

Gas Safety for Landlords and Letting Agents

Key Points

- Landlords are responsible in law for their tenant's safety.
- Annual gas Safety checks are a legal requirement - failure to do this can result in heavy fines or even imprisonment.

Landlord's Duty to Ensure Installations are Safe

All Landlords have a **common law duty** to ensure that gas installations and appliances supplied with their properties are safe. Tenants also have certain legal obligations when it comes to gas safety - see below.

In the case of residential properties, landlords (or their agents) have a statutory duty to arrange **annual Gas Safety Checks** by a registered CORGI installer.

A copy of the **GasSafe safety certificate** must be given to the tenant on entry and within 28 days of the annual check. A copy must also be retained by the landlord for 2 years.

With **commercial properties** the lease should determine who has responsibility for gas safety: tenant or landlord. If you as landlord (or agent) have supplied the equipment and taken on the service responsibility you should arrange for annual maintenance and a GasSafe safety check.

A Landlord's Guide to Gas Safety

- Implement a system of annual checks and maintenance for all gas appliances and flues.
- Use only GasSafe registered engineers for installations, maintenance and gas safety checks.
- Maintain safety check records, keeping copies for at least 2 years, and issuing copies to each tenant within 28 days.
- If you use a managing agent make sure the contract makes it clear who is responsible for managing gas safety checks.
- Make sure that appliances are safe and have been checked within 12 months before re-letting.
- On re-letting, remove any suspect appliances which may have been left by previous tenants and issue the new tenant/s with a copy of the safety check record on entry.
- On re-letting, even if a safety certificate is still current, visually inspect the gas installation and appliances. A leaving tenant may have left the system in an unsafe condition.
- Work closely with tenants in gaining access for maintenance, repairs, safety checks and the early reporting of faulty appliances.
- If you experience difficulties gaining access make sure you fully document this to show you have taken all reasonable steps - beware accusations of harassment.

- Ensure that all appliances meet the general regulation requirements, in particular in bedrooms and bathrooms where appliances must be of the room-sealed type or have a safety valve incorporated.
- Ensure that all water heaters have fail safe thermostats fitted.
- Do not use second hand gas appliances.
- Ensure that tenants have emergency instructions and ready access to the gas meter and the gas cut-off valve.
- Provide copies of all appliance manufacturers' operating instructions to your tenants.

A Landlord's (or his Agent's) Responsibilities

About **30 people die every year** in the UK through poorly installed or badly maintained gas appliances and flues resulting in deadly **carbon monoxide poisoning**.

Residential landlords or their agents are **responsible for the safety of tenants** and the Gas Safety (Installation and Use) Regulations 1998 enforced by the Health & Safety Executive (HSE). They deal with the duties of landlords to ensure that gas installations, appliances, fittings and flues provided for tenants are safe.

Severe penalties for non-compliance can be imposed and **deaths could result in manslaughter charges for landlords and agents**. Non compliance is a criminal offence and courts can impose unlimited fines and custodial sentences. This may also invalidate your property insurance and could subsequently lead to claims for civil damages - awards in these cases have proved to be very high indeed.

The Law Relating to Gas Installations in Rental Premises

- Installation and maintenance of gas appliances and fittings must by law be carried out only by GasSafe registered installers.
- You must not by law use gas appliances knowing or suspecting they are unsafe. GasSafe installers will disconnect appliances they find are unsafe and should not be reconnected until they have been properly repaired or replaced.
- Since 1 January 1996 there are restrictions on appliances fitted in bedrooms and bathrooms. Appliances such as heaters must be of the room-sealed type. Non-room sealed types can only be fitted if they are below 14 Kilowatts and have cut off devices which automatically turn off the gas when toxic fumes build up.
- Since 31 October 1998 it has been illegal to install instantaneous water heaters which are not room-sealed or fitted with a safety device which automatically turns off the gas supply when toxic fumes build up.
- The gas meter and cut-off valve must be easily accessible to the occupiers.
- All appliance operating instructions should be on the premises and easily available to the occupiers
- If there is an escape of gas or carbon monoxide fumes the occupier of the premises must by law take reasonable steps to close off the supply and inform the gas supplier immediately. If the premises are empty, the owner, landlord or agent may have this responsibility.
- When alterations are made to premises the person responsible must take into account the affects on gas appliances such as flue outlets, ventilation etc. and should have the appliances re-checked by a GasSafe installer.

A Landlord's Duties in relation to Gas Installation

- Ensure that fittings and flues are maintained in a safe condition.
- Have a safety check carried out on all gas appliances and flues annually, or within 12 months before the start of a new tenancy.
- Check gas installations and appliances immediately before the start of any new tenancy, even if a safety certificate is still current.
- Have all installation, maintenance and safety checks carried out only by a GasSafe registered gas installer.
- Keep a record of each safety check for 2 years - the GasSafe installer will issue this.
- Give a copy of the GasSafe installer's safety check report to each existing tenant within 28 days of the safety check, or to new tenants before occupation. There is an option to display the record in holiday lets etc.

A Tenant's Duties in Relation to Gas Installations in Rental Premises

- Tenants also have responsibilities imposed upon them by the gas safety regulations. Landlords should inform tenants of this fact in writing and should include a clause to this effect in the tenancy agreement.
- Under no circumstances must tenants carry out DIY work on gas installations and appliances.
- Tenants should inform the landlord or managing agent immediately if they know or suspect a gas system to be unsafe. It is a criminal offence to knowingly use an unsafe gas appliance.
- In an emergency the tenant should turn off the gas at the main cut-off valve and inform TRANSCO immediately.
- It should also be made clear to tenants that landlords require access to the premises (giving reasonable notice) to fulfill their gas checks and maintenance requirements under the 1988 Regulations.

Properties Covered by Gas Regulations

- The regulations cover residential properties of all types including houses let by councils, housing associations, private landlords, housing co-operatives and hostels and working accommodation.
- Residential accommodation of all types including private houses, flats and maisonettes, bedsits (HiMO), private households (lodgers) bed and breakfast, holiday cottages, chalets, caravans and house boats on inland waterways.

Commercial Properties and Gas Regulations

There are no specific statutory requirements with commercial properties for an annual safety check, apart from the **common law duty** on the landlord to ensure that gas installations and appliances provided with properties are safe.

The lease or a separate contractual agreement should determine whether **tenant, agent or landlord is responsible for maintenance**, including gas appliances. If you as landlord (or agent) have taken on responsibility for maintenance then an annual safety check and the issuing of a GasSafe safety certificate is appropriate and advisable.

Where the landlord supplies premises with gas appliances already installed, or where he controls multi-occupation business premises (offices, shops etc) through service charges, then **annual maintenance and safety checks** should be carried out.

GasSafe Registered Engineers

Before allowing anyone to carry out any gas work in your property you should ask to see their **GasSafe identification card**. This has a photograph and details of the installer's firm.

Carbon Monoxide (CO)

- Carbon monoxide (CO) is widely known as **the silent killer**. It is highly poisonous and cannot be detected by the senses. You can't see, smell or taste its presence. Exposure to even low levels of CO can cause brain damage and death.
- CO is produced by the **incomplete combustion of gas**, solid or liquid fuels. It arises from badly installed or poorly maintained gas appliances. Insufficient ventilation to the appliance or away from the appliance (flues and chimneys blocked) will also cause CO build up.
- **Signs of CO** are: yellow or brown stains around the appliance, pilot lights which blow out frequently and increased condensation inside windows.
- **Symptoms**: Fatigue, headaches, flu like symptoms such as nausea, chest pains, sudden giddiness when standing up, sickness, diarrhea and stomach pains, erratic behaviour.
- If you **suspect CO**: switch off appliance, open doors and windows, visit your GP and call a GasSafe installer.

Gas Safety - Frequently Asked Questions

- *What if an appliance fails the safety check?* - The GasSafe safety check record will note the defect and the engineer will disconnect the appliance. You must have the fault rectified or the appliance replaced before re-connecting.
- *Which gas equipment must be checked?* - The checks apply to gas appliances and fittings installed and also to portable appliances such as LPG cabinet heaters supplied by the landlord. They do not apply to appliances owned by tenants or flues/chimneys connected to tenant's appliances. Safety checks do not apply where there are gas appliances in non-residential (i.e. commercial) parts of the building.
- *Can I ask the tenants to take responsibility for the gas safety checks?* - No. However, a contract can be drawn up between landlord and tenant for an appliance or flue to be installed in a non-residential part of the building, for example and shop or public house.
- *What happens if I use a managing agent?* - You need to ensure that the management contract clearly specifies who is responsible for arranging maintenance and safety checks and keeping records.
- *What if my property is sub-let?* - You, the landlord, may retain duties which overlap with those now acquired by the person subletting. In these cases close co-operation and clear allocation of duties needs to be agreed in the lease to ensure full compliance with the regulations.
- *How do I gain access to the premises for safety checks and maintenance* - You need to give your tenants at least 24 hours notice, preferably a weeks notice, that a registered gas engineer will be calling. This notice should also be given in writing.
- *How do I gain access if the tenant refuses me entry?* - The lease agreement should allow you as landlord reasonable access. You should take "all reasonable steps" to ensure gas safety work is carried out, which may involve giving written notice to tenants requesting access, explaining the reasons. Keep a careful record of any such action in case you are refused access and you have to demonstrate the steps you have taken to gain access. If a tenant continues to refuse you access you may need to consider reporting the problem
 - To your local Council - Environmental Health Officer
 - To the Health & Safety Executive
 - You may need to take court action for breach of contract as a last resort.

- Never, under any circumstances, should you enter without the tenant's consent or use force to gain entry.
- *What do I need to do about gas appliances if I let commercial premises?* - Commercial premises are not covered by the specific landlord annual gas safety check regulations, but they still need to comply with the general regulations and the common law duty on the landlord to ensure that all gas equipment provided for tenant use is safe. The lease or a separate contractual agreement should make it clear who has responsibility for annual maintenance and safety checks - tenant, agent or landlord. However, where tenancies are in multiple occupation premises and service charges apply it is usual for the landlord to arrange annual maintenance and safety checks. A certificate should then be issued as with residential properties.
- *Do the checks include portable LPG gas heaters?* - Yes, where a landlord has supplied portable gas appliances in residential properties these must be included in the annual safety checks.

Penalties for Breach of Gas Safety Regulations

- Breach of the regulations is a criminal offence with the Health & Safety Executive empowered to bring proceedings.
- Landlords and/or managing agents can be convicted for non-compliance.
- The standard penalty is a £6,000 fine for each item and/or 6 months imprisonment.
- In the most serious cases charges of manslaughter could be brought.
- Insurance cover could be invalidated for non-compliance to the regulations.

Defences

- In the event of a tenant complaint or an incident the defence of "**due diligence**" may be accepted where it can be shown that the landlord or agent took all reasonable steps to avoid committing an offence - you will need documentary evidence of this.
- A private owner or landlord who can show that he placed responsibility on to a **managing agent** may escape liability. However, an agent merely introducing a tenant and not becoming involved in the inventory or management of the tenancy may well be exempt from liability.

Risk Reduction

- It is not possible to take out insurance cover to protect yourself against losses due to your own criminal acts.
- It is also very doubtful that insurance cover would be obtainable for losses sustained in a civil action brought against you or the legal and professional expenses involved.
- Your only recourse is to make absolutely sure that you **fulfill your legal duties**. Do this and your risks are minimal.
- **Agents** need to have in place a proper **administration system** to ensure compliance for the properties they manage and make sure their staff are adequately trained.

Emergency Contacts

- * CORGI - 01256 372300
- * Gas Safe Register – 0800 408 5500
- * HSE Gas Advice Line - 0800 300363
- * Transco Gas Emergency line - 0800 111999
- * HSE Publications 01787 881165

