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Guidance

# **The Smoke and Carbon Monoxide Alarm (England) Regulations 2015: Q&A booklet for the private rented sector – landlords and tenants**

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## Introduction

This booklet is not an authoritative interpretation of the law, but intended as a general guide.

This booklet is not an authoritative interpretation of the law, but intended as a general guide. Working alarms save lives – in the event of a fire in your home you are at least 4 times more likely to die if there is no working smoke alarm.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 have been approved by Parliament and will come into force as planned on 1 October 2015.

Private sector landlords are required from 1 October 2015 to have at least one smoke alarm installed on every storey of their properties and a carbon monoxide alarm in any room containing a solid fuel burning appliance (eg a coal fire, wood burning stove). After that, the landlord must make sure the alarms are in working order at the start of each new tenancy.

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

This booklet provides information about the requirements and who they apply to. It is designed as a Q&A to cover the most common situations but it cannot cover every scenario and is not a substitute for reading the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (<http://www.legislation.gov.uk/uksi/2015/1693/contents/made>).

Landlords should be aware that the regulations do not contain all the fire safety requirements which their premises may be subject to. There are fire safety requirements under other legislation which may be applicable, such as under Part 1 of the Housing Act 2004

(<http://www.legislation.gov.uk/ukpga/2004/34/part/1>) and the Regulatory Reform (Fire Safety) Order 2005 (<http://www.legislation.gov.uk/uksi/2005/1541/contents/made>).

The department will make every effort to ensure this booklet is updated when there are changes but it is the landlord's responsibility to ensure that they are applying the relevant legislation correctly.

If, after reading this booklet, you are not clear whether or how the requirements apply in your individual circumstances you should seek legal advice.

Separate guidance is available for local authorities (<https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-local-authorities>).

## Responsibilities

### 1. The required regulations

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 solid fuel is used - after that, the landlord must make sure the alarms are in working order at the start of each new tenancy.

### 2. Find out who is responsible for checking the alarms are in working order

The regulations require landlords to ensure alarms are installed in their properties with effect from 1 October 2015. After that the landlord (or someone acting on behalf of the landlord) must ensure all alarms are in working order at the start of each new tenancy.

After the landlord's test on the first day of the tenancy, tenants should take responsibility for their own safety and test all alarms regularly to make sure they are in working order. Testing monthly is generally considered an appropriate frequency for smoke alarms. If tenants find that their alarm(s) are not in working order during the tenancy, they are advised to arrange the replacement of the batteries or the alarm itself with the relevant landlord.

### 3. No grace period for landlords

Landlords are expected to be compliant from 1 October 2015. There will be no grace period after this date to install the required alarms.

### 4. When to check alarms

For each new tenancy beginning on or after 1 October 2015, landlords must check that the required alarms are in working order on the first day of the tenancy.

The first day of the tenancy is the date stipulated in the tenancy agreement, even where the tenant

decides to actually move into the property on a later date.

The intention of the regulations is to increase the safety of private sector tenants by ensuring that they have working alarms at the beginning of the tenancy.

### **5. How to gain permission to install the alarm or take remedial action if access to the premises is denied by the tenant**

The landlord should write to the tenant to explain that it is a legal requirement to install the alarms and that it is for the tenant's own safety.

if the local authority has reasonable grounds to believe the landlord has not complied with the regulations a remedial notice will be issued, detailing the suspected breach and required action.

If the landlord proves compliance, either by becoming compliant or proving they were already compliant, to the relevant local authority or demonstrates they have taken all reasonable steps, other than legal proceedings, to become compliant within 28 days of the notice being issued then they will be exempt from the civil penalty – which could be up to £5,000.

## **Alarms**

### **6. Type of alarms**

The regulations do not stipulate the type of alarms (such as hard wired or battery powered) to be installed. Landlords should make an informed decision and choose the best alarms for their properties and tenants.

### **7. Use of heat detectors and smoke alarms**

The regulations require smoke alarms to be installed on every storey and a carbon monoxide alarm in any room containing a solid fuel burning appliance.

Heat detectors are not a replacement for smoke alarms.

### **8. Where alarms should 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. You should follow the individual manufacturer's instructions when installing the alarms.

However, in general, smoke alarms should be fixed to the ceiling in a circulation space, ie 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.

If needed, your local fire and rescue authority may be able to provide further advice on installation or you can download fire safety information from [www.gov.uk/firekills](http://www.gov.uk/firekills) (<http://www.gov.uk/firekills>)

### **9. Carbon monoxide alarms**

Carbon monoxide alarms are only required in rooms containing a solid fuel burning appliance (ie rooms containing an open fire, log burning stove, etc).

However, as gas appliances can emit carbon monoxide, we would expect and encourage reputable landlords to ensure that working carbon monoxide alarms are installed in rooms with these.

## Definitions

### 10. Relevant landlord

A 'relevant landlord' is the immediate landlord in respect of the tenancy.

### 11. New tenancy

A 'new tenancy' is a tenancy agreement that begins on or after 1 October 2015 and is not a renewal of a previous tenancy agreement.

### 12. Solid fuel burning combustion appliance

Carbon monoxide alarms must be installed in rooms containing an appliance that burns solid fuel. This means appliances that are powered using a type of solid fuel, such as coal, wood, etc. In the department's view, a non-functioning purely decorative fireplace would not constitute a solid fuel burning combustion appliance.

### 13. A room used 'wholly or partly as living accommodation'

The regulations require a smoke alarm to be installed on every storey of the premises on which there is a room used wholly or partly as living accommodation.

A carbon monoxide alarm must be installed in any room which is used wholly or partly as living accommodation and contains a solid fuel burning appliance.

In general, a room is classed as 'living accommodation' if it is used for the primary purposes of living, or is a room in which a person spends a significant amount of time.

The regulations specifically stipulate that a bathroom or lavatory would be classed as living accommodation.

### 14. Storey of a premises

A smoke alarm must be installed on every storey of the premises on which there is a room used wholly or partly as living accommodation.

'Storey' is not defined in the regulations. It should be given its ordinary meaning. In the department's view, for the purpose of these regulations, a mezzanine floor would not be considered a storey.

## Tenancies and exemptions

### 15. Regulations for an existing tenancy

The regulations require private sector landlords 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, with effect from 1 October 2015.

## **16. Types of tenancy affected**

The regulations apply to any tenancy, lease or licence of residential premises in England that gives somebody the right to occupy all or part of the premises as their only or main residence in return for rent. There are some exemptions (such as for long leases) – more information on these is given in the schedule to the regulations (<http://www.legislation.gov.uk/uksi/2015/1693/schedule/made>).

## **17. Houses of Multiple Occupation (HMOs)**

The regulations apply to unlicensed HMOs. Licensed HMOs are exempt from Parts 1 to 5 of the regulations but only because the regulations also amend the HMO licensing obligations in the Housing Act 2004 so as to impose similar requirements.

## **18. Social housing landlords**

The regulations do not apply to social housing landlords. At present, private rented sector properties have fewer working alarms installed than other types of housing tenures. These regulations are designed to ensure all privately rented homes are equipped with working smoke alarms at the start of each new tenancy, and where necessary, working carbon monoxide alarms.

## **19. Live-in landlords and owner occupiers**

If the occupier shares the accommodation with the landlord or landlord's family then these regulations will not apply.

For the purposes of the regulations, a landlord is considered to share accommodation with the tenant if they share an amenity such as a kitchen or living room. The regulations are not aimed at owner-occupied properties.

## **Assistance**

### **20. Assistance for landlords**

The government has funded local fire and rescue authorities to purchase a limited number of alarms for free distribution to landlords.

Fire and rescue authorities have been asked to distribute the alarms and offer appropriate installation advice. While fire and rescue authorities may offer to fit alarms, this service is at the authorities' discretion and landlords should be prepared to install their own alarms.

Please contact your local fire and rescue service for further information on how to obtain an alarm.

## **Enforcement**

### **21. Proof that the landlord has tested the alarms on the first day of the tenancy**

The local authority must decide whether the evidence provided proves that the landlord has met the requirements of the regulations. One possible means, if the landlord goes through the inventory on the first day of the tenancy, is that the landlord makes provision for the tenant to sign the inventory to record that the required alarms have been tested by the landlord and the tenant is satisfied they are in working order.

### **22. What to do if a landlord does not install the required alarms**

The local housing authority will be responsible for enforcing the regulations. They will be able to issue a remedial notice requiring a landlord to fit and/or test the alarms within 28 days. If the landlord fails to comply with the notice, the local housing authority must, if the occupier consents, arrange for the alarms to be fitted and/or tested. The local housing authority can also levy a civil penalty charge on the landlord of up to £5,000.

### **23. Right of appeal against the penalty charge notice**

If a landlord does not agree with the penalty charge notice, they can make a request to the relevant local authority for it to be reviewed.

This request must be made in writing and within the time period specified in the penalty charge notice. If the penalty charge notice is confirmed or varied by the local authority following the review, the landlord can then appeal to the First-tier Tribunal.

The grounds for appeal are set out in regulation 11

(<http://www.legislation.gov.uk/uksi/2015/1693/regulation/11/made>). If an appeal is lodged, the penalty cannot be enforced until the appeal is finally determined or withdrawn.