

EXPLANATORY MEMORANDUM TO
THE SMOKE, HEAT AND CARBON MONOXIDE ALARMS FOR PRIVATE
TENANCIES REGULATIONS (NORTHERN IRELAND) 2024

SR 2024 No. 123

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under The Private Tenancies (Northern Ireland) Order 2006 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Statutory Rule sets the minimum standards required within private rented properties for the installation of smoke, heat, and carbon monoxide alarms. The aim is to continue to reduce the risk of any fire related incidents by detailing number, type and condition of alarms that must be installed by a landlord. According to national fire statistics, fires in properties that have alarms in place continue to be discovered more rapidly (less than 5 minutes) after ignition; and be associated with lower fatal casualty rates.

3. Background

- 3.1. The Private Tenancies Act (Northern Ireland) 2022 amended the Private Tenancies (Northern Ireland) Order 2006, to enable the Department for Communities to make the Statutory Rule in respect of alarm provisions within private rental properties.
- 3.2. As the Statutory Rule is technical in nature, an expert Advisory Panel was set up to assist with drafting the required standards that should be applied. The Panel was made up of representatives from Northern Ireland Fire and Rescue Service, Electrical Safety First, DoF Housing Advisory Unit (Engineering expertise) and Council Environmental Enforcement.
- 3.3. The Statutory Rule requires that private rental landlords must have at least one smoke alarm installed in the room most frequently used for daytime living, and in every circulation space (hall/landing) on each storey. A heat alarm in every kitchen and a carbon monoxide alarm in any room or circulation space which contains a fixed combustion appliance or a flue.
- 3.4. It is clearly set out that all alarms need to be in working order at the beginning of every new tenancy, replaced when faulty and before expiry date.
- 3.5. The Statutory Rule goes on to specify the alarm requirements must be interlinking smoke and heat alarms (carbon monoxide can be stand-alone). All alarms can be either hardwired or battery, or a combination of both. Battery units must be sealed tamper-proof alarms with long life batteries.

The alarms must be installed and maintained in accordance with British Standards (smoke and heat BS5839 and carbon monoxide BS 50292).

- 3.6. The Regulations will be enforced by local councils for non-compliance who can impose a fine not exceeding level 4 on the Department of Justice standard scale (£2,500). Alternatively, where the council believes that an offence has been committed it may give the landlord a notice offering the opportunity of discharging any liability to conviction for the offence by the payment of a fixed penalty. The penalty fine will be an amount not exceeding one-fifth of the level 4 fine payable on conviction of that offence.
- 3.7. The Statutory Rule will be accompanied by easy read guidance notes explaining the alarm requirements in more detail and how they should be deployed to meet the set minimum standard with reference to property type (house, apartment, open plan, integral garage), room sizes, location, etc. These have been designed to cover the most common situations but are not intended to cover every scenario, nor should they be seen as a substitute for reading the Smoke, Heat and Carbon Monoxide Alarms for Private Tenancies Regulations (Northern Ireland) 2024. The guidance also includes useful links to building control (hard-wired alarms), NIFRS (alarms and home fire safety advice, finding your Local Council contact details and HSENI (dangers of carbon monoxide).
- 3.8. It is the Department's intention to ensure the guidance notes are updated whenever there are changes, but it is the landlord's responsibility to ensure that they correctly adhere to the Regulations.
- 3.9. Once the Smoke, Heat and Carbon Monoxide Alarms for Private Tenancies Regulations (Northern Ireland) 2024 are made, the operation dates for new private tenancies and existing private tenancies will be three months and six months respectively from the made date. This aligns with a request from the Landlords Association of Northern Ireland that consideration be given to setting sufficient timescales for retrospective application and for the Department to communicate to landlords/agents in a timely manner through deploying a pro-active communication strategy.

4. Consultation

- 4.1. To achieve as much interaction as possible with key stakeholders on the content of the Statutory Rule, a 12-week on-line consultation ran from 13 September 2023 to 6 December 2023. Views were sought from private rental landlords/agents, tenants, electricians, local councils and other potentially interested parties (including MLAs). In tandem with the on-line consultation, which received 64 responses, forum meetings were held with the Landlords Association of Northern Ireland (LANI), Housing Rights and Renters Voice, Electrical Contractors (including ECA, NICEIC and Cert Sure), and Council Environmental Health Officers.
- 4.2. In the main no major challenges were received on legislating to set a minimum standard for smoke, heat, and carbon monoxide alarms within private rental properties. Any queries that did arise were welcomed to enhance or clarify the intent of the provisions as drafted pre-consultation.

- 4.3. Post-consultation following reference back to the expert Advisory Panel the three points were accepted. (1) Setting a revised lead in time for compliance (now set at 3 months for new tenancies after operational date and 6 months for existing tenancies after the operational dates). (2) A new requirement for a carbon monoxide alarm to be placed in any room which a flue passes through. (3) The guidance to be revised to be clear on any cut across building control requirements for hardwired alarms.
- 4.4. The associated full post-consultation Summary Report was published on the Departments for Communities website on 24 May 2024.
- 4.5. The position in Great Britain, The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, which were subsequently amended by the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022. Regulation 3 of the 2022 Regulations amends the 2015 Regulations to make express provision that Regulation 15 of those Regulations (which is in respect of alarms) applies to both England and Wales. In Scotland the requirement for smoke and heat alarms was introduced via The Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Order 2019. As of 1 February 2022, the law changed further to require the interlinking of fire alarms.
- 4.6. The Northern Ireland Statutory Rule was shaped by transposing England's 2015 Regulations (as amended) as the base working template for debate with the expert Advisory Panel on what should, or should not, be amended to suit the NI context in bringing forward the 'Smoke, Heat and Carbon Monoxide Alarms for Private Tenancies Regulations (Northern Ireland) 2024'. In so doing, elements of the approach taken in Scotland, and lessons learned from the consultation responses were interwoven to shape the final draft. The NIFRS representative was key to assisting with setting what minimum standards should be deployed.
- 4.7. The associated NI guidance notes have been drafted with reference to the advice deployed by both England and Scotland with input from the Department, to make the content as easy to follow as possible and answer any questions that could potentially arise from the Statutory Rule.

5. Equality Impact

- 5.1. In accordance with its duty under Section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise. The outcome of that screening exercise concluded that the Statutory Rule would not unduly impact on equality of opportunity or good relations. Therefore, the Department considered that an equality impact assessment was not necessary.

6. Regulatory Impact

- 6.1. In recognition of the fact that there would be a financial impact with regards to compliance by private rented landlords a Regulatory Impact Assessment was undertaken and published with the consultation documents for comment.
- 6.2. No major challenge to the financial impact was received during the consultation (circa £200 per property for long-life battery operated alarms

over a 10 year period has been used to calculate the approximate economic effect to meet the set minimum standards across all NI private rental properties).

- 6.3. Although retrospective fitting of long-life battery alarms is presented as the most cost effective measure to achieve compliance, the impact assessment notes that if hard-wired alarms are selected instead that will attract an additional cost as detailed below.
- 6.4. The average cost of mains powered interlinked optical smoke detector is £40. The average cost to fit one mains powered interlinked optical smoke detector is £100. Costs involved for provision of circa 4 additional mains powered alarms (interlinked) for parts and labour is £560. Mains wired alarms are subject to a £60 building control application. The total cost per property is £760.
- 6.5. However, it is a fact (confirmed by the consultation), that most private rental properties already have alarms in place and therefore compliance with the minimum standards set in the Statutory Rule, is not assessed to be an onerous commitment for landlords, over an approximate 10 year life-span period

7. Financial Implications

- 7.1. There are no financial implications for the Department

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Statutory Rule, it is not incompatible with the convention rights or with community law. It does not discriminate against a person or class of person on the grounds of religious belief or political opinion and does not modify an enactment in breach of Section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. Not applicable.

11. Additional Information

- 11.1. It is proposed that once the Statutory Rule is made, the Regulations will become operational three months from that date for any new tenancies, and six months from that date for existing tenancies.