

EXPLANATORY MEMORANDUM

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) AMENDMENT (SMOKE ALARMS) BILL 2007

CLAUSE 1. SHORT TITLE

Clause 1 provides that the name of this Bill when enacted is the *Local Government (Miscellaneous Provisions) Amendment (Smoke Alarms) Act 2007* (Amendment Act).

CLAUSE 2. THE ACT AMENDED

Clause 2 provides that the amendments are to the *Local Government (Miscellaneous Provisions) Act 1960* (the Act).

CLAUSE 3. PART IX INSERTED

This clause inserts a new Part into the Act –

Part IX – Smoke alarms in buildings

Section 246. Application of this Part

Subsection (1) This ensures that this Part is consistent with existing exemptions for buildings in certain districts or parts of districts. The effect of existing exemptions is that the obligation in the Building Code of Australia (adopted pursuant to the Act) to have hard-wired mains powered smoke alarms in all *new* residential buildings (and subsequently altered ones) constructed since 1997 does not apply to exempted districts or parts of districts. It would be inconsistent if existing residential buildings subject to sale or rental in certain exempted districts or parts of districts were required to have hard-wired smoke alarms installed but new residential buildings (and subsequently altered ones) constructed since 1987 in the same districts or parts of districts were not.

Subsection (2) provides consistency with existing exemptions regarding:

- buildings owned or occupied by the Crown in right of the State; or
- a park home or annexe, which are not classified as buildings under the Building Code of Australia.

Subsection (3) provides that this Part will apply to existing buildings as well as new buildings.

Section 247. Local laws may require smoke alarms

Subsection (1) enables local laws to be made under the *Local Government Act 1995* to prescribe the circumstances under which a building prescribed in the regulations must have any required smoke alarm. These requirements will apply to new and existing buildings, however they will only apply if a prescribed circumstance occurs after the commencement of the Amendment Act.

Subsection (2) enables local laws to:

- (a) impose different obligations on different persons to achieve the purpose described in subsection (1). For example, a vendor could be obliged to fit a smoke alarm before registration of a transfer of land title occurs and after that a current owner could be obliged to maintain that alarm to the standard required.
- (b) in situations where a person who is required to fit or maintain a smoke alarm has failed to do so:
 - (i) require another person to fit or maintain a smoke alarm (for example, a new owner may be obliged to fit a complying smoke alarm or alarms if the previous owner has failed to do so and the transfer of land title has been registered);
 - (ii) empower a local government to take necessary reasonable action to ensure a smoke alarm is fitted or maintained;
- (c) enable the amount of any reasonable costs incurred by another person or a local government pursuant to paragraph (b) to be made recoverable from a person whose failure resulted in that paragraph applying.

Section 248. Regulations may require smoke alarms

This new section allows the State government to make regulations for anything about smoke alarms that could be dealt with by a local law under section 247. Section 9.60 of the *Local Government Act 1995* provides that such regulations would apply as if they were local laws and local governments would be required to administer them accordingly.