

## ***Gas Safety Certificates***

### **A guide to landlords' duties: Gas Safety (Installation and Use) Regulations 1998**

Every year about 14 people die from carbon monoxide poisoning 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 1998 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 etc Act 1974 and the Management of Health and Safety at Work Regulations 1999.

#### **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; 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).

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.

### **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; flues/chimneys **solely** connected to an appliance owned by the tenant are not covered; any appliances and flues serving 'relevant premises' (such as central heating boilers not installed in tenants' accommodation, but used to heat them) **are** covered.

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.

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 sub-lets. 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. 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 use force to gain entry into the property.

### **How do I know whether the gas engineer is Gas Safe registered?**

The engineer should be able to provide you with a current ID card. The card contains a photo of the engineer, their business registration number and personal licence number, company name, the start and expiry date of the card and a security hologram. The reverse of the card details what kind of gas work the engineer is able to do. You can also call Gas Safe Register during normal office hours on 0800 408 5500 or go to the website [www.gassaferegister.co.uk](http://www.gassaferegister.co.uk).

### **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 either has 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 £20 000, 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.<sup>4</sup> of 5 pages **Health and Safety Executive** Landlords. A guide to landlords' duties: Gas Safety (Installation and Use) Regulations 1998