

**ENVIRONMENTAL
HEALTH OFFICERS
ASSOCIATION**

CUMMANN NA N'OIFGEACH SLAINTE COMHSHAOIL

POLICY DOCUMENT

ON THE

**ENVIRONMENTAL HEALTH
ASSESSMENT**

OF

RENTED HOUSING

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INTRODUCTION

AND

DEFINITION

INTRODUCTION

This policy document on Environmental Health Standards for Rented Housing has been produced principally in response to the introduction of The Housing (Standards for Rented Housing) Regulations 1993, and The Housing (Rent Books) Regulations 1993, and also in anticipation of the extension of the Housing Regulations to accommodation let by local authorities on 1st January 1998.

GENERAL.

It is widely accepted that proper housing is a basic human necessity. Both the World Health Organisation (WHO) and The United Nations (UN) have recognised that proper housing is a basic human right.

Article 25 of the Declaration of Human Rights adopted by the General Assembly of the UN starts,

'Everyone has the right to a standard of living adequate for the health and well being of himself and his family, including clothing, food, housing, and medical and social services.....'

More recently when the WHO started its Health For All campaign in the 1980's, one of the prerequisites for health identified by the European Region was decent housing;

Target 24 for the European Region reads:

“By the year 2000, all people of the region should have a better opportunity of living in homes and settlements which provide a healthy and safe environment.”

In the section titled “Suggested Solutions” WHO suggests that this could be achieved by accelerating programmes of housing construction, and the development of international health criteria for housing; space, heating, lighting, disposal of wastes, noise and safety control. The needs of special groups, e.g. the elderly and disabled, would be catered for. The full text of the target is included as Appendix 1.

Ireland's response to this (in so far as rented housing is concerned) has been the ongoing development of new legislation in relation to housing standards, with many of the provisions of the target already in place. If these provisions were to be used to their full potential then a very real improvement could be made to existing housing standards. This is not to say that significant improvement has not already occurred, but more remains to be done.

THE IRISH DIMENSION.

In Ireland the current housing situation developed from one where most people were tenants of landlords, (often absentee landlords), to today when the majority of people own their own homes. The private rented sector represents a smaller proportion of people in Ireland than in other European countries. However a significant minority of the population continues to avail of private rented and public sector accommodation as is evidenced by the figures in Table 1.

Housing legislation has also continued to develop and it can be said that our modern housing legislation started with the Housing Act 1966. A list of relevant housing legislation is included as Appendix 2.

TABLE 1

<u>NATURE OF OCCUPANCY</u>	<u>NUMBER OF HOUSEHOLDS</u>	<u>NUMBER OF HOUSEHOLDS</u>
RENTED UNITS	CONVENTIONAL HOUSE	FLAT or BEDSITTER
Unfurnished	13,752	4,344
Fully/Partly furnished	30,327	33,348
Occupied rent free	19,633	1,989
Local Authority Rented	83,162	15,752
Owner Occupied with/without mortgage (include houses being acquired from Local Authorities)	<u>797,900</u>	<u>10,416</u>
TOTAL	952,743	66,976

DEFINITION

All individuals have a right to adequate housing. For the purposes of this report adequate housing is defined as:

**“ACCOMMODATION WHICH PROVIDES
ADEQUATE SHELTER FROM THE IRISH CLIMATE,
IS SAFE AND SECURE, WITH PROPER FACILITIES
FOR A REASONABLE STANDARD OF LIVING IN
WHICH THE RIGHTS OF ALL ARE PROTECTED.”**

**ENVIRONMENTAL HEALTH
STANDARDS**

INTRODUCTION

The Housing (Standards for Rented Houses) Regulations 1993 is the main piece of legislation concerning standards, enforceable by E.H.O.'s. They are made by the Minister of State at the Department of the Environment by powers granted under the Housing Acts 1966 and 1992. The Regulations apply nation-wide and supersede local bye-laws where such existed for rented accommodation.

The Regulations contain twelve articles and the required standards are contained in articles 5 to 11 inclusive. They are as follows:

- Article 5. Structural condition.
- Article 6. Sinks, water closets, fixed baths, showers and water supply.
- Article 7. Heating, cooking and food storage.
- Article 8. Electricity and gas.
- Article 9. Ventilation.
- Article 10. Common areas, facilities and stairways.
- Article 11. Basements, out offices, yards and boundaries.

NOTE: Where specific requirements have been outlined in the Regulations themselves they are quoted in this Section. However as many of the requirements are non-specific, the standards in this Section have been taken from the current Technical Guidance Documents (T.G.D.s), made under The Building Regulations 1991 unless otherwise stated.

STANDARDS

Article 5 - Structural Conditions.

This is essentially an omni-bus and self-explanatory article which requires the "house" to be maintained in "a proper state of repair" and goes on to define this as meaning "essentially sound, with roof, floors, ceilings, walls and stairs in good repair and not subject to serious dampness or liable to collapse because they are rotted or otherwise defective."

NOTE: "house" is defined as : "any building or part of a building used or suitable for use as a dwelling, and any out-office, yard, garden or other land appurtenant thereto, or usually enjoyed therewith."

Article 6 - Sinks, water closets, fixed baths, showers and water supply.

This article relates to the provision of sanitary accommodation and facilities. In summary the requirements in the regulations are:

- a sink must be provided in every dwelling.
- a water closet must be provided either in the habitable area of the house, on the same floor as the dwelling, on an adjoining floor, or, in certain circumstances in the "curtilage" of the house, which includes the outhouses. Therefore, in certain circumstances an out-door water closet is deemed to be acceptable.

These sanitary facilities must be provided for every two dwellings except in a premises where the facilities provided are to be used by no more than four people. Therefore four single bedsit's could be served by one bathroom.

Unfortunately there are no requirements in the legislation regarding the provision of a wash-hand basin. Therefore one cannot be required, and where one is provided, but not properly serviced (i.e. no hot water) it cannot be remedied using this legislation.

The trend in the private rented sector is thankfully more and more towards the development of self-contained units, a trend which is to be preferred and encouraged. It must also be remembered that the Technical Guidance Documents require all new dwellings to be provided with a sink, bath/shower, and wash hand basin. So from that point of view all newly built/renovated units should be self-contained.

The Technical Guidance Documents outline specific requirements for the design and installation of sanitary conveniences i.e.

Sinks - Sub-Article 6(1)

A sink shall be of adequate size and have a draining board which is part of/fixed to the sink. Cold water to the sink must be provided directly from the service pipe.

Hot water shall be provided from a unit water heater or central source.

NOTE Further detail regarding sinks etc. may be obtained from :

I.S. 132 1964 and
I.S. 132 1975.

Water closets - Sub-Article 6(2)

While the Technical Guidance Documents require the provision of a ventilated lobby between the sanitary accommodation and any room used for the preparation or cooking of food, this is not required under the Regulations. However, again it would be necessary in newly developed units. The Technical Guidance Documents also require that sanitary accommodation should not open directly into any livingroom, and that at least one water closet should open from a hall, lobby or landing.

There are specific requirements with regard to the design of the sanitary appliances themselves in the Technical Guidance Documents, which are useful in all cases:

1. Sanitary conveniences and wash hand basins shall be of such design, and be so installed as to allow for effective cleaning.
2. Every water closet must have a surface which is smooth, non-absorbent and capable of being easily cleaned.
3. Flushing apparatus should be capable of cleaning the water closet pan effectively. No part of the sanitary convenience should be connected to any pipe other than a flush pipe or branch discharge pipe.
4. The wash hand basins provided in/adjacent to the sanitary accommodation should have hot water from a central source or unit water heater, and a piped supply of cold water from the storage cistern. Wash hand basins should discharge through a trap and branch discharge pipe to a discharge stack or ground floor to a gully trap.

Water supply - Sub-Article 6(4)(a)

As previously referred to, an adequate supply of hot and cold water must be provided to all units, i.e.

1. Cold water to the kitchen sink to be provided directly from the service pipe.
2. Cold water to all other units to be provided from a storage cistern to avoid problems with pressure. (If it is necessary to have a pump installed to deal with water pressure problems - then permission of the local authority is usually necessary).
3. Hot water for each fitment to come from either a unit water heater or a central source.

NOTE: It is not advisable that 1 cylinder serve more than one dwelling.

Safe and effective means of drainage - Sub-Article 6(4)(b)

As we are all aware drainage requirements will vary from one premises to the next, and to that end relevant legislation/standards e.g. Technical Guidance Document H or B.S. 5572 should be consulted. However the following points are relevant in all cases.

An effective foul water drainage system should:

1. Convey the flow of foul water to a foul water outfall. (combined sewer or septic tank etc).
2. Minimise the risk of blockage/leakage.
3. Prevent foul air from the drainage system from entering the building under working conditions.
4. Be ventilated to prevent the build-up of gases.

5. Be accessible for clearing blockages.
6. Be adequately protected from damage by traffic etc.
7. The capacity should be adequate to cater for the expected flow at any point. (Further details regarding flow rates etc. in Technical Guidance Document H).

In addition all points of discharge into the system should be fitted with a water seal/trap (min. seal : 25mm). If the trap provided is part of the appliance then the appliance should be removable, otherwise the trap must be provided immediately after the appliance and be fitted with a rodding eye.

Further details with regard to drainage systems maybe obtained from:
S.R 6 1991 or B.S. 62 97 1983 or Technical Guidance Document H.

Article 6(5) - Insulation

This sub-article requires all pipe-work etc. to be protected against frost damage.

In the case of factory-coated cylinders, the level of insulation should comply with the following British Standards, B.S. 699: 1984, B.S. 1566: 1984, B.S. 3198: 1981.

Other cylinders, should be provided with a jacket which complies with B.S. 5615: 1985. In the case of segmented jackets the segments should be taped together.

Pipework: The insulation material used in these cases, should have a thermal conductivity of $> .045$ w/mk, and a thickness equal to the outside diameter of the pipe, for pipes not more than 40mm in diameter. For pipes with a diameter greater than 40mm, insulation material should be of 40mm thickness.

NOTE Technical Guidance Document L, or B.S. 5422 : may be consulted for further detail/information.

Article 7 - Heating, Cooking and Food Storage.

Article 7(1)(a) - heating and cooking equipment.

An appliance/appliances (includes an open fireplace) capable of providing adequate space-heating is required. To this end a temperature of 18°C is generally regarded as comfortable, while people such as infants and the elderly will require a temperature of 21°C for comfort. It is not possible to detail specific requirements with regard to the number or type of heating appliance to be provided for each house as this will vary from one premises to the next, and will be dependant on a number of factors such as the size of the room, its orientation and level of insulation. However a sufficient number of appliances, capable of providing a comfortable temperature as outlined should be provided to all rooms.

Facilities for the installation of cooking equipment are also required. Therefore a landlord is not required to provide a cooker in a dwelling. The 'facility' provided for the installation of cooking equipment may be as simple as a socket for a breakfast cooker/microwave oven, and this would probably have to be accepted.

Provision must be made, where necessary, for the "safe and effective removal of fumes and other products of combustion to the external air."

The Technical Guidance Documents refer to a kitchen, with a minimum floor area of 6.5m or above. In these cases the following ventilation is required:

A Background Ventilation consisting of:

1. A permanent air vent (P.A.V.) minimum 6500mm
2. Mechanical ventilation capable of providing 1 air change per hour

and

3. An open window or other opening, minimum size one tenth of the floor space of the room

or

1. Mechanical extract ventilation, minimum 60 litres per second or incorporated in a cooker hood and capable of extracting at a rate of 30 litres per second which may be operated intermittently.

This will not always be relevant in the case of private flats as in most cases an entirely separate kitchen is not provided.

In the case of a bed-sitter an extract canopy must be provided over all cooking equipment. In addition a permanent vent must be provided in the kitchen area.

The ventilation requirement will vary from one premises to another, but will almost always include a canopy - which must be ducted directly to the external air. Carbon-filter hoods which only re-circulate the indoor air are not acceptable.

Obviously the existence of condensation/other problems will indicate the need for further investigation/action.

NOTE The type of hood referred to in this section is the standard domestic canopy, not the industrial stainless steel canopy required in food premises.

Article 7(1)(b) - facilities for the hygienic storage of food

The minimum facilities acceptable are:

1. A suitable refrigerator.
2. Adequate enclosed cupboards for the storage of non-refrigerated foods, away from cleaning materials etc.

As a general rule if food stuffs are stored on open counters, because of a lack of food-storage facilities, then the provisions made are inadequate. All cupboards provided should be of suitable design and construction, and be maintained in good repair.

Article 8 - Electricity and Gas.

This article requires installations for the supply of electricity and gas, to be maintained in good repair and safe working order etc.

An assessment of the safety or otherwise of such installations could only be carried out by a trained and qualified expert, such as an electrician etc.

Therefore if there is any doubt as to the safety or otherwise of a particular installation a certificate of safety and suitability from a competent person, should be requested from the landlord.

Other relevant professionals or organisations should also be informed if deemed necessary i.e.

The Chief Fire Officer.

The E.S.B.

An Bord Gais etc.

Article 9 - Ventilation and Lighting.

9.1 - Habitable Rooms.

The requirement in this Sub-Article is non-specific requiring "adequate" ventilation and natural lighting to be provided to all habitable rooms.

The minimum requirement, necessary to ensure the provision of adequate ventilation and lighting is an openable window (plus additional ventilation, as required below) in each habitable room.

This sub-article also requires that all windows etc. shall be maintained in good repair and working order. (See Sub-article 9.5 below.)

9.2 - Bedrooms.

All bedrooms must be provided with a means of permanent ventilation.

There are two options outlined in the Regulations:

1. The flue of an open fireplace,

or

2. One or more ventilation openings having a total, unobstructed sectional area of 4,000 square millimetres and opening directly to the external air.

Where P.A.V.s have not been provided, it may be possible for the landlord to have suitable strip-vents fitted to the window frames, in order to provide the necessary ventilation.

Where this is feasible, it is preferable to the alternative of creating openings in the walls themselves. (Unprofessional workmanship can give rise to dampness problems around some P.A.V.s).

9.3 - Sanitary Accommodation.

Again a number of specific options are outlined here. Essentially there are two options, the third referring to 'a water closet entered directly from the external air - which obviously requires no additional ventilation. The two options are:

1. A window with an openable area of not less than 1,000 square centimetres or
2. Mechanical extract ventilation capable of extracting at a rate of not less than 15 litres per second.

9.4 - Artificial Lighting.

As the requirement in this sub-article is non-specific the following guidelines have been taken from "C.I.B.S.E. - Code for Interior Lighting 1994". (i.e. Chartered Institute of Building Services Engineers)

AREA	STANDARD MAINTAINED ILLUMINANCE :LUX.
Entrance Lobbies	200
Lounges	150
Kitchens	150 - 300
Bedrooms	100
Bathrooms	150
Toilets	100
Corridors	20 - 100
Staircases	100
Dining Rooms	150
Stores	100

9.5 - Broken Glass.

This sub-article absolves the landlord of any responsibility for the replacement of broken glass "in windows in any part of the house of which the tenant has exclusive use."

Article 10 - Common Areas.

This article places the onus for the maintenance of common areas/facilities in suitable condition with the landlord i.e.:

1. All food storage/cooking facilities, or means of lighting and heating used in common, (i.e. by the occupants of more than one 'house') shall be maintained in good repair and safe working order.

NOTE The landlord is not required to keep these items clean.

2. All sanitary appliances, rooms, passageways etc. used in common shall be maintained in good repair and in a clean condition.
3. Stairways used in common shall have a "substantial handrail securely fixed" provided. This is not required for other stairways.

Article 11 - Basements, yards etc.

1. Unoccupied basement/cellars in the building shall be maintained in good repair and in a clean condition. Unfortunately this requirement is not applicable to other unoccupied parts of a building, e.g. vacant flats, disused rooms etc.
2. All out offices, yards, forecourts, walls, fences and railings shall be maintained in good repair. Unfortunately this sub-article does not require 'a clean condition.' Therefore, it may be necessary to use Public Health/Pest Control legislation to deal with problems in these areas e.g. accumulations of rubbish in gardens. There is no requirement for the provision of bins/suitable refuse storage facilities in the Regulations.

Article 12

This Article revokes The Housing (Private Rented Dwellings)(Standards) Regulations 1984.

RENT BOOKS

Housing (Rent Books) Regulations, 1993

Under this legislation, landlords are now obliged to provide their tenants with a rent book. There is one exception however, landlords of a dwelling to which Part II of the Housing (Private Rented Dwellings) Act 1982 applies (i.e. rent controlled dwellings) are not required to provide a rent book under this legislation.

The Housing (Rent Books) Regulations 1993 were made under Section 17 of the Housing (Miscellaneous Provisions) Act 1992.

The Rent Book Regulations only apply to rented permanent dwellings, i.e. they do not apply to: mobile homes, caravans or holiday lettings. Voluntary bodies, local authorities and employers as well as private landlords are obliged under these Regulations to provide a rent book to their tenants once a rent is being paid.

If the tenancy commenced after September 1st 1993, a rent book must be provided on commencement of that tenancy. However, for tenancies that commenced prior to September 1st 1993, a rent book must have been provided before 1st November 1993.

The rent book is not solely a record of payments, the regulations also set out necessary information that a rent book must contain;

- A. The address of the house,
- B. The name and address of the landlord and, if the landlord has duly appointed an agent, of such agent,
- C. The name of the tenant,
- D. The term of the tenancy,
- E. The rent reserved under the tenancy and when and how it is to be paid,
- F. The amount and purpose of any payments to be made by the tenant to the landlord, in addition to the rent, for services provided by the landlord or otherwise, and when and how such payment is to be made,
- G. The amount of any rent paid in advance,
- H. The amount and purpose of any deposit paid by the tenant and the conditions on which such deposit is refundable,

AND

Where the tenancy commences on or after the date on which these Regulations come into operation -

- A. the date of commencement of the tenancy and
- B. particulars of the furnishings and appliances provided by the landlord for the exclusive use of the tenant.

A schedule of information is also prescribed in the Regulations, and, this must be included in the rent book by the landlord. The landlord is responsible for recording payment of rent and any other payments. If the rent is paid by the tenant in person to the landlord, the payment must either be recorded immediately in the rent book and signed by the landlord or, the landlord must give a signed receipt outlining all payments made. However, if the tenants pays by other means, e.g., by a standing order into a bank account, the landlord has three months to carry out the above.

The tenant holds the rent book and makes it available to the landlord on payment, to record receipt of rent or to record any changes in the terms of the tenancy.

However, in the absence of a good system of registration for privately rented houses, it may prove difficult to ascertain the correct name and address of the landlord if he/she refuses or omits to provide their tenants with rent books.

**UNIFORM STANDARDS
OF
ENFORCEMENT**

Authorisation

Authorisation under the Housing (Miscellaneous Provisions) Act 1992 has not as yet been provided to all Environmental Health Officers on their standard Health Board Warrants. A separate authorisation must therefore be obtained from the relevant Local Authority for this purpose. It is recommended that all Environmental Health Officers be authorised for housing functions where housing regulations are enforced.

Power of Entry

Section 18(2) Housing (Miscellaneous Provisions) Act 1992

'A person authorised by a housing authority for the purposes of this Section may at all reasonable times enter and inspect a house to which Regulations under this Section apply.'

As the above Section states, an Environmental Health Officer can at all reasonable times gain access to a premises to inspect standards and facilities e.g. at the time when a housing application is being completed or on foot of a complaint.

Obstruction

Section 34(1) Housing (Miscellaneous Provisions) Act 1992.

'Any person who, by act or omission, obstructs an authorised person in the lawful exercise of the powers conferred by, or who contravenes a provision of, or a Regulations made under Section 17, 18 or 20 shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £1,000 and if the obstruction or contravention is continued after conviction the person shall be guilty of a further offence on everyday on which the obstruction or contravention continues and for each such offence shall be liable, on summary conviction, to a fine not exceeding £100.

If obstruction does occur, it may be necessary to send out a warning letter to the landlord. Thus far, no cases for obstruction have been taken. It is important to note that under Section 117 of the 1966 Housing Act, the person responsible for giving access to the authorised officer is the tenant of the premises and it is the tenant who would have been prosecuted. However in the Housing (Miscellaneous Provisions) Act 1992 there is now a facility to take the landlord to court.

Service of Notices (Appendix IV)

If after an inspection of accommodation an Environmental Health Officer has discovered any contraventions of the Regulations, it is usually best if he/she serves a notice rather than writing a letter. In either case, a time limit should be agreed with the landlord to allow a reasonable period of time (usually 3 months) for all works to be duly completed.

In certain situations where the Environmental Health Officer feels that a landlord, despite his best efforts has been unable to complete all the works required of him an extension of time may be granted. This should be applied for in writing by the landlord and must state exactly when he expects all work to

be completed. Extensions of time are kept to a minimum, anything up to 6 - 8 weeks is recommended. A second extension of time is not recommended.

If on further re-inspections all works have not been satisfactorily completed, then prosecution procedures should be initiated.

Prosecutions and Penalties

It is usually best as with all court cases to carry out the pre-court inspection on the day the case is to be heard, or within a couple of days of same. Contemporaneous notes will be needed for evidence, and the officer may also find it convenient to have a copy of the notice with him

In giving evidence, photographs are invaluable for clarifying the exact condition of a premises to the Judge. For this purpose, only Instant Polaroid photographs are recommended, unless the Environmental Health Officer wishes to develop his/her own photographs.

Witnesses are generally not used for such cases. If for some reason the officer feels it may prove useful to have a tenant in court then he/she must ensure that the person in question will benefit the case.

The penalties have been amended in the Housing (Miscellaneous Provisions) Act 1992. Offenders are liable to a fine not exceeding £1,000 per offence on summary conviction and if the offence(s) continues, they are liable to a fine not exceeding £100 per day thereafter.

Unfit Housing

During the course of their duty, Environmental Health Officers have enforced those Sections of the Housing Act 1966 which deal with unfit houses.

There is no specific definition of an 'unfit house' in the Act. A house is unfit if it is in such a condition that the cost of making the house fit exceeds the value of the house when repaired on the market. Section 66(2) states that the Housing Authority when determining whether a house is capable of being rendered fit "shall have regard to the estimated cost of and the increase in the value of the house which the Authority estimate will be attributable to rendering the house so fit."

To determine whether a house is unfit for human habitation the Environmental Health Officer has to bear in mind the second schedule to the Act which sets out standards for unfitness. These are as follows:

1. Stability.
2. Resistance to spread of fire.
3. Safety of staircase and common passageways.
4. Resistance to moisture.
5. Resistance to transfer of heat.
6. Resistance to transfer of sound.
7. Resistance to infestation.
8. Water supply, sanitary accommodation and drainage.
9. Air space and ventilation.
10. Natural and artificial lighting.
11. Facilities for storing, preparing and cooking food.
12. The extent to which the house does not comply with any standards of building bye laws or regulations in force in the area.

If the house is considered unfit then it will be necessary to have it represented as such at an inquiry. A number of individuals are usually present at such an inquiry, as there is no uniform system in place on a nation wide basis with regard to unfitness this could include any or all of the following; The Environmental Health Officer, the Tenant, the Owner, the Dangerous Buildings Inspector, the Engineer and/or others.

If the inquiry is satisfied that the house is unfit, a closing order is made and comes into effect twenty one days later. This period is intended to allow any person aggrieved to appeal to the Circuit Court.

**OTHER RELEVANT
LEGISLATION**

The following sections are intended as a guide to the existence of other legislation which affects housing. EHOs are not authorised under all this legislation, nor is the Committee suggesting they should be. Due to space considerations only brief outlines of the legislation are given and the original should always be consulted.

LOCAL GOVERNMENT (SANITARY SERVICES) ACTS 1878 - 1962.

Possibly one of the most important provisions of the Sanitary Services Act, so far as EHOs are concerned, are Sections 107 to 127 inclusive of the Public Health (Ireland) Act 1878. This deals with nuisances.

Section 107 - NUISANCE

The definition is wide ranging but does not cover all eventualities. If the matter being investigated does not fall within the terms of this definition, then obviously it cannot be dealt with by this legislation.

Section 107 is very useful in dealing with some aspects of sub-standard housing. The main advantages are that the procedure for abating nuisances can be much speedier than using other legislation and courts treat nuisances more seriously. Examples of problems which can be dealt with are dampness to dwellings, blocked drains and lack of water supply.

NOTE When taking a case under this it is sufficient to prove that a reasonable person suffers a lowering of personal comfort, it is not necessary to prove actual injury to health.

Section 109

This section lists a number of people who may inform a Sanitary Authority of a nuisance, it includes anyone affected, a police officer and any officer of the authority.

Section 110 - Service of Notices

When a Sanitary Authority is informed of a nuisance, and is satisfied that one exists, then it must serve a notice requiring abatement of the nuisance on the person whose act, default, or sufferance causes the nuisance or allows it to continue. If this person cannot be found the notice is served on the owner or occupier of the premises in which the nuisance arises. The notice can specify the work required to abate the nuisance and impose a time period for work to be completed. This can be as little as 24 or 48 hours in cases of seriously blocked drains. The time period must be reasonable though, taking into account the work required.

Section 111 - Complaint to court.

If the notice is not complied with or the nuisance is likely to recur, Section 111 allows a complaint to be made to the courts. The court, if satisfied a nuisance exists, must make an order for abatement or to prevent a recurrence.

Section 112.

This gives the court power to impose fines, it can also award costs incurred in dealing with the case. There is provision for the sanitary authority to abate the nuisance and recover the cost.

Section 118 - Powers of entry.

An important point for EHOs investigating nuisances to remember is that there is no automatic right of entry to property. Section 118 states that where entry is refused the officer must make a complaint under oath to a justice, after giving notice in writing to the owner of the property of his intention. The justice may grant an order authorising entry. The order remains in force until the nuisance is abated.

Local Government (Sanitary Services) Act 1948

Section 18 of the Local Government (Sanitary Services) Act 1948 concerns nuisances in drains. If the sanitary authority become aware of, or suspect, that any part of a drainage system is so defective, foul or neglected as to be or likely to become a nuisance, it may, after giving seven days notice in writing to the owner of the land (less or no notice may be required in an emergency), open up the system to examine it. If there are no defects the sanitary authority must restore the system to its original condition and make good any damage. If a defect is found, the Sanitary Authority must repair the defect(s) and can recover the cost from the owner or owners of the drain.

It is an offence to obstruct any officer exercising his power under Section 18. Provision is also made for the sanitary authority to serve a notice, in certain circumstances, under this section.

The Local Government (Sanitary Services) Act 1964

The Local Government (Sanitary Services) Act 1964 contains provisions to deal with dangerous places and dangerous structures. A dangerous structure is defined as;

- A. Any building, wall, or other structure of any kind, or
- B. Any part of, or anything attached to, a building, wall or structure of any kind, that in the opinion of the sanitary authority in whose sanitary district it is situated, is or is likely to be dangerous to any person or property.

Where an EHO discovers dangerous property, e.g. loose slates on roofs or walls likely to collapse, this can be referred to the Dangerous Buildings Section of the Local Authority where such exists, the Engineers Department, or other relevant section. A notice may then be served on the owner requiring certain works to be carried out, and The Local Authority also have the power to do works to make the building safe, but not necessarily to repair the damage.

THE ENVIRONMENTAL PROTECTION AGENCY ACT 1992
THE NOISE REGULATIONS 1994.

Noise Complaints

Section 18(1) of the Environmental Protection Agency Act 1992 (E.P.A. Act 1992) was commenced by the E.P.A. Act (Commencement Order) 1994. As a result, Section 51 of the Local Government (Planning and Development) Act 1963 was repealed. Noise complaints are now dealt with under Sections 107/108 of the E.P.A. Act 1992. The E.P.A. Act 1992 (Noise) Regulations commenced on July 1st 1994. In these Regulations a prescribed form of notice under Section 108(3) of the E.P.A. Act was outlined. Section 108, deals with noise as a nuisance. When using this notice, seven days warning is given to the persons alleged to have made or have caused or have been responsible for the noise, before lodging the complaint with the District Court.

Section 107

Section 107 of the Environmental Protection Agency Act 1992 deals with the power of local authorities or the Agency to require measures to be taken to prevent or limit noise. Under this Section the local authority will serve a notice, if it considers it necessary, on the person in charge of a premises. The notice must indicate;

1. "The measures which appear to the Local Authority or the Agency as the case may be, to be necessary in order to prevent or limit the noise."
2. Direct the person on whom the notice is served to take such measures as may be specified in the notice to prevent or limit the noise, and
3. Specify a period which the local authority or the Agency, as the case may be, considers reasonable in all the circumstances of the case, within which such measures are to be taken."

A period of time is specified in the notice during which the person on whom the notice is served, may, in writing, make representations to the Authority regarding the notice. The Local Authority may then if they see fit, amend, confirm or revoke the notice, and inform the person in writing of such.

A register of such notices served must be kept by the local authority or the Agency and these must be available to the public.

Section 108

Under Section 108 any person acting on their own behalf may serve a notice (as prescribed in the E.P.A. (Noise) Regulations 1994) on the offending person or persons if the noise is ;

"so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance."

If the person so wishes, any evidence gathered by the local authority in relation to the case (noise monitoring etc.) may be used by them in court on payment of expenses to the local authority.

Up to now this type of notice has usually been used to solve disputes between neighbours.

Under both sections a good defence of best practicable means is provided for. Aircraft noise complaints are specifically exempted from this legislation.

PLANNING ACTS.

When a house is being inspected, landlords may claim that the flats are pre-1963. This means that they are exempt from planning permission. However, they are still subject to legislation concerning the standards of the flats such as The Housing (Standards for Rented Houses) Regulations 1993. When work is carried out on the flats it must comply with The Building Regulations 1991.

The main contact EHO's have with planning is when plans for certain developments are forwarded from the planning department. This is the best stage at which to make sure that flats comply with the Housing Regulations as conditions can be recommended before planning permission is granted, or if the development is clearly unsatisfactory, it can be recommended that permission be refused, detailing why.

In the course of some investigations it may be discovered that some flats do not have the required planning permission. These can be referred to the planning department if the development occurred within the last five years. However in practice it is often difficult to do anything about unauthorised developments.

It is important to realise that some work requested by EHOs may require planning permission, e.g., putting permanent vents into the walls of flats in certain areas, or if the building is listed. Where doubt exists the landlord should be told to consult the planning department.

BUILDING CONTROL AND BUILDING REGULATIONS.

Building Control Regulations 1991.

The Building Control Regulations are made by the Minister for the Environment using powers granted to him by Sections 6 and 18 of the Building Control Act 1990.

Part I

Part I of the Regulations cover citation, commencement, interpretations, and application of the Regulations to the building control authority itself.

Part II

Part II of the Regulations requires that the person intending to carry out works give a commencement notice in writing to the building control authority between seven and twenty one days before starting work. This applies to the erection of new buildings, material alteration or extension of a building, and the material change of use of a building. There are certain exemptions, but the building and conversion of buildings to flats by developers/landlords is not one of them. Article 7 describes what information must be included in the notice.

Part III

Part III of the Regulations concerns Fire Safety Certificates. A Fire Safety Certificate is required for the erection of a new building, the material alteration or extension of a building, and for a material change of the use of a building. Dwellings other than flats are among the exceptions. Article 9 forbids any works to be carried out on a building which requires a Fire Safety Certificate after the 1st of August 1992, in the absence of such certificate or in contravention of any conditions on the certificate.

An application for a certificate must be made in the form specified in the First Schedule to the Regulations. Article 10 also states what information must accompany the application.

Article 11 requires a building control authority to reject applications which do not contain all the necessary information. Article 12 to 18 deal with the procedure for dealing with the applications. A Fire Safety Certificate is granted in the form contained in the Second Schedule to the Regulations. Refusal is made by writing to the applicant outlining the reasons for refusal. The applicant can appeal any conditions or refusal to An Bord Pleanala.

Part IV

Part IV requires the building control authority to keep a register of certificates.

BUILDING CONTROL AND BUILDING REGULATIONS.

The Building Regulations were made by the Minister for the Environment under powers granted to him by Sections 3, 4 and 18 of the Building Control Act 1990.

Article 8

Article 8 requires that all works to which the Regulations apply must be carried out in accordance with the appropriate requirements of the First Schedule, and in such a manner as to avoid the breach of any other requirement of the Schedule. Article 6 contains a long list of exemptions to which the Regulations do not apply and Article 7 adds two more exemptions.

Article 9

Article 9 states, that subject to the exemptions, the Regulations apply to the design and construction of all new buildings.

Article 10

Article 10 states that the Regulations subject to the same exemptions apply to works involving material alteration or extension of any existing building. It would appear therefore that the building of flats or conversion of an existing building to flats must comply with the Building Regulations.

Article 11

Article 11 extends the requirements to all works relating to services, fittings and equipment in buildings including existing buildings, subject to the exemptions of Articles 6 and 7.

Article 12

Article 12, subject to the same exemptions, states that where a material change of use takes place in any building, old or new, certain parts of the First Schedule apply, namely Parts A, B, F, G, H, J, L.

Article 13

Article 13 requires any application for dispensation from the Regulations to be on the form set out in the Second Schedule or a form substantially similar to it.

The First Schedule contains the details of what the requirements actually are. It is divided into twelve Parts as follows:

- Part A: Structure.
- Part B: Fire.
- Part C: Site Preparation and Resistance to Moisture.
- Part D: Materials and Workmanship.
- Part E: Sound.
- Part F: Ventilation.
- Part G: Hygiene.
- Part H: Drainage and Waste Disposal.
- Part J: Heat Producing Appliances.
- Part K: Stairways, Ramps and Guards.
- Part L: Conservation of Fuel and Energy.
- Part M: Access For The Disabled.

Technical guidance documents have been published by the Minister as permitted by Article 5, to give guidance on how to comply with the requirement of each part. There are twelve in all, one for each part, and they are presented in a boxed set. These are the standards referred to in Section 3 above.

It is also useful to be aware of the requirements of the Building Regulations when examining plans forwarded from the planning departments or speaking to architects about the requirements for flats.

Fire Services Act 1981.

Section 9

Under this section, local authorities are deemed to be fire authorities. It is the fire that authorises persons to carry out functions under the Act. The fire authority (section 13) may also advise the planning authority in matters relating to applications for planning permission and permission for retention of buildings.

Section 15

This Section places a duty on the fire authority to provide "efficient training" of all personnel involved in the fire services provided by them.

Section 18

Rented housing is covered by The Fire Services Act 1981 under Section 18(1)(a); "use as, or for any purpose involving the provision of sleeping accommodation, excluding premises consisting of a dwelling house occupied as a single dwelling."
Therefore, all rented houses other than a single dwelling are subject to the requirements of this Act. In the premises as described in Section 18(1), a duty is placed firstly on the person in charge of the premises, (Section 18(2)); "to take all reasonable measures to guard against the outbreak of fire on such premises, and to ensure as far as is reasonably practicable the safety of persons on the premises in the event of an outbreak of fire",
and secondly on the occupier of such premises (18(3)); "to conduct himself in such a way as to ensure that as far as is reasonably practicable any person on the premises is not exposed to danger from fire as a consequence of any act or omission of his."

Section 20

Under this section a fire safety notice may be served on the owner or occupier of such building as described in Section 19. This notice may prohibit the use of all or part of the building indefinitely or until certain works and measures are carried out. The person on whom the notice is served, may appeal to the District against the notice, on specified grounds, within 14 days.

Section 22

The power of entry is granted to the authorised person (any one authorised by the fire authority) under this section. An obstruction by any person under this Section construes an offence. An authorised officer, if disallowed entry may apply to the District Court for a warrant authorising entry under this Section.

Section 23

If a building is considered under the Act to be a serious risk, a High Court Order may be applied for to prohibit the use of the building or land under this section.

Section 37

The Minister may make regulations providing for the precautions to be taken, these include; The Fire Safety in Places of assembly and the Ease of escape Regulations 1985.

Section 48

A fire authority may give advice to the owner or occupier of rented houses.

Offences and Penalties.

Under Section 4 an offence under the Fire Services Act 1981 is described. The penalties are provided for under Section 5. Any person guilty of an offence bar those under Section 18(2), Section 20 or Section 37 (see above) shall be liable to a fine of not more than £500 or six months imprisonment or both. Those guilty of an offence under Section 18(2), Section 20 or Section 37 shall be liable to a fine of not more than £10,000 or 2 years imprisonment or both. A Justice of a District Court has the jurisdiction to try summarily an offence to which these three sections relate, if tried and the person is found guilty of such an offence, the fine is not exceeding £500 or six months imprisonment or both.

The Fire Safety Act 1981 also covers the fire brigade service and the Fire Safety Council. The functions described above, are, in most cases, carried out by Fire Safety Officers.

Technical Guidance Document B - Fire Safety.

Technical Guidance Document B relates to fire and was first produced in 1991. This guidance document can, and is, updated on a regular basis as new technology arises. It offers technical guidance on methods of fire prevention etc. This Document is used for new buildings; extensions to existing ones; material changes in use or material alterations to the building. Irish standards are used for existing buildings, where none exists, relevant English standards are used.

CONCLUSIONS

AND

RECOMMENDATIONS

CONCLUSIONS AND RECOMMENDATIONS

1. The Housing (Standards for Rented Houses) Regulations 1993

The Housing (Standards for Rented Houses) Regulations 1993 are inadequate in some respects as outlined in Section 2 of this document. The Regulations should be amended to address these deficiencies.

The E.H.O.A. should make a submission to the Department of the Environment requiring amendments to be made to this legislation as a matter of importance.

2. Authorisation

The Standard Authorisation available to E.H.O.'S (i.e. their warrants) does not take account of recent developments in housing legislation and should be updated to include the Housing (Miscellaneous Provisions) Act 1992, and Regulations made there under.

Representations should be made to the all relevant health Boards to have warrants updated on a regular basis, to include not only this but other legislative changes which may occur from time to time.

3. Registration of Private Rented Housing

The Registration of Private Rented Housing is provided for under the Housing (Miscellaneous Provisions) Act 1992, and a draft set of regulations have been published by the Dept. of Environment.

The E.H.O.A. should agree a policy in relation to the type of registration system which would be most useful for The Environmental Health Officer and should then make a submission to The Dept. of Environment for consideration when introducing these new Regulations.

4. Contact with Other Professionals.

There is little or no formal contact between the Environmental Health Officer and other relevant professionals such as Community Welfare Offices, Fire Officers, County Engineers etc... Working relationships are developed on a person to person basis over time, rather than in a consistent and ongoing manner, it is felt that more formalised procedures may be more beneficial, particularly in areas where there is a good deal of staff movement.

The E.H.O.A. should make formal contacts with those professional bodies which represent the Community Welfare Offices, the Fire Officers, and other relevant professionals e.g. engineers, with a view to establishing standard operating procedures, in relation to such matters as Fire Safety, Housing standards, unfitness etc...

APPENDICES

Appendix I

Targets For Health For All - World Health Organisation.

Target 24: Human settlements and housing.

By the year 2000, all people of the region should have a better opportunity of living in houses and settlements which provide a healthy and safe environment.

The achievement of this target will require the acceleration of programmes of housing construction and improvement; the development of international health criteria for housing, space, heating, lighting, disposal of wastes, noise control, safety, while taking into account the special needs of groups such as young families, the elderly and the disabled; legislative, administrative, and technical measures to comply with such criteria; the improvement of community planning in order to enhance health and well-being by improving traffic safety, providing open spaces and recreational areas, facilitating human interaction, etc.; and the equipment of all dwellings with proper sanitation facilities; the provision of sewers and an adequate public cleansing and waste collection and disposal system in all human settlements of sufficient size.

Appendix II

Current Housing Legislation.

Housing Act 1966

Housing Act 1969

Housing Act 1979

Housing Act 1984

Housing (Private Rented Dwellings) act 1982

Housing (Miscellaneous Provisions) Act 1988

Special Housing Aid for the Elderly Scheme - Department of Health

Homeless Persons Act 1989

Disabled Persons Grants For Renovation of Housing , Scheme - Department of the Environment

Housing (Miscellaneous Provisions) Act 1992

Housing (Standards for Rented Houses) Regulations 1993

Housing (Rent Books) Regulations 1993

Appendix III - Recommended Format for Notices

HOUSING ACT 1966 - 1992

HOUSING (STANDARDS FOR RENTED HOUSES) REGULATIONS 1993

To the Owner of the house situate at: _____

Dear Sir or Madam,

You are hereby required to comply, within _____ days with the following Article(s) _____ of the Housing (Standards for Rented Houses) Regulations 1993, as made by the Minister of the Environment in exercise of powers conferred on him by Section 5 of the Housing Act, 1966, as amended by Section 24 of the Housing (Miscellaneous Provisions) Act, 1992, and by Section 18 of the Housing (Miscellaneous Provisions) Act, 1992, which are enforced by _____ (hereinafter called the Housing Authority), which is/are being infringed in the following manner:-

If you default in complying with the said Regulations, you are liable, on summary conviction, to a penalty of not exceeding £1,000 and in the case of a continuing offence to a further penalty of not exceeding £100 per day for each such default.

The Regulations are abridged overleaf and copies of the same can be obtained from The Government Sale Office, Sun Alliance House, Molesworth Street, Dublin 2.

Dated this _____ day of _____ 19 _____

AUTHORISED OFFICER _____

(In the event of any queries regarding this Notice please contact the Environmental Health Officer,
Tel: XXXXXXXX Ext: xxxx (between 9a.m. and 11a.m. Monday to Friday).