



Australian Capital Territory

# Residential Tenancies Amendment Regulation 2022 (No 1)

Subordinate Law SL2022-16

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The Australian Capital Territory Executive makes the following regulation under the *Residential Tenancies Act 1997*.

Dated 3 November 2022.

ANDREW BARR  
Chief Minister

SHANE RATTENBURY  
Minister

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# Residential Tenancies Amendment Regulation 2022 (No 1)

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## 1 Name of regulation

This regulation is the *Residential Tenancies Amendment Regulation 2022 (No 1)*.

## 2 Commencement

This regulation commences on 1 April 2023.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

**3 Legislation amended**

This regulation amends the *Residential Tenancies Regulation 1998*.

**4 New part 1 heading**

*insert*

**Part 1 Preliminary**

**5 Section 1AA**

*substitute*

**1AA Dictionary**

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition ‘*approved installer*, for part 3 (Minimum insulation standard for ceilings)—see section 8.’ means that the term ‘approved installer’ is defined in that section for part 3.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

**1AB Notes**

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

**6 New part 2 heading**

*before section 1A, insert*

**Part 2 General matters****7 New part 3**

*insert*

**Part 3 Minimum insulation standard for ceilings****8 Definitions—pt 3**

(1) In this part:

***approved installer*** means a person who satisfies the requirements determined under section 15.

***ceiling insulation*** means insulation intended to be used in ceiling spaces in residential premises.

***licensed electrician*** means a person who holds a licence as an electrician under the [Construction Occupations \(Licensing\) Act 2004](#) or the law of another jurisdiction.

***minimum ceiling insulation standard***—see section 10.

***required area***, for premises, means any habitable part of the premises.

***required ceiling insulation***, for the required area of premises, means—

- (a) if the required area has no existing ceiling insulation—ceiling insulation that has a R-value of 5 or more; and

- (b) if the required area has existing ceiling insulation batts—additional ceiling insulation batts so that the combined R-value of the insulation is 5 or more; and
- (c) if the required area has ceiling insulation that is non-cellulose loose-fill product—additional non-cellulose loose-fill product so that the combined R-value of the insulation is 5 or more.

*Note* Existing insulation that is cellulose-based loose-fill product that has a R-value of less than 2 must be removed, see s 11 (2).

**R-value** means the thermal resistance of the ceiling insulation as worked out in accordance with AS 4859.1 (Materials for the thermal insulation of buildings) as in force from time to time.

- (2) In this section:

**law of another jurisdiction** means a law of the Commonwealth or a State.

*Note* **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

## **9 Lessor must tell tenant about ceiling insulation**

- (1) A lessor or the agent of the lessor must not publish an advertisement for the lease of premises unless the advertisement states—
  - (a) whether the lessor complies with the minimum ceiling insulation standard; or
  - (b) if an exemption under section 12 or 13 applies and the lessor is not required to comply with the minimum ceiling insulation standard.
- (2) A lessor must include the following information in a proposed residential tenancy agreement for premises and allow the tenant a reasonable time to consider the information:
  - (a) a statement explaining whether the lessor complies with the minimum ceiling insulation standard;

- (b) if an exemption under section 12 or 13 applies to the lessor—
  - (i) a statement that the lessor is not required to comply with the minimum ceiling insulation standard; and
  - (ii) the reason why the lessor is not required to comply with the minimum ceiling insulation standard.
- (3) A lessor must, if asked by a tenant, give the tenant any document required to be kept by the lessor under section 14.
- (4) In this section:  
*publish*—see the Act, section 11A.

**10 Minimum insulation standard for ceilings—Act, s 136 (2) (d) (ii)**

- (1) A lessor of premises under a residential tenancy agreement must comply with the minimum ceiling insulation standard.
- (2) For this part, a lessor complies with the *minimum ceiling insulation standard* if—
  - (a) on the day this part commences, the premises have existing ceiling insulation that has a R-value of 2 or more in the required area; or
  - (b) the lessor complies with section 11.

**11 Requirement to upgrade ceiling insulation**

- (1) This section applies if—
  - (a) a lessor enters into a residential tenancy agreement for premises; and
  - (b) the premises have no ceiling insulation, or have existing ceiling insulation that has a R-value of less than 2, in the required area.

- (2) The lessor of the premises must ensure that, on or before the required date—
- (a) a licensed electrician does the following before any work is undertaken under paragraph (b) or (c):
    - (i) completes an inspection of the premises to identify any electrical work required to ensure the electrical safety of any electrical installation affected, or likely to be affected, by the installation of required ceiling insulation (the ***required electrical work***);
    - (ii) provides a report to the lessor—
      - (A) stating whether any required electrical work was identified by the electrician during the inspection; and
      - (B) if any required electrical work was identified during the inspection—details of the required electrical work;
    - (iii) completes any required electrical work;
    - (iv) if any required area has halogen downlighting—removes the halogen downlighting and replaces it with IC-4 rated LED downlighting; and
  - (b) if any required area has existing lower value insulation—the lower value insulation is removed by an approved installer; and
  - (c) required ceiling insulation is installed in the required area by an approved installer.

- (3) However, if the cost of complying with subsection (2) is likely to be more than \$10 000, the lessor is taken to comply with subsection (2) if the things mentioned in subsection (2) are done in as many designated rooms as possible for \$10 000.

*Note* If s (3) applies, the lessor is required to keep records showing the likely cost of the work (see s 14 (b)).

- (4) For subsection (3), the cost of complying with subsection (2)—
- (a) includes costs for any required electrical work and any other work necessary to ensure the safe and effective installation of ceiling insulation; but
  - (b) does not include any costs for maintenance work required or recommended to be undertaken even if ceiling insulation was not being installed in the premises.

**Example—par (a)**

replacing halogen downlighting with IC-4 rated LED downlighting

**Examples—par (b)**

replacing unsafe wiring, repairing rotted or rotting joists

- (5) In this section:

***designated rooms*** means entire rooms likely to be occupied for longer periods.

**Examples—rooms occupied for longer periods**

bedrooms, lounge rooms, living rooms

***electrical installation***—see the [Electricity Safety Act 1971](#), dictionary.

***IC-4 rated LED downlighting*** means light-emitting diode downlighting with an insulation contact rating of 4 in accordance with AS 60598.2.2:2001 (Luminaries) as in force from time to time.

***lower value insulation*** means insulation—

- (a) with a R-value of less than 2; and
- (b) that is foil laminated type product or cellulose-based loose-fill product.

***required date***, in relation to a residential tenancy agreement, means—

- (a) if the agreement is entered into before 1 April 2023—30 November 2026; or
- (b) if the agreement is entered into in the period starting on 1 April 2023 and ending on 30 November 2026—not later than 9 months after the day the agreement was entered into; or
- (c) if the agreement is entered into on or after 1 December 2026—not later than 3 months after the day the agreement was entered into; or
- (d) if an exemption under section 13 applies to the lessor and the exemption stops applying—
  - (i) before 1 April 2023—30 November 2026; or
  - (ii) in the period starting on 1 April 2023 and ending on 30 November 2026—not later than 9 months after the day the exemption stops applying; or
  - (iii) on or after 1 December 2026—not later than 3 months after the day the exemption stops applying.

**12 Exemptions—premises unsuitable for ceiling insulation**

A lessor of premises under a residential tenancy agreement is not required to comply with the minimum ceiling insulation standard in relation to a required area, or a part of a required area, of the premises if—

- (a) for premises, or part of premises, registered under the *Heritage Act 2004*—installation of required ceiling insulation in a required area would, or would be likely to, have a significant adverse impact on the heritage significance of the premises; or
- (b) the premises are a unit under the *Unit Titles Act 2001* in a building with 2 or more storeys and the required area is located immediately below another unit in the building; or
- (c) ceiling insulation is not able to be installed in a required area for structural reasons.

**Example—par (c)**

the roof cavity of a required area is too small to allow required ceiling insulation to be safely installed

**13 Exemptions—other reasons**

- (1) A lessor of premises under a residential tenancy agreement is not required to comply with the minimum ceiling insulation standard if 1 or more of the following applies:
  - (a) the tenant tells the lessor in writing that the tenant does not want ceiling insulation installed in the premises;
  - (b) before entering into the residential tenancy agreement, the lessor tells the tenant in writing that the lessor intends to demolish all of the premises, or a substantial part of the premises, within 2 years after the day the lessor enters into the agreement;
  - (c) the residential tenancy agreement is for a fixed term of 12 months or less and the tenant is the former owner of the premises;

- (d) the premises are a unit under the *Unit Titles Act 2001* on the top storey of a building and the lessor has written confirmation from the owners corporation for the building that the corporation—
  - (i) intends to arrange for required ceiling insulation to be installed in parts of the building, including the required area of the premises; or
  - (ii) refuses permission for the lessor to install required ceiling insulation.
- (2) The Minister may determine other reasons for exempting a lessor from complying with the minimum ceiling insulation standard.
- (3) A determination is a notifiable instrument.

#### **14 Lessor must keep evidence**

A lessor must keep the following records for premises occupied under a residential tenancy agreement:

- (a) if the lessor complies with the minimum ceiling insulation standard—evidence that the lessor complies;
- (b) if the cost of complying with section 11 (2) is likely to be more than \$10 000—a quote from an approved installer and a licensed electrician;
- (c) if the lessor is required to obtain a report from a licensed electrician under section 11 (2) (a) (ii)—the report;
- (d) if a licensed electrician undertakes electrical work under section 11 (2) (a) (iii) or (iv)—a certificate of electrical safety;

*Note 1* The *Electricity Safety Act 1971* requires a licensed electrician to issue a certificate of electrical safety if a new electrical installation is installed, or work is done on an existing electrical installation.

*Note 2* If a form for a certificate of electrical safety is approved under the *Electricity Safety Act 1971*, section 65, the licensed electrician must use the form.

- (e) if an exemption under section 12 or 13 applies to the lessor—
- (i) evidence supporting the exemption; or
  - (ii) for an exemption under section 13 (c)—a statutory declaration signed by the lessor declaring that the lessor intends to demolish all of the premises, or a substantial part of the premises, within 2 years after the day the lessor enters into the residential tenancy agreement.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

## **15 Approved installers**

- (1) The Minister may determine requirements a person must satisfy to install ceiling insulation for this part.
- (2) A determination may apply, adopt or incorporate a law or instrument, or a provision of a law or instrument, as in force from time to time.
- (3) A determination is a notifiable instrument.

## **16 Disapplication of Legislation Act, s 47 (5) and (6)**

The [Legislation Act](#), section 47 (5) and (6) do not apply to an Australian Standard applied, adopted or incorporated under this part.

*Note* An Australian Standard applied, adopted or incorporated under this part does not need to be notified under the [Legislation Act](#) because s 47 (5) and (6) do not apply (see [Legislation Act](#) s 47 (7)). Australian Standards may be purchased at [www.standards.org.au](http://www.standards.org.au).

## 8 New dictionary

*insert*

### Dictionary

(see s 1AA)

*Note 1* The [Legislation Act](#) contains definitions relevant to this regulation. For example:

- document
- in relation to
- may (see s 146)
- Minister (see s 162)
- month
- must (see s 146)
- notifiable instrument (see s 10)
- sign
- statutory declaration
- under.

*Note 2* Terms used in this regulation have the same meaning that they have in the [Residential Tenancies Act 1997](#). For example, the following terms are defined in the [Residential Tenancies Act 1997](#), dict:

- lessor (see s 5)
- residential tenancy agreement (see s 6A)
- tenant (see s 6).

***approved installer***, for part 3 (Minimum insulation standard for ceilings)—see section 8.

***ceiling insulation***, for part 3 (Minimum insulation standard for ceilings)—see section 8.

***licensed electrician***, for part 3 (Minimum insulation standard for ceilings)—see section 8.

*minimum ceiling insulation standard*, for part 3 (Minimum insulation standard for ceilings)—see section 10.

*required area*, for premises, for part 3 (Minimum insulation standard for ceilings)—see section 8.

*required ceiling insulation*, for the required area of premises, for part 3 (Minimum insulation standard for ceilings)—see section 8.

*R-value*, for part 3 (Minimum insulation standard for ceilings)—see section 8.

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## Endnotes

### 1 Notification

Notified under the [Legislation Act](#) on 11 November 2022.

### 2 Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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