

FACT SHEET



MARCH 2018

The legal helpline is available to members with individual queries arla.co.uk/members/legal-advice

MORE INFO

Find a Gas Safe registered engineer: gassaferegister.co.uk

Gas Safety (Installation and Use) Regulations 1998
www.legislation.gov.uk/uksi/1998/2451/contents/made

HSE approved Code of Practice
hse.gov.uk/pubns/priced/l56.pdf

Gas Safety (Installation and Use) (Amendment) Regulations 2018
www.legislation.gov.uk/uksi/2018/139/pdfs/uksi_20180139_en.pdf

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
www.legislation.gov.uk/uksi/2015/1693/contents/made



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Landlords' Legal Responsibilities for Gas Safety

CONTEXT

Landlords are legally responsible for the gas safety of their properties. The Gas Safety (Installation and Use) Regulations 1998 outlines what landlords must do to ensure gas appliances, fittings and flues provided for tenants are safe.

THE CHANGES

The Gas Safety (Installation and Use) (Amendment) Regulations 2018 provide new flexibility in the timing of landlords' annual gas safety checks and the date when the next safety check is due.

NB: There is no change to the legal requirement for an annual gas safety check or for maintenance to be carried out.

It is not compulsory for landlords to take advantage of the new flexibility and can continue with their current arrangements for gas safety checks. However, landlords must keep the last two records of their gas safety checks rather than keeping copies of each check for two years.

ELIGIBILITY

The law applies to all **landlords across the UK** and the new rules come into force on **6 April 2018**. It covers fixed as well as portable appliances (gas cookers, gas fires, gas heaters, gas boilers and water heaters) provided by the landlord for tenants' use and flues (chimneys and pipework) they are connected to. The rules are applicable to property rented under either an Assured Tenancy, Fixed Term Tenancy, licence or leases granted for a term of seven years or less.

NB: Gas appliances, fittings and flues in a communal area of a property, but which may be used by tenants also fall under the responsibility of landlords.

If a landlord is using a letting agent, the landlord is ultimately responsible for complying with the rules. The management contract should identify who is to make arrangements for maintenance and safety checks to be carried out and to keep records.

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If a property is sub-let the 'original' landlord may retain responsibilities which overlap with those acquired by the person subletting. In these circumstances, the allocation of responsibilities must be clearly set out to ensure that legal duties are fully met, and that the terms of the contract properly safeguard tenant's safety.

WHAT YOU NEED TO DO

Maintain

Landlords must ensure that pipework, appliances 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.

Check

Landlords must arrange an annual gas safety check on every gas appliance and flue by a registered Gas Safe engineer.

NB: Under the amended rules, if it is not possible to examine the operating pressure or heat input of the gas appliance, the person who carries out the gas safety check must instead examine the combustion performance of the appliance to ensure it is operating safely.

Before any new tenancy starts landlords must ensure these checks have been carried out within one year before the start of the tenancy 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.

NB: The checks are a requirement for both mains gas and liquefied petroleum gas (LPG) appliances including hobs and gas fires.

Under the new flexibility, landlords can obtain a gas safety certificate up to two months before the current certificate expires and keep the same expiry date.

This means that landlords may ensure that an appliance or flue is checked for safety within the two month period beginning with the deadline date (a 10-12 calendar month window after the previous gas safety check), instead of checking it within the 12 month period ending with that date.

NB: The deadline date is the last day of the 12 month period within which the check is or was required to be made.

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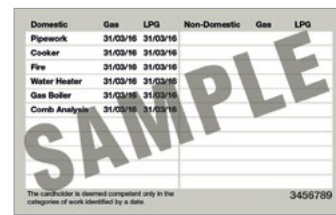
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There is only a two month window to complete the check early and where the property remains tenanted it is an offence to have no current gas safety check certificate in place. Where a gas safety check is carried out less than 10 months or more than 12 months after the previous gas safety check this will have the effect of 'resetting the clock' and the new deadline date will now be 12 months from the date of this latest gas safety check.

If an individual appliance is replaced or added in a property, the gas safety check for that appliance may be carried out up to two months after the deadline date. However, this flexibility can:

- Only be carried out once in relation to each appliance or flue.
- Only be to align the deadline date of the next safety check of that appliance or flue with the deadline date with the next check of any other appliance or flue in the same property.

All Gas Safe registered engineers must carry ID cards (pictured) that identify the appliances on which they are qualified to work. Landlords are strongly encouraged to confirm their Gas Safe registration is current and check the ID card before letting anyone begin work on gas appliances.



NB: If a tenant has their own gas appliance that the landlord has not provided, then the landlord is responsible for the maintenance of the gas pipework but not for the actual appliance.

Landlords must make sure all gas equipment (including any appliance left by the previous tenant) is safe or otherwise removed before re-letting.

Record

When the Gas Safe registered engineer has completed the safety check they will provide a Gas Safety record (pictured). Landlords must provide each tenant with a copy of the annual Gas Safety record within 28 days of the check being carried out or provide a copy to any new tenant before they move in.



Landlords must log the date when the last safety check was carried out and keep copies of each gas safety check for two years.

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Landlords working to the current arrangements or using the new flexibility must now keep records of gas safety checks (the last two records) until two further checks have been carried out.

If an appliance or flue has been removed from the property, a record of the gas safety check must be kept for two years from the date of the last check of that appliance or flue took place.

NB: The safety record can be in paper or electronic format. Landlords can also provide tenants with a photocopy of the record or email it (provided the tenant has consented to receiving documents via email).

Make safe

The safety check record will contain details of any gas safety defect identified by the Gas Safe registered engineer. Landlords must ensure that any gas safety defect is rectified by a Gas Safe registered engineer before the equipment is used again. Landlords should keep copies of work done to rectify defects identified by the safety check.

NB: It is a breach of the regulations for anyone to use or allow the use of a gas appliance if it is unsafe or they suspect it is unsafe. Turn the appliance off and do not touch it until it has been checked by a Gas Safe registered engineer. For more information see the *Gas Regulations - Danger do not use* fact sheet.

The contract landlords make with tenants should allow them access for any maintenance or safety check work that needs to be done.

Landlords must take all reasonable steps to ensure checks or maintenance work is carried out, such as by giving written notice to a tenant requesting access to the property and explaining why.

NB: Landlords should keep a record of any action in case a tenant does not allow access as you have to show what attempts the landlord made.

ADDITIONAL SAFETY CHECKS

From 1 October 2015, when properties are occupied by tenants, landlords in England must ensure that:

1. A smoke alarm is equipped on each floor of the property on which there is room used wholly or partly as living accommodation and a Carbon Monoxide alarm in every room which contains a solid fuel burning combustion appliance (such as wood, coal or biomass and includes open fires. It does not include gas, oil or LPG).
2. Checks must be made by the landlord or letting agent to make sure that each alarm is in proper working order on the first day of the tenancy. See the *Installation of Smoke and Carbon Monoxide Alarms* fact sheet.

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Landlords should make sure tenants know where to turn off the gas and what to do in the event of a gas emergency. If anyone suspects there is a gas escape they should immediately do the following:

- Call the Gas Emergency number on 0800 111 999
- Open all the doors and windows
- Shut off the gas supply at the meter control valve
- Do not use electrical switches or equipment.

POSSIBLE WARNING SIGNS FOR GAS APPLIANCES

Danger signs can include sooty marks, pilot light that keeps going out, excessive condensation on windows or yellow/orange flames instead of blue.

THE IMPACT

Badly fitted and poorly serviced gas boilers, cookers and fires can result in gas escapes, fires, explosions and Carbon Monoxide poisoning.

NB: Carbon Monoxide is an odourless, colourless and tasteless gas which is highly poisonous and can kill within minutes if high enough. Symptoms of Carbon Monoxide poisoning include headaches, dizziness, nausea, breathlessness and loss of consciousness.

ENFORCEMENT

If landlords do not maintain the gas appliances and pipework they are responsible for in property they let this could result in loss of life and prosecution including a fine and / or a period of imprisonment up to six months in the Magistrates Court.

Tenants can make a complaint to the Health and Safety Executive (HSE) against landlords who do not carry out checks or refuse to provide copies of the gas safety record. In shared houses that are licensed by a council, such as a house in multiple occupation (HMO), tenants can contact their local council who might also take action against landlords.

If the matter is referred to the Crown Court the maximum penalty may be imprisonment (up to two years), or an unlimited fine, or both.

Furthermore, failure to carry out correct checks can also render property or landlord insurance invalid.

ADVICE

If anyone smells gas or suspects that an appliance is faulty or dangerous they should contact the Gas Emergency number on 0800 111 999.

The HSE Gas Safety Advice Line 0800 300 363 provides information on gas safety. Landlords can find a local Gas Safe registered engineer online at gassaferegister.co.uk or by calling 0800 408 5500.