

Gas safety regulations

Duties for landlords and managing agents

Background

The Gas Safety (Installation and Use) Regulations 1998 concern 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. Failure to comply with the regulations could result in a substantial fine and/or a custodial sentence. These duties are in addition to the more general ones that landlords have under the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Act 1999.

For the purposes of the Gas Safety (Installation and Use) Regulations 1998 (GS(IU)R98) a landlord is defined as anyone who rents out a property that they own under a lease that is shorter than seven years, or under a licence. Regardless of whether you are a landlord under GS(IU)R 98 you may be considered a landlord under other related legislation. Landlords duties apply to appliances and flues provided for tenants use in properties occupied for residential purposes under either a licence, a tenancy agreement for a set term, or a lease as defined in the Regulations. Any lease under seven years is covered.

Types of accommodation covered by the regulations include (but not exclusively):

- Residential premises provided for rent by local authorities, housing associations, private sector landlords, housing co-operatives, hostels.
- Rooms let in bed-sit accommodation, private households, bed and breakfast accommodation and hotels.
- Tenant occupied residential premises attached to public houses, etc.
- Rented holiday accommodation such as chalets, cottages, flats, caravans and narrow boats on inland waterways.

Landlord duties

As a landlord you are responsible for all pipework, appliances and flues which you own and have provided for tenants' use. If a tenant has their own gas appliance that you have not provided, then you have responsibilities for parts of the associated installation and pipework but not for the actual appliance itself. Flues/chimneys solely connected to an appliance owned by the tenant are not your responsibility. It is also not your responsibility to undertake safety checks on any gas appliances that are exclusively used in a part of the premises that are occupied for non-residential purposes. An example of this may include a gas fire provided for customers in non-residential areas of a public house.

You are required to:

- Ensure gas fittings and flues are maintained in safe condition.
- Gas appliances must be maintained in accordance with the manufacturer's instructions or where these are not available they should be serviced annually unless advised otherwise by a Gas Safe engineer.
- An annual safety check must be carried out on all gas appliances and flues. At the start of any new lease you must ensure that these checks have been carried out within one year before the commencement of the lease. This excludes any appliances which have been installed for less than twelve months, these should be checked within twelve months of their installation date.
- A record of each safety check must be kept for at least two years.
- A copy of the latest safety check record must be issued to existing tenants within 28 days of the check being completed and to any new tenants prior to them moving in.
- Ensure all installations, maintenance and safety checks are carried out by a Gas Safe registered engineer.

These duties cannot be delegated to a tenant except in the case where a contract is drawn up between a landlord and tenant for an appliance or flue installed in a non-residential part of premises such as is in the case of public houses and retail premises.

Between tenancies you must:

- Visually check the property to see if the previous tenant has either removed appliances in an unsafe manner or left behind any of their own appliances. Any remaining appliances left by the tenant should either be removed or checked for safety by a Gas Safe engineer.
- Before you re-let the property you need to make sure that all appliances are safe and have an up-to-date landlord's gas safety record (a copy of which needs to be given to the new tenant); it is also good practice to arrange for the pipework to be inspected and tested.

A landlord must show that they have taken all reasonable steps to comply with the law. HSE inspectors will look for evidence of at least three attempts to complete the gas safety check, including leaving notices and writing to the client to ensure that it is a legal requirement for you to conduct the safety checks.

Duties as a managing agent

If you manage a property on behalf of the landlord you need to ensure that the management contract clearly sets out who is responsible for carrying out the safety and maintenance checks and keeping the appropriate documentation. If the contract specifies that the agent has the responsibility then the same duties apply to the managing agent that would apply to the landlord under the Gas Safety (Installation and Use) Regulations 1998.

Sub let properties

In the case of sub let accommodation, the 'original' landlord may retain duties which overlap with those acquired by the person who sub lets. In these cases, dutyholders need to take effective steps (eg. by close co-operation, and clear allocation of responsibilities under contractual arrangements) to ensure requirements are fully met. However, licensors (i.e. 'sub-letters') of premises who are themselves tenants of those premises are not regarded as landlords in this context and do not have obligations under regulation 36. This means that a tenant allowing others to share accommodation in return for 'rent' does not acquire duties under the regulation; these remain with their landlord.

More information concerning the Gas Safety (Installation and Use) Regulations 1998 can be found at:

Gas Safety Installation and Use Regulations 1998