

# HOUSING (SCOTLAND) ACT 2006: SCOTTISH GOVERNMENT GUIDANCE FOR PRIVATE LANDLORDS ON SATISFACTORY PROVISION FOR DETECTING AND WARNING OF FIRES

**Revised March 2019**

**Note:** This guidance has been revised to reflect changes to legislation made by the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 and the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Order 2019. The principle change as it affects private landlords is that from 1 March 2019 the repairing standard can be complied with by **either** mains-operated alarms **or** tamper proof long-life lithium battery alarms.

1. Section 13(1) of the Housing (Scotland) Act 2006 sets out the criteria that must be met if a house is to comply with the Repairing Standard. One part of the Repairing Standard is that a house should have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. From 1 February 2022 an amendment to the statutory tolerable standard comes into force under section 86 of the Housing (Scotland) Act 1987, which will require that all houses, regardless of tenure, must have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. Consequently, there is no need for a separate requirement in the repairing standard and this element of the standard will be removed from the same date. Landlords are required to ensure that houses they let meet the tolerable standard in order to comply with the repairing standard, so this change will make no difference to the duty to ensure houses have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. **From 1 February 2022, this guidance will cease to have effect and landlords should refer to the Scottish Government's guidance on the tolerable standard, Chapter 16: Satisfactory Fire Detection.**
2. There were 5,310 reported fires in dwellings (e.g. houses, flats and maisonettes) in 2017/18 in Scotland. Fires can have a devastating effect on the lives of people and resulted in around 44 deaths and 1,113 injuries in 2017/18.<sup>1</sup> According to national fire statistics dwelling fires in which smoke alarms raise the alarm continue to:
  - be discovered more rapidly (less than 5 minutes) after ignition; and
  - be associated with lower fatal casualty rates.

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<sup>1</sup> Fire and Rescue Incident Statistics (Scotland) 2017-18, [https://www.firescotland.gov.uk/media/1332742/incident\\_statistics\\_2017\\_18.pdf](https://www.firescotland.gov.uk/media/1332742/incident_statistics_2017_18.pdf)

3. The installation of smoke and fire detectors is intended to reduce the risk of fire and the consequent loss of life, injury and damage to property. Because of these dangers, the Repairing Standard sets a high benchmark for smoke and fire detection, matching the standard required for new buildings and which is higher than many owner-occupiers will meet for their own homes. All privately rented homes should, if at all possible, meet this standard. However, the most important thing is that there should be some provision to detect fires and that this should be operational and in good working order.
4. As stated in section 13(7) of the 2006 Act, in deciding whether this standard is met in relation to the fire safety standard, regard must be had to any guidance on the subject issued by the Scottish Ministers.–This means that landlords should either install smoke and fire detectors that meet the standard set in this guidance or be able to justify why a lesser level of protection is appropriate in a particular home. Reasons why a lesser level of protection might be appropriate could include:
  - Where the proximity of an open fireplace would make a smoke detector impracticable, a heat detector may be fitted
  - Where the layout and design of the house means that one detector can combine the protection required by individual detectors in different areas, such as a kitchen/diner or open plan layout, or in small flats where the living room and hall can be covered by one smoke alarm,
  - Where the landlord intends to install detectors within a reasonable timescale as part of a programme of upgrading property.
5. Landlords are entitled to rely on professional advice from qualified electricians on their compliance with the standards in building regulations.
6. In order to comply with the repairing standard there should be at least:
  - one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes (normally the living room/lounge),
  - one functioning smoke alarm in every circulation space on each storey, such as hallways and landings, or in main room if no landing in upper storey
  - one heat alarm in every kitchen,
  - all alarms should be ceiling mounted, and
  - all alarms should be interlinked.
7. Mains-operated alarms (with battery backup) are permitted, and tamper proof/sealed/ long-life lithium battery alarms (i.e. not PP3 type or user-replaceable) are also permitted – the expiry date should be visible on each alarm.
8. Smoke alarms should conform to BS EN 14604. Heat alarms should conform to BS 5446-2. Multi-sensor alarms should conform to BS EN 54-29 or BS EN 14604. For more detailed information on smoke alarms, see BS 5839 Part 6.

9. Alarms can be interlinked via wires (hardwired) or wirelessly (by radio communication). Where adding to an existing hardwired system, care should be taken to ensure that all alarms are interlinked, with all alarms sounding when any one device is activated.
10. If there is a requirement for the house to meet a more stringent standard of provision for detecting and giving warning of fire (for example, in a house in multiple occupation (HMO) requiring to be licensed, or if work requires a building warrant), then the Repairing Standard criterion is only to be regarded as met if that requirement is met.
11. The fitting of a mains-operated smoke/heat alarm system may require a building warrant and landlords should consult the Building Standards department of the local authority.
12. Landlords should ensure that smoke and heat alarms are regularly maintained in accordance with the manufacturer's recommendations.
13. It is recommended as good practice that landlords advise tenants to test alarms on a weekly basis. It is also recommended that landlords should advise tenants not to tamper with alarms.
14. The risk of fire can be reduced by ensuring the electrical installations and appliances are safe. It is also part of the Repairing Standard that the installations in the house for the supply of electricity and any appliances provided by the landlord are in a reasonable state of repair and in proper working order. Separate Scottish Government guidance outlines the duty on private landlords to carry out electrical installation inspections, including fixtures, fittings and any appliances provided by the landlord at least every five years.<sup>2</sup> Landlords may also wish to provide advice for tenants on ensuring the safety of any appliances brought into the house by the tenants.
15. Before a tenancy commences, landlords should:
  - Carry out an inspection check to confirm that the house meets the tolerable standard (required by section 85-87 of the Housing (Scotland) Act 1987 and amended by the Housing (Scotland) Act 2001 and the Housing (Scotland) Act 2006 and the repairing standard (required by section 19 of the Housing Scotland Act 2006),
  - Provide a new tenant with a copy of a gas safety certificate (required by regulation 36 of the Gas Safety (Installation and Use) Regulations 1998).
  - Provide a new tenant with a copy of an Electrical Installation Condition Report or an Electrical Installation Certificate and Portable Appliance Test (PAT) on portable appliances

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<sup>2</sup> Electrical installations and appliances in private rented properties: guidance, <https://www.gov.scot/publications/electrical-installations-and-appliances-private-rented-properties/>

- Provide a new tenant with a copy of a valid energy performance certificate (required by the Energy Performance of Buildings (Scotland) Amendment (No. 2) Regulations 2012).
  - Advise a new tenant of smoke and heat alarms expiry dates
16. Landlords should note that under section 52 of the Housing (Scotland) Act 2006, a tenant or a prospective tenant has the right to apply for an adaptation to make the house suitable for the accommodation, welfare or employment of any disabled person. This includes an adapted fire or smoke alarm to meet the needs of a deaf person. Consent to such an application may not be unreasonably withheld, but may be subject to reasonable conditions. The landlord is not required to carry out the work themselves, but if they do, may have regard to the costs they are likely to incur in considering whether it is reasonable to give consent. Reasonable conditions may include specification of the standard to which the work must be carried out, and may require the tenant to reinstate the house if necessary at the end of the tenancy.
17. The Scottish Fire and Rescue Service (SFRS) offer free Home (i.e. domestic premises) Fire Safety Visits comprising an assessment of fire risk within the home at that time and the provision of advice on preventing fires, avoiding fire spread and formulating an escape plan in event of fire. Additionally, SFRS staff may on occasion, if available and appropriate, fit short life battery operated smoke and heat alarm(s). These will not meet the repairing standard (which requires long life battery or mains powered detectors) but are better than no protection. Note that a Home Fire Safety Visit is neither a substitute for responsible persons complying with their specific legal obligations under the Fire (Scotland) Act 2005 nor does it signify compliance by persons with any other legislative requirement or standard. To arrange a free Home Fire Safety Visit: call 0800 0731 999, text "FIRE" to 80800 from your mobile phone, or visit [www.fireScotland.gov.uk](http://www.fireScotland.gov.uk).

**1 March 2019**