
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 194

**Gas Safety (Installation and Use)
Regulations (Northern Ireland) 1997**

Part VI

Miscellaneous

Maintenance

35. It shall be the duty of every employer or self-employed person to ensure that any gas appliance or installation pipework installed at any place of work under his control is maintained in a safe condition so as to prevent risk of injury to any person.

Duties of landlords

36.—(1) In this regulation—

“landlord” means—

- (a) where the relevant premises are occupied under a lease, the person for the time being entitled to the reversion expectant on that lease or who, apart from any statutory tenancy, would be entitled to possession of the premises; and
- (b) where the relevant premises are occupied under a licence, the licensor, save that where the licensor is himself a tenant in respect of those premises, it means the person referred to in sub-paragraph (a);

“lease” means—

- (a) a lease for a term of less than 7 years;
- (b) a tenancy for a periodic term; and
- (c) any statutory tenancy arising out of a lease or tenancy referred to in sub-paragraphs (a) or (b),

and in determining whether a lease is one which falls within sub-paragraph (a)—

- (i) any part of the term which falls before the grant shall be left out of account and the lease shall be treated as a lease for a term commencing with the grant;
- (ii) a lease which is determinable at the option of the lessor before the expiration of 7 years from the commencement of the term shall be treated as a lease for a term of less than 7 years;
- (iii) a lease (other than a lease to which sub-paragraph (b) applies) shall not be treated as a lease for a term of less than 7 years if it confers on the lessee an option for renewal for a term which, together with the original term, amounts to 7 years or more; and
- (iv) a “lease” does not include a mortgage term;

“relevant gas fitting” means—

- (a) any gas appliance (other than an appliance which the tenant is entitled to remove from the relevant premises) or any installation pipework installed in any relevant premises; and
- (b) any gas appliance or installation pipework which, directly or indirectly, serves the relevant premises and which either—
 - (i) is installed in any part of premises in which the landlord has an estate or interest; or
 - (ii) is owned by the landlord or is under his control;

“relevant premises” means premises or any part of premises occupied, whether exclusively or not, for residential purposes (such occupation being in consideration of money or money’s worth) under—

- (a) a lease; or
- (b) a licence;

“statutory tenancy” means a statutory tenancy within the meaning of the Rent (Northern Ireland) Order 1978(1); and

“tenant” means a person who occupies relevant premises being—

- (a) where the relevant premises are so occupied under a lease, the person for the time being entitled to the term of that lease; and
- (b) where the relevant premises are so occupied under a licence, the licensee.

(2) Every landlord shall ensure that there is maintained in a safe condition—

- (a) any relevant gas fitting; and
- (b) any flue which serves any relevant gas fitting,

so as to prevent the risk of injury to any person in lawful occupation of relevant premises.

(3) Without prejudice to the generality of paragraph (2), a landlord shall ensure that—

- (a) each appliance and flue to which that duty extends is checked for safety at intervals of not more than 12 months; and
- (b) a record in respect of any appliance or flue so checked after the coming into operation of this sub-paragraph is made and retained for a period of 2 years from the date of that check, which record shall include the following information—
 - (i) the date on which the appliance or flue was checked;
 - (ii) the address of the premises at which the appliance or flue is installed;
 - (iii) the name and address of the landlord of the premises (or his agent) at which the appliance or flue is installed;
 - (iv) a description of and the location of each appliance or flue checked;
 - (v) any defect identified;
 - (vi) any remedial action taken;
 - (vii) confirmation that the check undertaken complies with the requirements of paragraph (7);
 - (viii) the name and signature of the individual carrying out the check; and
 - (ix) the registration number with which that individual, or his employer, is registered with a body approved by the Department for the purposes of regulation 3(3).

(4) Every landlord shall ensure that any work in relation to a relevant gas fitting or any check of a gas appliance or flue carried out pursuant to paragraph (2) or (3) is carried out by, or by an

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employee of, a member of a class of persons approved for the time being by the Department for the purposes of regulation 3(3).

(5) The record referred to in paragraph (3)(b), or a copy thereof, shall be made available upon request and upon reasonable notice for the inspection of any person in lawful occupation of relevant premises who may be affected by the use or operation of any appliance to which the record relates.

(6) Notwithstanding paragraph (5), every landlord shall ensure that—

- (a) a copy of the record made pursuant to the requirements of paragraph (3)(b) is given to each existing tenant of premises to which the record relates within 28 days of the date of the check; and
- (b) a copy of the last record made in respect of each appliance or flue is given to any new tenant of premises to which the record relates before that tenant occupies those premises save that, in respect of a tenant whose right to occupy those premises is for a period not exceeding 28 days, a copy of the record may instead be prominently displayed in those premises.

(7) A safety check carried out pursuant to paragraph (3)(a) shall include, but shall not be limited to, an examination of the matters referred to in sub-paragraphs (a) to (d) of regulation 26(9).

(8) Nothing done or agreed to be done by a tenant of relevant premises or by any other person in lawful occupation of them in relation to the maintenance or checking of a relevant gas fitting or flue in the premises shall be taken into account in determining whether a landlord has discharged his obligations under this regulation (except in so far as it relates to access to that gas fitting or flue for the purposes of such maintenance or checking).

Escape of gas

37.—(1) Where any gas escapes from any pipe of a gas supplier, or from any pipe, other gas fitting or gas storage vessel used by a person supplied with gas by a gas supplier, the supplier of the gas shall, within 12 hours of being so informed of the escape, prevent the gas escaping (whether by cutting off the supply of gas to any premises or otherwise).

(2) If the responsible person for any premises knows or has reason to suspect that gas is escaping into those premises, he shall immediately take all reasonable steps to cause the supply of gas to be shut off at such place as may be necessary to prevent further escape of gas.

(3) If gas continues to escape into those premises after the supply of gas has been shut off or when a smell of gas persists, the responsible person for the premises discovering such escape or smell shall immediately give notice of the escape or smell to the supplier of the gas.

(4) Where an escape of gas has been stopped by shutting off the supply, a person shall not cause or permit the supply to be re-opened (other than in the course of repair) until all necessary steps have been taken to prevent a recurrence of such escape.

(5) In any proceedings for an offence under paragraph (1), it shall be a defence for the supplier of the gas to prove that it was not reasonably practicable for him effectually to prevent the gas from escaping within the period of 12 hours referred to in that paragraph, and that he did effectually prevent the escape of gas as soon as it was reasonably practicable for him to do so.

(6) Nothing in paragraphs (1) and (5) shall prevent the supplier of the gas appointing another person to act on his behalf to prevent an escape of gas supplied by that supplier.

(7) Nothing in paragraphs (1) and (5) shall apply to an escape of gas from a network (within the meaning of regulation 2(1) of the Gas Safety (Management) Regulations (Northern Ireland) 1997(2)) or from a gas fitting supplied with gas from a network.

Exception as to liability

38. In any proceedings for an offence under regulation 3(2) or (6), 5(1), 7(3), 15, 16(2) or (3), 17, 30, 33(1), 35 or 36, it shall be a defence for a person to prove that he took all reasonable steps to prevent the commission of that offence.

Exemption certificates

39.—(1) Subject to paragraph (2), the Department may, by a certificate in writing, exempt any person or class of persons from any requirement or prohibition imposed by these Regulations, and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing.

(2) The Department shall not grant any such exemption unless, having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirement imposed by or under any statutory provision which applies to the case,

it is satisfied that the health and safety of persons likely to be affected by the exemption will not be prejudiced in consequence of it.

Revocation

40. The Gas Safety (Installation and Use) Regulations (Northern Ireland) 1995(3) are hereby revoked.