

EXPLANATORY MEMORANDUM TO
THE GAS SAFETY (INSTALLATION AND USE) (AMENDMENT) REGULATIONS
2018

2018 No. 139

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Health and Safety Executive (HSE) on behalf of the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument makes amendments to The Gas Safety (Installation and Use) Regulations 1998 (GSIUR)¹ relating to health and safety.
- 2.2 GSIUR is domestic legislation with no basis in European Union (EU) law and is focussed primarily on protecting consumers from unsafe gas work. The amendments maintain the original policy intent of the regulations.
- 2.3 The regulations are supported by an updated Approved Code of Practice (ACOP) ‘Safety in the installation and use of gas systems and appliances’ (L56) and HSE guidance.²

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 GSIUR and the amending regulations are made under powers afforded the Secretary of State under the Health and Safety at Work etc Act (HSWA).³

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.
- 5.3 Northern Ireland will be producing equivalent legislation.

¹ <http://www.legislation.gov.uk/uksi/1998/2451/contents/made>

² <http://www.hse.gov.uk/pubns/books/l56.htm>

³ <https://www.legislation.gov.uk/ukpga/1974/37/contents>

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 This instrument introduces three amendments to existing secondary legislation:
- 7.2 Landlords must complete gas safety checks within 12 months of the last check. They tend to begin the process early due to problems gaining access to properties, resulting in 11 checks taking place on average every 10 years, instead of the statutory 10. This over-compliance is potentially placing an unnecessary and unintentional financial burden on landlords. The amendments introduce a degree of flexibility in the timing of landlords' annual gas safety checks. This gives landlords some flexibility in meeting the requirements of the legislation without disadvantaging themselves by shortening the safety-check cycle, or reducing safety standards. This will make it easier for them to comply fully with the law without over-complying. It allocates a "deadline date" to each gas appliance or flue within the scope of the regulations and allows landlords to carry out their annual gas safety checks between 10 and 12 months from the date of the last check but retain the deadline date. This operates in a similar way to the provisions that already exist for car Ministry of Transport tests (MOTs). In addition, a one-off flexibility is permitted to allow landlords' to realign the dates of safety checks on existing appliances and a new appliance within 12 months of its installation.
- 7.3 Landlords are under no obligation to take advantage of this flexibility if they don't wish to. If they prefer, they can continue with their current regime of gas safety checking, as long as it meets the legal minimum requirements set out in the regulations.
- 7.4 Since 2008 an exemption to the Gas Safety (Installation and Use) Regulations 1998 (GSIUR) allows engineers to carry out alternative safety checks when the requirement to measure heat input and/or measure the operating pressure, cannot be met because there is no meter present. The amendment incorporates the existing exemption into the regulations to consolidate the situation. The change not only includes circumstances where there is no meter, which is already covered by the exemption, but also situations where the meter is not accessible or the meter display is not working. The remaining and alternative safety checks will ensure safety.
- 7.5 At present anyone proposing to carry out compressed natural gas (CNG) filling of vehicles has to apply for an exemption to GSIUR. This is not for safety reasons but because this scenario had not been imagined when the regulations were written in 1998. The amendment disapplies CNG filling stations fed by a dedicated gas supply from the majority of the requirements of GSIUR. This brings them into line with other industrial premises. Other, more appropriate, regulations apply to these sites that will ensure safety.

8. Consultation outcome

- 8.1 The Health and Safety Executive conducted a twelve week statutory consultation: Consultation on amendments to the Gas Safety (Installation and Use) Regulations

1998 (GSIUR)⁴ between November 2016 and January 2017. 225 responses were received, the majority of which were in agreement with the amendments to the regulations and the policy intent. There were no changes suggested to the proposed amending regulations. An analysis of the responses received to the consultation is available with the consultation document.⁵

- 8.2 The changes were suggested by stakeholders initially and significant informal consultation took place with business, charities and trades unions in the early stages to formulate the changes and ensure they would work in practice. Informal meetings and discussions were held regularly with stakeholders during the whole process

9. Guidance

- 9.1 There is existing guidance L56 Safety in the installation and use of gas systems and appliances⁶ related to this statutory instrument, which is available free in electronic format on the Health and Safety Executive (HSE) website.⁷ The revised L56 will be available in tandem with the existing legislation on the HSE webpages from January 2018 until the new regulations come into effect.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is a ten-year net present value saving of around £238.66m. The majority of this accrues to housing associations.
- 10.2 An Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 Under the requirements of the Small Business Enterprise and Employment Act 2015,⁸ this instrument includes a statutory review clause in respect of these amendments which will be reviewed on or before 1 April 2023.

13. Contact

- 13.1 Penny Taylor at the Health and Safety Executive. Telephone 020 3028 4202 or email penny.taylor@hse.gov.uk can answer any queries regarding the instrument.

⁴ <http://www.hse.gov.uk/consult/condocs/cd280.htm>

⁵ <http://www.hse.gov.uk/consult/condocs/cd280-response-summary.pdf>

⁶ <http://www.hse.gov.uk/pubns/books/l56.htm>

⁷ <http://www.hse.gov.uk/>

⁸ <http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted>