



# Regulations & Fees

## Some of The Regulations You Should Know... And The Penalties!

June 2020

### Gas Safety (Installation 1 and Use) Regulations 1998 & Subsequent Amendments - £95 plus vat

The Regulations:

These regulations came into force on 31st October 1998 and replaced all previous gas safety regulations.

These regulations place legal duties on landlords, agents and contractors who are dealing with the rental of the property. There must be a valid gas safety certificate in place during the whole duration of the tenancy which covers all gas appliances which are within the property. This certificate must be carried out by a Gas Safe registered engineer.

### Requirements:

The following items must be safe:

- Gas appliances.
- Pipework leading to the appliances.
- Flues from the appliances.

### The following checks must also be done:

- A mandatory yearly check to assess whether or not the system and appliances are safe and meet current standards.
- A check on the meter to make sure that there is no escape of gas.

### Penalties:

Complying with the regulations is a legal requirement and failure to do so is a criminal offence. The penalty for noncompliance is an unlimited fine and 1 or imprisonment. Should a tenant or occupant die as result of the regulations not being adhered to, a more serious charge may be brought.

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## **The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 - £35 plus vat**

### **The Regulations:**

These regulations came into force on the 1st October 2015. It is the landlord's responsibility to ensure that working smoke alarms and carbon monoxide alarms (if applicable) are installed at the property.

### **Requirements:**

Private sector landlords are required to install at least one smoke alarm on each storey of the premises, and a carbon monoxide alarm in any room containing a solid fuel burning appliance. If battery operated smoke alarms are fitted to the premises, the Landlord must ensure that they are in working order at the start of the tenancy. The tenant is responsible for testing the alarms periodically and changing batteries as required.

Whilst carbon monoxide alarm regulations apply only to solid fuel appliances, it is good practice to install a CO alarm where there is a gas appliance.

### **Penalties:**

If a landlord does not install the appropriate alarms, the local authority can impose a fine of up to £5,000.

## **The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 – From £145 to £225 plus vat**

(dependent on size of property)

### **The Regulations:**

New regulations were introduced in 2020 for England and came into force from 1st July 2020. These regulations set new standards of electrical safety as well as legal requirements on the service of documents to relevant people. It is the landlord's responsibility to meet these requirements and also make sure that all electrical appliances left at the property are safe to use.



## Requirements:

Landlords must ensure every fixed electrical installation is inspected and tested at least every five years by a qualified person. The Regulations also state that a landlord is required to obtain a report of the results of the inspection and test, supply it to each tenant within 28 days and retain a copy until the next inspection is due.

## The following must also be noted:

- Upon request, the report must be provided to the local housing authority within 7 days.
- The private landlord must supply a copy of the last report to any new tenant before occupation, or any prospective tenant within 28 days of a request from the prospective tenant.
- The Regulations require local housing authorities to enforce the rules and they have the power to arrange remedial action.

## Penalties:

Proven breaches of the Regulations can result in the local housing authority imposing a financial penalty of up to £30,000.

Portable Appliance Testing (PAT): Whilst the above regulations do not cover electrical appliances, where a landlord provides an electrical appliance as part of a tenancy, the law expects the appliance will be maintained in a safe condition that will not cause harm to the tenant. Failure to do so could lead to the landlord being sued for negligence. With this in mind, a PAT (portable appliance testing) is always best practice for landlords but it is not a legal requirement.

## EPC (Energy Performance Certificate) & MEES (Minimum Energy Efficiency Standards) - £83.34 plus vat

From 1st October 2008 all Landlords letting a property need to provide a valid EPC certificate to any prospective tenant. The EPC must be accessible to prospective tenants from the point that the property starts to be marketed.

There is no need to obtain a new certificate for each tenancy and once obtained, a certificate remains valid for up to 10 years regardless of the number of tenancies in that period.

MEES regulations (The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015) state that from 1st April 2020 all landlords of privately rented domestic and non-domestic

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properties in England or Wales must ensure that their properties reach at least an Energy Performance Certificate rating of E.

In certain circumstances, exceptions can be granted (listed buildings etc).

## Penalties:

The penalty for renting out a property for a period of fewer than three months in breach of the MEES Regulations will be equivalent to 10% of the property's rateable value, subject to a minimum penalty of £5,000 and a maximum of £50,000. After three months, the penalty rises to 20% of the rateable value, with a minimum penalty of £10,000 and a maximum of £150,000.

## House In Multiple Occupation' (HMO)

The Housing Act 2004 states that a house in multiple occupation (HMO) is a property rented out by at least 3 people who are not from 1 'household' (for example a family) but share facilities such as the bathroom and kitchen.

If you want to rent out your property as a house in multiple occupation in England or Wales, you must contact your council to check if you need a licence and what specific requirements they stipulated.

You must have a licence if you are renting out a large HMO in England or Wales.

Your property is defined as a large HMO if all of the following apply:

- It is rented to 5 or more people who form more than 1 household.
- Some or all tenants share toilet, bathroom, or kitchen facilities.
- At least 1 tenant pays rent (or their employer pays it for them).

## Restrictions and Conditions:

A licence is valid for a maximum of 5 years and you must renew your licence before it runs out.

You must make sure:

- The house is suitable for the number of occupants (this depends on its size and facilities).
- The manager of the house- you or an agent- is considered to be 'fit and proper', for example they have no criminal record or breach of landlord laws or code of practice.

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You must also:

- Send the council an updated gas safety certificate every year.
- Install and maintain smoke alarms.
- Provide safety certificates for all electrical appliances when requested.
- Ensure that all other council requirements are met (fire exits, emergency lighting, room sizes etc)

## Penalties:

You could get an unlimited fine for renting out an unlicensed HMO.

## Legionella and Landlord's Responsibilities - £85 plus vat

What is legionella? Legionnaire's is a pneumonia-like disease commonly caused by the inhalation of small droplets of contaminated water.

What must landlords do? Landlords must assess and control the risk of exposure to tenants to legionella to ensure the safety of their tenants. This is typically done by undertaking a risk assessment.

Control measures can include:

- Flushing out the water system before letting the property.
- Ensure cold water tanks have a tight lid to stop debris getting into the system.
- Setting control parameters to ensure water is stored at the correct temperature:
- Hot water should be stored at 60oC or higher and should be distributed at 50oc.
- Cold water should be stored and distributed below 20oC.
- Remove any unused pipework.

Communication:

Tenants should be kept informed of any control measures in place and tell the landlord if problems occur with the water system or if the water is not heating properly.

NOTE: The hot water should be set accordingly, and tenants should be advised to not interfere with the settings on the boiler or hot water system.

What can tenants do?

On returning to the property after a period of absence (such as a holiday or student accommodation left empty) tenants should run all taps for at least two minutes. Where showers are installed at the property and used regularly the risks are reduced. However, tenants should be advised to regularly clean and disinfect showerheads.

#### Testing:

Most landlords can assess the risk themselves and do not need to be professionally trained. However, landlords can arrange for a competent person to carry out the assessment if they wish. There are companies who offer this service and we can refer a contractor if needed. NOTE: The Health and Safety Executive (HSE) does not recognise a 'Legionella test certificate' and health and safety law does NOT require landlords to obtain or produce one.

#### Record keeping and subsequent checks:

Records of any assessment should be kept and follow up checks need to be carried out periodically, such as when undertaking annual gas safety checks or routine maintenance visits.

Landlords who provide residential accommodation have a legal duty of care to ensure that the risk of exposure of tenants to legionella is properly assessed and controlled. It is recommended that every 2 years, Landlords of domestic properties appoint a professionally trained and accredited body to carry out a Legionella Risk Assessment survey then implement any recommendations.

## **The Fire and Furnishings (Fire) (Safety) (Amendment) Regulations 1988 & Subsequent Amendments**

### **The Regulations:**

These regulations were introduced in 1988 to protect furnished goods against fire. It is the landlord's responsibility to ensure that any furniture left at the property complies with the regulations. The regulations cover the following items if they contain upholstery (soft furnishings):

- Beds, headboards, mattresses, and bed bases.
- Sofa beds and futons.
- Sofas, armchairs, and foot stalls.
- Nursery furniture.
- Garden furniture suitable for use indoors (deckchairs and parasols would not therefore be covered).
- Scatter cushions and seat pads
- Pillows.
- Padded seats.
- Loose and stretch furniture covers.

The regulations do not apply to:

- Bed covers, including mattress protectors and duvets.
- Curtains.
- Carpets.
- Furniture made before 1950 (as long as it has not been re-upholstered).

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## Standards:

Under the regulations, upholstered furniture:

- Must have a fire-resistant filling.
- Must have passed a 'match resistance' test or, in some cases, the cover should have a fitted 'fire resistant' liner.
- Should, as a whole be able to pass a 'cigarette resistance' test.

These tests mean that if a lighted cigarette or match is held up to the furniture, it will not burst into flame.

New upholstered furniture must also be properly labelled with set information and a fire safety warning. These can usually be found on labels which are attached to the item.

## Penalties:

Noncompliance is a criminal offence and may lead to a fine of up to £5,000 and/or a prison sentence of up to six months. The trading standards office is responsible for seeing that the regulations are complied with.

## New Tax Rules

Previously private and individual Landlords could claim tax relief on mortgage interest payments and fees, as well as fees incurred on loans to buy furnishings. In 2015 the government confirmed that this would be phased out and introduced a number of new measures. From 2017-2018 the process began with claimable tax relief reduced to 75% and the reduction continued through to 2019-20. In 2020-2021 landlords will not be able to claim any tax relief on mortgage interest payments at all. Instead from April 2020 landlords will receive a 20% tax credit on their interest payments which could be bad news for anyone in the higher tax bracket and now include landlords who will have to declare rental income they previously used for interest payments. Some landlords are setting up limited companies when buying new rental properties to try and avoid higher individual rates. Changes To Private Residence Relief From April 2020, changes to private residence relief means that landlords will lose nine month's-worth of Capital Gains tax relief when they come to sell. Up until April landlords had been able to claim private residence relief for all the time they lived in their property before letting it to tenants, plus a further 18 months after moving out. This final exemption period will be reduced to the time they lived in their property, plus nine months post moving. Also, landlords who rent out a property that was once their main home will see the £40,000 worth of letting relief currently enjoyed scrapped as from April, and only landlords who share occupancy with their tenants will be able to claim.

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## The Tenant Fees Act 2019 - Tenant fees & Deposit held

This came into effect on 1st June 2019 applying to all agents and landlords in England. The Act limits the amount a tenant can be charged for a holding deposit and security deposit and defines what a tenant can be charged in addition to rent.

Certain fees and charges are permitted under the Act, whereas others are defined as prohibited payments.

### Requirements:

The following must be actioned and adhered to:

- Capped holding deposits and set timeframes for repayment;
- Capped security deposits;
- A set list of permitted payments which can be taken during the tenancy; and
- A set list of prohibited payments which cannot be charged under the Act in any circumstances.

This resource centre includes all the information and guidance agents and landlords in England need to comply with the legislation and understand the changes made. We've also included a section on how to repay deposits which exceed the cap in the event that you renew a tenancy agreement from 1st June 2019.

Here's an overview of the changes made by the legislation:

- Holding deposits are capped at one week's rent;
- Security deposits will be capped at five weeks' rent where the annual rent is less than £50,000 and six weeks' rent where the annual rent is £50,000 or more;
- Default fees (fees which can be charged during the tenancy) are limited to the reasonable costs incurred in replacing a key or lost security device or interest on rent overdue by 14 days or more, capped at 3% above the Bank of England base rate.

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