

Landlords

A guide to landlords' duties: Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004

Introduction

This leaflet is intended to assist landlords and explains some of the main requirements of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004. It also gives guidance on how to comply with them. The leaflet will also be of interest to tenants, making them aware of landlords' duties.

Every year about 14 people die from carbon monoxide poisoning in the UK caused by gas appliances and flues which have not been properly installed or maintained. Many others also suffer ill health.

The Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004 specifically deal with the installation, maintenance and use of gas appliances, fittings and flues in domestic and certain commercial premises. They place duties on certain landlords* to ensure that gas appliances, fittings and flues provided for tenants use are safe.

These duties to protect tenants' safety are in addition to the more general ones that landlords have under the Health and Safety at Work (Northern Ireland) Order 1978 and the Management of Health and Safety at Work Regulations (Northern Ireland) 2000.

* Details of these duties can be found in HSE's Approved Code of Practice on the Regulations L56 Safety in the installation and use of gas systems and appliances which have been adopted by the HSENI.

** HSENI would recommend that every new installation has some form of commissioning and/or safety certificate issued this is often also a requirement of a manufacturer's warranty and should therefore be requested from the installer on completion. You should also ensure any Benchmark Certification (usually supplied with the boiler) is completed for building control purposes.

What type of property is covered?

The duties generally apply to appliances and flues provided for tenants' use in 'relevant premises', that is those occupied for residential purposes under either a licence, a tenancy agreement for a set term, or a lease as defined in the Regulations. Essentially any lease under seven years is covered.

What are my main duties as a landlord?

You are required to:

- ensure gas fittings and flues are maintained in a safe condition. Gas appliances should be serviced in accordance with the manufacturer's instructions. If these are not available it is recommended that they are serviced annually unless advised otherwise by a Gas Safe registered engineer
- ensure an annual safety check is carried out on each gas appliance/flue. Before any new lease starts, you must make sure that these checks have been carried out within one year before the start of the lease date, unless the appliances in the property have been installed for less than 12 months**, in which case they should be checked within 12 months of their installation date

What are my main duties as a landlord? (continued)

- have all installation, maintenance and safety checks carried out by a Gas Safe registered engineer
- keep a record of each safety check for at least two years
- issue a copy of the latest safety check record to existing tenants within 28 days of the check being completed, or to any new tenant before they move in (in certain cases there is an option to display the record)
- when tenants vacate premises, landlords need to ensure that gas fittings/appliances are safe before re-letting. Tenants may have removed appliances unsafely (eg leaving open-ended pipes, having shut off the emergency control valve), or left their appliances in place. Appropriate checks should be carried out and any unsafe equipment rectified or removed before a new tenancy begins
- it is also recommended that installation pipework be inspected and tested for soundness before property is re-let if it is suspected that any alteration has occurred or the emergency control valve (valve usually located adjacent to the meter) has been operated

The Regulations specify the gas safety matters to be covered. You should not assume that an annual service inspection meets the safety check requirement, or that a safety check will, on its own, be sufficient to provide effective maintenance. Ask the advice of a Gas Safe Registered Engineer where necessary.

Is there anything else I need to provide for the tenant?

To ensure that gas appliances are operated safely any new tenants should be instructed in the correct use of gas appliances installed in the property for which the landlord has responsibility.

Also manufacturers instructions should be provided for all users of these appliances.

Although these steps are primarily to ensure the safe use of gas appliances, they may also help to reduce complaints of malfunctioning equipment which can often be attributed to incorrect operation of appliance controls and unnecessary call outs of an engineer to “fix” the problem.

All tenants should also be made aware of what actions to take in the event of a gas escape or emergency details of which can be found further on in this information sheet.

Which gas equipment is covered?

The safety check and maintenance requirements generally apply to any gas appliance or flue installed in the ‘relevant premises’ except that:

- appliances owned by the tenant are not covered
- under certain circumstances flues/chimneys solely connected to an appliance owned by the tenant are not covered; (if unsure consult a Gas Safe registered installer)
- any appliances and flues serving ‘relevant premises’ (such as central heating boilers not installed in tenants’ accommodation, but used to heat them) covered

Which gas equipment is covered? (continued)

The safety check does not apply to any gas appliance (such as gas fires provided for customers in non-residential areas of public houses) that is exclusively used in a part of premises occupied for **non-residential** purposes.

However non-residential premises do have to comply with Regulation 35 of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004 which requires landlords of these types of premises to maintain gas appliances and installations under their control, further provision for safety also comes under the Health and Safety at Work Order (Northern Ireland) 1978 and Provision and Use of Work Equipment Regulations (Northern Ireland) 1999 (PUWER).

Your duty to maintain and carry out safety checks applies to fixed as well as portable appliances, such as LPG cabinet heaters.

Can I delegate duties to a tenant?

No, except that a contract may be drawn up between a landlord or tenant for an appliance or flue installed in a non-residential part of a premises, for example shops and public houses etc.

Your tenant has a duty not to use an appliance they believe to be dangerous.

What happens if I use a managing agent?

The landlord retains overall responsibility for ensuring compliance with requirements. The management contract should clearly identify who is to make arrangements for maintenance and safety checks to be carried out and to keep records.

What if the property is sub-let?

In these situations the 'original' landlord may retain duties which overlap with those acquired by the person who sublets. In such cases, close co-operation and clear allocation of duties are essential to ensure that legal duties are fully met, and that the terms of the contract properly safeguard tenants' safety.

What action is required to gain access to property?

The contract you draw up with the tenant should allow you access for any maintenance or safety check work to be carried out. You have to take 'all reasonable steps' to ensure this work is carried out, and this may involve giving written notice to a tenant requesting access, and explaining the reason. Keep a record of any action, in case a tenant refuses access and you have to demonstrate what steps have been taken this could include letters sent by recorded delivery requesting access to the premises and a log of any telephone conversations with the tenant including time and date of call.

If a tenant continues to refuse access after repeated contacts, you may need to consider proper action through the courts under the terms of the tenants contract. However, do not under any circumstances use force to gain entry into the property.

What if an appliance fails the safety check?

The safety check record will contain details of any defect identified and remedial action taken. You must ensure that any safety defect is rectified (by a Gas Safe registered engineer) before the equipment is used again. It is recommended that you keep copies of work done to rectify defects identified by the safety check.

It is an offence to use, or allow the use of, a gas appliance you know to be unsafe. In no circumstances should you reconnect an appliance that you have been told is unsafe, which has either been isolated or disconnected for safety reasons, until the fault has been rectified.

What happens if I don't maintain my tenants' gas appliances?

Failure to do so may result in loss of life. Not only that, you risk being prosecuted, and this could result in you facing imprisonment or a fine of up to Twenty Thousand Pounds, or both, for each offence. If the case is then referred to the Crown Court the maximum penalty may be imprisonment, or an unlimited fine, or both.

Emergency procedures?

What is an Emergency?

- A gas escape or smell of gas
- Smell of fumes
- Uncapped supply pipes
- Pipes not attached to meter
- Emergency control handle missing
- Meter box will not open
- Hanging meter - not supported
- Low gas pressure/No gas
- Meter stolen

Landlords and other organisations should not take on the responsibility of receiving or responding to a smell of gas or fumes. Tenants and home owners should be encouraged to contact the emergency service.

People responsible for premises should be trained in the emergency process. Dealing with a gas emergency takes priority over all other tasks and should be dealt with immediately.

What action do I take in the event of a gas escape?

If you smell gas, or suspect there is a gas escape, or a carbon monoxide leak, you should immediately do the following:

- Open all doors and windows
- DO NOT operate any electrical equipment or switches including the use of phones within the building if you need to call for assistance
- Shut off the gas supply at the meter control valve (if you know where it is and is safe to do so), and call the:

Gas Emergency Freephone Number on 0800 002 001

- Make sure that any investigations or repairs are carried out by a Gas Safe registered engineer

If you provide liquefied petroleum gas (LPG) for use by a tenant in premises other than a building, e.g. a caravan or holiday home park, you must discuss emergency arrangements with your LPG supplier and agree what action to take in case of a gas escape or emission of carbon monoxide from any LPG appliance.

Further reading

If you would like more detailed information on the subject, you will find the following HSE publication useful:

'Safety in the Installation and use of Gas Systems and Appliances. Gas Safety (Installation and Use) Regulations. Approved Code of Practice and guidance L56' which has been adopted by HSENI. This can be freely downloaded from our website:

www.hсени.gov.uk/articles/gas

Also for safety information on oil and solid fuel appliances please contact:

OFTEC (Oil information)

Tel: 028 9186 2916

Web: www.oftec.org.uk/oftec-ireland-contact-us

CAS (Coal Advisory Service)

Tel: 0845 712 5300

Email: info@coaladvisoryservice.com

Further information

Free leaflets giving further advice on gas safety can be downloaded from the HSENI website:

www.hсени.gov.uk

HSENI

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