

# The Fire and Rescue Services (Northern Ireland) Order 2006 Amendment

## A Public Consultation

**April 2018**

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## **Introduction**

1. The Department of Health proposes to make amendments to the Fire and Rescue Service (Northern Ireland) Order 2006 and seeks your views on the proposals.

## **Background**

2. The Northern Ireland Fire and Rescue Service (NIFRS) were asked to review the Fire and Rescue Service (Northern Ireland) Order 2006 and identify any pertinent issues within the Order. NIFRS identified risks and opportunities resulting in proposals to make amendments to the Fire and Rescue Service (Northern Ireland) Order 2006.
3. The review took place before the terrible events at Grenfell Tower. The Department of Health and NIFRS awaits the outcome of the Grenfell Inquiry and will consider the implications locally of any recommendations made in terms of Fire and Rescue responsibilities as a result of the Grenfell Inquiry. The Department believes the proposed amendments are of enough significance they should proceed at this point.
4. NIFRS identified the potential for a fire safety risk in the 2006 Order. As currently worded the Order removes responsibility for fire safety inspection and enforcement in common areas that exist in flats and apartment blocks (stairs, passage ways, gardens and yards etc.) of domestic premises from NIFRS.
5. The Department proposes to make NIFRS responsible for fire safety inspection and enforcement in the common areas of domestic premises such as flats and apartment blocks.
6. The Houses of Multiple Occupation (HMO) Act received Royal Assent in May 2016. The Act makes provision for a regulated licensing scheme for HMOs in Northern Ireland. Similar HMO licensing schemes are already in place in England Scotland and Wales.
7. The operation of the HMO licensing scheme will be the responsibility of local District Councils. It is understood District Councils will carry out all the checks/inspections (including fire safety) required to license or otherwise a HMO. Fire safety is a key element of the consideration in granting a license for a HMO.
8. It is understood the Department for Communities intends to progress regulations to enact the HMO licensing scheme at a future date.
9. To facilitate the provisions and policy intent of the HMO Act the Department of Health proposes to amend the 2006 Order to allow the Chief Fire and Rescue Officer to delegate fire safety inspection for “relevant premises” rather than just workplaces. This will allow the Chief

Fire and Rescue Officer to delegate responsibility for fire safety inspection in HMOs to local District Councils.

10. The proposed amendment to allow the Chief Fire and Rescue Officer to authorise “people” to undertake fire safety inspection/enforcement rather than the current “fire and rescue officers” will allow non-fire service staff i.e. suitably trained and competent District Council staff to undertake fire safety inspections in HMOs.
11. NIFRS intend to manage delegation for fire safety inspections through an agreed Memorandum of Understanding (MoU) with each District Council. Nothing in the proposals will change current arrangements in the interim until the HMO licensing scheme comes into operation and the Chief Fire and Rescue Officer is assured re the competency of District Councils to undertake fire safety checks in HMOs.
12. The proposed amendment in relation to “people” will also allow the Chief Fire and Rescue Officer to consider employing and training staff other than uniformed fire service staff to undertake a fire safety inspection role within NIFRS. Legislation in Scotland, England and Wales already facilitates this consideration by the Chief Fire and Rescue Officers of the respective fire and rescue services.
13. Non-uniformed fire service staff have been employed in fire safety inspection roles in Scotland, North Wales and in some English Fire and Rescue Services for at least 10 years.
14. **Proposals**

#### **CHANGE TO DEFINITION OF DOMESTIC PREMISES**

The current definition of domestic premises in the 2006 Order (Article 50(6)) states that the common areas inside (shared) domestic premises form part of the domestic premises and are therefore exempt from the 2006 Order. Under current legislation the Fire and Rescue Service has no legal avenue to pursue fire safety irregularities in the common areas of purpose built blocks of flats/apartments.

The proposed amendment effectively removes common areas from the definition of domestic premises. This amendment will give the Fire and Rescue Service responsibility for the inspection and enforcement of fire safety in the common areas of purpose built blocks of flats/apartments.

The responsibility for fire safety compliance in the common areas is the property owners, however the change in definition also results in the Fire and Rescue Service having responsibility for inspection and enforcement of fire safety in these common areas should fire safety compliance not be maintained.

The proposed amendment to Article 50(6) is:

*“domestic premises” means premises occupied as a private dwelling (**not** including a stair, passage, garden, yard, garage, or other appurtenance of such premises which is used in common by the occupants of more than one such dwelling), but does not include a house in multiple occupation”*

## **HOUSES IN MULTIPLE OCCUPATION (HMOs)**

The Houses in Multiple Occupation Act (Northern Ireland) 2016 (HMO Act) received Royal Assent in May 2016. The Department for Communities intend to make regulations to give effect to the Act with the transfer of regulation responsibilities for HMOs from NIHE to a regulated licensing scheme with local District Councils at a future date. Fire safety is a key component of consideration of a license for a HMO. Similar licensing schemes are already in place in England, Scotland and Wales.

As legislation currently stands the Fire and Rescue Service can only delegate powers for fire safety enforcement for a workplace. This does not address the issue of HMOs.

To facilitate the introduction of the HMO Act the Department of Health is proposing to amend Article 33(5) of the 2006 Order. The proposed amendment replaces the word “workplace” with “relevant premises”.

*33(5) The Board may make arrangements with a prescribed person for such of the functions conferred on the Board by virtue of this Part as may be specified in the arrangements to be carried out (with or without payment) on its behalf by the person in relation to a ~~workplace~~ **relevant premises** so specified.*

## **DEFINITION OF AN AUTHORISED OFFICER**

Currently Article 33(3) and 52(1) of the 2006 Order states that the Chief Fire and Rescue Officer may only authorise fire and rescue officers to enforce the legislation. The proposed amendment would allow the Chief Fire and Rescue Officer to authorise non-uniformed staff or other persons (i.e. council staff) to carry out inspections in relevant premises.

The proposed amendment to Article 33(3) and Article 52(1) is:

*33(3) The Chief Fire and Rescue Officer may authorise in writing ~~fire and rescue officers~~ **persons** to act for the purpose of carrying out the duty imposed by paragraph (1).*

*52(1) In this Part-*

*“authorised officer” means a ~~fire and rescue officer~~ **person** who is authorised in writing by the Chief Fire and Rescue Officer under Article 33.*

The Fire and Rescue Service intends to agree a Memorandum of Understanding with each local District Council that will clarify and co-ordinate the roles and responsibilities in the future with respect to fire safety inspection in HMO premises.

The proposals will not impact the existing fire safety arrangements in relation to HMOs while the Department for Communities progress the necessary regulations to bring the new licensing arrangements into place.

**Views sought on the proposals**

15. This consultation document consults on the proposal to make amendments to the Fire and Rescue Service (Northern Ireland) Order 2006. We would welcome comments on the questions below:

- Q1. Do you agree that the proposed amendments are necessary to achieve the requirements outlined previously?  
If not please explain why?
- Q2. Are the proposed amendments sufficient to achieve the requirements outlined previously?  
If not please explain why?

## How to Respond

If you wish to comment on the proposals contained within this document, please e-mail [firesafety@health-ni.gov.uk](mailto:firesafety@health-ni.gov.uk) alternatively please send postal responses to the address below.

Please ensure that the response includes: your name, organisation (if relevant), address and telephone number, and whether your comments represent your own view or the corporate view of your organisation.

Additional copies of the consultation package can be obtained by contacting the Department's Public Safety Unit either by phone or in writing. Details of the address and telephone number are shown below. Copies can also be downloaded from the consultation section of the Department's website.

<https://www.health-ni.gov.uk/consultations>

If you require any of these documents in another format or language, please contact the Public Safety Unit.

The closing date for comments is 03 June 2018. Responses received after this date will only be considered in extreme circumstances and with prior agreement from the Department.

Please address any queries you may have regarding this consultation to Jacqui Todorov:-

By phone:	028 9052 2248
By e-mail:	<a href="mailto:firesafety@health-ni.gov.uk">firesafety@health-ni.gov.uk</a>
In writing:	Department of Health Public Safety Unit Annex 4 Castle Buildings Stormont Estate Belfast BT4 3SQ

## After the Consultation:

A summary of responses to the consultation will be published on the Department's website within three months of the end of the consultation period.

**Confidentiality of information**

The Information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department of Health will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

### Statutory Equality Duty in Northern Ireland

Section 75 of the Northern Ireland Act 1998 placed statutory equality obligations on all public bodies. Each public authority, in carrying out its functions in relation to Northern Ireland must have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without, and
- between persons with dependants and persons without.

Public bodies are also required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

In accordance with these statutory obligations and the guidance produced by the Equality Commission for Northern Ireland, the Department has carried out a preliminary screening of the policy and has concluded that an Equality Impact Assessment is not required. If you consider this decision is not correct please advise the Department including any supporting evidence you may have. Copies of the preliminary screening are available on request.

The Department has considered the needs of people in rural areas when developing this policy and believes the policy will have a neutral impact on both rural and urban communities as geographical location is not a major factor.