



Nelson Marlborough  
District Health Board

# **Submission on Proposed Residential Tenancies Regulations for insulation and smoke alarms**

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## Introduction

1. Nelson Marlborough District Health Board (NMDHB) is a key organisation involved in the health and wellbeing of the people within Te Tau Ihu. NMDHB appreciates the opportunity to comment from a public health perspective on the Proposed Residential Tenancies Regulations for insulation and smoke alarms.
2. The NMDHB considers that housing is a key determinant of health and wellbeing. There are a number of health issues associated with poor housing quality. For example, cold damp housing is associated with increased rates of colds and flu and other infectious diseases, increased hospitalisations for respiratory and cardiovascular illnesses, and conditions such as fuel poverty and household crowding.<sup>1,2</sup> Poor quality housing is a major burden in New Zealand with substantial costs on society and the health system. For example, the health needs of children living in poverty costs the country at least \$2 billion per year, with a good proportion of that being attributable to cold damp housing.<sup>3</sup>
3. New Zealand's rental houses are generally in worse condition than owner-occupied houses with a higher incidence of dampness and mould, and a greater likelihood of exterior and interior components (e.g. windows, roof cladding, and kitchen and bathroom linings and fittings) to be in poor or serious condition.<sup>4</sup> The number of households renting is rising – In 2013, 453,135 households lived in rental homes, being nearly 65,000 more households than in 2006.<sup>5</sup> Of those living in rental housing, Maori, Pacific peoples, older people and children are disproportionately represented.<sup>6,7</sup>
4. As previously outlined in the NMDHB's submission on the Residential Tenancies Amendment Bill, the NMDHB supports action by central government to improve the quality of rental housing. However, as the NMDHB goes on to note, it considers that the Bill does not go far enough to address the well-established housing quality issues of New Zealand's rental housing stock or to protect the most vulnerable. It is the NMDHB's view that the introduction of a comprehensive rental property Warrant of Fitness (WOF) scheme would protect the most vulnerable by removing the responsibility of reporting non-compliance of minimum housing standards away from tenants,

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<sup>1</sup> Marmot Review Team. 2011. *The health impacts of cold homes and fuel poverty*. London: Friends of the Earth & the Marmot Review Team

<sup>2</sup> Gillespie-Bennett J, Keall M, Howden-Chapman P, Baker MG. 2013. *Improving health, safety and energy efficiency in New Zealand through measuring and applying basic housing standards*. New Zealand Medical Journal 126(1379)

<sup>3</sup> Every Child Counts. 2013. *For every child a healthy home: Housing*. Wellington: Every Child Counts

<sup>4</sup> Buckett NR, Jones MS, Marston NJ. 2012. *BRANZ 2010 house condition survey – Condition comparison by tenure*. BRANZ study Report 264. Judgeford: BRANZ Ltd

<sup>5</sup> Statistics New Zealand. 2014. *2013 Census QuickStats about housing*. Wellington: Statistics New Zealand

<sup>6</sup> Flynn M, Carne S, Soa-Lafoa'i M. 2010. *Maori housing trends 2010*. Auckland: Housing New Zealand Corporation

<sup>7</sup> Cowan V, Burrough L, Easton L. 2014. *Beacon resource: Performance of rental housing v3*. Report PUB/24 for Beacon Pathway Incorporated. Auckland: Beacon Pathway

would create a more robust, modernised, streamlined and simplified regulatory framework, and result in better health and safety outcomes for tenants.

5. Notwithstanding this position, the NMDHB would like to comment on the Proposed Residential Tenancies Regulations for insulation and smoke alarms for the event that the Bill is not amended to provide for a WOF scheme. Accordingly, this submission sets out specific matters of interest or concern to the NMDHB in relation to the Regulations including around smoke alarm and insulation standards, and enforcement measures.

### **Smoke alarm standards**

6. The Regulations propose that at least one working smoke alarm is located in the hall within three meters of each bedroom door. An alternative option to this proposal, set out in the Discussion Document, is the placement of smoke alarms in every bedroom, hallway and living area as recommended by the New Zealand Fire Service.
7. The NMDHB considers that the alternative option aligned with advice of the New Zealand Fire Service should be provided for. It is the NMDHB's view that this approach would provide added protection, particularly given many fatalities happen at night when people are sleeping and don't smell smoke.<sup>8</sup> Furthermore, many New Zealand children and other household members tend to sleep together in the same room to stay warm.<sup>9</sup> Such crowding may occur in the living room where the home's heating source is located and, therefore, under the proposed Regulations these households may not be protected by a smoke alarm.
8. The Regulations also propose that long life (10 year) photoelectric alarms are required to be installed where there are no existing alarms or where alarms are replaced.
9. The NMDHB supports the requirement for long life photoelectric alarms as well as the requirement that they are installed where there are no existing alarms. However, it considers that all existing alarms should also be replaced with long life photoelectric alarms by a specified date to make this provision more certain and enforceable, and to assist with reducing the risk of fire-related fatalities and injuries in a more timely manner. This is particularly important given that landlords could continue to replace batteries in existing standard smoke alarms for some time, or continue to buy and use standard smoke alarms (instead of installing long life photoelectric alarms) especially in a self-regulating setting as proposed.

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<sup>8</sup> New Zealand Fire Service. Smoke alarms. <http://www.fire.org.nz/Fire-Safety/Safety-Devices/Pages/Smoke-alarms-installation.html>

<sup>9</sup> Gillespie-Bennett J, Keall M, Howden-Chapman P, Baker MG. 2013. Improving health, safety and energy efficiency in New Zealand through measuring and applying basic housing standards. *New Zealand Medical Journal* 126(1379).

10. In terms of ensuring that smoke alarms are operational, the Regulations propose that landlords are responsible for making sure alarms are operational at the beginning of each tenancy and at any property inspection while tenants are responsible for changing batteries during the tenancy and reporting defective smoke alarms to the landlord.
11. The NMDHB agrees with the allocation of responsibilities with the exception of tenants being responsible for long life photoelectric battery changes during the tenancy. The NMDHB considers that battery changes and associated costs (around \$40 per battery) should be the responsibility of the landlord. This is particularly important for low-income tenants who may otherwise delay replacing batteries due to cost (as acknowledged in the Discussion Document albeit in relation to supporting the proposal of long life photoelectric alarms). It would also remove the possibility of uncertainty and conflict between landlords and tenants at the time of property inspections where an alarm is found to be needing a replacement battery – has the battery been needing replacing for some time during the tenancy but the tenant never replaced it as per their responsibilities, or is it the responsibility of the landlord given that they have to ensure that smoke alarms are operational at the time of a property inspection?
12. The NMDHB believes the above amendments would better provide for the key objective of the Residential Tenancies Amendment Bill to “reduce fire-related fatalities and injuries in residential properties”.

#### Decision sought

13. That the Regulations require the placement of smoke alarms in every bedroom, hallway and living area as recommended by the New Zealand Fire Service.
14. That the Regulations require all existing alarms to be replaced with long life photoelectric alarms by a specified date.
15. That the Regulations name the landlord as responsible for ensuring long life photoelectric alarms remain operational at all times, including in relation to changing batteries and covering the associated costs during a tenancy period. To this effect, the Regulations should state that tenants are responsible for reporting required battery changes to the landlord.

#### **Insulation standards**

16. The Regulations propose that rental properties must have ceiling and underfloor insulation in good repair that had a product R value of at least R1.9 and R0.9, retrospectively, at the time of installation. The NMDHB notes that these standards, which reflect 1978 requirements, are well below the minimum requirements of current standards and will result in 58% of energy being lost (compared to 48% energy loss retrofitting ceiling and underfloor insulation to current standards).

17. The Discussion Document to the proposed Regulations justifies the lower requirements by stating that “houses insulated in the walls [emphasis added], floors and ceilings under the 1978 requirements can outperform homes with reasonably high levels of just ceiling and underfloor insulation” and that “while the performance of these homes can still benefit from increased levels of ceiling and underfloor insulation, it may be more effective for the tenants if the landlord invests in a high efficiency fixed heating system or other energy efficiency measures instead”.
18. The NMDHB considers that there are several issues with these supporting statements. Firstly, it is thought that around 80% of rental houses have little or no wall insulation (compared with 45% of owner-occupied houses).<sup>10</sup> Secondly, while it might be true that a high efficiency fixed heating system or other energy efficiency measures could be more effective for tenants, the Regulations do not propose a provision requiring that these measures be installed.
19. Given the above factors, the NMDHB considers that rental properties should be required to meet current insulation standards. This would ensure that rental properties retain 10% more heat comparative to 1978 requirements.
20. The Regulations propose criteria for allowing certain rental properties to be exempt from insulation requirements, for example, where it is not practical to retrofit insulation due to physical design constraints (e.g. roof cladding or floor linings would need to be removed). The NMDHB supports a provision providing for exemptions for practicable reasons, however, it considers that the Regulations should require exempt properties (other than where a house is about to be demolished or substantially altered) to provide high efficiency low-polluting fixed heating systems as an alternative measure.
21. The NMDHB believes the above amendments would better provide for the key objective of the Residential Tenancies Amendment Bill to “make residential rental properties warmer, drier and easier to heat”.

#### Decision sought

22. That the Regulations require rental properties to meet current standards for ceiling and underfloor insulation.
23. That the Regulations include a provision whereby rental properties determined to be exempt from the insulation requirements (other than where a house is about to be demolished or substantially altered) are required to provide high efficiency low-polluting fixed heating systems as an alternative measure.

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<sup>10</sup> Buckett NR, Jones MS, Marston NJ. 2012. *BRANZ 2010 house condition survey – Condition comparison by tenure*. BRANZ study Report 264. Judgeford: BRANZ Ltd

## **Enforcement measures**

24. The Proposed Regulations provide for enforcement by way of a two step process. In the first instance where a tenant considers that a property does not meet the smoke alarm or insulation standards the tenant is to approach the landlord or property manager. If the issue is not resolved, the tenant can then take the case to the Tenancy Tribunal upon paying the associated application fee.
25. The NMDHB believes that there are several issues associated with the onus falling on the tenant to take action for a breach of standards. Firstly, the approach does not remove the potential for tension or conflict between tenants and landlords. Although the Bill intends to strengthen retaliatory notice<sup>1</sup> provisions, the Discussion Document to the proposed Regulations alludes to an existing reluctance by tenants to complain for fear of eviction despite the Residential Tenancies Act already prohibiting retaliatory notice. Therefore, strengthening existing provisions may do little to alleviate this fear. Secondly, it does not recognise that some vulnerable tenants may not have the knowledge, capacity or available finances to recognise or pursue a breach of standards.
26. The NMDHB considers that minimum housing standards need to be enforced independently of tenants. Accordingly, standards set need to be routinely monitored to ensure that they are adhered to and to ensure that all demographic groups have equal access to quality housing, including the most vulnerable.

## **Decision sought**

27. That the Regulations provide a system for monitoring and enforcing minimum standards independent of tenants, including routine compliance inspections and the development of meaningful penalties for non-compliance.

## **Conclusion**

28. The NMDHB thanks the Ministry of Business, Innovation and Employment for the opportunity to comment on the Proposed Residential Tenancies Regulations for insulation and smoke alarms.
29. While the NMDHB supports action by central government to improve the quality of rental housing, it considers that a comprehensive rental property WOF scheme would result in better health and safety outcomes for tenants. Notwithstanding this, the NMDHB has taken the time to comment on the proposed Regulations to provide for the event that a WOF scheme is not introduced under the Residential Tenancies Amendment Bill.

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<sup>1</sup> retaliatory notice is where a landlord gives notice to end a tenancy in retaliation for a tenant standing up for their rights as a tenant.

30. The NMDHB considers that amendments to the proposed Regulations in relation to smoke alarm and insulation standards and enforcement measures are needed to strengthen the provisions of the proposed Regulations and better provide for the key objectives of the Bill to “reduce fire-related fatalities and injuries in residential properties” and “make residential rental properties warmer, drier and easier to heat”, including by protecting the most vulnerable.
31. The NMDHB **does not wish to be heard** in support of its submission.

Yours sincerely



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