

In Confidence

Office of the Associate Minister of Housing

Chair, Cabinet Legislation Committee

Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2025

Proposal

- 1 This paper seeks authorisation to submit minor and technical amendments to the Residential Tenancies (Healthy Homes Standards) Regulations 2019 to the Executive Council.

Policy

- 2 The Residential Tenancies (Healthy Homes Standards) Regulations 2019 (the HHS) became law on 1 July 2019, and introduced minimum standards for heating, insulation, ventilation, moisture ingress and drainage, and draught stopping in rental properties.
- 3 The HHS came into force in stages, and full compliance was required as of 1 July 2025. The Smoke Alarm and Insulation Regulations 2016 (the Insulation Regulations) served as transitional regulations, and automatically ceased to apply in respect to insulation on 1 July 2025.¹
- 4 Minor and technical changes are proposed through the Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2025 (the Amendment Regulations) to improve the clarity and overall functioning of the system.
- 5 These changes will provide clarity and make compliance with the HHS easier for both social housing and private landlords.
- 6 The proposed changes are to:
 - 6.1 Replicate a partial exemption which allows for a premises to meet alternative requirements for ceiling insulation requirements from the Insulation Regulations to the HHS. This change was agreed to by Cabinet in March 2024 [CAB-24-MIN-0069 refers]
 - 6.2 Clarify that where both the HHS and the Housing Improvement Regulations 1947 (HIR) apply to a property, specified HHS requirements prevail. These specified requirements relate to heating devices, ventilation, and water drainage. The primary legislation was amended in 2019 and authorised the disapplication of HIR provisions that overlapped with the HHS. Following this, LEG noted that a further Cabinet paper would be submitted by the

¹ Both the HHS and the Insulation Regulations were issued through the Residential Tenancies Act 1986.

Minister of Housing [LEG-19-MIN-0050 refers], but this work was then deprioritised, and the regulations have not yet been updated.

Enabling alternative methods to meet ceiling insulation requirements

- 7 Some properties, including recently built ones, were partially exempt from the HHS ceiling insulation requirements under regulation 19 of the Insulation Regulations, which allowed properties to comply with alternative ceiling insulation requirements to those in the HHS.
- 8 These properties were designed to meet performance-based insulation standards under the Building Act 2004, which are comparable to the HHS and demonstrate compliance with Clause H1 (Energy Efficiency) of the Building Code of the time.² For example, properties built with skillion roofs (a flat/low pitched roof with little to no ceiling cavity) can compensate for a lack of ceiling insulation with higher levels of insulation in the walls, floors or windows.
- 9 The Insulation Regulations ceased to apply in respect to insulation on 1 July 2025. This means there may be instances where properties that were previously exempt from the HHS ceiling insulation requirements under regulation 19 of the Insulation Regulations are no longer exempt – despite meeting the performance-based insulation standards under the Building Act 2004. These properties must now comply with the ceiling insulation requirements of the HHS unless a new exemption is provided.
- 10 The replication of the regulation 19 exemption in the Insulation Regulations into the HHS will avoid unnecessary compliance costs for landlords, as upgrading insulation may be difficult, expensive or even impossible in some properties due to building design.
- 11 s 9(2)(h)
[Redacted]
[Redacted]
[Redacted]
- 12 The existing exemption applies if the insulation was installed before 1 July 2016. Regulation 19A in the Amendment Regulations will apply in respect of properties that received building consent after 2007/08. Accordingly, for properties that received consent between 2007/08 and 1 July 2016, both exemptions may potentially apply.
- 13 However, clause 6 in the Schedule 1 of the HHS covers legacy insulation installed prior to 1 July 2016, while the new regulation 19A is targeted at newer buildings designed under modern Clause H1 settings using performance-based compliance.
s 9(2)(h)
[Redacted]

² Compliance Document for New Zealand Building Code: Clause H1 Energy Efficiency – Third Edition (Archived), Department of Building and Housing, 2006, page 24. < <https://www.building.govt.nz/assets/Uploads/building-code-compliance/h1-energy-efficiency/asvm/H1-energy-efficiency-3rd-edition-unamended.pdf> >

Clarifying that specified HHS requirements prevail where there is overlap

14 The Housing Improvement Regulations 1947 (HIR) set minimum requirements that houses must meet. Originally, they were made under the Housing Improvement Act 1945 but are now in force under the Health Act 1956, and are enforced by local authorities. Several parts of the HIR overlap and conflict with the HHS, which has led to confusion over which set of regulations take precedence.

15 s 9(2)(h) [REDACTED]

16 I am now seeking approval to carry this change through to the regulations to disapply the following provisions of the HIR, which overlap with the HHS. Under section 7.95(d) of the Cabinet Manual, these are routine changes and therefore do not require new policy decisions from Cabinet.

HIR Regulations	HHS Regulations
Reg 6 requires every living room to be fitted with a fireplace and chimney, or other approved form of heating.	Regulation 8 of the HHS requires the main living room to have 1 or more qualifying heaters, or geothermal heating, which meets certain specifications.
Reg 9(1) requires an openable window or other adequate means of ventilation in bathrooms.	Regulation 23 of the HHS requires rooms with baths or showers (“bathrooms”) installed to have an extractor fan. Regulation 24 provides an exemption if this is not reasonably practicable.
Reg 11(3) requires a window of a specified size, for ventilation purposes for a habitable room.	Regulation 21 of the HHS has similar requirements for openable windows or doors of a specified size. Regulation 22 provides an exemption in some circumstances.
Regs 14(1) and 14(2) requires the efficient drainage of storm, surface and ground water, and sets minimum requirements for drainage systems.	Regulation 27 of the HHS has similar requirements for efficient drainage, and minimum requirements for drainage systems.

17 The Amendment Regulations 2025 specifies that the above HHS regulations prevail over their HIR equivalents, as enabled by Section 138D of the Residential Tenancies Act 1986. To avoid inconsistency, the specified HIR regulations would cease to apply to only rental properties where the HHS applies, as the two frameworks have different scopes and rules. These HIR provisions would still apply to non-rental properties where the HHS does not apply.

s 9(2)(h) [REDACTED]

Timing and 28-day rule

- 18 These regulations will come into force on 25 September 2025, being no less than 28 days after being notified in the Gazette.

Compliance

- 19 These regulations comply with
- 19.1 the principles of the Treaty of Waitangi;
 - 19.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 19.3 the principles and guidelines set out in the Privacy Act 2020;
 - 19.4 relevant international standards and obligations;
 - 19.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 20 There are no grounds for the Regulations Review Committee to draw these regulations to the attention of the House of Representatives as a Standing Order requirement.

Certification by Parliamentary Counsel

- 21 The Amendment Regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

- 22 A Regulatory Impact Assessment was prepared in accordance with the necessary requirements, and was submitted at the time that Cabinet approval was sought of the policy relating to the regulations [CAB-24-MIN-0069].
- 23 The Ministry for Regulation has determined that the additional proposal, to disapply certain provisions of the Housing Improvement Regulations 1947 for properties already covered by similar requirements in the HHS is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor economic, social, or environmental impacts.

Publicity

- 24 These changes will be published in the New Zealand Gazette, and changes reflected in legislation.govt.nz.

Proactive release

- 25 A version of this paper will be published the Ministry of Housing and Urban Development's website following agreement to the proposals set out in this paper. The paper will be published subject to withholdings that are consistent with the grounds provided for in the Official Information Act 1982.

Consultation

- 26 The following agencies were consulted on the proposals in this paper: Ministry of Business, Innovation and Employment, Kāinga Ora – Homes and Communities, the Ministry of Health - Manatū Hauora, and the Parliamentary Counsel Office. The Ministry for Regulation has been informed of this paper.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 11 March 2024 Cabinet agreed to add an exemption for ceiling insulation requirements to the HHS [CAB-24-MIN-0069 refers];
- 2 **agree** that the Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2025 will disapply provisions of the Housing Improvement Regulations 1947 relating to heating, ventilation and drainage, for properties already covered by similar requirements in the HHS;
- 3 **note** that section 138D of the Residential Tenancies Act 2019 allows for provisions of the Housing Improvement Regulations 1947 to be disapplied in the circumstances described in recommendation 2;
- 4 **note** that the section 7.95(d) of the Cabinet Manual stipulates that if secondary legislation is routine and does not require new policy decisions, the Minister may authorise drafting without reference to Cabinet, which has occurred in this case for the changes sought in recommendation 2;
- 5 **note** that the Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2025 gives effect to the decisions noted and agreed to in recommendations 1 and 2 respectively;
- 6 **authorise** the submission to the Executive Council of the Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2025; and
- 7 **note** that the Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2025 will come into force on 25 September 2025, being no less than 28 days after being notified in the Gazette.

Hon Tama Potaka

Associate Minister for Housing