

The Gas Safety (Installation and Use) Regulations 1998 (Health & Safety at Work Act 1974)

The Regulations re-enact, with certain changes, the Gas Safety (Installation and Use) Regulations (GSIUR) 1994, introduced under the Health and Safety at Work Act 1974 (HSWA) and apply in England, Scotland, Wales and Northern Ireland. They cover requirements for the safe installation and maintenance of gas appliances, flues, meters and pipework etc. Landlords and letting agents should be aware both of the general provisions in the Regulations (e.g. concerning installation of all new gas pipework and appliances) as well as specific provisions relating to rented property (detailed more fully in this factsheet). The duties under these Regulations supplement general safety requirements under HSWA.

For all property, the Regulations require that:

- all work to gas appliances and fittings shall be carried out by a competent and suitably qualified engineer who is GasSafe (previously CORGI - Council for Registered Gas Installers) registered
- only 'room-sealed' appliances may now be installed in a room used or intended to be used as a bathroom or shower room. Furthermore, appliances with a gross heat output of more than 14 kilowatts installed in a room used or intended to be used as sleeping accommodation must be room-sealed and those of 14 kW or less must either be a 'room-sealed' type or incorporate a safety control device designed to shut down the appliance if there is a build-up of combustion products in the room concerned.
- no instantaneous water heater be installed in *any* room, unless it is 'room-sealed' or fitted with a safety control device.
- where the gas meter is installed in a lockable meter box, the installer should supply the consumer with a suitably labelled key to the box
- the installer or engineer must perform a defined series of safety checks and tests after carrying out any work on a gas appliance
- any person who installs a gas appliance in a property shall leave manufacturer's instructions for the occupier of the premises
- a person responsible for the premises shall not use or permit to be used a gas appliance that is suspected or known to be faulty or incorrectly installed and a danger to any person
- any person in control of any alteration to premises must ensure that the work does not adversely affect the safety of any gas fitting at the premises concerned, or bring it out of line with the Regulations. This includes assessing implications of any proposed work and carrying out subsequent checks, both in cases where implications for gas safety are obvious (eg. changes to a flue or chimney), and where risks are less apparent, such as the installation of double glazing which may include the removal or replacement of air bricks
- *no person shall install a flue other than in a safe position
- where there is an escape of gas or emission of carbon monoxide (CO) from a gas appliance, the person responsible for the premises (this is normally the occupier, but could be the landlord or agent if property is empty) must take reasonable steps to prevent further escape (ie by closing an emergency control if safe to do so), and is obliged to inform the gas supplier immediately if the gas or CO continues to escape after the supply has been cut off or the smell of gas persists. **The Gas Emergency Freephone Number is 0800 111 999.**

Rented Properties:

In addition to these requirements there are detailed provisions which apply to rented property let on a tenancy or lease of less than 7 years (including periodic tenancies) or those which may be determined within 7 years, and to periodic tenancies arising from such tenancies. Property occupied under the terms of a licence, eg guest houses, bed and breakfast and holiday accommodation, is also covered by these regulations.

The Regulations make the following main provisions in relation to rented property:

1. MAINTENANCE.

The Regulations place a duty on the landlord to ensure that all gas appliances, flues and associated pipework are maintained in a safe condition at all times.

2. ANNUAL SAFETY CHECK.

Gas appliances and flues in rented accommodation must be checked for safety within 12 months of being installed and thereafter at least every twelve months by a competent engineer (i.e. GasSafe registered gas installer) The Regulations require that the gas safety check includes *as a minimum*, an examination of:

- (a) *the effectiveness of any flue*
- (b) *the supply of combustion air,*
- (c) *the appliance operating pressure and/or heat output,*
- (d) *the appliance operation so as to ensure its safe functioning'*

3. NEW TENANCIES.

Before any lease commences, it must be ensured that the gas safety check has been carried out on each appliance and flue within the 12 month period before the tenancy commences, or has been or will be carried out within 12 months after the appliance or flue was installed, whichever is later.

4. TENANT'S APPLIANCES.

Under these Regulations, a landlord's duty to maintain and check appliances does not apply to gas appliances which are owned by the tenant, nor to any flues that only serve such appliances (although the landlord may have a duty to repair and maintain such flues under separate legislation - see s.11, Landlord and Tenant Act 1985). Appliances owned by the tenant are defined in the Regulations as those which the tenant is entitled to remove from the property. The Regulations do apply to common flues that serve both an appliance owned by the tenant and a separate appliance owned by the landlord.

5. RECORDS.

The Regulations require the landlord (or his agent) to keep a record of safety checks on each appliance and flue. The record must include the prescribed information which includes the date of the check, the address of the premises concerned, the name and address of the landlord (or where appropriate, the agent), the description of the appliance/flue checked, any defect identified, any remedial action taken, confirmation that the check complies with the Regulations, and the name and CORGI registration number of the person doing the check. The GasSafe Gas Safety Record Form may be used for this purpose. Records should be kept for 2 years from the date of the check.

6. GAS CERTIFICATE.

A copy of the safety check record or certificate must be given to any new tenant before the tenant occupies the premises to which the record relates. Also, a copy of the new record must be given to each existing tenant within 28 days of the annual check.

Because the Regulations require that a copy of the record is to be given to 'each existing tenant' and 'any new tenant', this means that all tenants should receive a copy of the report within the prescribed time.

Where there is no relevant gas appliance in any room that is occupied by the tenant in relevant premises (eg an outhouse gas boiler), but elsewhere in the premises, the landlord may, instead of issuing a copy of the gas safety check record to each tenant, ensure that there is displayed in a prominent position in the premises a copy of the record which must contain a statement that the tenant may request and be entitled to a copy of the record from the landlord.

7. CONTRACTING OUT.

A landlord or agent may not contract out of his obligations under the Regulations, eg. by making an agreement or stipulation on the tenant under the lease that the tenant must arrange for servicing of gas appliances.

8. ROOM-SEALED APPLIANCES.

The Regulations prohibit the installation of certain types of gas appliances in certain areas; such as a room used or intended to be used as a bathroom or sleeping accommodation (see previous page). Although this is a general requirement on all properties, a landlord has additional specific duties under the Regulations to:

- check that such appliances are not installed in any room occupied or intended to be occupied as sleeping accommodation
- ensure that the Regulations are not contravened when a room is converted to form accommodation used or intended to be used as sleeping accommodation.

Room-sealed Appliances – definition

A "room-sealed appliance" means an appliance whose combustion system is sealed from the room in which the appliance is located and which obtains air for combustion from a ventilated uninhabited space within the premises or directly from the open air outside the premises and which vents the products of combustion directly to open air outside the premises.

The requirement with regard to room-sealed appliances in bathrooms / shower rooms does not apply retrospectively to appliances installed **before 31 October 1994**. The restrictions on appliances in sleeping accommodation do not apply to appliances installed **before 1 January 1996**. A competent gas fitter will be able to advise landlords who are unsure whether specific appliances are affected in specific situations (i.e. when converting accommodation).

Recommended Action:

Letting agents and landlords should familiarise themselves with their duties both under GSIUR and HSWA. In particular, the following key actions are advised:

ESSENTIAL:

- Ensure that all gas appliances in all managed properties have been checked within the last 12 months and implement a system of annual checks and ongoing maintenance for all gas appliances and flues
- Maintain safety check records for all gas appliances and flues in each property, and issue a copy of this to each tenant.
- Check that your gas engineer or sub-contractor is GasSafe registered and qualified to do the job
- Inform landlords of their obligations under the Regulations - in particular the requirements for on-going maintenance and annual safety checks on appliances.
- Ensure appliances/fittings are safe before re-letting premises, and remove any unsafe appliance/fitting left by the previous tenant.
- Ensure close co-operation with tenants, eg. for reporting of faulty gas appliances/flues, and providing access for checks and maintenance work

RECOMMENDED:

- Ensure that instruction booklets are available at the property for all gas appliances
- Refer to the Regulations within the agency agreement with your landlord and include an authority to carry out the required annual checks and maintenance on their behalf. Ensure allocation of responsibilities is clear, to avoid any possible gap in safety cover.
- Avoid the installation of second-hand gas appliances in rented properties and advise owners likewise. If second-hand appliances are installed, it is necessary that they are installed and checked and that any subsequent maintenance is carried out by a competent GasSafe registered installer.

Exclusions and Indemnity:

1. The Regulations for tenanted property do not apply to leases for a term of more than 7 years unless such leases may be terminated before the expiration of 7 years from the commencement of the term
2. The Regulations allow a defence for some specified regulations where a person can show that he took all reasonable steps to prevent that contravention
3. Portable or mobile gas appliances supplied from a cylinder must be included in maintenance and the annual check; however they are excluded from other parts of the Regulations
4. Neither landlord nor agent will be responsible for gas appliances owned by the tenant(s) and which the tenant is entitled to take away from the property

Where part of the premises is used for non-residential purposes, any gas appliance or installation pipework exclusively in that part of the premises is not counted as a 'relevant gas appliance' and the landlords gas safety check does not apply. However, gas appliance/fittings serving both residential and non-residential parts of premises are covered.

Access to Premises:

It is recognised that landlords may not be able to gain access to the property in all cases. Access arrangements will need to be agreed with tenants.

HSE guidance states that landlords have to take "all reasonable steps" to ensure access to enable safety checks and maintenance work to be carried out; in the final analysis it is for a court to decide what comprises "all reasonable steps" in particular circumstances. This may, for example, involve giving written notice to a tenant explaining reasons and requesting access. A record should be kept of any correspondence or other action, in case a tenant refuses access and it is necessary to demonstrate what steps have been taken. Tenants should be strongly advised to provide access for both safety checks and maintenance work in the interests of their own safety.

Landlords should be aware that it is a condition of most tenancies, that the landlord or any person authorised by him, may at reasonable times of the day and on giving 24 hours' notice in writing, enter the premises to carry out inspections and repairs (rights provided under Landlord & Tenant Act 1985 and Housing Act 1988). However, action to gain access does not involve making arrangements for forced entry into property.

Penalty & Enforcement:

The maximum penalty imposed in a Magistrates Court (or Scottish equivalent) for non-compliance is a fine of £5,000. If the case is then referred to a Crown Court (eg. where contravention has led to a serious injury or death) an unlimited fine or custodial sentence may be imposed.

The main enforcing authority is the Health and Safety Executive (HSE)

Previous Regulations:

These Regulations revoke the following regulations:

- Gas Safety (Installation and Use) Regulations 1994
- Gas Safety (Installation and Use) (Amendment) Regulations 1996
- Gas Safety (Installation and Use) (Amendment) (No. 2) Regulations 1996

Sources for Further Information:

- Gas Safety Advice Line (HSE helpline) tel. 0800 300363
- Local Area Office of the Health and Safety Executive / Environmental Health Department
- Copy of the Regulations (SI 1998 No. 2451) available from HMSO on: 0870 600 5522
- Copy of the Health and Safety at Work etc. Act 1974
- HSC Approved Code of Practice 'Safety in the Installation & Use of Gas Systems and Appliances' (2nd Edition L6), ISBN 0 71 761635 5 available from HSE books, PO Box 1999, Sudbury, Suffolk, CO10 6FS (Tel: 01787 881165)
- Related regulations, available on the Office of Public Sector Information at www.opsi.gov.uk
- Gas Cooking Appliances (Safety) Regulations 1989 (SI 1989 No 149)
- Gas Appliances (Safety) Regulations 1995 (SI 1995 No 1629)