



Proposed Residential Tenancies Regulations for insulation and smoke alarms
Ministry of Business, Innovation and Employment: Construction and Housing Markets Branch

The Salvation Army New Zealand Fiji and Tonga Territory Submission

BACKGROUND

1. The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over one hundred and thirty years. The Army provides a wide-range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
2. We have over 90 Community Ministry centres and Churches (Corps) across the nation, serving local families and communities. We are passionately committed to our communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society through God in Christ by the Holy Spirit's power¹.
3. This submission has been prepared by the Social Policy and Parliamentary Unit of The Salvation Army. This Unit works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand.
4. This submission has been approved by Commissioner Robert Donaldson, Territorial Commander of The Salvation Army's New Zealand, Fiji and Tonga Territory.

THE SALVATION ARMY PERSPECTIVE

INTRODUCTION

5. The Salvation Army welcomes that an aim of the current tenancy law changes are "to make homes warmer, drier and safer for hundreds of thousands of New Zealand families." We therefore support aspects of these Regulations that seek to create minimum housing standards.
6. However, The Salvation Army believes that the proposed regulations do not go far enough to provide tenants with secure, safe and healthy housing. In addition to specific comments below in response to the consultation document, it is our submission that:

¹ <http://www.salvationarmy.org.nz/our-community/mission/>

- a. The insulation standards currently recommended are too low, outdated, and seemingly ignore the current recommendations of the Energy Efficiency and Conservation Authority (EECA).
- b. The Regulations create too many exceptions that have the potential to undermine the overarching aim of making homes warmer, drier and safer for hundreds of thousands of New Zealand families.
- c. The Regulation's exceptions are underpinned by an unrealistic voluntary compliance model and fail to require landlords to improve warmth and dryness standards in alternative ways.

SPECIFIC RESPONSES TO CONSULTATION

Key question 3: What is the benchmark for requiring residential rental properties to insulate?

Question 3A: Do you agree with the proposal to allow rental houses with insulation that is in good repair, but does not meet the current Building Code requirements for new builds, to meet the 1978 standards? If not, what minimum level of insulation would you propose and why?

7. The Salvation Army does not agree with the above proposal.
8. As the discussion document notes, under the current building code standard (using the H1/AS1 Schedule method) walls, ceilings, floors and glazing are required to be insulated, and the home overall expected to lose only **34%** of its energy. Under a retrofit to the 1978 standard, only the ceilings and floors are required to be insulated, and the energy loss standard is **58%**. Even if ceilings, floors *and* walls are insulated to the 1978 standard this still results in a **46%** energy loss.
9. The Salvation Army submits that the proposed 1978 standard of "good repair" is too low. Many rental houses would still be losing nearly half of their energy, which will have direct impacts on dampness, warmth and energy costs. Given that 58% of low income households in Auckland are rental households, The Salvation Army is concerned that more vulnerable families will not receive greater protections and better quality housing for the high rents that they are paying. These regulations are an opportunity to do more.
10. The 1978 insulation thickness standards are now over 30 years old, and require only just over *half* of the standard of the Energy Efficiency and Conservation Authority's (EECA) Warm Up New Zealand programme (7cm thick versus the current recommended 12cm thick).² Such standards have been rightly superseded for improved energy efficiency, and because procurement policies are now geared to the higher standard materials.

² Energy Efficiency and Conservation Authority <www.energywise.govt.nz>

11. The MBIE-commissioned cost benefit analysis³ also draws on research that estimates the health benefits of insulation that meets the EECA standard. Using old standards introduces a confusing double standard and means that the full benefits identified in the cost-benefit analysis are unlikely to be realised.⁴
12. The Salvation Army believes New Zealanders should expect to have modern housing standards that result in safe, warm and dry homes, with affordable and efficient heating. A **mature** expectation of the private property market will require landlords to become more professional in the way they approach residential property investment. **Whilst requiring landlords to insulate is progress towards this goal, holding them to lower and outdated standards is a retrograde step.**
13. ***The Salvation Army recommends that the Energy Efficiency and Conservation Authority's current recommended standards are used as a benchmark for insulation standards.***

Question 3B: Do you agree with the proposal to require houses with insulation that is incomplete, damaged, damp or degraded to be retrofitted?

14. Yes. Higher insulation standards should be expected for maximum health and safety benefits.

Key question 4: Which houses should be exempt?

Question 4A: Are there properties that would be exempt under these proposed changes that should be included in the requirements?

15. Currently the regulations propose that an exemption would include homes that have “areas where it is not practical to retrofit insulation because of the physical design of the property (e.g. if it is not possible to retrofit insulation without the removal of the roof cladding, ceiling, wall, or floor linings, until such time as access becomes practical (for example, during a future replacement of a roof or floor/ceiling linings)”.⁵
16. The cost benefit analysis estimated the total number of such dwellings at 101,670 (57,060 with no underfloor access and 44,610 with no ceiling access).⁶
17. This is a significant number of properties that would be exempted from having to improve or install insulation. The Salvation Army is concerned that the current regulations do not require, or even encourage, alternative heating or insulation measures for these large number of properties.

³ Gary Blick and Preston Davies *Cost benefit analysis for a minimum standard for rental housing* (Sapere Research Group, November 2014).

⁴ Elinor Chisholm “Government-commissioned report makes a strong case for a rental WOF” (24 August 2015) <www.cpag.org.nz>

⁵ At 16.

⁶ Gary Blick and Preston Davies *Cost benefit analysis for a minimum standard for rental housing* (Sapere Research Group, November 2014) at 32.

18. The Discussion document also notes that the current insulation proposal is not a higher standard, because:⁷

Houses insulated in the walls, floors and ceilings under the 1978 requirements can outperform homes with reasonably high levels of just ceiling and underfloor insulation, as shown in Table 2. While the performance of these homes can still benefit from increased levels of ceiling and underfloor insulation, it may be more effective for the tenants if a landlord invests in a high efficiency fixed heating system or other energy efficiency measures instead. “

19. The Salvation Army submits that a fundamental flaw in this analysis is the assumption that landlords **will** “invest in a high efficiency fixed heating system or other energy efficiency measures instead”.
20. Given that the private rental market is a business for landlords, it is unrealistic to assume that all landlords will *voluntarily* choose to bear the cost of a fixed heating system or other energy efficiency measure for their tenants as alternatives if it is not required by law. Under the current Residential Tenancies Amendment Act and proposed regulations, this is not mandatory. The impetus for this law reform was in part recognition that rental housing standards in New Zealand have reached a crisis point.⁸ The fact that rental housing standards are currently so low indicates that relying on a model of voluntary compliance by landlords does not produce healthy and safe rental housing in the market.
21. The Salvation Army is concerned that this assumption effectively creates a loophole for landlords, to both avoid insulating to the modern standard, as well as being able to avoid compensating for older and insufficient insulation standards. Using language such as “where it can be practically installed” has the potential to be interpreted broadly.
22. In the MBIE commissioned cost benefit analysis, the authors looked at an alternative scenario of the impact of installing an efficient fixed heating source installed instead of insulation for any dwelling that did not have access to either the ceiling and to the underfloor.
23. A heat pump, costing \$2,750 was assumed to be the heating source. The results shown indicated that despite costs rising considerably, the total benefits still exceed the costs by 30%.⁹ This demonstrates that there are alternative measures that bring significant benefits even against the costs, and should be investigated to prevent many houses, and families, failing to receive the protections and benefits of the new standards, just because a particular form of insulating is not currently practical.

⁷ At 15.

⁸ NR Buckett, MS Jones and NJ Marston *BRANZ 2010 House Condition Survey- Condition Comparison by Tenure* (SR 264 2012, BRANZ).

⁹ Gary Blick and Preston Davies *Cost benefit analysis for a minimum standard for rental housing* (Sapere Research Group, November 2014) at 32.

24. Regardless of the insulation standard adopted, it seems likely that some exemption application system will be required in order to allow property owners sufficient time to comply with these standards. As mentioned above, The Salvation Army does not support a liberal exemption regime as it creates too many loopholes, which ultimately undermines the operation of the law.
25. The Army believes that a stringent exemption application process is vital in order for true compliance with the regulations. The Salvation Army advocates for such a process to be administered either by local Councils, or by MBIE. The cost of this administration should be met by those seeking exemptions in the form of an application fee.
26. ***The Salvation Army submits that such properties should not be automatically excluded, and that:***
- a. The Regulations tighten the exception categories;***
 - b. Some form of mandatory alternative measures for properties that have physical barriers to insulation, such as a fixed heating source or other energy efficiency measures are required, or at least investigated;***
 - c. Exceptions should be sought by way of an application process to a public agency such as local councils or MBIE. Landlords should be responsible for an application fee and provide some evidence on the suitability of the property and that that they have investigated alternative insulation measures.***

Key question 5: If you have to insulate what standard should be required?

Question 5A: Do you support the proposal to require that when new insulation must be installed, it should match the current installation standard required for new builds or alterations under the Building Code? If not, what standard do you think should be required?

27. Yes, The Salvation Army supports the proposal to require that when new insulation must be installed, it is required under the updated Building Code to meet an overall thermal performance which takes into account floors, walls, ceilings and glazing. The most current and updated standards should be expected.

Information campaign to provide advice on insulation and smoke alarm requirements

28. The consultation document proposes to run an information campaign to support new requirements under the regulations.
29. The Salvation Army submits that the information campaign should also include elements that advise tenants on their options and rights in the event that their landlord has **not** complied with the new standards. This should include information on what to look for in a lease under the new insulation disclosure rule, and information on the Tenancy mediation service, the Tenancy Tribunal, Community Law Centres, Tenant advocacy services and Citizen Advice Bureaus.

30. As was noted in our submission on the Residential Tenancies Amendment Bill, The Salvation Army also submits that it is essential that adequate resources are allocated to, and under MBIE to be able to investigate and take action in situations of non-compliance with the new regulations. An information campaign is helpful but cannot enforce compliance.

CONCLUSION

31. The Salvation Army is passionate about the wellbeing of our most vulnerable communities, many of whom are currently living in unsafe, cold, damp housing. Whilst The Salvation Army is pleased to see the introduction of new standards, we urge the Ministry **to make the most of the opportunity to introduce modern and robust standards** that are based on current expertise, and which will create the maximum safety and wellbeing benefits to New Zealand's homes.