



Australian Government

Australian Government response to the Senate Legal and
Constitutional Affairs References Committee report:

Use of smoke alarms to prevent smoke and fire related deaths.

AUGUST 2016

BACKGROUND

On 25 June 2015, the Senate referred the following matter to the Legal and Constitutional Affairs References Committee for inquiry:

The use of smoke alarms to prevent smoke and fire related deaths, with particular reference to:

- a) the incidence of smoke and fire related injuries and deaths and associated damage to property;
- b) the immediate and long term effects of such injuries and deaths;
- c) how the use, type and installation set-ups of smoke alarms could affect such injuries and deaths;
- d) what smoke alarms are in use in owner-occupied and rented dwellings and the installation set-ups;
- e) how the provisions of the Australian Building Code relating to smoke alarm type, installation and use can be improved;
- f) whether there are any other legislative or regulatory measures which would minimise such injuries and deaths; and
- g) any related matter.

The Committee received 29 submissions and held three public hearings in Brisbane (29 October 2015) and Canberra (4 December 2015 and 22 February 2016).

On 20 April 2016, the Committee tabled its report which included seven recommendations.

GOVERNMENT RESPONSE

The Australian Government (Government) has an indirect role in relation to the use of smoke alarms and wider building and construction matters.

The Department of Industry, Innovation and Science represents the Commonwealth on the Australian Building Codes Board (ABCB). The ABCB is the standards writing body responsible for the National Construction Code (NCC) which comprises the Building Code of Australia and the Plumbing Code of Australia. The Commonwealth is one of ten government members (including local government) on the ABCB, there are also five industry representative members.

The NCC provides the states and territories with model regulation that is fully or partially adopted through their respective legislation, for which they remain responsible for implementing.

As set out in the ABCB's submission to the Committee, 'some level of building regulation is considered necessary by all governments to protect the health and safety of building occupants, provide for buildings that have an acceptable level of amenity and sustainable design, contribute to consumer confidence and reduce the potential for downstream costs arising out of poor construction' (ABCB, Submission 21, August 2015, p. 4).

The NCC sets out the minimum performance requirements for smoke alarms for new buildings and new building works. This includes referencing Australian Standard 3786, which the two mainstream smoke alarm technologies, ionisation and photoelectric, may satisfy. It also requires connection to mains power and interconnection where more than one smoke alarm is required. Further, the NCC points to the importance of location and maintenance of any device.

The Government considers that based on evidence submitted to the Committee and the Committee's findings, it is appropriate for both ionisation and photoelectric smoke alarms to be permitted, noting that states and territories can determine if any restrictions should apply. The Northern Territory for example only permit photoelectric alarms in residential properties.

The Government does not agree that either ionisation or photoelectric smoke alarms should be given preference unless there is further evidence available to make a compelling case for favouring one technology over the other.

The Government agrees with the Committee that there are gaps in data relating to smoke and fire-related incidents.

The Government notes that the ABCB is continuing to review and analyse evidence relating to different smoke alarm technologies, including a project in collaboration with Fire and Rescue NSW. It will be important to consider additional data arising from these studies before consideration is given to potential amendments to the NCC.

The Government notes the regulation of smoke alarms is a matter for consideration by the states and territories. While all jurisdictions work through the ABCB to try to achieve a nationally consistent code for new residential buildings, states and territories still have the ability, through their own legislation, to apply the use of smoke alarms in new and existing building as they see necessary. To assist jurisdictions, the Minister for Industry, Innovation

and Science will write to state and territory building ministers to provide the Committee inquiry report and this Government response.

A response to each of the Committee's seven recommendations is provided below.

Recommendation 1

The committee recommends that Australian governments collaboratively establish a national database of residential fire incidents and that state and territory fire and emergency services are adequately resourced to collect and report data to that national database.

Response

The Government notes this recommendation.

States and territories are responsible for collecting and reporting information on residential fire incidents. The resourcing of these activities, including potentially sharing such information in one form or another, is therefore a matter for their consideration.

Recommendation 2

The committee recommends that Australian governments consider establishing a national residential fire reporting and recording mechanism to capture statistics of currently unreported residential fire incidents.

Response

The Government notes this recommendation.

States and territories are responsible for collecting and reporting information on residential fire incidents. The resourcing of these activities, including any options for capturing unreported residential fire incidents is therefore a matter for their consideration.

Regarding the establishment of a national residential fire reporting and recording mechanism, the Government would not support any proposal to create a new mechanism that detracts resources from the states and territories developing fire-prevention practices and managing fire incidents.

Recommendation 3

The committee recommends that the NCC is amended to require the installation of interconnected, and preferably mains powered, photoelectric smoke alarms, supplemented where appropriate by ionisation smoke alarms, in every residential property and specify the type of smoke alarm to be used at different locations within each residential property, taking into account the different smoke detection properties of photoelectric and ionisation smoke alarms.

Response

The Government notes this recommendation.

A requirement for interconnected, mains powered smoke alarms for new residential buildings is already included in the NCC, along with location requirements and a further requirement that smoke alarms meet Australian Standard 3786, which enables the use of any technology that satisfies the minimum time deemed necessary to alert occupants to the risk of a fire and evacuate the building.

The Government also notes the committee's view in relation to ionisation smoke alarms:

"However, the committee does not agree that ionisation smoke alarms should be banned: photoelectric and ionisation smoke alarms detect different fires in different ways and are therefore fit for purpose in particular locations." (Committee Report page 33).

As the regulation of smoke alarms is a matter for consideration by the states and territories, any proposed amendments in relation to smoke alarms in the NCC should be considered by states and territories through the ABCB.

Any proposed amendments should also take account of additional evidence that may be available through the ongoing investigations being undertaken by the ABCB in collaboration with Fire and Rescue NSW.

Recommendation 4

The committee recommends, to give effect to Recommendation 3, that all state and territory governments adopt the amended NCC and agree to apply it to all residential properties, irrespective of the age of a property.

Response

The Government notes this recommendation.

The regulation of smoke alarms is a matter for consideration by the states and territories. The Government notes that while the NCC is not intended to apply retrospectively for existing residential properties, unless significant alterations and/or additions are being undertaken, states and territories have the ability, through their own legislation, to apply the use of smoke alarms as they see necessary.

It should be noted, however, that the cost of states and territories requiring smoke alarms to be installed in all residential properties, irrespective of the age of a property, as per Recommendation 3, would be significant.

Recommendation 5

The committee recommends that all states and territories implement mandatory compliance checks of smoke alarms in residential properties whenever a property is sold, tenanted or hired.

Response

The Government notes this recommendation.

The regulation of smoke alarms is the responsibility of state and territory governments. This issue is therefore a matter for their consideration.

Recommendation 6

The committee recommends that the Commonwealth, state and territory governments develop and implement a package of measures, including but not limited to a website and resources for key stakeholders, to educate Australians about:

- different types of smoke alarms;
- the benefits associated with installing smoke alarms with different smoke detection properties in particular locations within a property;
- the smoke alarm requirements that apply to residential properties in each jurisdiction;
- the importance of regular smoke alarm testing and maintenance;
- who has responsibility for installing and maintaining smoke alarms, and advice about how to do this or seek assistance to do so; and
- the triggers for compliance checking of smoke alarms (for example at time of sale, tenancy or hire).

Response

The Government notes this recommendation and agrees in principle with its intent.

The regulation of smoke alarms is the responsibility of state and territory governments. Any public awareness and education measures in relation to smoke alarms should be considered and led by the states and territories, including through the ABCB where appropriate.

It is noted that some of the recommended measures are already the subject of public awareness material produced by state and territory government fire service authorities and product manufacturers' specifications. Such material should emphasise both the effectiveness of smoke alarms and the importance of installing and using them correctly.

Recommendation 7

In the event Australian governments are unwilling to amend the NCC and apply it to all building stock irrespective of classification and age, the committee recommends that they consider implementing a nationwide smoke alarm household installation scheme that includes consultation with:

- fire and emergency services, housing providers and the real estate agency industry; and
- individuals and organisations working with vulnerable members of the community.

Response

The Government does not support this recommendation.

The appropriate mechanism for the regulation of smoke alarms already exists via the ABCB and the NCC, which is supported by the Australian Government and all state and territory governments.

The Government therefore supports a more targeted approach to addressing the use of smoke alarms by the states and territories via the ABCB and through the NCC.