



Australian Capital Territory

Residential Tenancies Amendment Regulation 2023 (No 1)

Subordinate Law SL2023-4

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

Dated 28 March 2023.

ANDREW BARR
Chief Minister

SHANE RATTENBURY
Minister



Australian Capital Territory

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made under the

[Residential Tenancies Act 1997](#)

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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1 Name of regulation

This regulation is the *Residential Tenancies Amendment Regulation 2023 (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4 Legislation repealed

The *Residential Tenancies Amendment Regulation 2022 (No 1)* (SL2022-16) is repealed.

5 New part 1 heading

insert

Part 1 Preliminary

6 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.

7 New part 2 heading

before section 1A, insert

Part 2 General matters

8 New part 3

insert

Part 3 Minimum housing standards— ceiling insulation standards

8 Definitions—pt 3

(1) In this part:

approved installer means a person who satisfies the requirements determined under section 13.

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

ceiling insulation standard—see section 9.

commencement day means 1 April 2023.

continuously tenanted, for a period, means premises are occupied for the period by—

- (a) a tenant under a residential tenancy agreement; and
- (b) a tenant, including a different tenant to the tenant mentioned in paragraph (a), under any subsequent residential tenancy agreement.

Example—continuously tenanted

A lessor enters into a residential tenancy agreement on 1 January 2024 for a fixed term of 6 months. The lessor enters into a subsequent agreement for the premises with a different tenant for a fixed term of 6 months. The premises are taken to be continuously tenanted for the period from 1 January 2024 until the subsequent agreement ends.

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.

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

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

- (a) any ceiling insulation in a required area that, on the commencement day, has an R-value of 2 or more; or
- (b) for any required area that does not comply with paragraph (a)—
 - (i) if the required area does not have existing ceiling insulation—ceiling insulation that has an R-value of 5 or more; or
 - (ii) 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; or

- (iii) if the required area has existing 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 an R-value of less than 2 must be removed, see s 10 (2) (c).

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, a State or the Northern Territory.

9 Minimum housing standard for ceiling insulation—Act, s 19A (1) (b)

The minimum housing standard for ceiling insulation (the **ceiling insulation standard**) in premises is that the premises have required ceiling insulation installed in all required areas of the premises.

10 Installing or upgrading ceiling insulation to comply with ceiling insulation standard

- (1) This section applies if a lessor is required to install or upgrade ceiling insulation for premises to comply with the ceiling insulation standard.
- (2) The lessor must, on or before the required date—
 - (a) ensure that, before any work is undertaken under paragraph (c) or (d), a licensed electrician does the following:
 - (i) completes an inspection of the premises to identify any required electrical work;

- (ii) gives the lessor a report (a ***required electrical work report***)—
 - (A) stating whether any required electrical work was identified during the inspection; and
 - (B) if required electrical work was identified during the inspection—that includes details of the required electrical work;
 - (iii) completes any required electrical work;
 - (iv) if required electrical work is completed—gives the lessor a report (a ***completed electrical work report***) that includes details of the completed work; and
 - (b) before any work is undertaken under paragraph (c) or (d), give a copy of the required electrical work report and the completed electrical work report to any approved installer who is to undertake the work mentioned in paragraph (c) or (d); and
 - (c) if any required area has existing lower value insulation—ensure that the lower value insulation is removed by an approved installer; and
 - (d) ensure that required ceiling insulation is installed in the required area by an approved installer.
- (3) However, if the cost of a lessor complying with subsection (2) is likely to be more than \$10 000, the lessor is taken to comply with subsection (2) if, on or before the required date, the things mentioned in that subsection 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 12 (1) (a)).

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

Example—par (a)

changing a circuit protection rating to allow for the effects of thermal insulation on the wiring system

Example—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 that—

- (a) has an R-value of less than 2; and
- (b) is—
 - (i) foil laminated type product; or

- (ii) cellulose-based loose-fill product.

required date means—

- (a) 30 November 2026 if—
 - (i) a residential tenancy agreement (the **first agreement**) is entered into before 1 April 2023; and
 - (ii) the premises are continuously tenanted in the period beginning on 1 April 2023 and ending on 30 November 2026; or
- (b) 9 months after the day the first agreement is entered into if—
 - (i) the first agreement is entered into in the period beginning on 1 April 2023 and ending on 30 June 2026; and
 - (ii) the premises are continuously tenanted in the period beginning on the day the first agreement is entered into and ending 9 months after the first agreement is entered into; or
- (c) 3 months after the day the first agreement is entered into if—
 - (i) the first agreement is entered into on or after 1 December 2026; and
 - (ii) the premises are continuously tenanted in the period beginning on the day the first agreement is entered into and ending 3 months after the first agreement is entered into; or
- (d) if an exemption under section 11 applies to the premises and—
 - (i) the exemption stops applying in the period starting on 1 April 2023 and ending on 30 June 2026—9 months after the day the exemption stops applying; or

- (ii) the exemption stops applying on or after 1 July 2026—
within 3 months after the day the exemption stops
applying.

required electrical work means—

- (a) if a required area has halogen or other incandescent recessed
downlighting—
 - (i) removing the downlighting; and
 - (ii) installing IC-4 rated LED downlighting in the required
area; and
- (b) installing a residual current device on any electrical circuit
affected, or likely to be affected, by the installation of required
ceiling insulation; and
- (c) any other electrical work that is necessary to ensure the electrical
safety of an electrical installation affected, or likely to be
affected, by the installation of required ceiling insulation.

11 Exemptions from complying with ceiling insulation standard

- (1) Premises are exempt from complying with the ceiling insulation
standard in relation to a required area, or part of a required area, if
1 or more of the following applies:
 - (a) ceiling insulation is not able to be installed in a required area for
structural reasons;

Example
the roof cavity of a required area is too small to allow required ceiling
insulation to be safely installed
 - (b) the premises are not continuously tenanted in the relevant
period;
 - (c) the tenant tells the lessor in writing that the tenant does not want
ceiling insulation installed in the premises;

- (d) for premises that are a unit under the *Unit Titles Act 2001*—both of the following apply:
 - (i) the premises are in a building with 2 or more storeys; and
 - (ii) the required area is located immediately below another unit in the building;
 - (e) for premises that are a unit under the *Unit Titles Act 2001*—both of the following apply:
 - (i) the premises are on the top storey of a building;
 - (ii) the lessor has written confirmation from the owners corporation for the building that the corporation—
 - (A) intends to arrange for required ceiling insulation to be installed in parts of the building, including the required area of the premises; or
 - (B) refuses permission for the lessor to install required ceiling insulation.
 - (f) for premises, or part of premises, registered under the *Heritage Act 2004*—installation of required ceiling insulation in the required area would, or would be likely to, have a significant adverse impact on the heritage significance of the premises;
 - (g) before entering into a 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;
 - (h) a residential tenancy agreement is for a fixed term of 12 months or less and the tenant is the former owner of the premises.
- (2) The Minister may determine other reasons for exempting premises from complying with the ceiling insulation standard.
- (3) A determination is a notifiable instrument.

(4) In this section:

relevant period means the following:

- (a) if a residential tenancy agreement (the *first agreement*) is entered into before 1 April 2023—the period beginning on 1 April 2023 and ending on 30 November 2026;
- (b) if the first agreement is entered into in the period starting on 1 April 2023 and ending on 30 November 2026—the period beginning on the day the first agreement is entered into and ending 9 months after the first agreement is entered into;
- (c) if the first agreement is entered into on or after 1 December 2026—the period beginning on the day the first agreement is entered into and ending 3 months after the first agreement is entered into.

12 Lessor must keep records—Act, s 19C (c)

(1) A lessor must keep the following records in relation to premises made available for occupation under a residential tenancy agreement:

- (a) if the cost of a lessor complying with section 10 (2) is likely to be more than \$10 000—a quote from an approved installer and a licensed electrician;
- (b) if the lessor is required to obtain a required electrical work report under section 10 (2) (a) (ii)—the report;
- (c) if a licensed electrician completes required electrical work under section 10 (2) (a) (iii)—a certificate of electrical safety;

Note 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.

- (d) if an exemption under section 11 applies to the premises—the following:
 - (i) evidence supporting the exemption;

- (ii) for an exemption under section 11 (1) (g)—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).

- (2) In this section:

required electrical work—see section 10 (5).

required electrical work report—see section 10 (2) (a) (ii).

13 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.

14 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. Australian Standards are also available for inspection by members of the public at the National Library of Australia.

9 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 housing standards—ceiling insulation standards)—see section 8.

ceiling insulation, for part 3 (Minimum housing standards—ceiling insulation standards)—see section 8.

ceiling insulation standard, for part 3 (Minimum housing standards—ceiling insulation standards)—see section 9.

commencement day, for part 3 (Minimum housing standards—ceiling insulation standards)—see section 8.

continuously tenanted, for a period, , for part 3 (Minimum housing standards—ceiling insulation standards)—see section 8.

licensed electrician, for part 3 (Minimum housing standards—ceiling insulation standards)—see section 8.

required area, for premises, for part 3 (Minimum housing standards—ceiling insulation standards)—see section 8.

required ceiling insulation, for part 3 (Minimum housing standards—ceiling insulation standards)—see section 8.

R-value, for part 3 (Minimum housing standards—ceiling insulation standards)—see section 8.

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 29 March 2023.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
