

THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015

STATEMENT OF PRINCIPLES

Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduced legal requirements on private sector landlords from the 1st October 2015 in respect of premises occupied under tenancies starting on or after that date. The requirements are to:

1. Equip a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation;
2. Equip a carbon monoxide alarm in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
3. Carry out checks by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy

For the purposes of the legislation, living accommodation is a room that is used for the primary purposes of living, or is a room in which a person spends a significant amount of time, and a bathroom or lavatory is classed within this definition.

Enforcement

In those situations where the Local Authority has reasonable grounds for believing that:

1. There are no or insufficient number of smoke and / or carbon monoxide alarms in the property as required by the regulations; or
2. The smoke and / or carbon monoxide alarms were not working at the start of the tenancy or licence,

then the Local Authority shall, within 21 days, serve on the landlord a Remedial Notice detailing the actions that must be taken to comply with the regulations, and the Notice shall be in line with the requirements of the regulations.

If after the given period, being 28 days, the Notice has not been complied with, then a Penalty Charge will be levied by means of a Penalty Charge Notice on the landlord.

Penalty Charge Principles

Any penalty charge should be set at a level which is proportionate to the risk posed by non-compliance with the requirements of the legislation and which will deter non-compliance. It should also cover the costs incurred by the Council in administering and implementing the legislation.

Fire and Carbon Monoxide are two of the 29 hazards prescribed by the Housing Health and Safety Rating System and often result in death and serious injury.

In the case of fire, the absence of working smoke alarms in residential premises is a significant factor in producing worse outcomes. This is particularly so at night, as without the

early warning they provide, a small fire can develop unnoticed rapidly to the stage where smoke and fumes block escape routes or render a sleeping occupant unconscious. Working smoke alarms alert occupiers to a fire at an early stage before it prevents physical escape to safety.

The Department of Communities and Local Government estimate that 231 deaths and 5860 injuries could be prevented over ten years accruing a saving of almost £607.7 million by the provision of smoke alarms.

Carbon Monoxide is a colourless, odourless and extremely toxic gas. At high concentrations it can cause unconsciousness and death. At lower concentrations it causes a range of symptoms from headaches, dizziness, weakness, nausea, confusion, and disorientation, to fatigue, all symptoms which are sometimes confused with influenza and sometimes with depression. For all these reasons Carbon Monoxide is often dubbed “the silent killer”. Open fires and solid fuel appliances can be a significant source of Carbon Monoxide. Carbon Monoxide alarms alert occupiers to the presence of the gas at an early stage before its effects become serious.

The Department of Communities and Local Government estimate that six to nine deaths and 306 to 460 injuries could be prevented over ten years accruing a saving of almost £6.8 million by the provision of Carbon Monoxide alarms.

The provision of smoke detectors and carbon monoxide alarms does not place an excessive burden on a landlord. The cost of the alarms is low and in many cases they can be self-installed without the need for a professional contractor. The impact on occupiers, damage to property and financial costs resulting from a fire or Carbon Monoxide poisoning event are far out of proportion to the cost of installing alarms.

For these reasons, an effective incentive to comply with these Regulations is fully justified. It is understood that the imposition of the maximum potential fixed penalty charge, being £5,000 under the regulations, can present an excessive financial burden but this is balanced against the risk, the low cost of compliance and the fact that all reasonable opportunity will have been given to comply prior to any penalty charge being levied. A recipient of a fixed penalty charge has a right of appeal.

For these reasons a penalty charge of £5,000 is set for non-compliance with a Remedial Notice. This will be the norm. A reduction of 50% will apply where payment is received within 14 days of service of the penalty charge notice. The Council may exercise discretion and reduce the penalty charge if there are extenuating circumstances following a representation made by the landlord. This discretion will not apply when:

1. The person / company served on has obstructed the Authority in the carrying out of its duties; and / or
2. The person / company has previously received a penalty charge under this legislation;

Appeals in relation to a penalty charge notice

The landlord has a right to seek a review of the penalty charge notice by writing to the Authority (details on the Notice) within 28 days of the Notice being issued.

On consideration of any representation and evidence, the penalty charge notice can be confirmed, varied or withdrawn. This decision is confirmed by issuing a decision notice on the landlord. If varied or confirmed, the notice shall state a further appeal can be made to a Residential Property Tribunal and details given.

Any representation shall be considered on its individual merit, and be in line with any concession policy approved by the Council. Any extenuating circumstances will be considered by the Council in deciding whether to reduce the cost of the penalty charge.

Recovery of Penalty Charge

The Local Housing Authority may recover the penalty charge as laid out in the regulations. Due to costs incurred by the Council, any penalty charge notice shall be pursued for payment.

Review of Statement

This Statement of Principles shall be reviewed and amended to reflect any change in legislation, corporate policy or official guidance. Any amendment shall be in line with meeting the requirements of the legislation and in the public interest. A review shall take place annually should no other change have occurred.