



PROPERTY MANAGEMENT

6 OCTOBER 2021

REFERENCE

GN24-21

SMOKE AND CARBON MONOXIDE ALARM REGULATIONS: RESIDENTIAL LANDLORDS (ENGLAND ONLY)



(This Guidance Note replaces GN45-15 which should be deleted from your files)

INTRODUCTION

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force on 1 October 2015. The Regulations place a duty on most landlords of residential premises to fit a smoke alarm on each floor and provide a carbon monoxide alarm in rooms with solid fuel burning appliances. In addition, these alarms must be checked on the day a new tenancy starts to ensure they are in working order.

The Regulations are enforced by local authorities who can impose a fine of up to £5,000 where a landlord fails to comply with a remedial notice.

WHAT PROPERTIES COME WITHIN SCOPE?

The Regulations apply to a “specified tenancy” which is defined as a tenancy (including a licence, lease, sub-lease, and sub-tenancy) of residential premises in England which:

- is the tenant’s only or main residence; and
- is for a payment of rent; and
- is let for a term of less than seven years.

This will include properties let under residential tenancies and licences, such as Assured Shorthold Tenancies, Assured Tenancies, Assured Agricultural Occupancies, Rent (Agriculture) Act 1976 Tenancies and Rent Act 1977 Tenancies. It will also extend to properties included in agricultural tenancies, such as a farmhouse. Additionally, it will apply to the residential element of commercial tenancies, such as living accommodation above a pub or shop where the term is less than seven years.

Service occupancies, where there is no rent payable, could appear to fall outside the scope of these Regulations. However, where deductions are made from wages for such licences it is likely that this would be considered an equivalent to ‘rent’. We would always advise employers who provide accommodation to ensure compliance with these Regulations given the potential safety implications.

There are a number of excluded tenancies which include: student halls of residence, hostels and refuges, care homes, hospitals and hospices, shared accommodation with landlord or landlord’s family.

AGRICULTURAL TENANCIES

There is often a residential element of agricultural tenancies, such as the farmhouse or farm cottages. If the original tenancy was granted for a term of less than seven years then the Regulations will apply, such as annual periodic Agricultural Holdings Act 1986 tenancies and farm business tenancies of less than seven years.

For a farmhouse occupied by the farm tenant, the requirement to comply with the Regulations will fall with the landlord. For farm cottages sub-let by the farm tenant, the requirement to comply with the Regulations will fall to the farm tenant as the immediate landlord.

COMMERCIAL TENANCIES

The Regulations will apply to the residential element of a commercial tenancy, such as a flat above a shop, but not to the shop. The requirement to comply with the Regulations will fall to the landlord.

WHAT ARE MY DUTIES AS LANDLORD?

The regulations require private rented sector landlords, from 1 October 2015, to have:

- at least one smoke alarm installed on every storey of their rental property, which is used as living accommodation, and

- a carbon monoxide alarm in any room used as living accommodation where a solid fuel burning appliance is used; and
- after that, the landlord must make sure the alarms are in working order at the start of each new tenancy.

The definition of room and living accommodation includes bathrooms, lavatories, halls and landings.

ENFORCEMENT

Where a landlord is in breach, they will be sent a remedial notice from the enforcing authority. The local authority can then issue a penalty charge which should not exceed £5,000.

The landlord must comply with that notice within the stated timeframe. Where the enforcing authority has reason to believe that the notice has not been complied with, they may within 28 days give a minimum of 48 hours notice of intended remedial action. A landlord can make representation to the local authority that the decision to issue a penalty charge should be reviewed.

A landlord may appeal to the First-tier Tribunal that the decision to issue either notice or penalty charge was wrong in law, based on an error in fact or unreasonable. The Tribunal may quash, confirm or vary the penalty charge but may not increase it.

FAQS

1. What is a solid fuel burning appliance?

A solid fuel burning appliance includes a log burner or an open fire. However, gas and oil appliances can also emit carbon monoxide and so it is advised to install carbon monoxide detectors in any room that has a gas or oil appliance, such as an oven or boiler.

2. Do holiday lets need to comply with these Regulations?

Although these regulations do not apply to holiday lets, it is strongly advised that you take a similar approach, not least to comply with your fire risk assessment, for insurance purposes and because there is a duty of care for the safety of holiday let guests.

We advise that you regularly check the smoke and carbon monoxide alarms and keep a record of this.

3. Are my existing battery powered smoke alarms sufficient or do I need hard wired smoke alarms?

The Regulations do not stipulate the type of smoke alarm required, such as hard wired or battery powered. However, the Fire British Standard: BS 5839 sets out that best practice is for smoke alarms to be hard wired.

However, we are aware of a number of local authorities trying to enforce landlords to change battery powered smoke alarms to hard wired smoke alarms. It is not clear what

powers they are relying on for this, but it is likely to be under the Housing Health and Safety Rating System (HHSRS).

Although we would question a local authority's ability to mandate hard wired smoke alarms, we would strongly encourage this to be done if an opportunity presents itself, such as before the periodic electrical inspection and testing or in a void period.

4. Where should the alarms be situated?

The regulations do not stipulate where the alarms should be placed, just that at least one smoke alarm should be on every storey and a carbon monoxide alarm in every room containing a solid fuel burning appliance. The individual manufacturer's instructions should be followed when installing the alarms.

However, in general, smoke alarms should be fixed to the ceiling in a circulation space, i.e. a hall or a landing, and carbon monoxide alarms should be positioned at head height, either on a wall or shelf, approximately 1 to 3 metres away from a potential source of carbon monoxide.

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