

Report on	Consultation on Private Tenancies Act 2022: Section 8 and Section 10
Date of Meeting	16 th November 2023
Reporting Officer	Kieran Gordon, Assistant Director Health, Leisure & Wellbeing
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Is this report restricted for confidential business?	Yes	<input type="checkbox"/>
If 'Yes', confirm below the exempt information category relied upon	No	<input checked="" type="checkbox"/>

1.0	Purpose of Report
1.1	For members to agree a response to the Department for Communities' consultation on the Private Tenancies (Northern Ireland) Act 2022, ' <i>Section 8 - Smoke, Heat and Carbon Monoxide Alarms</i> ' and ' <i>Section 10 - Electrical Safety Standards</i> '
2.0	Background
2.1	The Environmental Health Service has a role in the regulation of the private rented sector through the Council's statutory duties under the <i>Private Tenancies (Northern Ireland) Order 2006</i> (as amended by the Private Tenancies Act and Housing Amendment Acts) as well as through statutory nuisance investigations.
2.2	Council is also the enforcing authority for provisions to regulate landlord registration, security of tenancy deposits and licensing scheme for Houses in Multiple Occupation (HMO).
2.3	In July 2022, information was presented to Members on the introduction of the <i>Private Tenancies Act (Northern Ireland) 2022</i> (minute reference: D121/22).
2.4	A further update was provided to Members in February 2023 (minute reference: D028/23) with respect to the implementation of Section 1 – 6 of <i>the Private Tenancies (Northern Ireland) Act 2022</i> which came into effect on the 1 st April 2023.
2.5	The introduction of the <i>Private Tenancies (Northern Ireland) Act 2022 Act</i> brought about amendments to The Private Tenancies (NI) Order 2006, the main legislative framework for the regulation of private rented sector housing.
2.6	The overarching objectives of the Private Tenancies Act are: <ul style="list-style-type: none"> • to make the private rented sector a safer and more secure housing option for a wider range of households. • to ensure better regulation of the sector; and • to offer greater protection to private renters.

3.0	Main Report
3.1	<p>Not all requirements of the <i>Private Tenancies (Northern Ireland) Act 2022</i> (i.e., the Act) were implemented in April 2023. The creation of further regulations is required to bring the remainder of the Act into effect. This is the case for Sections 8 and 10 pertaining to smoke heat and carbon monoxide alarms and electrical safety.</p>
3.2	<p>The Department for Communities (DfC) has therefore launched two consultations on the out-workings of the Private Tenancies Act (Northern Ireland) 2022 in shaping the technical regulations relating to:</p> <ul style="list-style-type: none"> • Section 8 – Smoke, heat, and carbon monoxide alarms. https://consultations.nidirect.gov.uk/dfc/the-fire-smoke-and-carbon-monoxide-alarms-northern • Section 10 – Electrical Safety Standards https://consultations.nidirect.gov.uk/dfc/electrical-safety-standards-northern-ireland-202x
3.3	<p>The purpose of the consultations is to assess whether the regulations deliver a sound legislative framework (in context of boundaries in the 2022 Act) to improve health and safety standards in private rented properties, and that the accompanying Guidance Notes are easy to follow and provide the necessary information for all stakeholder groups.</p>
3.4	<p>Section 8 – Smoke, heat, and carbon monoxide alarms.</p> <p>The proposed <i>Smoke, Heat and Carbon Monoxide Alarms Regulations (NI)</i> in Appendix 1 set the standards for the number and type of smoke, heat, and carbon monoxide alarms to be installed in private rented properties and aim to reduce the risk of fire related incidents.</p> <p>It is anticipated these Regulations will come into operation early next year and will apply to all private tenancies. There will be a lead in time of 2 months for landlords to comply.</p> <p>The associated guidance notes that are proposed to accompany section 8 can be found in Appendix 2.</p> <p>It will be an offence for a private landlord to fail to comply with the duty to keep in repair and proper working order sufficient appliances for detecting smoke, heat, and carbon monoxide.</p>
3.5	<p>Section 10 – Electrical Safety Standards</p> <p>The proposed <i>Electrical Safety Standards Regulations (NI)</i> as set out in Appendix 3 aim to reduce the risks of death and injury due to electrical faults in private rental properties.</p>

<p>3.6</p> <p>3.7</p>	<p>The regulations introduce the requirement for electrical safety standards to be met during the period the property is let and electrical inspections will be required to be completed by a qualified electrician at least every 5 years.</p> <p>The landlord must provide proof the testing has been carried out and if a repair/further investigation is required it must be completed within a specific timescale.</p> <p>It will be an offence for the landlord not to comply with their duties.</p> <p>There is no indication of an implementation date yet. Once commenced, it is anticipated there will be a lead in time of 12 months for all tenancies to comply.</p> <p>The proposed guidance to accompany section 10 can be found in Appendix 4.</p> <p>Enforcement</p> <p>The Act creates new offences for which the Council will have powers to issue fixed penalty notices. The fixed penalty payable in respect of an offence is an amount determined by the Council, being an amount not exceeding one-fifth of the maximum fine payable on summary conviction of that offence, which is a maximum of £500 for smoke, heat and carbon monoxide alarm offence and £1000 for electrical safety offence.</p> <p>Members will be provided with a further update prior to implementation of the new legislative powers to agree fixed penalty levels.</p> <p>All responses to the Department for Communities' consultation on section 8 and 10 of the Act, must be submitted via their online survey mechanism before 6th December 2023. Members are therefore asked to review and agree the draft MUDC submission which can be found within the appendix, which consists of a copy of the relevant questions and suggested response.</p>
<p>4.0</p>	<p>Other Considerations</p>
<p>4.1</p>	<p>Financial, Human Resources & Risk Implications</p> <p>Financial: The introduction of the Private Tenancies Act provides Councils with new enforcement powers to deal with tenancy issues in the private rented sector. This will increase the duties and demands on the Councils enforcement resource which has already experienced an increase demand on housing and statutory nuisance services over recent years, coupled with competing priorities on the Environmental Health Service.</p> <p>The Department for Communities is aware of Council's concerns in terms of resources, however there is no financial support available currently to assist Councils with these additional powers. The Council in its response to the consultation has requested the ability to charge for enforcement action with</p>

	<p>regards to electrical safety like that contained in Part II of the Private Tenancies (NI) Order.</p> <p>The fixed penalty regime introduced for the new offences may provide some income, but it will not cover any additional staffing and administrative resources required. Setting the fixed penalty to the maximum amounts is a key consideration in the absence of any financial support to implement this important legislation.</p>
	Human: See above
	Risk Management: None anticipated at this juncture
4.2	Screening & Impact Assessments
	<p>Equality & Good Relations Implications: The Department has published Regulatory Impact Assessments, which can be viewed at:</p> <p>https://www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-consultation-section8-smoke-heat-carbon-monoxide-alarms-private-tenancies-ni-reg-impact-assessment.pdf</p> <p>https://www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-consultation-section10-electrical-safety-standards-private-tenancies-ni-reg-impact-assessment.pdf</p>
	Rural Needs Implications: None anticipated at this juncture.
5.0	Recommendation(s)
5.1	To note the contents of this reports and agree the content of Mid Ulster District Council’s draft response to the technical matters of the Department for Communities’ consultations on Sections 8 and 10 of the Private Tenancies (Northern Ireland) Act 2022 as set out in Appendices 5 and 6.
6.0	Documents Attached & References
6.1	Appendix A – Proposed Guidance Notes on Section 8 ‘Smoke, Heat and Carbon Monoxide Alarms
6.2	Appendix B - Proposed Guidance notes on Section 10 on ‘Electrical Safety Standards’
6.3	Appendix C - Response to the Department for Communities’ consultation on Section 8 of the <i>Private Tenancies (Northern Ireland) Act 2022</i>
6.4	Appendix D - Response to Department for Communities’ consultation on Section 10 of the <i>Private Tenancies (Northern Ireland) Act 2022</i>