

# Issues Paper

# Review of Minimum Housing Standards in South Australia

Regulation Review - *Housing Improvement Regulations 2017*



**Government of South Australia**

Department for Communities  
and Social Inclusion

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# 1. Introduction

## 1.1. Background

Since the introduction of the *Housing Improvement Act 1940* (the 1940 Act), South Australia had a specific legislative regime to regulate the minimum standards of residential properties.

A review of the 1940 Act commenced in 2009 in order to update the legislation to become more effective in regulating minimum housing standards.

On 3 April 2017, the new *Housing Improvement Act 2016* (the Act) commenced, repealing the former 1940 Act. The new Act introduced a modern legislative regime for regulating the minimum standards of residential properties. This included reforming the way in which orders are issued, the powers of authorised officers, and compliance and enforcement options.

During the review of the 1940 Act, it became evident that the minimum standards prescribed in the Housing Improvement Regulations required review. It was decided that a review of the regulations would be most effective following the commencement and implementation of the new Act. As such, the existing minimum standards continued in the new *Housing Improvement Regulations 2017*, with only minor, administrative changes.

The Housing Safety Authority (the Authority) has received approval from the Minister for Social Housing, the Hon Zoe Bettison MP, to commence the regulation review process. This Issues Paper has been prepared by the Authority following preliminary consultation with staff from the Authority, and research and analysis of the regulation of minimum housing standards in various jurisdictions.

Specifically, this Issues Paper will focus on property conditions that have been identified in preliminary research and consultation as either:

- (a) Current prescribed minimum standards that require more clarity; or
- (b) Minimum standards that are currently not regulated.

## 1.2. Risk Based Regulation

The *Housing Improvement Act 2016* (the Act) provides measures to address housing that is unsafe or unsuitable for human habitation, and to control the rent of unsafe or unsuitable housing.<sup>1</sup> The Act imposes obligations on all owners and occupiers of residential premises to ensure the property meets the prescribed minimum standards set out in the *Housing Improvement Regulations 2017* (the Regulations).<sup>2</sup>

While the National Construction Code (NCC) sets minimum standards for the design, performance and construction of buildings throughout Australia, properties may fall into disrepair or be modified post construction. Often the condition of, or modifications to, the property, may pose a health and safety risk to

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<sup>1</sup> *Housing Improvement Act 2016* (SA).

<sup>2</sup> Section 3, *Housing Improvement Act 2016* (SA).

the owners, occupiers and visitors. The Regulations set a minimum standard for existing residential properties, post construction.

The Housing Safety Authority (the Authority) is responsible for the administration of the Act and the Regulations on behalf of the Minister for Social Housing. The Authority cannot pursue all complaints or issues about housing-related health and safety. While all complaints are carefully considered, the Authority's role is to focus on circumstances that will, or have the potential to, cause harm to members of the community.

In general terms, once the magnitude of the issues and associated risks have been considered, a determination of the most appropriate and effective regulatory action(s) to take in response to the issues and associated risk will be made. Under the Act, the Authority may issue Orders to property owners outlining health and safety issues to be rectified, providing compliance deadlines and limiting the amount of rent payable for the residential premises. All Orders issued by the Authority are based on an Authorised Officers assessment of whether the residential premises meets the minimum standards outlined in the Regulations.

*Disclaimer – recommended wording of any prescribed minimum standards may change following proper legislative drafting by the Office of Parliamentary Counsel.*

## 2. Consultation

This Issues Paper is designed for consultation with stakeholders and members of the public. We invite your views and comments, as well as your responses to a series of questions posed in an accompanying survey.

Until 17 November 2017, you can make a submission:

**Online:**

By registering on **YourSAy** and completing the survey

**By Email:**

Sending a formal written submission to [housingimprovenet@sa.gov.au](mailto:housingimprovenet@sa.gov.au) – with subject ‘Regulation Review Submission’:

**By mail:**

Sending a formal written submission to:

Regulation Review Submissions  
Housing Safety Authority  
GPO Box 292  
Adelaide SA 5001

**Note:** Unless you label your submission as confidential, your submission or its contents may be made publically available in this and any other subsequent review process. Submissions may be subject to Freedom of Information and other laws. The Housing Safety Authority reserved the right to not publish information that could be seen to be defamatory or discriminatory.

# 3. Scope

## 3.1. Scope of Legislation

Section 5 of the *Housing Improvement Act 2016* (the Act) outlines the aspects in respect of a residential premises about which regulations may be made prescribing the minimum standards. Regulations cannot be made outside the scope of the legislations.

- (1) The Governor may make regulations establishing the standards that must be met for residential premises to be considered safe and suitable for human habitation (the ***prescribed minimum housing standards***).
- (2) Without limiting the generality of subsection (1), regulations made under this section may make provision for or in relation to any of the following:
  - (a) the construction, condition, utility, amenity and situation of premises and any fixtures, fittings or facilities provided with premises;
  - (b) the cleanliness and sanitation of premises and any fixtures, fittings or facilities provided with premises;
  - (c) the alteration, relocation, repair and maintenance of premises and any fixtures, fittings or facilities provided with premises;
  - (d) environmental performance (including water and energy efficiency) of premises and any fixtures, fittings or facilities provided with premises;
  - (e) the dimensions of rooms of premises;
  - (f) access to and within premises, and egress from premises;
  - (g) toilet, bathroom, laundry and kitchen areas and facilities in premises;
  - (h) drainage, ventilation and lighting of premises;
  - (i) the supply of water, gas and electricity to premises;
  - (j) construction materials used in premises, and any fixtures, fittings or facilities provided with premises, that pose or may pose a risk to human health;
  - (k) the protection of premises from flooding, damp, dust and other external pollutants and infestation by vermin;
  - (l) the fire safety of premises.

## 3.2. Scope of Regulation Review

The review of the *Housing Improvement Regulation 2017* will include only a review of the minimum housing standards, prescribed in Part 3 of the Regulations.

The review will not include:

- Any review on the Act;
- Any review of Parts 1 or 2, or Schedule 1 or 2 of the Regulations;
- Any tenancy related matters;
- Discussion around licensing regimes for Rooming Houses;

## 4. Glossary

Authorised Officer	An officer authorised under section 9 of the Act.
The Authority	Housing Safety Authority (formerly Housing Improvement Branch)
HIB	Housing Improvement Branch (former name for Housing Safety Authority)
The Act	<i>Housing Improvement Act 2016</i>
The Regulations	<i>Housing Improvement Regulations 2017</i>
The 1940 Act	<i>Housing Improvement Act 1940</i> (now repealed)
NCC	National Construction Code
Habitable Room	A room used, or intended to be used, as a bedroom, kitchen, dining or living area.

# 5. Property Conditions

The following list of property conditions have been identified as areas that require inclusion or further clarity within the prescribed minimum housing standards.

## 5.1. Access & Egress

Under **section 5(1) and (2)(f)** of the Act

Safe access to and egress from premises is fundamental to occupants' safety and security, in particular in regard to:

- Safe egress from the premises in event of fire or security breaches;
- Safe access to the premises by visitors or emergency services (including with an ambulance stretcher).

Currently, the minimum standards regulate only one aspect of these health and safety concerns:

*the residential premises must be safely accessible to pedestrians from a public road.*<sup>3</sup>

The National Construction Code (NCC) includes substantial guidance on the requirements for access and egress in the construction of all types of residential dwellings,<sup>4</sup> highlighting the significance of safe access to and egress from a premises.

Access and egress may be affected by a range of factors including:

- Lack of appropriate exits in appropriate areas of the premises;
- Degradation of trafficable areas and structures;
- Hoarding and squalor;
- Natural disasters.

It is recommended that specific regulations regarding access to, and egress from premises are included in minimum standards.

**Should the prescribed minimum standards include provisions to regulate safe access to and egress from existing residential premises?**

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<sup>3</sup> Section 13(r), *Housing Improvement Regulations 2017* (SA).

<sup>4</sup> Australian Building Codes Board, *National Construction Code (NCC)* (2016) Volume 1, Section D.

## 5.2. Asbestos

Under **section 5(1) and (2)(a), (c), (j) and (k)** of the Act

The risks of asbestos exposure are well known and documented. If asbestos containing materials are in good condition, they do not pose a risk to health and safety. It is only when the asbestos containing materials are broken or exposed that there are serious concerns regarding health and safety.

The Authority is regularly requested to investigate residential premises that were built during the ‘asbestos era’, and often encounter suspected exposed asbestos.

Currently, there is no minimum standard regulating asbestos exposure in the Regulations. The only way the Authority can capture exposed asbestos under the regulations is through section 9(a)(ii):

*The residential premises and any fixtures, fittings or other facilities provided within the residential premises...must not present a health hazard.*

Although it is recommended that a contractor is engaged to conduct the high risk removal of asbestos, there are no legal requirements in South Australia for owners of residential premises to have a licence to remove any asbestos.<sup>5</sup>

If a contractor is engaged to remove the asbestos, the residential premises (or part of) becomes a workplace while the work is being undertaken, and the contractor is obliged to comply with the methods and standards of asbestos removal established by the *Work Health and Safety Act 2012 (SA)* and *Work Health and Safety Regulations 2012 (SA)*. In this case, the legal duties to protect health and safety are placed on the contractor/licensed asbestos removalist, not the homeowner.<sup>6</sup> All other Australian jurisdictions have similar requirements regarding asbestos removal.

If the Authority identifies suspected exposed asbestos in a residential property, they have a duty of care to regulate the health and safety risks. As such, it is recommended that should the Authority issue an Order compelling the owner to the repair or remove exposed asbestos, the minimum standard should require that the owner *must* engage a contractor.

A recent article about asbestos exposure in a private rental property in Victoria highlights the gaps in the ability to compel owners to remove or repair exposed asbestos to a certain standard, within a specified timeframe.<sup>7</sup>

**Is a specific prescribed minimum standard around the repair or removal of exposed asbestos required in the Housing Improvement Regulations?**

<sup>5</sup> Government of South Australia, *Safe removal at Home* (21 June 2017).

<sup>6</sup> Government of South Australia, *Safe removal at Home* (21 June 2017).

<sup>7</sup> Hermant, Norman, ABC News, *Asbestos spread through their share house, but these women had to fight for months to get compensation* (12 September 2017).<sup>7</sup>

**Should the prescribed minimum standard around the repair or removal of exposed asbestos compel a homeowner to engage a contractor to remove exposed asbestos, therefore being subject to the Work Health and Safety Act and Regulations?**

### 5.3. Damp

Under **section 5(1) and (2)(h) and (k)** of the Act

Dampness and mould growth is one of the 29 hazard groups identified in the UK's *Housing Health and Safety Rating System*.<sup>8</sup> Resulting effects of dampness in residential premises, including mould growth, pose risks to health and wellbeing. Some health risks associated with mould growth and exposure include:

- Respiratory illness (i.e. aggravation of asthmatic symptoms, wheezing, difficulty breathing, chest tightness, nasal and sinus congestion, coughing);<sup>9</sup>
- Irritation of skin and eyes;<sup>10</sup>
- Lead exposure as a result of fretting paint;<sup>11</sup>

Dampness in and of itself does not necessarily pose a health and safety risk. It is when the existence of damp results in secondary effects, including mould growth, that it becomes a risk to health and safety.

The current regulations state that:

*The residential premises must be reasonably free from moisture and damp (whether caused by ground moisture, rain or other precipitation or defective plumbing or drainage).*<sup>12</sup>

Historically, a strict interpretation of the current regulation has been problematic, as it may be reasonable to consider that *any* existence of moisture or damp is not 'reasonably free', whether or not there are any signs of the secondary effects of dampness.

The 2007 *Hampel*<sup>13</sup> case established that the mere existence of damp is not enough in itself to classify a property as substandard. There must be consideration of the extent of the issue, and the risks posed by the damp.

It is recommended that the prescribed minimum standard should focus on regulating the risks associated with the resulting effects of dampness.

**Is the measure of 'reasonable free from moisture and damp' adequate and appropriate to address the risks?**

<sup>8</sup> UK Department for Communities and Local Government, '*Housing Health and Safety Rating System – Guidance for Landlords and Property Related Professionals*' (HHSRS) (May 2006).

<sup>9</sup> SA Health, *Household Mould* (5 December 2016).

<sup>10</sup> SA Health, *Household Mould* (5 December 2016).

<sup>11</sup> SA Health, *Lead Paint* (29 May 2017).

<sup>12</sup> Section 13(o), *Housing Improvement Regulations 2017* (SA).

<sup>13</sup> *Hampel & Hampel v South Australian Housing Trust* [2007] SADC 64.

Should the prescribed minimum standard refer to residential premises being reasonably free from the effects of moisture and damp? i.e.:

***“The residential premises must be reasonably free from the effects of moisture and damp (whether caused by ground moisture, rain or other precipitation or defective plumbing or drainage)”***

## 5.4. Electrical Standards

Under **section 5(1) and (2)(a), (c) and (i)** of the Act

Minimum electrical standards are currently regulated by section 12 of the Regulations. This section requires electricity supply, installations and alterations to be compliant with the *Electricity Act 1996*:

*the residential premises must have a sufficient and continuously available supply of electricity;*<sup>14</sup>

*each habitable room in the residential premises and each room containing toilet, bathroom or laundry facilities must have at least 1 electric light fixture and a sufficient number of electrical power points as reasonably required for domestic purposes;*<sup>15</sup>

*each electrical installation in the residential premises must comply with the law in force at the time of such installation (whether the Electricity Act 1996 or a corresponding previous enactment);*<sup>16</sup>

*each alteration to, or relocation, repair or maintenance of, an electrical installation must comply with the law in force at the time of such alteration, relocation, repair or maintenance (whether the Electricity Act 1996 or a corresponding previous enactment);*<sup>17</sup>

The Authority regularly inspects properties that pose health and safety risks as a result of unsafe electrical supply and installation.

The Authority is satisfied that electrical standards are captured within the existing minimum standards, and that the *Electricity Act 1996*, and associated *Electricity (General) Regulations 2012* and Australian/New Zealand Standards, appropriately regulate the supply, installation and alteration.

**Do the current prescribed minimum standards regarding electricity supply, installation and alteration effectively regulate minimum electrical standards?**

<sup>14</sup> Section 12(a), *Housing Improvement Regulations 2017* (SA).

<sup>15</sup> Section 12(b), *Housing Improvement Regulations 2017* (SA).

<sup>16</sup> Section 12(c), *Housing Improvement Regulations 2017* (SA).

<sup>17</sup> Section 12(d), *Housing Improvement Regulations 2017* (SA).

## 5.5. Energy Efficiency Standards

Under **section 5(2)(d)** of the Act

All new residential premises built in South Australia must meet minimum energy efficiency standards prescribed in the NCC, however there is no scheme within South Australia that regulates the energy efficiency of existing residential properties.

Housing with poor energy efficiency contributes to energy hardship, particularly for low income households. Tenants in private rental properties can be at a greater disadvantage, as landlords are responsible for most energy consuming equipment, such as heating, cooling, and water heating,<sup>18</sup> while the tenant pays the energy bills. Therefore, landlords may not realise the benefit in investing in energy efficiency in a property in which they do not live.<sup>19</sup>

It is difficult to retrospectively impose energy efficiency standards on existing properties. As an alternative, several jurisdictions have introduced schemes where energy efficiency certificates or statements are required to be provided at the time of sale or lease of a property, so prospective purchasers or tenants are at the very least informed about the energy performance of the property.<sup>20 21</sup>

The Act provides the option to make regulations regarding the environmental performance (including energy efficiency) of the premises and any fixtures, fittings, or facilities provided.

The purpose of the minimum standards is to regulate health and safety risks in residential premises and it is not recommended that the Regulations are the appropriate mechanism to incorporate an energy efficiency scheme in South Australia.

Alternatively, some options to incorporate some energy efficiency aspects into the minimum standards may be to include requirements such as:

- that all premises must be appropriately insulated;
- that doors and windows are able to be closed to effectively heat and cool the premises.
- that all water heaters are fit for purpose and do not present a health or safety risk.

**Should the minimum standards include provisions about specific aspects affect power consumption?**

<sup>18</sup> Government of South Australia, *Home Energy Use* (4 April 2017).

<sup>19</sup> NSW Office of Environment and Heritage, *A Draft Plan to Save NSW Energy and Money* (2016).

<sup>20</sup> In the UK, it is compulsory to have an Energy Performance Certificate (EPC) at time of build, sale or rent. From 1 April 2018, it will be compulsory for every premises in the private rental sector to have an EPC and a minimum rating.

<sup>21</sup> In the ACT, it is a requirement for new and existing homes to have an Energy Efficiency Rating (EER) Statement prepared by an accredited assessor.

## 5.6. Fire Safety

Under **section 5(1) and (2)(a), (j) and (l)** of the Act

There are several aspects which contribute to the fire safety of a residential premises. Some aspects include:

### 5.6.1. Smoke Alarms

Minimum standards in relation to smoke alarms are regulated by section 13(k):

*the residential premises must be fitted with smoke alarms in accordance with regulation 76B of the Development Regulations 2008,<sup>22</sup>*

The Authority is satisfied that this minimum standards are effectively captured within the existing minimum standards and the Development Regulations.

### 5.6.2. Access and Egress

Refer to section 5.1

### 5.6.3. Maintenance of Premises & Grounds

The current minimum standards establish an obligation under section 13(q)(ii) that the residential premise is maintained to prevent a fire hazard.

The Authority is satisfied that this minimum standard allows appropriate opportunity to use discretion in addressing risks of fire hazard posed by degradation of the premises.

### 5.6.4. Fire Safe Materials & Construction

The NCC establishes the requirements regarding fire safe materials and construction when building a new residential premises.

There is currently no minimum standard within the Regulations which specifically regulates the use of fire safe materials and construction for existing properties. At best, this can be captured within the general health and safety regulation:

*The residential premises and any fixtures, fittings or other facilities provided with the residential premises...(ii) must not present a health hazard;<sup>23</sup>*

Sparked by the 'Grenfell Tower' fire in London,<sup>24</sup> the use of fire safe materials in residential buildings has been recently highlighted as a gap in the regulatory scheme.

<sup>22</sup> Section 13(k), *Housing Improvement Regulations 2017* (SA).

<sup>23</sup> Section 9(a)(ii), *Housing Improvement Regulations 2017* (SA).

<sup>24</sup> BBC News, *London fire: What happened at Grenfell Tower?* (19 July 2017).

The UK's *Housing Health and Safety Rating System* lists the following as preventative measures that could have an effect on the likelihood and harm outcomes in relation to fire safety:<sup>25</sup>

- Fire and smoke permeable resistant materials in design of the building;
- Design and construction of the building to limit the spread of fire/smoke.

It is recommended that the regulations incorporate a minimum standard in relation to fire safe construction materials and building design.

**Should the prescribed minimum standard make provisions in relation to fire safe materials and building design?**

## 5.7. Insect screens

Under **section 5(1) and (2)(k)** of the Act

All occupants of residential premises have a right to protection from insects and insect-borne disease in their home. Insect screens on doors and windows are important to allow for this protection, while also allowing for adequate ventilation of the home.

Some stakeholders have advised the Authority that the current minimum standard regarding flyscreens are rigid in the interpretation of this protection, and establish that:

*Each external window in the residential premises that is able to be opened or is fixed open must be fitted with a flyscreen.*<sup>26</sup>

This minimum standard does not allow for any discretion or consideration of property conditions which do or do not pose health and safety risks.

For example, a property in metropolitan Adelaide with insect screens on only some windows would pose little, if any, risk to health and safety: whereas a property in the Riverland which has no insect screens on any external windows, may be considered a health and safety risk.

It is recommended that the Regulations continue to provide a mechanism for regulating the insulation of insect screens, but with greater opportunity for the use of discretion and consideration of actual health and safety risks depending on the property's location and the number and location of windows and doors with insect screens.

**Should the prescribed minimum standard allow for greater consideration of health and safety risks regarding insect screens? i.e.:**

***“Insect screens must be fitted to allow adequate ventilation to habitable rooms within residential premises”***

<sup>25</sup> UK Department for Communities and Local Government, '*Housing Health and Safety Rating System – Guidance for Landlords and Property Related Professionals*' (HHSRS) (May 2006), 'Fire' Page 50.

<sup>26</sup> Section 13(h), *Housing Improvement Regulations 2017* (SA).

## 5.8. Gas Standards

Under **section 5(1) and (2)(a), (c) and (i)** the Act

Minimum gas standards are currently regulated by section 12 of the Regulations. This section requires gas installations and alterations to be compliant with the *Gas Act 1997*.

*Each gas installation in the residential premises must comply with the law in force at the time of such installation (whether the Gas Act 1997 or a corresponding previous enactment),<sup>27</sup>*

*Each alteration to, or relocation, repair or maintenance of, a gas installation must comply with the law in force at the time of such alteration, relocation, repair or maintenance (whether the Gas Act 1997 or a corresponding previous enactment).<sup>28</sup>*

Recently, the Authority has encountered a number of properties where outdoor gas appliances (barbeques, heaters, etc.) have been used indoors. This is a significant risk to health and safety.<sup>29</sup>

The Authority is satisfied that this particular matter is captured within the existing minimum standards, and that the *Gas Act 1997*, and associated *Gas Regulations 2012* and Australian/New Zealand Standards 5160, appropriately regulate the use of gas appliances.

**Do the current prescribed minimum standards regarding gas installation and alteration effectively regulate the inappropriate use of gas appliances?**

## 5.9. High Density Living

Under **section 5(1) and (2)(a), (c), (f)** of the Act

High density living is, and will continue to be, a growth area in the regulation of minimum standards. Although regulating minimum standards within dwellings in a high density scenario can present some unique challenges, generally, the minimum standards can be regulated as per all other dwellings.

The greater challenge with high density residential premises, is regulating the minimum standards of the common areas such as: lifts, corridors, stairs, driveways, yards, etc. The current minimum standards do not provide a mechanism for regulating substandard common areas.

Historically, in scenarios involving substandard common areas in residential premises, the Authority has, where possible, referred the matter to another agency to regulate, such as local council. However, other agencies do not always have complete or appropriate mechanisms to regulate these conditions in any case.

<sup>27</sup> Section 12(e), *Housing Improvement Regulations 2017* (SA).

<sup>28</sup> Section 12(f), *Housing Improvement Regulations 2017* (SA).

<sup>29</sup> Government of South Australia, *Using Gas Safely* (4 April 2017).

It is recommended that consideration is given to including minimum standards in relation to common areas in high density residential premises.

**Should the Regulations include prescribed minimum standards in relation to common areas in residential premises?**

## 5.10. Laundry Facilities

Under **section 5(1) and (2)(g)** of the Act

Minimum standards in relation to laundry facilities are currently regulated by section 10, section 11(a)(i) and section 13(j) of the Regulations.

These provisions establish that a residential premise must have laundry facilities, with:

- facilities to allow for the installation of a washing machine;
- hot and cold water to be plumbed to the laundry; and
- a clothes drying facility.

Using a risk-based regulation approach, it is recommended that the prescribed minimum standards are regarding laundry facilities are reviewed to more appropriately reflect the health and safety risks of a lack of particular laundry facilities.

For example, what is the health or safety risk if:

- hot water is not plumbed to the laundry, particularly if there is access to hot water in a bathroom or kitchen? or;
- If there is a laundromat situated close to the property?

It is recommended that the regulations are reviewed to include the opportunity to use greater discretion in regard to access to laundry facilities.

**Should the prescribed minimum standard refer to ‘access to’ laundry facilities? i.e.:**

***“The residential premises must have reasonable access to laundry facilities to allow for regular washing and drying of occupants clothing”***

## 5.11. Minimum Space & Amenity

Under **section 5(1) and (2)(a) and (e)** of the Act

Lack of space, overcrowding, and lack of necessary amenity are recognised as a hazard area in the UK's *Housing Health and Safety Rating System*.<sup>30</sup> There are a range of psychological risks associated with lack of space, as well as risks associated with poor hygiene, accidents and contagious disease.

Section 10 of the current regulations establish minimum amenity requirements in relation to toilet, bathroom, kitchen and laundry facilities.<sup>31</sup> However, there is no relationship between the minimum amenity requirements and the number of persons living in the residential premises.

For example, the Authority have investigated residential premises where there were seven adults and four children living in the premises, with only one bathroom and toilet.

Part 10 of the Housing Act 1985 (UK) defines the number of rooms and minimum space requirements for particular number of persons.<sup>32</sup> The UK also has minimum amenity standards for different types of residential properties.<sup>33</sup>

It is recommended that minimum standards are included in relation to minimum space and amenity for residential premises. These provisions are particularly important regarding high density living, rooming houses and student accommodation.

**Are further minimum amenity standards required in the Regulations?**

**Should the Regulations include prescribed minimum space standards?**

## 5.12. Privacy & Security

Under **section 5(1)** of the Act

Security and privacy are essential for occupiers to feel healthy, safe and secure in their residential premise. 'Entry from intruders' is recognised as a hazard area in the UK's *Housing Health and Safety Rating System*.<sup>34</sup>

The current minimum standards in relation to security and privacy are regulated by section 13 of the Regulations.

*each external door in the residential premises must be fitted with a lock;*<sup>35</sup>

<sup>30</sup> UK Department for Communities and Local Government, '*Housing Health and Safety Rating System – Guidance for Landlords and Property Related Professionals*' (HHSRS) (May 2006), 'Crowding and Space' Page 33.

<sup>31</sup> Section 10, *Housing Improvement Regulations 2017 (SA)*.

<sup>32</sup> Part 10, *Housing Act 1985 (UK)*.

<sup>33</sup> UK Residential Landlords Association, *Minimum National Amenity Standards for Licensable HMOs* (17 May 2007).

<sup>34</sup> UK Department for Communities and Local Government, '*Housing Health and Safety Rating System – Guidance for Landlords and Property Related Professionals*' (HHSRS) (May 2006), 'Entry By Intruders' Page 33.

<sup>35</sup> Section 13(e), *Housing Improvement Regulations 2017 (SA)*.

*the door to any bedroom in the residential premises occupied under a rooming house agreement within the meaning of the Residential Tenancies Act 1995 must be fitted with a lock;*<sup>36</sup>

*each external window in the residential premises that is able to be opened must be fitted with a latch;*<sup>37</sup>

*in order for occupants of the residential premises to safely screen visitors, the residential premises must be provided with the following items at the main point of entry to the residential premises:*<sup>38</sup>

*a suitably placed window, lockable screen door, peep-hole, security chain, or intercom system;*

*an external light fitting.*

Generally, the Authority is satisfied that the current minimum security standards effectively and appropriately regulate the security of occupants in residential premises. However, there has been feedback from some stakeholders that the regulations should provide the opportunity to use more discretion to assess the health and safety risks, in relation to the items that 'must' be provided at the main point of entry.

## Are further minimum security standards required in the Regulations?

### 5.13. Psychological Hazards

Under **section 5(1)** of the Act

The UK's *Housing Health and Safety Rating System* identifies psychological hazards as a health and safety risk. Some psychological hazards such as minimum space and security have already been addressed in this paper. Other psychological hazards include adequate lighting, noise and odour.

The minimum standards currently regulate the adequate lighting,<sup>39</sup> but there is no provision in relation to other psychological hazards such as noise and odour.

HHSRS identifies that continued exposure to noise through poor sound insulation may cause health effects such as anxiety, aggravation, stress and lack of sleep.<sup>40</sup>

The *Local Nuisance and Litter Control Act 2016*, administered by authorised council officers regulates noise and odour pollutions.

<sup>36</sup> Section 13(f), *Housing Improvement Regulations 2017* (SA).

<sup>37</sup> Section 13(h), *Housing Improvement Regulations 2017* (SA).

<sup>38</sup> Section 13(i), *Housing Improvement Regulations 2017* (SA).

<sup>39</sup> Section 13(d), *Housing Improvement Regulations 2017* (SA).

<sup>40</sup> UK Department for Communities and Local Government, '*Housing Health and Safety Rating System – Guidance for Landlords and Property Related Professionals*' (HHSRS) (May 2006), 'Noise' Page 35.

It is recommended that the Regulations around the minimum standards to limit exposure to excessive noise and offensive odours.

**Should the Regulations include provisions in relation to psychological hazards, in particular regarding sound insulation and offensive odours?**

**Should the Regulations make reference to the *Local Nuisance and Litter Control Act 2016* and *Local Nuisance and Litter Control Regulations 2017*?**

## 5.14. Semi-Detached Properties

Under **section 5(1) and (2)(a) and (c)** of the Act

Regulating health and safety risks in semi-detached properties can be challenging. Situations have arisen where one dwelling is experiencing health and safety risks as a result of substandard conditions within the neighbouring dwelling.

Some examples encountered by the Authority include:

- Significant mould growth in one dwelling, as a result of damp/leaking pipes in the neighbouring dwelling;
- Risks associated with lack of structural integrity of party walls and ceilings;

The challenge for the Authority is to regulate the health and safety risks in one dwelling, by compelling the owner of a different dwelling to address substandard conditions.

Section 62 of the *Development Act 1993* establishes the rights of owners regarding repairs, alterations or removal of party walls. Any requirement for an owner to make improvements to a party wall or structure under the Act could not be contrary to the *Development Act 1993*.

**Should the prescribed minimum standards include provisions in regard to semi-detached properties?**

## 5.15. Water Supply

Head power to make provisions under **section 5(2)(i)** of the Act

Minimum standards in relation to water supply are regulated by section 11 of the Regulations.

*the residential premises must have a sufficient and continuously available supply of—*

*hot and cold water plumbed to each bath, shower, handbasin, kitchen sink, laundry wash trough or basin and washing machine water supply outlets; and*

*cold water plumbed to each toilet;*<sup>41</sup>

*the water must be of a suitable quality for its intended purpose and, in the case of water plumbed to a kitchen sink, must be suitable for drinking;*<sup>42</sup>

The Authority is satisfied that this the existing minimum standards effectively regulate the supply of suitable water, in conjunction with the *Water Industry Act 2012* and *Safe Drinking Water Act 2011*.

**Is water supply effectively regulated within the minimum standards?**

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<sup>41</sup> Section 11(a), *Housing Improvement Regulations 2017* (SA).

<sup>42</sup> Section 11(b), *Housing Improvement Regulations 2017* (SA).

## 6. Terminology

It has been identified throughout preliminary consultation that the current regulations contain a range of terminology that may require review. Some of these terms include:

- 'Domestic Purpose'
- 'Reasonably Free'
- 'Adequate'
- 'Must'

The regulations must balance the need to appropriately prescribe the minimum standards, along with the need to allow the use of discretion and an assessment of health and safety risks.

Appropriate terminology will ultimately be determined by the Office of Parliamentary Counsel, who have expertise in drafting legislation and regulations.

# 7. Summary of Questions for Consideration

## 5.1 Access & Egress

Should the prescribed minimum standards include provisions to regulate safe access to and egress from existing residential premises?

## 5.2 Asbestos

Is a specific prescribed minimum standard around the repair or removal of exposed asbestos required in the *Housing Improvement Regulations*?

Should the prescribed minimum standard around the repair or removal of exposed asbestos compel a homeowner to engage a contractor to remove exposed asbestos, therefore being subject to the *Work Health and Safety Act and Regulations*?

## 5.3 Damp

Is the measure of 'reasonable free from moisture and damp' adequate and appropriate to address the risks?

Should the prescribed minimum standard refer to residential premises being reasonably free from the effects of moisture and damp? i.e.:

*"The residential premises must be reasonably free from the effects of moisture and damp (whether caused by ground moisture, rain or other precipitation or defective plumbing or drainage)"*

## 5.4 Electrical Standards

Do the current prescribed minimum standards regarding electricity supply, installation and alteration effectively regulate minimum electrical standards?

## 5.5 Energy Efficiency Standards

Should the minimum standards include provisions about specific aspects affect power consumption?

## 5.6 Fire Safety

Should the prescribed minimum standard make provisions in relation to fire safe materials and building design?

## 5.7 Insect Screens

Should the prescribed minimum standard allow for greater consideration of health and safety risks regarding insect screens? i.e.:

*"Insect screens must be fitted to allow adequate ventilation to habitable rooms within residential premises"*

### 5.8 Gas Standards

Do the current prescribed minimum standards regarding gas installation and alteration effectively regulate the inappropriate use of gas appliances?

### 5.9 High Density Living

Should the Regulations include prescribed minimum standards in relation to common areas in residential premises?

### 5.10 Laundry Facilities

Should the prescribed minimum standard refer to 'access to' laundry facilities? i.e.:

*"The residential premises must have reasonable access to laundry facilities to allow for regular washing and drying of occupants clothing"*

### 5.11 Minimum Space & Amenity

Are further minimum amenity standards required in the Regulations?

Should the Regulations include prescribed minimum space standards?

### 5.12 Privacy & Security

Are further minimum security standards required in the Regulations?

### 5.13 Psychological Hazards

Should the Regulations include provisions in relation to psychological hazards, in particular regarding sound insulation and offensive odours?

Should the Regulations make reference to the *Local Nuisance and Litter Control Act 2016* and *Local Nuisance and Litter Control Regulations 2017*?

### 5.14 Semi-Detached Properties

Should the prescribed minimum standards include provisions in regard to semi-detached properties?

### 5.15 Water Supply

Is water supply effectively regulated within the minimum standards?

## 8. References

### Legislation

- *Development Act 1993 (SA) and Development Regulation 2008 (SA).*
- *Electricity Act 1996 (SA) and Electricity (General) Regulations 2012 (SA).*
- *Gas Act 1997 (SA) and Gas Regulations 2012 (SA).*
- *Housing Act 1985 (UK).*
- *Housing Improvement Act 2016 (SA) and Housing Improvement Regulations 2017 (SA).*
- *Local Nuisance and Litter Control Act 2016 (SA) and Local Nuisance and Litter Control Regulations 2017 (SA).*
- *Safe Drinking Water Act 2011 (SA).*
- *Water Industry Act 2012 (SA).*

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