



## Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2022

Cindy Kiro, Governor-General

### Order in Council

At Wellington this 11th day of April 2022

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 138B of the Residential Tenancies Act 1986 on the advice and with the consent of the Executive Council.

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## Regulations

### 1 Title

These regulations are the Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2022.

### 2 Commencement

These regulations come into force on 12 May 2022.

### 3 Principal regulations

These regulations amend the Residential Tenancies (Healthy Homes Standards) Regulations 2019.

### 4 Regulation 3 amended (Interpretation)

In regulation 3(1), insert in their appropriate alphabetical order:

**building consent** has the same meaning as in section 7(1) of the Building Act 2004

**conditioned space** means a space within a building that is designed or built with the intention that it may be directly or indirectly heated or cooled for occupant comfort

**geothermal energy** has the same meaning as in section 2(1) of the Resource Management Act 1991

**modern dwelling**, in relation to premises or a tenancy building, means premises or a tenancy building that first received building consent—

(a) on or after the following date for its zone:

(i) 30 September 2008, for zone 1:

- (ii) 30 June 2008, for zone 2;
- (iii) 31 October 2007, for zone 3; or
- (b) before the applicable date in paragraph (a) if—
  - (i) insulation and glazing have been installed throughout the thermal envelope of the premises or tenancy building; and
  - (ii) the insulation and glazing meets or exceeds NZS 4218:2009 for that zone

**qualifying ventilation** means—

- (a) mechanical ventilation that—
  - (i) is designed to vent extracted air continuously from residential premises to the outdoors; and
  - (ii) for a kitchen or bathroom, extracts the air directly from the room; and
  - (iii) was installed in premises or a tenancy building that first received building consent on or after 1 November 2019; and
  - (iv) was part of the original building consent for the premises or tenancy building; and
  - (v) continues to meet the requirements of the building consent; or
- (b) mechanical ventilation that—
  - (i) is designed to vent extracted air continuously from residential premises to the outdoors; and
  - (ii) for a kitchen or bathroom, extracts the air directly from the room; and
  - (iii) is designed to provide ventilation for multiple rooms; and
  - (iv) for a kitchen, has an exhaust capacity of at least 12 ℓ/s; and
  - (v) for a bathroom, has an exhaust capacity of at least 10 ℓ/s

**relevant apartment** means premises in a tenancy building that consists of 3 storeys or more and contains 6 or more commercial or residential premises

**suitably qualified specialist** means—

- (a) a chartered professional engineer within the meaning set out in section 6 of the Chartered Professional Engineers of New Zealand Act 2002; or
- (b) an International Professional Engineer registered with Engineering New Zealand; or
- (c) a person who—
  - (i) has completed a tertiary engineering, physics, or building science qualification at New Zealand Qualifications Framework Level 7 or above; and

- (ii) has at least 5 years of professional experience in heating system design

**thermal envelope**, in relation to a building, means the building elements that together enclose all of the conditioned spaces within the building (being so much of the roof (if any) and all of the walls, ceilings, floors, windows, skylights, and doors that separate conditioned spaces from spaces within the building that are not conditioned spaces or from spaces outside the building)

**zone 1**, **zone 2**, and **zone 3** have the same meanings as in Appendix B of NZS 4218:2009

## 5 Regulation 8 amended (Main living room must have qualifying heaters)

Replace regulation 8(1) with:

- (1) The main living room of the premises must be heated—
  - (a) by 1 or more qualifying heaters with a total heating capacity of at least the required heating capacity for the main living room; or
  - (b) by 1 or more qualifying heaters as assessed under regulation 10A; or
  - (c) by geothermal heating as provided in regulation 10B.

## 6 Regulation 10 amended (Required heating capacity)

Replace regulation 10(1) with:

- (1) The **required heating capacity** for a living room is—
  - (a) determined in accordance with Schedule 2; or
  - (b) if regulation 10A is relied upon, as assessed by the specialist in accordance with that regulation.

## 7 New regulations 10A and 10B inserted

After regulation 10, insert:

### 10A Alternative compliance pathway for heating standard

- (1) A main living room complies with regulation 8 if it is heated by 1 or more qualifying heaters with a total heating capacity of at least the required heating capacity determined in accordance with subclause (2).
- (2) For the purposes of this clause, the **required heating capacity** for a living room is the heating capacity that a suitably qualified specialist has assessed as sufficient—
  - (a) to heat the living room to at least 18°C; and
  - (b) to do so within 2 hours after an 8-hour period of disuse; and
  - (c) to maintain the living room at 18°C despite the expected transmission, infiltration, and ventilation heat losses of the living room, including heat losses to—

- (i) external air; and
  - (ii) the ground; and
  - (iii) other parts of the building or any adjoining structure.
- (3) The specialist must base the assessment on the assumed external temperature for residential premises in the relevant district set out in clause 5 of Schedule 2.

#### **10B Geothermal heating system satisfying heating standard**

The main living room is regarded as complying with regulation 8 if it is heated by a heater that—

- (a) is powered by geothermal energy; and
- (b) provides direct heat to the main living room; and
- (c) does not have a stated heating capacity, and for which it is not possible to state its heating capacity.

#### **8 Regulation 14 amended (Qualifying ceiling insulation)**

Revoke regulation 14(4).

#### **9 Regulation 23 replaced (Extractor fans for kitchens and bathrooms)**

Replace regulation 23 with:

#### **23 Mechanical ventilation standard for kitchens and bathrooms**

- (1) Each kitchen and bathroom in the premises must have installed in it—
- (a) an extractor fan; or
  - (b) qualifying ventilation.
- (2) For a kitchen that has an extractor fan,—
- (a) the fan and all exhaust ducting must have a diameter of at least 150 mm; or
  - (b) the fan and all exhaust ducting must have an exhaust capacity of at least 50 ℓ/s.
- (3) For a bathroom that has an extractor fan,—
- (a) the fan and all exhaust ducting must have a diameter of at least 120 mm; or
  - (b) the fan and all exhaust ducting must have an exhaust capacity of at least 25 ℓ/s.

#### **10 Regulation 24 amended (Exemption from extractor fan standards if not reasonably practicable to install)**

- (1) In the heading to regulation 24, replace “**extractor fan standards if**” with “**mechanical ventilation standard if extractor fan**”.
- (2) Replace regulation 24(1)(a) with:

- (a) at the commencement of the tenancy,—
  - (i) the room does not have an extractor fan or qualifying ventilation;
  - (ii) it is not reasonably practicable to install an extractor fan so as to comply with the requirements of regulation 23(2) and (3):

- (3) In regulation 24(2), replace “regulation 23” with “the requirements of regulation 23(2) and (3)”.

**11 Regulation 29 amended (Exemption from ground moisture barrier standard if not reasonably practicable to install)**

- (1) In regulation 29(1)(b), replace “that regulation” with “regulation 28(2)(a)”.
- (2) In regulation 29(2), replace “28” with “28(2)(a)”.

**12 Regulation 32 amended (Modified standard if landlord not owner of whole of tenancy building)**

- (1) After regulation 32(3), insert:
- (4) For the purposes of applying regulation 6(2) as modified by subclause (3)(b) of this regulation to satisfy the requirement to take all reasonable steps to ensure that heating meets the standard to the greatest extent reasonably practicable, the landlord—
  - (a) must not install an unacceptable heater; and
  - (b) if the required heating capacity for the living room is greater than 2.4 kW, must install at least 1 qualifying heater that has a heating capacity of at least 2 kW.
- (5) An electric heater referred to in subclause (4)(b) is not an unacceptable heater, despite regulation 9(2)(c).
- (2) In regulation 32, example, replace “for example, by installing a different kind of qualifying heater that does not require an external unit, even if its heating capacity is less than the required 3 kW” with “which he might do by installing a different kind of qualifying heater that has a heating capacity of at least 2 kW, such as an electric heater”.

**13 Regulation 34 amended (Information about heating standard)**

- (1) In regulation 34(1), after “must”, insert “, (subject to subclauses (2) to (5)),”.
- (2) In regulation 34(2), replace “However, if” with “If”.
- (3) After regulation 34(2), insert:
- (3) If the landlord relies on the alternative compliance pathway provided by regulation 10A for the heating of the main living room to comply with regulation 8, the section 13A statement—
  - (a) must include the information required by subclause (1); and
  - (b) must include—

- (i) a statement to the effect that the landlord is relying on regulation 10A; and
  - (ii) the name and relevant qualifications of the specialist who made the assessment; and
  - (iii) a brief description of the circumstances giving rise to the application of that regulation.
- (4) If the landlord relies on regulation 10B for geothermal heating of the main living room to be regarded as complying with regulation 8, the section 13A statement—
- (a) need not include the information required by subclause (1); but
  - (b) must include—
    - (i) a statement to the effect that the landlord is relying on regulation 10B; and
    - (ii) a brief description of the circumstances giving rise to the application of that regulation.
- (5) If the landlord relies on the heating capacity formula in clause 2(2) of Schedule 2 for a living room of a modern dwelling or relevant apartment, the section 13A statement must include—
- (a) the information required by subclause (1); and
  - (b) a brief description of the circumstances giving rise to the application of that formula.

#### 14 Regulation 35 amended (Information about insulation standards)

In regulation 35(3)(a), replace “(1)(b)(iii)” with “(1)(b)(ii)”.

#### 15 Regulation 36 amended (Information about ventilation standards)

- (1) Replace regulation 36(1)(b) with:
- (b) for each kitchen and bathroom in the premises, whether it has an extractor fan or qualifying ventilation installed in it; and
  - (c) for each kitchen and bathroom in the premises, if any, that has an extractor fan installed in it, the extractor fan’s diameter or exhaust capacity; and
  - (d) for each kitchen and bathroom in the premises, if any, that has qualifying ventilation installed in it, a brief description, including its exhaust capacity, of how the qualifying ventilation meets the definition of **qualifying ventilation** in regulation 3(1).
- (2) In regulation 36(3)(b)(i), replace “requirement to have an extractor fan” with “mechanical ventilation standard”.

**16 Regulation 38 amended (Information about moisture ingress and drainage standards)**

In regulation 38(3), replace “28” with “28(2)(a)”.

**17 Regulation 40 amended (Documents to be retained by landlord)**

(1) In regulation 40(3), definition of **relevant records or documents**, paragraph (c), after “living room’s required heating capacity”, insert “, including the required heating capacity that resulted from the calculations,”.

(2) In regulation 40(3), definition of **relevant records or documents**, after paragraph (c), insert:

- (ca) if the main living room complies with regulation 8 by meeting the requirements of regulation 10A,—
- (i) the name and relevant qualifications of the specialist who made the assessment; and
  - (ii) a description of how the specialist calculated the required heating capacity:

**18 Schedule 1 amended**

(1) In Schedule 1, clause 2(2), after “table”, insert “, subject to subclause (3),”.

(2) In Schedule 1, replace clause 2(3) with:

(3) The prescribed time for a tenancy, as determined under subclause (2), applies in relation to all the healthy homes standards except—

- (a) the amendments to the heating standard made by the Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2022 (the **amendment regulations**) in relation to certain general tenancies of modern dwellings or relevant apartments (*see* subclause (3A)); and
- (b) the transitional insulation standard (for that standard, *see* clause 3).

(3A) Despite subclause (2), for the general tenancy of a modern dwelling or relevant apartment that has an HH start day in the period starting on the date on which the amendment regulations come into force (the **commencement date**) and ending on the date that is 9 months after the commencement date, the date for compliance with the heating standard as amended by the amendment regulations is the date that is 9 months after the commencement date.

(3) In Schedule 1, clause 4(2)(b) and (3), replace “90%” with “80%”.

(4) In Schedule 1, clause 5(2)(d), replace “1.5” with “2.4”.

**19 Schedule 2 amended**

(1) In Schedule 2, clause 1(1), revoke the definitions of **conditioned space** and **thermal envelope**.

(2) In Schedule 2, clause 2, after “living room”, insert “, other than the living room of a modern dwelling or relevant apartment,”.

(3) In Schedule 2, clause 2, insert as subclause (2):

(2) The required heating capacity for a living room of a modern dwelling or relevant apartment is to be calculated using the following formula:

$$h = (t + v) \times 1.2 \div 1,000$$

where—

h is the required heating capacity for the living room (kW)

t is the transmission heat loss of the living room (W) calculated under clause 3

v is the ventilation heat loss of the living room (W) calculated under clause 4.

(4) In Schedule 2, replace clause 3(1) with:

(1) The transmission heat loss of a living room is to be calculated using the following formula:

$$t = [ d + (e \times g) ] \times (b - c)$$

where—

t is the transmission heat loss of the living room (W)

d is the transmission heat loss in respect of the living room's building elements that are part of the tenancy building's thermal envelope (W/°C), calculated under subclause (2)

e is the transmission heat loss in respect of the building elements that form the boundaries of the living room but are not part of the building's thermal envelope (W/°C), calculated under subclause (3)

g is the temperature adjustment factor for building elements that are not part of the tenancy building's thermal envelope,—

(a) for a modern dwelling or relevant apartment, being 0.25; or

(b) otherwise, being 0.5

b is the required internal temperature, being 18°C

c is the assumed external temperature for the premises as set out in clause 5.

(5) In Schedule 2, clause 3(2), formula, item d, replace “(W)” with “(W/°C)”.

(6) In Schedule 2, clause 3(3), formula, item e, replace “(W)” with “(W/°C)”.

(7) In Schedule 2, replace clause 4 with:

#### 4 Ventilation heat loss

The ventilation heat loss of a living room is to be calculated using the following formula:

$$v = w \times y \times z \times (b - c)$$

where—

|   |                                                                                                                                                   |
|---|---------------------------------------------------------------------------------------------------------------------------------------------------|
| v | is the ventilation heat loss of the living room (W)                                                                                               |
| w | is the internal volume of the living room (m <sup>3</sup> )                                                                                       |
| y | is the assumed air change rate of the living room,—<br>(a) for a modern dwelling or relevant apartment, being 0.5; or<br>(b) otherwise, being 1.0 |
| z | is the assumed value for the density of air multiplied by the specific heat of air, being 0.34 Wh/m <sup>3</sup> K                                |
| b | is the required internal temperature, being 18°C                                                                                                  |
| c | is the assumed external temperature for the premises as set out in clause 5.                                                                      |

Michael Webster,  
Clerk of the Executive Council.

### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 12 May 2022, amend the Residential Tenancies (Healthy Homes Standards) Regulations 2019 (the **principal regulations**) and the healthy homes standards set out in those regulations.

The amendments include the following:

- revising the heating capacity formula for certain apartments and modern dwellings, recognising the better thermal performance of those premises:
- allowing a grace period for landlords of certain of those premises to comply with the new heating capacity formula:
- providing an alternative pathway for all rental homes to compliance with the heating standard, relying on an assessment of the heater by a suitably qualified specialist:
- allowing electric heaters to boost the heating capacity to what is required when qualifying heaters installed before 1 July 2019 are short of capacity by 2.4 kW or less, rather than the current 1.5 kW or less:
- relaxing the tolerance for existing large but non-qualifying heaters installed before 1 July 2019, so that living room heaters at or above 80% of the required heating capacity are regarded as meeting that capacity, instead of the current 90%:
- allowing qualifying ventilation for kitchens and bathrooms, although the ducting used by those systems is often smaller than is required for extractor fans:

- recognising systems that provide living rooms with heat that is generated geothermally as meeting the heating standard even though it is not possible to state the heating capacity of the systems:
- modifying the standard if the landlord is not the owner of the whole tenancy building and so cannot meet the heating standard, clarifying that, while taking all reasonable steps to meet the heating standard to the greatest extent reasonably practicable, the landlord must not install an unacceptable heater, and must install at least 1 qualifying heater that has a heating capacity of at least 2 kW. If the required heating capacity for a room is greater than 2 kW, an electric heater is not an unacceptable heater, despite regulation 9(2)(c) of the principal regulations:
- removing an unintended requirement on landlords that, in circumstances where it is not reasonably practicable to install a polythene film barrier (or similar product) but it is reasonably practicable to install an alternative product, a landlord will not be required to install an alternative product instead. The amendment ensures that the minimum requirement of the moisture ingress and drainage standard is a polythene barrier and landlords are never compelled to install an alternative moisture barrier:
- other technical and minor amendments.

### **Regulatory impact statement**

The Ministry of Housing and Urban Development produced a regulatory impact statement on 5 October 2021 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- [Regulatory-Impact-Statement-Amendments-HHS.pdf](#) (hud.govt.nz)
- <https://treasury.govt.nz/publications/informationreleases/ris>

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These regulations are administered by the Ministry of Housing and Urban Development.