compromised by any aspect of its condition:
 - (b) the extent of any dampness, damage, degradation, or displacement:
 - (c) the condition of any materials or other items that are ancillary to the insulation's installation (for example, strapping or staples).
- (2) Without limiting subclause (1), ceiling insulation is not in reasonable condition if the minimum thickness of the insulation material is less than 120 mm.
- (3) However, subclause (2) does not apply if the landlord proves that—
 - (a) the insulation's R-value, when it was installed, was the value specified in regulation 14(1)(a)(i) or (ii) (as applicable); and
 - (b) the current thickness of the insulation material is 70% or more of its thickness when it was installed (even if its current thickness is less than 120 mm).
- (4) This regulation is not an exhaustive statement of the matters that may be taken into account.

19 Exemption from insulation standards if not reasonably practicable to install

- (1) A ceiling need not comply with regulation 13 if, at the commencement of the tenancy,—
 - (a) the ceiling does not comply with that regulation; and
 - (b) it is not reasonably practicable to install insulation so as to comply with that regulation.
- (2) A floor need not comply with regulation 15 if, at the commencement of the tenancy,—
 - (a) the floor does not comply with that regulation; and
 - (b) it is not reasonably practicable to install insulation so as to comply with that regulation.
- (3) The exemption ceases to apply if, during the term of the tenancy, it becomes reasonably practicable to install insulation so as to comply with regulation 13 or 15.

20 Partial exemption for certain thermal underfloor insulation

- (1) This regulation applies if—
 - (a) there is underfloor insulation covering a floor at the premises; and

- (b) when the insulation was installed, requirements relating to thermal insulation imposed by or under an enactment or a bylaw were applicable to the premises or tenancy building; and
 - (c) the landlord is in possession of a compliance document (**document A**) that includes a certification or other statement to the effect that the premises or tenancy building, with the insulation installed, complied with those requirements.
- (2) In determining whether the insulation is qualifying underfloor insulation, regulation 16(1)(a) and (b) does not apply.
- (3) This exemption ceases to apply if, during the term of the tenancy, either of the following occurs:
- (a) the landlord receives a request for evidence and fails to provide reasonable evidence of document A to the person making the request within 10 working days after the day on which the landlord receives the request;
 - (b) the landlord receives a Tribunal request or requirement for evidence and fails to comply with it within the time allowed by the Tribunal.
- (4) In this regulation,—

compliance document means a certificate or other document issued under an enactment or a bylaw by a governmental authority or any other person (for example, a code compliance certificate issued under section 95 of the Building Act 2004 or section 43 of the Building Act 1991)

request for evidence means a reasonable request for evidence of document A given to the landlord by the tenant or the chief executive acting for the purposes of the chief executive's functions or powers under the Act

Tribunal request or requirement for evidence means a request or requirement from the Tribunal in the course of any proceedings relating to the tenancy for the landlord to provide reasonable evidence of document A.

Subpart 4—Ventilation standards

21 Openable windows or external doors

- (1) Each habitable space in the premises must have 1 or more qualifying windows or doors.
- (2) The total openable area of the qualifying windows or doors in the habitable space must be at least 5% of the floor area of the habitable space.
- (3) A window, skylight, or door is a **qualifying window or door** if it—
- (a) opens to the outdoors; and
 - (b) is designed and built in a way that allows it to remain fixed in the open position during normal occupation of the premises.
- (4) The openable area of a qualifying window or door is its net openable area on the internal face of the building element in which it is located.

22 Exemption for rooms lawfully built without qualifying windows or doors

A habitable space need not comply with regulation 21 if,—

- (a) when the habitable space was built or converted into a habitable space, not having qualifying windows or doors that would comply with regulation 21 was lawful; and
- (b) if not having qualifying windows or doors was lawful only because the room met alternative ventilation requirements, at the commencement of the tenancy the room still meets those requirements.

23 Extractor fans for kitchens and bathrooms

- (1) Each kitchen and bathroom in the premises must have an extractor fan installed in it.
- (2) For a kitchen,—
 - (a) the fan and all exhaust ducting must have a diameter of at least 150 mm; or
 - (b) the fan and all exhaust ducting must have an exhaust capacity of at least 50 ℓ/s.
- (3) For a bathroom,—
 - (a) the fan and all exhaust ducting must have a diameter of at least 120 mm; or
 - (b) the fan and all exhaust ducting must have an exhaust capacity of at least 25 ℓ/s.

24 Exemption from extractor fan standards if not reasonably practicable to install

- (1) A kitchen or bathroom need not comply with regulation 23 if all of the following apply:
 - (a) at the commencement of the tenancy,—
 - (i) the room does not have an extractor fan;
 - (ii) it is not reasonably practicable to install an extractor fan so as to comply with the regulation 23;
 - (b) when the room was built or converted into a kitchen or bathroom, not having an extractor fan was lawful;
 - (c) if not having an extractor fan was lawful only because the room met alternative ventilation requirements, at the commencement of the tenancy the room still meets those requirements.
- (2) This exemption ceases to apply if, during the term of the tenancy, it becomes reasonably practicable to install an extractor fan so as to comply with regulation 23.

Subpart 5—Draught stopping standards

25 Open fireplaces to be blocked

- (1) If the premises have an open fireplace, it must be closed off, or its chimney must be blocked, in a way that prevents draughts into and out of the premises through the fireplace.
- (2) However, subclause (1) does not apply if—
 - (a) the tenant requests in writing that the fireplace be available for use; and
 - (b) the landlord agrees to the request.
- (3) If subclause (1) is disapplied under subclause (2), the fireplace and its chimney must be—
 - (a) free from gaps or holes that allow draughts into or out of the premises and that are not necessary for the safe and efficient operation of the fireplace; and
 - (b) maintained in good working order.

26 Gaps and holes that allow draughts

- (1) The premises must be free from gaps between, and holes in, building elements that—
 - (a) are not intentional parts of the construction of the premises (such as drainage and ventilation openings); and
 - (b) allow draughts into or out of the premises; and
 - (c) are unreasonable.
- (2) In determining whether a gap or hole is unreasonable for the purposes of subclause (1)(c), the following matters may be taken into account:
 - (a) the size and location of the gap or hole;
 - (b) the extent of the draught that is allowed through the gap or hole;
 - (c) if there is more than 1 gap or hole at the premises, the extent of the total draught that is allowed through those gaps and holes;
 - (d) the likely impact that a draught through the gap or hole will have on heat loss from the premises;
 - (e) any other relevant matters, subject to subclause (3).
- (3) In determining whether a gap or hole is unreasonable for the purposes of subclause (1)(c), the age and condition of the premises or tenancy building must not be taken into account.

Subpart 6—Moisture ingress and drainage standards

27 Tenancy building to have efficient drainage system

- (1) The tenancy building must have a drainage system that efficiently drains storm water, surface water, and ground water to an appropriate outfall.
- (2) The drainage system must include appropriate gutters, downpipes, and drains for the removal of water from the roof.

28 Suspended floors to have ground moisture barrier

- (1) This regulation applies if—
 - (a) the tenancy building has a suspended floor; and
 - (b) the subfloor space is enclosed.
- (2) The tenancy building's subfloor space must—
 - (a) have a ground moisture barrier that—
 - (i) is made of a material that meets the specifications for an on-ground vapour barrier set out in section 8 of NZS 4246:2016; and
 - (ii) was installed in accordance with section 8 of NZS 4246:2016; or
 - (b) have an alternative ground moisture barrier that—
 - (i) has a vapour flow resistance of at least 50 MN s/g; and
 - (ii) was installed by an appropriate professional installer.
- (3) A subfloor space is **enclosed** if the airflow into and out of the space is significantly obstructed along at least 50% of the perimeter of the subfloor space by 1 or more of the following:
 - (a) a masonry foundation wall;
 - (b) cement boards, timber skirting, or other cladding;
 - (c) other parts of the building or any adjoining structure;
 - (d) any other permanent or semi-permanent structure that significantly obstructs airflow;
 - (e) rock, soil, or other similar material.

29 Exemption from ground moisture barrier standard if not reasonably practicable to install

- (1) A tenancy building need not comply with regulation 28 if, at the commencement of the tenancy,—
 - (a) the building does not comply with that regulation; and
 - (b) it is not reasonably practicable to install a ground moisture barrier so as to comply with that regulation.

- (2) This exemption ceases to apply if, during the term of the tenancy, it becomes reasonably practicable to install a ground moisture barrier so as to comply with regulation 28.

Subpart 7—General exemptions

30 Exemption for 12 months if tenant is former owner

The landlord need not comply with regulation 6 if—

- (a) the tenant (or any of the tenants) owned (or was an owner of) the premises immediately before the landlord acquired the premises; and
- (b) the tenancy commenced immediately after the landlord acquired the premises; and
- (c) less than 12 months has expired since commencement of the tenancy.

31 Exemption if premises due to be demolished or substantially rebuilt

- (1) The landlord need not comply with regulation 6 if,—

- (a) before the commencement of the tenancy, the landlord applied for consent to demolish or substantially rebuild the premises, with that work to begin within the grace period; and
- (b) as at the commencement of the tenancy,—
 - (i) the application is still pending; or
 - (ii) if consent was granted before the tenancy commenced, the consent remains in force.

- (2) This exemption ceases to apply if, during the term of the tenancy, any of the following occurs:

- (a) the consent lapses or is terminated;
- (b) the grace period expires;
- (c) if subclause (1)(b)(i) applied, the application for consent is refused;
- (d) the landlord receives a request for evidence and fails to provide reasonable evidence of the application and its current status to the person making the request within 10 working days after the day on which the landlord receives the request;
- (e) the landlord receives a Tribunal request or requirement for evidence and fails to comply with it within the time allowed by the Tribunal.

- (3) However, despite subclause (2)(c), if the landlord challenges the decision to refuse the application, the exemption is reinstated and continues until the challenge (and any subsequent appeal) is determined.

- (4) In this regulation,—

challenge, in relation to a decision to refuse an application for consent, means,—

- (a) if it is an application for a resource consent, an appeal against the decision; or
- (b) if it is an application for a building consent, an application for a determination under section 177 of the Building Act 2004 in relation to the decision

consent means—

- (a) a building consent as defined in section 7 of the Building Act 2004; or
- (b) a resource consent as defined in section 2(1) of the Resource Management Act 1991

grace period means the period of 12 months beginning on the date of commencement of the tenancy

request for evidence means a reasonable request for evidence of the application for consent given to the landlord by the tenant or the chief executive acting for the purposes of the chief executive's functions or powers under the Act

Tribunal request or requirement for evidence means a request or requirement from the Tribunal in the course of any proceedings relating to the tenancy for the landlord to provide reasonable evidence of the application for consent.

32 Modified standard if landlord not owner of whole of tenancy building

- (1) This regulation modifies the landlord's obligation under regulation 6 in certain situations where the landlord does not own the whole of the tenancy building and this impedes their ability to comply with the healthy homes standards.
- (2) This regulation applies if—
 - (a) the premises are part only of the tenancy building; and
 - (b) the landlord is not the sole owner of the whole of the tenancy building; and
 - (c) complying with regulation 6 (in the absence of this regulation) would require—
 - (i) something to be installed or provided in part of the building of which the landlord is not the sole owner; or
 - (ii) the landlord (or a person acting on the landlord's behalf) to access part of the building of which the landlord is not the sole owner; and
 - (d) the matters referred to in paragraphs (a) to (c) impede the landlord's ability to comply with regulation 6.
- (3) Regulation 6(2) applies as if—
 - (a) "take all reasonable steps to" were inserted before "ensure" in each place; and

- (b) the following paragraph were inserted after paragraph (b):
- “(ba) if, despite paragraphs (a) and (b) being complied with, the premises or tenancy building does not meet a standard set out in any of subparts 2 to 6, take all reasonable steps to ensure that it meets that standard to the greatest extent reasonably practicable; and”.

Example

Mr L is the landlord of premises that are part of a unit title development. The required heating capacity for the main living room of the premises is 3 kW. The only reasonably practicable qualifying heater Mr L could install would be a fixed heat pump. However, the body corporate’s rules prohibit the installation of external heating units on common property without the consent of the body corporate.

Regulation 6(2)(a), as modified by this regulation, would require Mr L to take all reasonable steps to get consent from the body corporate to install the heat pump.

If Mr L were not able to get consent, paragraph (ba) would require him to comply with the heating standard to the greatest extent reasonably practicable, for example, by installing a different kind of qualifying heater that does not require an external unit, even if its heating capacity is less than the required 3 kW.

Part 3

Information and records

Subpart 1—Information for landlords’ statements

33 Information to be included in tenancy agreement

The statement that is required to be included in a tenancy agreement under section 13A(1CA) of the Act, or in a renewal of a tenancy under section 13A(1CB), (a **section 13A statement**) must include the information set out in regulations 34 to 39.

34 Information about heating standard

- (1) In relation to regulation 8, the section 13A statement must include—
- (a) the required heating capacity of the main living room of the premises; and
 - (b) for each qualifying heater that heats the main living room,—
 - (i) the type of heater; and
 - (ii) its heating capacity (in kW).
- (2) However, if the main living room does not comply with regulation 8 and the landlord relies on the exemption in regulation 11 or 12, the section 13A statement—
- (a) need not include the information required by subclause (1); but
 - (b) must include—

- (i) a statement to the effect that the main living room is exempt from the requirement to have qualifying heaters and stating which exemption is relied on; and
- (ii) a brief description of the circumstances giving rise to the exemption.

35 Information about insulation standards

- (1) In relation to regulations 13 and 15, the section 13A statement must include,—
 - (a) for each ceiling of a domestic living space in the premises that is insulated,—
 - (i) the dates when the insulation was installed and when it was last inspected (if known); and
 - (ii) either—
 - (A) the insulation’s R-value when it was installed; or
 - (B) the thickness of the insulation material when it was last inspected; and
 - (b) for each suspended floor of a domestic living space in the premises that is insulated,—
 - (i) the dates when the insulation was installed and when it was last inspected (if known); and
 - (ii) the insulation’s R-value when it was installed; and
 - (c) for each ceiling and suspended floor in the premises that is not insulated, the reason why not (for example, because it is not in a domestic living space or because regulation 13(2)(a) or 15(2)(a) applies).
- (2) However, if a ceiling or floor does not comply with regulation 13 or 15 and the landlord relies on the exemption in regulation 19, the section 13A statement—
 - (a) need not include the information required by subclause (1) for that ceiling or floor; but
 - (b) must include—
 - (i) a statement to the effect that the ceiling or floor is exempt from the requirement to have insulation; and
 - (ii) a brief description of the circumstances giving rise to the exemption.
- (3) If a floor does not comply with regulation 15 and the landlord relies on the exemption in regulation 20, the section 13A statement—
 - (a) need not include the information required by subclause (1)(b)(iii) for that floor; but
 - (b) must include—

- (i) a statement to the effect that the floor's insulation is exempt from the minimum R-value requirement and compliance with NZS 4246:2016; and
 - (ii) a brief description of the circumstances giving rise to the exemption.
- (4) However, the section 13A statement need not include information otherwise required by this regulation if the information is included in the statement that is included in the tenancy agreement under section 13A(1A) of the Act.

36 Information about ventilation standards

- (1) In relation to regulations 21 and 23, the section 13A statement must include—
 - (a) a statement that each habitable space in the premises has 1 or more qualifying windows or doors as required by regulation 21; and
 - (b) for each kitchen and bathroom in the premises, the extractor fan's diameter or exhaust capacity.
- (2) However, if a habitable space does not comply with regulation 21 and the landlord relies on the exemption in regulation 22,—
 - (a) the statement required by subclause (1)(a) may exclude that habitable space; and
 - (b) the section 13A statement must include—
 - (i) a statement to the effect that the space is exempt from the requirement to have an openable window or external door; and
 - (ii) a brief description of the circumstances giving rise to the exemption.
- (3) If a kitchen or bathroom does not comply with regulation 23 and the landlord relies on the exemption in regulation 24, the section 13A statement—
 - (a) need not include the information required by subclause (1)(b) for that room; and
 - (b) must include—
 - (i) a statement to the effect that the room is exempt from the requirement to have an extractor fan; and
 - (ii) a brief description of the circumstances giving rise to the exemption.

37 Information about draught stopping standards

In relation to regulations 25 and 26, the section 13A statement must include the following:

- (a) for each open fireplace in the premises, a statement that—
 - (i) it is closed off, or its chimney is blocked; or
 - (ii) at the tenant's request, the fireplace is available for use:

- (b) a statement that the premises are free from unintentional and unreasonable gaps between, and holes in, building elements that allow draughts into or out of the premises.

38 Information about moisture ingress and drainage standards

- (1) In relation to regulation 27, the section 13A statement must include a statement that the tenancy building has an efficient drainage system.
- (2) In relation to regulation 28, the section 13A statement must include a statement that—
 - (a) the tenancy building does not have any enclosed subfloor spaces; or
 - (b) each enclosed subfloor space in the tenancy building has a ground moisture barrier.
- (3) However, if an enclosed subfloor space does not comply with regulation 28 and the landlord relies on the exemption in regulation 29,—
 - (a) the statement required by subclause (2)(b) may exclude that subfloor space; and
 - (b) the section 13A statement must include—
 - (i) a statement to the effect that the subfloor space is exempt from the requirement to have a ground moisture barrier; and
 - (ii) a brief description of the circumstances giving rise to the exemption.

39 Information if relying on general exemptions

- (1) If the landlord need not comply with regulation 6 because of an exemption in regulation 30 or 31, the section 13A statement—
 - (a) need not include the information required by clauses 34 to 38; but
 - (b) must include—
 - (i) a statement to the effect that the landlord is exempt from the healthy homes standards and stating which exemption is relied on; and
 - (ii) a brief description of the circumstances giving rise to the exemption.
- (2) If, in relation to the landlord, regulation 6 is modified by regulation 32, the section 13A statement—
 - (a) need not include information that is otherwise required by this subpart to the extent that the information does not exist or otherwise cannot be provided by the landlord; but
 - (b) must include—
 - (i) a statement to the effect that the landlord is relying on the exemption; and

- (ii) a brief description of the circumstances giving rise to the exemption.

Subpart 2—Documents to be retained by landlords

40 Documents to be retained by landlord

- (1) For the purposes of section 123A(1)(ca) of the Act, a landlord must retain sufficient relevant records or documents as reasonably provide evidence of the landlord's compliance with the healthy homes standards in relation to the tenancy.
- (2) However, subclause (1)—
 - (a) only requires the landlord to retain records or documents that the landlord has possession of at the commencement of the tenancy or acquires possession of during the tenancy; and
 - (b) does not require the landlord to create or obtain a record or document merely for the purpose of retaining it for the purposes of section 123A(1)(ca).
- (3) In this regulation,—

possess, in relation to a record or document, includes to have control of

relevant records or documents means any of the following to the extent that they relate to compliance with the healthy homes standards:

 - (a) reports or other records of inspections of the premises, tenancy building, or installed or provided things (whether the inspections were done during or before the commencement of the tenancy), including photographs or video recordings:
 - (b) records of any installation, maintenance or repair, or other work carried out at the premises or tenancy building (whether the work was done during or before the commencement of the tenancy):
 - (c) records of calculations of a living room's required heating capacity (for example, results from a heating capacity calculator (as defined in regulation 10)):
 - (d) product manuals or other manufacturer's information relating to installed or provided things:
 - (e) certificates or other documents issued under or for the purposes of an enactment or a bylaw (for example, a code compliance certificate or building warrant of fitness under the Building Act 2004):
 - (f) reports or other documents issued by a local authority (as defined in section 5(1) of the Local Government Act 2002) in relation to the premises or tenancy building (for example, a land information memorandum (LIM) report):

- (g) documents or records relating to the construction of, or work carried out at, the premises or tenancy building.

Part 4

Amendments to Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016

41 Amendments to Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016

This Part amends the Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016.

42 New subpart 1AA of Part 2 inserted

After the Part 2 heading, insert:

Subpart 1AA—Application of Part 2

10A Part 2 ceases to apply when healthy homes standards apply

- (1) Part 2 does not apply in relation to a tenancy of a type listed in the following table on and after the disapplication day specified in the table for that type of tenancy.

Type of tenancy	Disapplication day*
Boarding house tenancy (but not HNZ housing tenancy or community housing tenancy)	1 July 2021
HNZ housing tenancy	1 July 2023
Community housing tenancy	1 July 2023
General tenancy	
(a) if DCT before 1 July 2021	
(i) if renewed on or after 1 July 2021 but before 2 April 2024	90th day after first renewal date after 1 July 2021
(ii) otherwise	1 July 2024
(b) if DCT on or after 1 July 2021 but before 2 April 2024	90th day after DCT
(c) if DCT on or after 2 April 2024	1 July 2024

*The disapplication day for each type of tenancy is the same as the HH start day for that type of tenancy under clause 2 of Schedule 1 of the Residential Tenancies (Healthy Homes Standards) Regulations 2019.

- (2) In this regulation,—

community housing tenancy means a residential tenancy of premises that are community housing as defined in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992

DCT means the date of commencement of the tenancy

general tenancy means a residential tenancy that is not a boarding house tenancy, HNZ housing tenancy, or community housing tenancy

HNZ housing tenancy means a residential tenancy of premises that are HNZ housing as defined in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992.

43 Regulation 21 amended (Tenant is former owner of premises)

- (1) Replace regulation 21(1)(a) with:
 - (a) a person (the **new owner**) acquires another person's (the **former owner**) interest in any premises; and
- (2) In regulation 21(1)(b), replace “disposal” with “acquisition”.

44 New subpart 4 of Part 2 inserted

After regulation 29, insert:

Subpart 4—Amendments relating to Residential Tenancies (Healthy Homes Standards) Regulations 2019

30 Effective date

- (1) Regulations 31, 32, and 34 take effect on 2 July 2024.
- (2) Regulation 33 takes effect immediately after regulation 32.

31 Regulation 1 amended (Title)

In regulation 1, delete “and Insulation”.

32 Regulation 3 amended (Interpretation)

- (1) In regulation 3(1), revoke the definitions of **income-related rent tenancy**, **NZS 4246:2016**, **R-value**, **reasonable condition**, and **zone 1**, **zone 2**, and **zone 3**.
- (2) Revoke regulation 3(2).
- (3) In regulation 3(3), delete “or insulation” in each place.

33 Part 2 revoked

Revoke Part 2.

34 Schedule 1 amended

In Schedule 1, after clause 10, insert:

Part 3**Provision relating to Residential Tenancies (Healthy Homes Standards) Regulations 2019****11 References to previous Title**

On and after 2 July 2024, every reference in any enactment and in any other document to the Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016 must, unless the context otherwise provides, be read as a reference to the Residential Tenancies (Smoke Alarms) Regulations 2016.

Schedule 1

Transitional, savings, and related provisions

r 5

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Part 1

Provisions relating to these regulations as made

1 Interpretation

In this Part,—

community housing tenancy means a residential tenancy of premises that are community housing as defined in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992

general tenancy means a residential tenancy that is not a boarding house tenancy, HNZ housing tenancy, or community housing tenancy

HH start day, in relation to a tenancy, means the day specified in the table in clause 2 as the HH start day for a tenancy of that type (being the day on and after which the healthy homes standards must be complied with)

HNZ housing tenancy means a residential tenancy of premises that are HNZ housing as defined in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992

transitional insulation standard means the 2016 insulation regulations as continued by clause 3(1) (and therefore included in the healthy homes standards by operation of clause 13 of Schedule 1AA of the Act).

2 Application of sections 45(1)(bb) and 66I(1)(bb) of Act—dates for compliance with healthy homes standards

- (1) This clause prescribes times for the purposes of clause 12(5) and (6) of Schedule 1AA of the Act (which specifies when the healthy homes standards must be complied with).
- (2) The prescribed time for a tenancy of a type listed in the following table is the beginning of the day specified in the table as the HH start day for a tenancy of that type.

Type of tenancy	HH start day
Boarding house tenancy (but not HNZ housing tenancy or community housing tenancy)	1 July 2021
HNZ housing tenancy	1 July 2023
Community housing tenancy	1 July 2023
General tenancy	
(a) if DCT before 1 July 2021	
(i) if renewed on or after 1 July 2021 but before 2 April 2024	90th day after first renewal date after 1 July 2021
(ii) otherwise	1 July 2024
(b) if DCT on or after 1 July 2021 but before 2 April 2024	90th day after DCT
(c) if DCT on or after 2 April 2024	1 July 2024

- (3) The prescribed time for a tenancy, as determined under subclause (2), applies in relation to all the healthy homes standards except the transitional insulation standard (for that standard *see* clause 3).
- (4) In this clause, **DCT** means the date of commencement of the tenancy.

Transitional insulation standard

3 2016 insulation regulations continued as transitional insulation standard

- (1) The 2016 insulation regulations continue in force on and after 1 July 2019, and (as applicable) come into force on or after that date, as if they had been made under new section 138B(1).

- (2) For the purposes of clause 12(5) and (6) of Schedule 1AA of the Act (which specifies when the healthy homes standards must be complied with), the prescribed time in relation to the transitional insulation standard is,—
- (a) for a tenancy that commenced before 1 July 2019, the beginning of 1 July 2019; or
 - (b) for a tenancy that commences on or after 1 July 2019, the commencement of the tenancy.
- (3) In this clause,—
- 2016 insulation regulations** has the same meaning as in clause 13 of Schedule 1AA of the Act
- new section 138B(1)** means section 138B(1) of the Act as inserted by section 6 of the Healthy Homes Guarantee Act 2017.

Modification of standards for things installed before 1 July 2019

4 Heating standard—tolerance for existing insufficient heaters

- (1) This clause modifies regulation 8 in relation to living rooms that have certain large but insufficient heaters that were installed before 1 July 2019.
- (2) This clause applies if—
- (a) the main living room of residential premises is heated by 1 or more large heaters that were installed before 1 July 2019; and
 - (b) the total heating capacity of those large heaters is at least 90% of the required heating capacity for the living room.
- (3) Regulation 8(1) applies as if “90% of” were inserted before “the required heating capacity”.
- (4) If a landlord relies on this clause, the section 13A statement must include—
- (a) a statement to that effect; and
 - (b) a brief description of the circumstances giving rise to the application of this clause.
- (5) In this clause, **large heater** means a qualifying heater with a heating capacity of more than 2.4 kW.

5 Heating standard—electric heaters to top up existing heaters

- (1) This clause modifies the definition of unacceptable heater in regulation 9(2) in relation to certain living rooms that have insufficient heating that was installed before 1 July 2019.
- (2) This clause applies if—
- (a) the required heating capacity for a living room (**amount A**) is more than 2.4 kW; and

- (b) as at 1 July 2019 there were 1 or more qualifying heaters heating the living room; and
 - (c) the total heating capacity of those heaters (**amount B**) is less than the required heating capacity for the living room; and
 - (d) the difference between amount A and amount B is less than or equal to 1.5 kW.
- (3) In determining whether another heater, installed on or after 1 July 2019, is an unacceptable heater, regulation 9(2)(c) does not apply.
- (4) If a landlord relies on this clause, the section 13A statement must include—
- (a) a statement to that effect; and
 - (b) a brief description of the circumstances giving rise to the application of this clause.

6 Ceiling insulation installed before 1 July 2016—exemption from R-values

- (1) This clause modifies the definition of qualifying ceiling insulation in regulation 14 for certain ceiling insulation that was installed before 1 July 2016.
- (2) This clause applies if—
- (a) there is ceiling insulation covering a ceiling at residential premises; and
 - (b) the insulation was installed before 1 July 2016; and
 - (c) immediately before the HH start day for the tenancy, the landlord complied with the landlord’s obligations under Part 2 of the Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016; and
 - (d) the minimum thickness of the insulation material is at least 120 mm.
- (3) In determining whether the insulation is qualifying ceiling insulation, regulation 14(1)(a) does not apply.
- (4) If a landlord relies on this clause in relation to a ceiling, the section 13A statement must include—
- (a) a statement to the effect that this clause is relied on; and
 - (b) a brief description of the circumstances giving rise to the application of this clause.

7 Insulation installed before 1 October 2016—compliance with NZS 4246

- (1) This clause modifies the definition of qualifying ceiling insulation and qualifying underfloor insulation in regulations 14 and 16 for insulation installed before 1 October 2016.
- (2) If insulation was installed before 1 July 2016, regulation 14(1)(b) or 16(1)(b) does not apply.
- (3) If insulation was installed on or after 1 July 2016 but before 1 October 2016, regulation 14(1)(b) or 16(1)(b) applies as if “NZS 4246:2016” were replaced

with “New Zealand Standard NZS 4246:2006 Energy efficiency—Installing insulation in residential buildings”.

8 Ventilation standard—extractor fans installed before 1 July 2019

- (1) This clause modifies the requirements for extractor fans in regulation 23 for certain fans that were installed before 1 July 2019.
- (2) If an extractor fan was installed before 1 July 2019, regulation 23(2) or (3) does not apply.
- (3) If a landlord relies on this clause in relation to a kitchen or bathroom, the section 13A statement—
 - (a) need not include the information required by regulation 36(1)(b) for that room; but
 - (b) must include—
 - (i) a statement to the effect that this clause is relied on; and
 - (ii) a brief description of the circumstances giving rise to the application of this clause.

9 Ground moisture barrier installed before 1 July 2019

- (1) This clause modifies the installation requirements in regulation 28 for ground moisture barriers installed before 1 July 2019.
- (2) If a ground moisture barrier was installed before 1 July 2019, regulation 28(2)(a)(i) and (ii) does not apply.

Modification of general exemption for tenancy commencing before HH start day

10 Exemption if premises due to be demolished or substantially rebuilt—modification of date

- (1) This clause modifies the operation of regulation 31 in relation to tenancies that commence before their HH start day.
- (2) If a tenancy commenced before its HH start day, regulation 31 applies as if all the references in regulation 31 to the commencement of the tenancy were references to its HH start day.

Information and records

11 Application dates for information requirements

- (1) Subpart 1 of Part 3 applies to a tenancy agreement or renewal that is made and signed by the landlord on or after 1 July 2020 (even if that is before the tenancy’s HH start day).
- (2) However, that subpart does not apply to a tenancy agreement or renewal if—
 - (a) the tenancy is a fixed-term tenancy; and

- (b) the end of the term is before the tenancy's HH start day.

12 Information in section 13A statement before HH start day

- (1) This clause applies if—
 - (a) a tenancy agreement or renewal is made and signed by the landlord before the tenancy's HH start day; and
 - (b) a regulation in relation to which information is required by subpart 1 of Part 3 to be included in the section 13A statement is not complied with.
- (2) The section 13A statement in the tenancy agreement or renewal—
 - (a) need not include the information required in relation to that regulation to the extent that it does not exist or otherwise cannot be provided by the landlord; but
 - (b) must include a statement to the effect that compliance with the regulation is not required until the HH start day (which must be stated) or that the landlord will rely on an exemption (if applicable).

13 Application date for document retention requirements

- (1) Regulation 40 applies to all tenancies on or after 1 July 2019.
- (2) However, it only applies in relation to compliance with healthy homes standards that apply, or will apply, during the tenancy.
- (3) For a tenancy that commenced before 1 July 2019, regulation 40(2)(a) applies as if “the commencement of the tenancy or” were replaced by “1 July 2019 or subsequently”.

Schedule 2

Heating capacity of qualifying heaters in main living room

r 10

1 Interpretation

- (1) In this schedule,—

area, in relation to a building element of a living room, means the area of the face of the building element internal to the living room (but *see also* subclause (2))

conditioned space means a space within a building that is designed or built with the intention that it may be directly or indirectly heated or cooled for occupant comfort

construction R-value has the same meaning as in NZS 4218:2009 (but *see also* subclause (2))

thermal envelope, in relation to a building, means the building elements that together enclose all of the conditioned spaces within the building (being so much of the roof (if any) and all of the walls, ceilings, floors, windows, skylights, and doors that separate conditioned spaces from spaces within the building that are not conditioned spaces or from spaces outside the building)

window includes any transparent or translucent area in a building's thermal envelope other than a skylight.

- (2) For the purpose of determining its area or construction R-value, a window, skylight, or door is taken to include its frame and associated joinery.

2 Required heating capacity

The required heating capacity for a living room is to be calculated using the following formula:

$$h = [t + v + (f \times 40)] \div 1000$$

where—

h is the required heating capacity for the living room (kW)

t is the transmission heat loss of the living room (W) calculated under clause 3

v is the ventilation heat loss of the living room (W) calculated under clause 4

f is the area of the floor of the living room (m²).

3 Transmission heat loss

- (1) The transmission heat loss of a living room is to be calculated using the following formula:

$$t = [d + (e \times g)] \times (b - c)$$

where—

- t is the transmission heat loss of the living room (W)
- d is the transmission heat loss in respect of the living room's building elements that are part of the tenancy building's thermal envelope (W), calculated under subclause (2)
- e is the transmission heat loss in respect of the building elements that form the boundaries of the living room but are not part of the building's thermal envelope (W), calculated under subclause (3)
- g is the temperature adjustment factor for building elements that are not part of the tenancy building's thermal envelope, being 0.5
- b is the required internal temperature, being 18°C
- c is the assumed external temperature for the premises as set out in clause 5.

(2) The value of d is to be calculated using the following formula:

$$d = \sum_j (A_j \div R_j) + \sum_k (A_k \div R_k) + \sum_m (A_m \div R_m) + \sum_n (A_n \div R_n) + \sum_p (A_p \div R_p)$$

where—

- d is the transmission heat loss in respect of the living room's building elements that are part of the building's thermal envelope (W)
- A_j is the area of ceiling j (m²)
- R_j is the construction R-value of ceiling j (°Cm²/W)
- j is the numbering index for all of the living room's ceilings that are part of the building's thermal envelope
- A_k is the area of wall k (m²)
- R_k is the construction R-value of wall k (°Cm²/W)
- k is the numbering index for all of the living room's walls that are part of the building's thermal envelope
- A_m is the area of floor m (m²)
- R_m is the construction R-value of floor m (°Cm²/W)
- m is the numbering index for all of the living room's floors that are part of the building's thermal envelope
- A_n is the area of window n (m²)
- R_n is the construction R-value of window n (°Cm²/W)
- n is the numbering index for all of the living room's external windows
- A_p is the area of skylight p (m²)
- R_p is the construction R-value of skylight p (°Cm²/W)

p is the numbering index for all of the living room's skylights.

- (3) The value of e is to be calculated using the following formula:

$$e = \sum_q (A_q \div R_q) + \sum_s (A_s \div R_s) + \sum_u (A_u \div R_u)$$

where—

e is the transmission heat loss in respect of the building elements that form the boundaries of the living room but are not part of the building's thermal envelope (W)

A_q is the area of ceiling q (m^2)

R_q is the construction R-value of ceiling q ($^{\circ}Cm^2/W$)

q is the numbering index for all of the living room's ceilings that are part of the boundary of the living room but are not part of the building's thermal envelope

A_s is the area of wall s (m^2)

R_s is the construction R-value of wall s ($^{\circ}Cm^2/W$)

s is the numbering index for all the living room's walls that are part of the boundary of the living room but are not part of the building's thermal envelope

A_u is the area of floor area u (m^2)

R_u is the construction R-value of floor area u ($^{\circ}Cm^2/W$)

u is the numbering index for all of the living room's floors that are part of the boundary of the living room but are not part of the building's thermal envelope.

- (4) For the purposes of subclauses (2) and (3), if a ceiling, wall, or floor consists of 2 or more areas that have different construction R-values, each of those areas is taken to be a separate ceiling, wall, or floor.

4 Ventilation heat loss

The ventilation heat loss of a living room is to be calculated using the following formula:

$$v = w \times y \times z \times (b - c)$$

where—

v is the ventilation heat loss of the living room (W)

w is the internal volume of the living room (m^3)

y is the assumed air change rate of the living room, being 1.0

z is the assumed value for the density of air multiplied by the specific heat of air, being $0.34 \text{ Wh}/m^3K$

b is the required internal temperature, being $18^{\circ}C$

c is the assumed external temperature for the premises as set out in clause 5.

5 Assumed external temperature

The assumed external temperature for residential premises is the temperature set out in the following table for the territorial authority in whose district the premises are located.

Territorial authority	Assumed external temperature (°C)
Ashburton District Council	-5
Auckland Council	1
Buller District Council	-3
Carterton District Council	-4
Central Hawke's Bay District Council	-3
Central Otago District Council	-8
Chatham Islands Council	-1
Christchurch City Council	-4
Clutha District Council	-4
Dunedin City Council	-4
Far North District Council	2
Gisborne District Council	0
Gore District Council	-4
Grey District Council	-2
Hamilton City Council	-3
Hastings District Council	-2
Hauraki District Council	-2
Horowhenua District Council	-3
Hurunui District Council	-5
Hutt City Council	-1
Invercargill City Council	-4
Kaikōura District Council	1
Kaipara District Council	1
Kapiti Coast District Council	-3
Kawerau District Council	-2
Mackenzie District Council	-10
Manawatu District Council	-2
Marlborough District Council	-3
Masterton District Council	-4
Matamata–Piako District Council	-3
Napier City Council	-2
Nelson City Council	-3

Territorial authority	Assumed external temperature (°C)
New Plymouth District Council	0
Ōpōtiki District Council	-2
Otorohanga District Council	-3
Palmerston North City Council	-3
Porirua City Council	0
Queenstown–Lakes District Council	-6
Rangitikei District Council	-4
Rotorua District Council	-3
Ruapehu District Council	-5
Selwyn District Council	-4
South Taranaki District Council	-1
South Waikato District Council	-3
South Wairarapa District Council	-4
Southland District Council	-6
Stratford District Council	-2
Tararua District Council	-3
Tasman District Council	-4
Taupō District Council	-5
Tauranga City Council	0
Thames–Coromandel District Council	-1
Timaru District Council	-5
Upper Hutt City Council	-3
Waikato District Council	-2
Waimakariri District Council	-4
Waimate District Council	-5
Waipa District Council	-3
Wairoa District Council	0
Waitaki District Council	-5
Waitomo District Council	-3
Wellington City Council	2
Western Bay of Plenty District Council	-1
Westland District Council	-2
Whakatane District Council	-2
Whanganui District Council	-1
Whangarei District Council	2

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are made under the Residential Tenancies Act 1986 (the **Act**) as a consequence of its amendment by the Healthy Homes Guarantee Act 2017. The substantive part of those amendments will take effect on 1 July 2019.

The Act will then require the landlord under a residential tenancy to comply with healthy homes standards prescribed by regulations. These regulations prescribe those standards.

Commencement and compliance dates

These regulation come into force on 1 July 2019, but there is a transitional period before landlords have to comply with the standards. Compliance is being phased in for different types of tenancies, starting with boarding house tenancies on 1 July 2021, and with all tenancies being covered by 1 July 2024. The relevant dates (the **HH start days**) are set out in *clause 2 of Schedule 1*.

Healthy homes standards

The starting point for the healthy homes standards is *regulation 6*. It requires a landlord to ensure that—

- the premises (or, in some cases, the building that the premises are part of) meet the standards set out in *subparts 2 to 6 of Part 2*; and
- anything installed or provided at the premises for the purpose of complying with the standards is fit for purpose and is maintained in good working order (or, if it cannot be maintained, is replaced).

The standards in *subparts 2 to 6* that the premises (or building) must comply with relate to heating, insulation, ventilation, draughts, and moisture and drainage.

Heating standard

The main living room must have 1 or more qualifying heaters with a total heating capacity of at least the required heating capacity for the living room (as determined in accordance with *Schedule 2*). The formulas for determining the required heating capacity are designed so that the standard will require heaters that will be capable of maintaining the living room temperature at 18°C.

Qualifying heaters are prescribed in order to exclude various types of heaters that are dangerous, unhealthy, inefficient, or unreasonably expensive for tenants to operate.

There are exemptions for certain certified passive buildings (because they are designed to remain warm without heating) and if it is not reasonably practicable to install complying heating.

Insulation standard

Ceilings and suspended floors of domestic living spaces must be insulated with qualifying insulation unless there is another domestic living space immediately above the ceiling or below the floor, or it is not reasonably practicable to install insulation.

To be qualifying, insulation must have the requisite R-value (which is a measure of its thermal resistance), have been installed in accordance with the applicable New Zealand Standard, and be in reasonable condition.

The insulation standard is very similar to the general rules applying under the Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016, but *see below* about the transitional provisions.

Ventilation standard

A habitable space must have an openable window or external door. Habitable spaces include the living room, lounge, dining room, kitchen, and bedrooms, but not the bathroom, laundry, or hallways. Rooms that were lawfully constructed without openable windows or doors are exempt.

A kitchen or bathroom must have an extractor fan of the prescribed size or capacity. There is an exemption if the room was lawfully constructed without an extractor fan and it is not reasonably practicable to install one.

Draught stopping standard

Any open fireplace must be closed off or have its chimney blocked to prevent draughts. However, if the tenant requests (in writing) that the fireplace be available for use, the landlord may leave the fireplace open (but is not required to do so).

The premises must be free from unreasonable gaps and holes that allow draughts into or out of the premises.

Moisture ingress and drainage standard

The premises (or, if the premises are part only of a building, the building) must have a drainage system that efficiently drains storm water, surface water, and ground water to an appropriate outfall. The drainage system must include appropriate gutters, downpipes, and drains for the removal of water from the roof.

If the premises (or building) have a suspended floor and the subfloor space is enclosed, it must have a ground moisture barrier, unless it is not reasonably practicable to install one.

Exemptions

For all of the exemptions that depend on it being not reasonably practicable to install something, *regulation 4* provides a definition of that term.

There are also some general exemptions applicable to all the standards. *Regulation 30* provides a complete exemption from *regulation 6* if the tenant is the immediate past owner of the premises. *Regulation 31* also provides a complete exemption in certain

circumstances if the premises are due to be demolished or substantially rebuilt. These exemptions only apply for 12 months.

If the premises are part only of a building and the landlord does not own the whole building, this may impede the landlord's ability to comply with the healthy homes standards. *Regulation 32* modifies *regulation 6* in those circumstances to require the landlord to take all reasonable steps to ensure the standards are complied with to the greatest extent reasonably practicable.

Transitional modifications for things installed before 1 July 2019

As part of the transitional arrangements, *clauses 4 to 9 of Schedule 1* modify the standards in various cases where things, such as heaters or insulation, were installed before 1 July 2019. Note that even if one of these modifications applies, *regulation 6(2)(d)* still requires the landlord to maintain and, if necessary, replace the thing; and if the thing is replaced, the transitional provision will cease to apply.

Information in tenancy agreements or renewal

From 1 July 2019, section 13A of the Act will require a tenancy agreement or renewal to include a statement about compliance with the healthy homes standards, which must include any prescribed information. *Regulations 33 to 39* set out the information that must be included.

These provisions apply to a tenancy agreement or renewal that is made and signed by the landlord on or after 1 July 2020 (even if that is before the tenancy's HH start day). But they do not apply to a fixed-term tenancy that will expire before the HH start day (*see clause 11 of Schedule 1*).

If these requirements apply before a tenancy's HH start day and the landlord does not yet comply with the healthy homes standards (because it is before the landlord is required to do so), it may not be possible for the landlord to provide some of the required information. *Clause 12 of Schedule 1* modifies the information that the landlord needs to provide in such a case.

Record keeping

Section 123A of the Act requires a landlord under a tenancy to retain various records during, and for 12 months after the termination of, the tenancy, and to produce them on request to the chief executive. From 1 July 2019, this will include prescribed records relating to the landlord's compliance with the healthy homes standards.

Regulation 40 sets out the records that a landlord must retain in relation to a tenancy. It applies to all tenancies on and after 1 July 2019, but only in relation to compliance with healthy homes standards that apply, or will apply, during that tenancy (*see clause 13 of Schedule 1*).

Transitional insulation regulations

The Healthy Homes Guarantee Act 2017 will repeal former section 138B of the Act. This was the section under which the insulation provisions of the Residential Tenan-

cies (Smoke Alarms and Insulation) Regulations 2016 (the **2016 insulation regulations**) were made. In accordance with clause 13 of Schedule 1AA of the Act, *clause 3 of Schedule 1* of these regulations continues the 2016 insulation regulations as if they were healthy homes standards with effect from 1 July 2019.

The continued 2016 insulation regulations are then amended by *Part 4* of these regulations. *New regulation 10A* provides for the phasing out of the 2016 insulation regulations on the same dates as the healthy homes standards are phased in. The healthy homes standards will be fully in operation by 1 July 2024, so from that date the 2016 insulation regulations will be redundant as there will be no tenancies left to which they apply. Therefore, *new subpart 4* is inserted, which will, on 2 July 2024, amend the Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016 to delete all the provisions relating to insulation, and change their title to the Residential Tenancies (Smoke Alarms) Regulations 2016.

Regulatory impact assessment

The Ministry of Housing and Urban Development produced a regulatory impact assessment on 7 December 2018 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- <https://www.hud.govt.nz/assets/Residential-Housing/Healthy-Rental-Homes/Healthy-Homes-Standards/February-2019/Regulatory-Impact-Statement-Healthy-homes-standards-7-December-2018.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

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These regulations are administered by the Ministry of Housing and Urban Development.