

Department for Communities Consultation on Private Tenancies Act 2022 - Section 8 Smoke, Heat and CO Alarms

Response from Propertymark

December 2023

Background

1. Propertymark is the UK's leading professional body for estate and letting agents, inventory providers, commercial agents, auctioneers and valuers, comprising over 17,500 members representing over 12,800 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

Consultation – overview

2. The Private Tenancies Act (Northern Ireland) 2022 received Royal Assent on 27 April 2022 with plans to introduce the various elements of the Act in two phases. On 1 April 2023, the first phase of the Act came into force, with time given to the Department for Communities (DfC) to draft regulations for sections seven to twelve. This consultation concerns the draft regulations for Section 8: Fire, smoke and carbon monoxide alarms, which establishes mandatory duties for both tenants and landlords within the private rented sector regarding these alarms for the first time in Northern Ireland. This section is set to be enacted in January 2024.

Propertymark response – summary

3. Propertymark welcomes the opportunity to respond to the consultation on The Smoke, Heat and Carbon Monoxide Alarms for Private Tenancies Regulations (Northern Ireland) 2024. We are highly supportive of mandatory requirements for fire, smoke and CO alarms to ensure the safety of tenants in rental properties. Propertymark members are particularly supportive of the legal requirement to ensure these alarms are present, rather than a recommendation, as this will remove any doubt as to the need to install each required alarm.
4. While we are generally supportive of the draft regulations, we have several points that we would like to bring to the attention of the Department for Communities:

- The Department for Communities must include details for testing alarms with requirements stating that alarms are tested before the tenancy commences.
- We request that additional guidance be provided on exactly where an alarm should be fitted within a required room.
- The Department for Communities must issue a strategy to support local authorities in order to ensuring compliance from all landlords and agents with these Regulations.
- We ask that the Department for Communities can provide clarity on any grace period between the enactment of the regulations and when they will be enforced.
- We would like to see guidance for tenants explicitly included within the regulations, not just the accompanying guidance.

Questions

Question 1: Did you find the guidance notes, which explain responsibilities of both landlords and tenants, under the Regulations easy to follow?

5. **Responsibilities of tenants** - Propertymark finds the guidance notes easy to follow. The guidance provides clarity on a number of potential issues agents, landlords and tenants could come across when installing alarms which we are highly supportive of. One of our main concerns however is the accessibility of the guidance once the Regulations are enacted as many of those involved in renting could be unaware of the additional responsibilities for landlords and tenants issued in the guidance. As a consequence of this, many agents and landlords could be left unaware that it is the tenants' responsibility to check if alarms are working, leading to tenants not being informed of their duties. Due to this, we would recommend including the responsibilities of tenants within the Regulations not just the guidance. This will help ensure more alarms are tested regularly during tenancies, reducing preventable deaths or harm.
6. **Guidance on location of alarms** - furthermore, in order to ensure the safety of tenants, we would like to see further guidance on where smoke and heat alarms should be located. While there is an extensive section on the position of carbon monoxide alarms, guidance for the ideal location of smoke and heat alarms is lacking. This can lead to landlords installing alarms in a less suitable location that is less likely to alert residents of excessive heat or smoke. We therefore urge the Department for Communities to include further instructions on where to

place smoke and heat alarms, with reference to any existing standards from the Northern Ireland Fire and Rescue Service. Should the location of smoke and heat alarms be less consequential than carbon monoxide alarms, this should be clarified.

Question 2: Is there anything else you would like to add or comment on in respect of the introduction of these new Regulations/Guidance Notes?

7. **Testing** - when previous regulations on smoke, fire and carbon monoxide alarms were introduced in England, testing requirements been difficult to meet on a practical level. Regulations requiring landlords to ensure alarms are in working order at the beginning of every new tenancy do not appreciate the number of properties some landlords have and that agents will often manage multiple check-ins on the same day.¹ As such, we would recommend guidance or further detail within the regulations that stipulates that alarms can be tested by agents or landlords before the start of a new tenancy. This would allow alarms to be tested and replaced if not working in proper order before the tenancy starts. Furthermore, this can be included within the inventory and check in report to the property.
8. **Enforcement** - we have concerns over the enforcement of the new requirements, especially considering the potential consequences if alarms are not present. Propertymark members are concerned that local authorities do not always have the resources and capacity to inspect properties to ensure they are meeting regulatory requirements and expected standards. As a solution to this, we would recommend that the Department for Communities establishes a reporting model for tenants to report non-compliance to their local authority or other suitable local body. This would help prevent the need for local authorities to inspect properties at random but serve notices where evidence has been provided by tenants that the required alarms are not present. This would save resources for local authorities and help increase compliance with the new Regulations.
9. **Grace period** - we would like to request a grace period to provide enough time for landlords to install the required alarms and for agents to ensure all of the properties they manage are compliant. While Propertymark supports alarm requirements to be enacted as soon as possible, we understand that it may take some time for agents and landlords comply with their

¹ <https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords/the-smoke-and-carbon-monoxide-alarm-england-regulations-2015-ga-booklet-for-the-private-rented-sector-landlords-and-tenants>

new duties. This is because agents will have to manually inspect all of their properties which will be a considerable undertaking if agents manage dozens or more properties. The same issue exists to a lesser extent for landlords. Furthermore, once the regulation has passed, there is likely going to be substantial demand for alarms which could lead to local shortages and delays in installing the required alarms.

Department for Communities Consultation on Private Tenancies Act 2022 - Section 10 Electrical

Safety Standards

Response from Propertymark

December 2023

Background

1. Propertymark is the UK's leading professional body for estate and letting agents, inventory providers, commercial agents, auctioneers and valuers, comprising over 17,500 members representing over 12,800 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

Consultation – overview

2. The Private Tenancies Act (Northern Ireland) 2022 received Royal Assent on 27 April 2022 with plans to introduce the various elements of the Act in two phases. On 1 April 2023, the first phase of the Act came into force, with time given to the Department for Communities (DfC) to draft regulations for sections seven to twelve. This consultation concerns the draft regulations for Section 10, which sets duties for landlords to ensure that all electrical installations tested by a qualified person at least every five years. There is currently no planned date for the regulations to come into operation.

Propertymark response – summary

3. Propertymark welcomes the opportunity to respond to the consultation on The Electrical Safety Standards for Private Tenancies Regulations (Northern Ireland) 202X. Propertymark has long supported raising standards within the private rented sector, thus we support the introduction of clear electrical safety requirements. The legal requirement is very welcome for Propertymark as this is an effective way to improve the quality of homes within the Private Rented Sector. While the regulations reflect existing industry best practice, introducing these regulations will set a level playing field for the sector and improve safety in private rented sector homes.

4. While we are generally supportive of the draft regulations, there are a few points that we would like to bring to the attention of the Department for Communities:
- The Department for Communities must ensure that guidance is easily accessible for tenants. This is especially important to ensure that tenants are aware that they can raise concerns that an inspection is overdue.
 - The Department for Communities must issue a strategy to support local authorities in order to ensuring compliance from all landlords and agents with these Regulations.
 - The Department for Communities should consider the potential difficulties in securing qualified professionals to inspect the property during the first year that the Regulations coming into force.
 - In cases where agents are managing the property on behalf of a landlords, we would recommend that agents be responsible for meeting the Regulations with remedial notices provided to agents as well as landlords and tenants.

Questions

Question 1: Did you find the guidance notes, which explain responsibilities of both landlords and tenants, under the Regulations easy to follow?

5. Yes, Propertymark finds the guidance notes easy to follow and believes they provide substantial information regarding aspects of the Regulations that are not covered in the draft legislation. We hope that when the Regulations are enacted, the responsibilities for tenants to report problems are included as this information is currently not included within the main body of the Regulations. Particular importance should be given to ensuring that tenants and agents are encouraged to report electricity problems to the landlord and provide avenues for tenants to report issues with their local authority. This can help prevent potential disputes where tenants have not known they need to report any electrical problems. Additionally, guidance on what constitutes an electrical problem should be provided as most tenants may not be able to identify if an appliance does not meet existing electrical safety standards.
6. Additionally, we would like to see guidance that clarifies the duties of agents when a property is managed by an agent rather than a landlord. There are cases where a landlord may be overseas or has delegated all control of a property to an agent, meaning that the landlord is not responsible for the daily management of the property and may be difficult to contact. In

these cases, the agent should be responsible for meeting the requirements of the regulations and will need to receive remediation notices. Not doing so may lead to properties remaining unsafe or lengthy appeals processes if the agent was left unaware that a notice had been served. This could potentially be achieved through the following amendment: “For the purposes of the Regulations, ‘landlord’ also refers to an individual or organisation (such as an agent) who has overall control of the tenancy”.

Question 2: Is there anything else you would like to add or comment on in respect of the introduction of these new Regulations/Guidance Notes?

7. We would like to request that evidence of written confirmation that an electrical safety check has been arranged should be considered sufficient to show compliance with the standards in the first year they come into effect for new tenancies. Once regulations have been passed, there will be a significant increase in demand for professionals qualified to inspect electrical appliances in private tenancies. In the short-term, this is likely going to lead to shortages of these professionals, which could lead to long waiting periods before properties can be inspected. This could lead to landlords being fined if there are no qualified professionals available to carry out electrical safety checks before a new tenancy commences. We would therefore request that evidence that an appointment has been scheduled should be sufficient in order to evidence compliance, even if the inspection takes place after the tenancy commences. This measure should be removed once suitable time has passed in order to ensure this initial measure is not abused. Depending on when the Regulations come into effect, this may need to be extended to existing tenancies as well.

8. Propertymark also has concerns over the enforcement of the new requirements. Propertymark members raised that local authorities do not always have the resources and capacity to inspect properties to ensure they are meeting regulatory requirements and expected standards. As a solution to this, we would recommend that the Department for Communities establishes a reporting model for tenants to report non-compliance to their local authority or other suitable local body. This would help prevent the need for local authorities to inspect properties at random but serve notices where evidence has been provided by tenants that the required alarms are not present. This would save resources for local authorities and help increase compliance with the new regulations.