



## Smoke Alarms

All registered landlords should have received a copy of the Advice pack for Private Landlords prepared by the Scottish Executive, as the Scottish Government was formerly known. If you have not received a copy of this Advice Pack, then can be downloaded from the **prhp** website ([www.prhpscotland.gov.uk](http://www.prhpscotland.gov.uk)), or you can request a copy from the **prhp** offices. Included within this Advice Pack is the statutory guidance issued by the Scottish Ministers. Landlords should ensure that they are familiar with the terms of this guidance.

The main points relative to smoke detectors as set out in the statutory guidance are:-

- There should be one or more functioning smoke alarm installed in the house;
- The number and position of alarms is to be determined by the size and layout of the house;
- There should normally be at least one alarm on each floor;
- If there are multiple alarms they should be interlinked;
- An alarm installed prior to 3<sup>rd</sup> September 2007 can be mains powered or battery powered;
- Any smoke alarm installed after 3<sup>rd</sup> September 2007 must be mains powered, including replacement alarms;
- If there is a requirement for a particular house to meet more stringent standards,(e.g. because it is an HMO or under Building Regulations) then the Repairing Standard is only satisfied if that stricter standard is met;
- An alarm should be installed in accordance with the recommendations contained in BS5839 Part 6;
- The fitting of a hard wired smoke alarm system may require a building warrant and landlords should consult the Building Standards department of the relevant local authority;
- Landlords should ensure that smoke alarms are regularly maintained in accordance with the manufacturer's recommendations.

In addition to the statutory guidance some further points are made:-

- Further information can be found in the Technical Handbooks which provide practical guidance with respect to the Building (Scotland) Regulations 2004, and in particular Functional Standard 2.11;

It is recommended as good practice that:-

- landlords should advise tenants to test alarms on a weekly basis and change the batteries once a year in battery powered system;
- Where a lease is for less than a year, the landlord should change the batteries before the start of the next tenancy;
- Landlords should advise tenants not to tamper with alarms;
- Leases should contain a clause about not tampering with batteries.

A number of additional issues have been raised. **The information which follows is intended as guidance only and should not be taken as a definitive statement of the law.** Interpretation of the relevant Repairing Standard criterion will ultimately be a matter for the courts. However you may find it helpful to know that some frequently asked questions are being answered as follows:-

**Q:- After 3<sup>rd</sup> September 2007, if there is no existing provision for the detection of fires in a property, what is the time limit permitted for having a mains connected system installed?**

**A:-** The duty comes into force on 3<sup>rd</sup> September 2007. Any work which requires to be carried out for the purposes of complying with the duty must be done within a “reasonable time” of the landlord becoming aware that the work is required. What is a “reasonable time” is something that will have to be considered in the light of the circumstances in each case.

**Q: - Does the system known as “Fire Angel” meet the Repairing Standard?**

**A: -** No, this system does not meet the recommendations of BS 5839 Part 6 and therefore does not meet the guidance issued.

**Q: - What is the position if there is a delay in installing a mains connected alarm caused by the processing of my application for a Building warrant?**

**A: -** This comes within section 16(4) of the 2006 Act which provides that *“a landlord is not to be treated as having failed to comply with the duty imposed by section 14(1) where the purported failure occurred only because the landlord lacked necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights”*. It would be up to the landlord to show that he or she had taken such steps.

**Q: - If a mains connected replacement cannot be installed immediately due to the need for a building warrant, can I replace a broken battery alarm with a temporary battery powered alarm as a temporary measure?**

**A: -** The guidance would suggest that **no** battery powered alarm can be installed after 3<sup>rd</sup> September 2007. However, where a battery powered alarm is installed as an alternative to no alarm system at all, **as a purely temporary measure pending the obtaining of a building warrant**, the **prhp** would not regard that as a breach of the Act. However, this would be conditional on the landlord:-

- a) having applied for a building warrant;
- b) taking all steps to progress that application as quickly as possible, and
- c) undertaking to install the mains connected system within a reasonable period of time after the building warrant is granted.

A landlord failing to fulfil this undertaking would not be able to rely on having fitted a battery powered alarm to avoid complying with the duty imposed by section 14.

**Q: - What happens if the property does not have a mains electricity supply?**

**A: -** Such properties should contain a ten year battery device which is capable of being interlinked where there is more than one floor.

**Q: - My property does not have a smoke alarm at present but I intend to install one as soon as I get the building warrant I have applied for. Can I let my property in the meantime?**

**A: -** The property should meet the repairing standard at the start of the tenancy and at all times during the tenancy. However the landlord has a “reasonable time” to carry out any work required. As the duty only came into existence on 3<sup>rd</sup> September 2007 it follows that the landlord must be allowed a “reasonable time” from that date. However you should make clear to any prospective tenant that the property does not currently meet the repairing standard and explain that you are taking steps to remedy that.

**Q: - I have a number of two storey properties with existing battery powered alarms installed on both floors. Does that meet the repairing standard?**

**A:-** No, while **an** existing smoke alarm is adequate if it was installed prior to 3<sup>rd</sup> September 2007, if there are multiple alarms they must be interlinked.

**Q: - When is a Building warrant required for the installation of a mains connected alarm system?**

**A: -** A building warrant may be required depending on the circumstances of the building, e.g. the house’s height. The Building Standards department of your local authority will advise.

**Q: - Should smoke alarms be mounted on the ceiling or a wall?**

A: - There are three issues to be taken into account:

1) Whether the smoke alarm manufacturer recommends that particular alarms are suitable for wall mounting;

2) BS 5839 Part 6 recommends ceiling mounting, but does have an exclusion:  
*i) the top of the detection element is between 150 mm and 300 mm below the ceiling; and*

*If ceiling mounting is impracticable, in rooms and hallways not exceeding 10 m in both length and breadth, and not exceeding 50 m<sup>2</sup> in area, detectors may, alternatively, be mounted on a wall provided that:*

*ii) the bottom of the detection element is above the level of any door opening; and*

iii) the manufacturer's instructions state that the detector is suitable for wall mounting.

3) The building regulations, which are referred to in the 2006 Act, specify only ceiling mounting

It is hoped that this information will be helpful to you. This note does not form part of the statutory guidance and you are advised to seek your own legal advice on any issue of particular interest or importance to you. Neither the **prhp** nor the President thereof accepts any liability for any loss resulting from acting on the information contained within this note.

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