EXPLANATORY MEMORANDUM TO

THE ELECTRICAL SAFETY STANDARDS FOR PRIVATE TENANCIES REGULATIONS (NORTHERN IRELAND) 2024

SR 2024 No. 201

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under The Private Tenancies (Northern Ireland) Order 2006 and is subject to the draft affirmative resolution procedure.

2. Purpose

2.1. The Statutory Rule introduces the requirement for private rented landlords to have the hardwired electrical installation of a rental property inspected and tested by a qualified electrician at intervals of not less than a 5-year period.

3. Background

3.1. The Private Tenancies Act (Northern Ireland) 2022 amended the Private Tenancies (Northern Ireland) Order 2006 to enable the Department for Communities to make the Statutory Rule concerning electrical safety standards in private rented properties.

3.2. A survey conducted by 'Censuswide' consulting private renters in Northern Ireland found 31% had broken sockets/light switches, 28% had experience exposed wiring, 27% had experienced broken, damaged, or overheating electrical appliances provided by the landlord, and 25% had experience frequent tripping of the fuse box. The 2021 census reflects a figure of 123,779 private rented households and NIFRS statistics reflect 8 fatalities in dwelling fires in NI since November 2022 and a 14% increase in incidents.

3.3. The Statutory Rule requires that a private rental Landlord must ensure that the electrical safety standards are met during any rental period by having the electrical hardwired installation inspected and tested at least every 5 years. A report must be obtained from the electrician undertaking the inspection and testing with the results and date of when the next inspection is due.

3.4. Following the inspection and test the following actions must be undertaken provide a copy to the tenant within 28 days of the inspection and test. A copy should also be provided to a prospective tenant within 28 days of receiving a request for the report and to the council within 7 days of receiving a request. The landlord should retain a copy of the report to provide to the electrician who will undertake the next inspection and test when due.

3.5. If the report shows that further investigative or remedial work is necessary, the landlord must complete the work within 28 days or any shorter period, specified within the report. Supply written confirmation of the completion of the further investigative or remedial work from the electrician to the tenant (and council within 28 days of completion of the work if linked to previous council intervention).

3.6. If an electrical fault is notified to the landlord in the period between due inspections it remains the landlord's responsibility to ensure the fault is investigated and any necessary remedial action is taken to meet the required safety standards.

3.7. The Regulations will be enforced by local councils with non-compliance attracting a fine not exceeding level 5 on the Department of Justice standard scale (£5,000). Alternatively, where the council believes that an offence has been committed it may give the landlord a notice offering the opportunity of discharging any liability to conviction for the offence by the payment of a fixed penalty. Such penalty fine will be an amount not exceeding one-fifth of the level 5 fine payable on conviction of that offence.

3.8. The Statutory Rule will be accompanied by easy read guidance notes explaining the electrical safety standards in more detail and covering the different scenarios that might occur. They set out to explain the inspection and reporting regime in a step-by-step process interwoven with the answers to any questions that may potentially arise along the way. These have been designed to cover the most common situations but are not intended to cover every scenario, nor should they be seen as a substitute for reading the Electrical Safety Standards for Private Tenancies Regulations (Northern Ireland) 2024. The guidance also includes useful links for NI Direct on how to find a qualified electrician and Best Practice Guides from Electrical Safety First.

3.9. It is the department's intention to ensure the guidance notes are updated whenever there are changes, but it is the landlord's responsibility to ensure that they correctly adhere to the Regulations.

3.10. Once the Electrical Safety Standards for Private Tenancies Regulations (Northern Ireland) 2024, are made, the operation date for new private tenancies will be 1 April 2025. Existing private tenancies must be compliant by 1 December 2025. That aligns with the request from the Landlords Association of Northern Ireland that given the fact all private rental properties will require an initial inspection, combined with the need to secure an electrician to do so, consideration needed to be given to setting sufficient timescales for retrospective application and for the Department to communicate that to all landlords/agents in due time through deploying a pro-active communication strategy.

4. Consultation

4.1. To achieve as much interaction as possible with key stakeholders on the content of the Statutory Rule a 12-week on-line consultation ran from 13 September 2023 to 6 December 2023. Views were sought from private rental landlords/agents, tenants, electricians, local councils and other

potentially interested parties (including MLAs). In tandem with the on-line consultation which received 57 responses forum meetings were held with the Landlords Association of Northern Ireland (LANI), Housing Rights and Renters Voice, Electrical Contractors (including ECA, NICEIC and Cert Sure), Council Environmental Health Officers.

4.2. Given the technical nature of the content queries did arise for resolution with the expert Advisory Group, but none proved to be ultimate showstoppers. Post-consultation following reference back to the expert Advisory Panel the following points were accepted. There should be no exemption for private rental 'single let' properties which are used for emergency accommodation. Consideration to be given to the potential difficulties in securing qualified professionals to inspect the property during the first year that the Regulations coming into force and the Department needed to set appropriate operational timeframes undertake an effective communications strategy to alert landlords well in advance of the legislation being laid.

4.3. The associated full post-consultation Summary Report is drawn to the DfC Committee's attention prior to publication on the departmental website.

4.4. Positon in Great Britain, England's legislation came forward by way of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. In Wales from 15 July 2022 the Renting Homes (Wales) Act 2016, requires all rented homes to have a periodic inspection and testing of the electrical installation, carried out by a qualified person such as a registered electrician, every five years unless the requirements of the previous Electrical Installation Condition Report (EICR) indicate a shorter inspection and testing interval.

4.5. Private landlords in Scotland are required by sections 19A and 19B of the Housing (Scotland) Act 2006 to ensure an electrical safety inspection is carried out by a skilled person at intervals of no more than five years.

4.6. The Northern Ireland Statutory Rule was shaped by transposing England's 2020 Regulations as the base working template to debate with the expert Advisory Panel on what should, or should not, be amended to suit the NI context in bringing forward the 'Electrical Safety Standards for Private Tenancies Regulations (Northern Ireland) 2024'. In so doing lessons learned from the consultation responses were interwoven to shape the final draft. The Council representatives were key to assisting with drafting effective procedures and timescales aligned to what would work best on the ground in respect of dovetailing with local enforcement measures.

4.7. The associated NI guidance notes have been drafted with reference to the advice deployed by the other UK jurisdictions with appropriate amendment to make the content as easy to follow as possible and deal with any questions that could potentially arise.

5. Equality Impact

5.1. In accordance with its duty under Section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the proposal, and the Department concluded that it does not have significant

implications for equality of opportunity or good relations. Therefore, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1. In recognition of the fact that there would be a financial impact with regards to compliance by private rented landlords a Regulatory Impact Assessment was undertaken and published with the consultation documents for comment .

6.2. No major challenge to the costing of the financial impact was received during the consultation (circa £200 per property for an inspection – although obviously further expenditure may be generated if a fault is detected). The total economic cost for the NI private rental sector for introducing the requirement to have an inspection carried out utilising the 2021 census equates to 123,779 private rented households x £200 = a repeating 5 yearly inspection cost of £24,755,800.

6.3. The consultation showed that many landlords and landlord representatives were aware of their responsibilities to have a reported electrical fault is inspected and repaired. Additionally, half of the landlord respondents were content with the new listed responsibilities in respect of introducing 5-yearly electrical safety inspections.

6.4. Those who objected highlighted the potential costliness of tests, which they considered would ultimately lead to an increase in rental prices, and having burdensome and unnecessary paperwork. However, as the aim of the new Statutory Rule is to prevent future death or injury by caused by faulty electrical wiring within private rented properties the value of inspection and rectification of any resulting faults is assessed to outweigh any resulting expenditure which, unless the property is in a really unfit state, should not prove to be an excessive financial commitment.

7. Financial Implications

7.1. The are no financial implications for the Department

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Statutory Rule, it is not incompatible with the convention rights or with community law. It does not discriminate against a person or class of person on the grounds of religious belief or political opinion and does not modify an enactment in breach of Section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. None

10. Parity or Replicatory Measure

10.1. This is not a parity or replicatory measure.

11. Additional Information

11.1. It is proposed that, following the Assembly draft affirmative process, once the Rule is made, the Regulations will become operational on 1 April 2025

for all new tenancies and existing tenancies must comply by 1 December 2025.