

*Draft Regulations laid before Parliament under section 150(9) of the Energy Act 2013 and section 250(6)(f) of the Housing Act 2004, for approval by resolution of each House of Parliament.*

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## DRAFT STATUTORY INSTRUMENTS

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**2022 No.**

# **ENERGY, ENGLAND AND WALES HOUSING, ENGLAND AND WALES**

## **The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022**

*Made* - - - - **\*\*\***  
*Coming into force* - - *1st October 2022*

The Secretary of State, in exercise of the powers conferred by section 150(1)(a) and (b), (3)(a) and (b), (4)(a), (6)(a), (b) and (d) and (10) of the Energy Act 2013<sup>(1)</sup> and paragraph 3(a) of Schedule 4 to the Housing Act 2004<sup>(2)</sup>, makes the following Regulations.

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 150(9) of the Energy Act 2013 and section 250(6)(f) of the Housing Act 2004.

### **Citation, commencement, extent and interpretation**

1.—(1) These Regulations may be cited as the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 and come into force on 1st October 2022.

(2) These Regulations extend to England and Wales.

(3) In these Regulations, “the 2015 Regulations” means the Smoke and Carbon Monoxide Alarm (England) Regulations 2015<sup>(3)</sup>.

### **Amendment of the 2015 Regulations**

2. The 2015 Regulations are amended in accordance with regulations 3 to 12.

### **Amendment of regulation 1: application provision**

3.—(1) At the beginning of regulation 1(2), insert “Subject to paragraph (3),”.

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(1) [2013 c. 32](#).

(2) [2004 c. 34](#). As to the meaning of “appropriate national authority” see section 261(1).

(3) [S.I. 2015/1693](#).

(2) After regulation 1(2), insert—

“(3) Regulation 15 applies to England and Wales.”.

**Amendment of regulation 3: definition of relevant landlord**

4. For regulation 3(1), substitute—

“(1) For the purposes of these Regulations, a landlord(4) is a “relevant landlord” if the landlord is the immediate landlord in respect of a specified tenancy.”.

**Amendment of regulation 4: duties of relevant landlord in relation to prescribed alarms**

5. In regulation 4—

(a) in paragraph (1)—

(i) in sub-paragraph (a) omit “beginning on or after 1<sup>st</sup> October 2015”;

(ii) in sub-paragraph (a)(ii) for “solid fuel burning combustion appliance” substitute “fixed combustion appliance other than a gas cooker”;

(iii) after sub-paragraph (a) omit “and”;

(iv) after sub-paragraph (b) insert—

“and

(c) where, following a report made on or after 1st October 2022 by a tenant or by their nominated representative to the landlord, a prescribed alarm is found not to be in proper working order, the alarm is repaired or replaced.”;

(b) after paragraph (3) insert—

“(3A) For the purposes of meeting the requirement in paragraph (1)(c) both the determination (following a report) as to whether the prescribed alarm is in proper working order and any required repair or replacement must be carried out by or on behalf of the landlord as soon as reasonably practicable.”; and

(c) in the definition of “new tenancy” in paragraph (4), for “1st October 2015” substitute “1st October 2022”.

**Amendment of regulation 5: duty of local housing authority to serve a remedial notice**

6. After regulation 5(3), insert—

“(4) The local housing authority must consider any representations made by the landlord within the period specified in paragraph (2)(e).

(5) Where the landlord makes such written representations the remedial notice is suspended from the beginning of the day following the day on which the representations were received until the local housing authority has complied with paragraphs (4) and (6).

(6) The local housing authority must—

(a) where the outcome of the consideration under paragraph (4) is to confirm the remedial notice, inform the landlord in writing that the remedial notice is confirmed (with or without amendment as the case may be) and the suspension under paragraph (5) ceases to have effect,

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(4) See section 150(10) of the Energy Act 2013, by which “tenancy” includes any lease, licence, sub-lease or sub-tenancy and “landlord” is to be read accordingly.

(b) where the outcome of the consideration under paragraph (4) is to withdraw the remedial notice, inform the landlord in writing that the remedial notice is withdrawn,  
within 7 days beginning with the day on which the period specified in paragraph (2)(e) expires.

(7) Where the local housing authority fails to inform the landlord in writing as required by paragraph (6) within the 7 days determined in accordance with that paragraph, the remedial notice served is deemed to be withdrawn.”.

#### **Amendment of regulation 6: duty of relevant landlord to comply with a remedial notice**

**7.** In regulation 6—

(a) at the beginning of paragraph (1), insert “Subject to paragraph (1A),”;

(b) after paragraph (1), insert—

“(1A) Where—

(a) a remedial notice has been suspended following representations being made, and

(b) the local housing authority has notified the landlord in accordance with regulation 5(6) that the remedial notice is confirmed,

the landlord must take the remedial action specified in the remedial notice (as amended if amendments have been made) within 21 days beginning with the day on which the landlord is informed that the suspension under regulation 5(5) ceases to have effect.”;

(c) in paragraph (2)—

(i) after “paragraph (1)” insert “or (1A)”; and

(ii) omit “, other than legal proceedings,”; and

(d) after paragraph (2), insert—

“(3) For the purposes of paragraph (2), where the landlord is prevented from entering the premises to which the duty under paragraph (1) or (1A) relates by a tenant or occupier of the premises, the landlord will not be considered to have failed to have taken all reasonable steps to comply with the duty under paragraph (1) or (1A) solely by reason of a failure to bring legal proceedings with a view to securing entry to the premises.”.

#### **Amendment of regulation 7: duty of local housing authority to arrange remedial action**

**8.** In regulation 7—

(a) in paragraph (1), after “regulation 6(1)” insert “or (1A)”;

(b) in paragraph (5), omit “, other than legal proceedings,”; and

(c) after paragraph (5), insert—

“(6) For the purposes of paragraph (5), where an authorised person is prevented from entering the premises to which the duty under this regulation relates by a landlord, tenant or occupier of the premises, the local housing authority will not be considered to have failed to have taken all reasonable steps to comply with the duty under this regulation solely by reason of a failure to bring legal proceedings with a view to securing entry to the premises.”.

#### **Amendment of regulation 8: penalty for breach of the duty under regulation 6(1)**

**9.—**(1) In the heading of regulation 8, at the end insert “or (1A)”.

(2) In regulation 8(1), after “regulation 6(1)” insert “or (1A).

#### **Amendment of regulation 14: service of notices**

10. In regulation 14(1), omit “, suspended”.

#### **Insertion of new regulation 16: review**

11. After regulation 15 (amendments to Schedule 4 to the Housing Act) insert—

##### **“Review**

16.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st October 2027.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) A report published under this regulation must, in particular—

- (a) set out the objectives to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate;
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).”.

#### **Amendment of the Schedule: excluded tenancies**

12. In the Schedule, after paragraph 6 insert—

##### **“Low cost ownership homes**

6A.—(1) A tenancy of accommodation which is low cost home ownership accommodation.

(2) In this paragraph accommodation is low cost home ownership accommodation if it satisfies the conditions specified in section 70 of the Housing and Regeneration Act 2008(5).”.

#### **Amendment of Schedule 4 to the Housing Act 2004**

13.—(1) In paragraph 1(4A)(a)(6) of Schedule 4 to the Housing Act 2004 (mandatory conditions to be included in licences under Part 2 or 3 of that Act), for “solid fuel burning combustion appliance” substitute “fixed combustion appliance other than a gas cooker”.

(2) The amendment made by paragraph (1) applies only to licences granted under Part 2 or 3 of the Housing Act 2004 on or after 1st October 2022.

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(5) 2008 c. 17.

(6) Sub-paragraph (4A) was inserted by regulation 15(1)(b) of the 2015 Regulations (S.I. 2015/1693).

### **Transitional provision**

**14.** The amendments made by regulations 6, 7(a), (b) and (c)(i), 8(a) and 9 apply only to remedial notices served on or after 1st October 2022.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

Date

*Name*  
Minister of State  
Department for Levelling Up, Housing and  
Communities

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations impose duties on landlords of residential premises in respect of smoke and carbon monoxide alarms. The Regulations amend the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (“the 2015 Regulations”) to extend the current duties and to impose such duties on landlords who are registered providers of social housing.

Regulation 3 amends the 2015 Regulations to make express provision that regulation 15 of those Regulations, which made amendments to Schedule 4 of the Housing Act 2004, applies to England and Wales.

Regulation 4 amends the definition of relevant landlord so that landlords who are registered providers of social housing are now included (the previous definition expressly excluded such landlords).

Regulation 5 amends regulation 4 of the 2015 Regulations. From the coming into force of these Regulations, relevant landlords of a specified tenancy are required to ensure that, during any period when the premises are occupied under the tenancy, a smoke alarm is equipped on every storey where there is a room used as living accommodation and a carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (which is a wider duty to the previous requirement for a carbon monoxide alarm to be equipped in any room which contains a solid fuel-burning combustion appliance) except for gas cookers. The amended regulation 4 includes a new requirement to ensure that when a tenant (or a tenant’s nominated representative) reports that an alarm may not be in proper working order is made, and the alarm is found not to be in proper working order, the alarm must be repaired or replaced. New paragraph (3A) provides that the landlord must carry out the new requirements as soon as reasonably practicable.

Regulation 6 amends regulation 5 of the 2015 Regulations to provide a process for dealing with written representations by a landlord following the service of a remedial notice. Where such representations are received, the remedial notice is suspended until those representations have been considered and a decision made whether to confirm the notice.

Regulation 7 amends regulation 6 of the 2015 Regulations to provide for when a landlord must comply with a remedial notice following a period of suspension and makes amendments relating to the duty in the 2015 Regulations that the landlord complies with a remedial notice served by a local housing authority. Regulation 8 makes an equivalent amendment in relation to the duty of the local housing authority to arrange remedial action in certain circumstances. The amendments in regulations 7(c)(ii) and (d) and 8(b) and (c) make it clearer that failure to bring legal proceedings to secure entry to the premises does not alone mean that all reasonable steps to comply with the duty have not been taken.

Regulation 9 amends regulation 8 (penalty for breach of the duty under regulation 6(1)) of the 2015 Regulations so that a landlord can be required to pay a penalty charge for failure to comply with a remedial notice within the time period specified in regulation 6(1A) which is inserted by regulation 7 of these Regulations.

Regulation 10 amends regulation 14 (service of notices) of the 2015 Regulations to omit the power to suspend notices, which is now provided for in regulation 5 of the 2015 Regulations (as amended by regulation 6 of these Regulations).

Regulation 11 adds a review clause to the 2015 Regulations. The first report setting out the conclusions of the review must be published before 1st October 2027, with subsequent reports to be at intervals of not more than five years.

Regulation 12 amends the list of excluded tenancies in the Schedule to the 2015 Regulations to include tenancies of low cost ownership homes.

Regulation 13 makes an amendment to paragraph 1 of Schedule 4 to the Housing Act 2004 to amend mandatory licence conditions; and regulation 14 makes transitional provision.

An impact assessment of the effect of this instrument on the costs of business, the voluntary sector and the public sector is published with this instrument on [www.legislation.gov.uk](https://www.legislation.gov.uk). Copies may be obtained from the Department for Levelling Up, Housing and Communities, 2 Marsham Street, London, SW1P 4DF.