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## STATUTORY INSTRUMENTS

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# 1998 No. 2451

## The Gas Safety (Installation and Use) Regulations 1998

### PART F

#### MAINTENANCE

##### **Duties of employers and self-employed persons**

**35.** It shall be the duty of every employer or self-employed person to ensure that any gas appliance, installation pipework or flue 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.

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##### **Commencement Information**

**II** Reg. 35 in force at 3.10.1998, see [reg. 1](#)

##### **Duties of Landlords**

**36.—(1)** In this regulation—

“landlord” means—

(a) in England and Wales—

- (i) 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
- (ii) 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 paragraph (i) above;

(b) in Scotland, the person for the time being entitled to the landlord’s interest under a lease;

“lease” means—

- (a) a lease for a term of less than 7 years; and
- (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) above,

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

- (i) in England and Wales, 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) above 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,
 except that it shall not include any gas appliance or installation pipework exclusively used in a part of premises occupied for non-residential purposes.

“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) in England and Wales, a statutory tenancy within the meaning of the Rent Act 1977<sup>(1)</sup> and the Rent (Agriculture) Act 1976<sup>(2)</sup>; and
- (b) in Scotland, a statutory tenancy within the meaning of the Rent (Scotland) Act 1984<sup>(3)</sup>, a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988<sup>(4)</sup> or a secure tenancy within the meaning of the Housing (Scotland) Act 1987<sup>(5)</sup>;

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

- (a) in England and Wales—
  - (i) where the relevant premises are so occupied under a lease, the person for the time being entitled to the term of that lease; and
  - (ii) where the relevant premises are so occupied under a licence, the licensee;
- (b) in Scotland, the person for the time being entitled to the tenant’s interest under a lease.

(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 or relevant premises.

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

- (a) ensure that each appliance and flue to which that duty extends is checked for safety within 12 months of being installed and at intervals of not more than 12 months since it was last checked for safety (whether such check was made pursuant to these Regulations or not [<sup>F1</sup>; and see regulation 36A]);

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(1) 1977 c. 42.  
 (2) 1976 c. 80.  
 (3) 1984 c. 58.  
 (4) 1988 c. 43.  
 (5) 1987 c. 26.

- (b) in the case of a lease commencing after the coming into force of these Regulations, ensure that each appliance and flue to which the duty extends has been checked for safety within a period of 12 months before the lease commences or has been or is so checked within 12 months after the appliance or flue has been installed, whichever is later [<sup>F2</sup>(and see regulation 36A)]; and
- (c) ensure that a record in respect of any appliance or flue so checked is made and retained [<sup>F3</sup>until there have been two further checks of the appliance or flue under this paragraph or, in respect of an appliance or flue that is removed from the premises, for a period of 2 years from the date of the last check of that appliance or flue], 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, where appropriate, 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 [<sup>F4</sup>safety] defect identified;
  - (vi) any remedial action taken;
  - (vii) confirmation that the check undertaken complies with the requirements of paragraph (9) below;
  - (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 Executive for the purposes of regulation 3(3) of these Regulations.
- (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 paragraphs (2) or (3) above is carried out by, or by an employee of, a member of a class of persons approved for the time being by the Health and Safety Executive for the purposes of regulation 3(3) of these Regulations.
- (5) The record referred to in paragraph (3)(c) above, 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) above, every landlord shall ensure that—
- (a) a copy of the record made pursuant to the requirements of paragraph (3)(c) above 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 within those premises.
- (7) Where there is no relevant gas appliance in any room occupied or to be occupied by the tenant in relevant premises, the landlord may, instead of ensuring that a copy of the record referred to in paragraph (6) above is given to the tenant, ensure that there is displayed in a prominent position in the premises (from such time as a copy would have been required to have been given to the tenant under that paragraph), a copy of the record with a statement endorsed on it that the tenant is entitled to have his own copy of the record on request to the landlord at an address specified in the statement;

and on any such request being made, the landlord shall give to the tenant a copy of the record as soon as is practicable.

(8) A copy of the record given to a tenant pursuant to paragraph (6)(b) above need not contain a copy of the signature of the individual carrying out the check if the copy of the record contains a statement that another copy containing a copy of such signature is available for inspection by the tenant on request to the landlord at an address specified in the statement, and on any such request being made the landlord shall make such a copy available for inspection as soon as is practicable.

(9) A safety check carried out pursuant to paragraph (3) above 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) of these Regulations.

(10) 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 (other than one in part of premises occupied for non-residential purposes) 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).

(11) Every landlord shall ensure that in any room occupied or to be occupied as sleeping accommodation by a tenant in relevant premises there is not fitted a relevant gas fitting of a type the installation of which would contravene regulation 30(2) or (3) of these Regulations.

(12) Paragraph (11) above shall not apply in relation to a room which since before the coming into force of these Regulations has been occupied or intended to be occupied as sleeping accommodation.

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| <b>F1</b> | Words in <a href="#">reg. 36(3)(a)</a> inserted (6.4.2018) by <a href="#">The Gas Safety (Installation and Use) (Amendment) Regulations 2018 (S.I. 2018/139)</a> , <a href="#">regs. 1, 5(2)</a>       |
| <b>F2</b> | Words in <a href="#">reg. 36(3)(b)</a> inserted (6.4.2018) by <a href="#">The Gas Safety (Installation and Use) (Amendment) Regulations 2018 (S.I. 2018/139)</a> , <a href="#">regs. 1, 5(3)</a>       |
| <b>F3</b> | Words in <a href="#">reg. 36(3)(c)</a> substituted (6.4.2018) by <a href="#">The Gas Safety (Installation and Use) (Amendment) Regulations 2018 (S.I. 2018/139)</a> , <a href="#">regs. 1, 5(4)(i)</a> |
| <b>F4</b> | Word in <a href="#">reg. 36(3)(c)(v)</a> inserted (6.4.2018) by <a href="#">The Gas Safety (Installation and Use) (Amendment) Regulations 2018 (S.I. 2018/139)</a> , <a href="#">regs. 1, 5(4)(ii)</a> |

#### Commencement Information

- I2** Reg. 36 in force at 3.10.1998, see [reg. 1](#)

#### [<sup>F5</sup>Determination of date when next safety check due under regulation 36(3)]

**36A.**—(1) Where a safety check of an appliance or a flue made in accordance with regulation 36(3)(a) or (b) is or was completed within the period of 2 months ending with the deadline date, that check is to be treated for the purposes of regulation 36(3)(a) and (b) as having been made on the deadline date.

(2) Subject to paragraph (3), the landlord may ensure that an appliance or flue is checked for safety within the 2 month period beginning with the deadline date, instead of checking it within the 12 month period ending with that date.

(3) The discretion conferred by paragraph (2) may be exercised—

- only once in relation to each appliance or flue in the relevant premises; and
- only in order to align the deadline date in relation to the next safety check of that appliance or flue with the deadline date in relation to the next safety check of any other appliance or flue in the same relevant premises.

(4) In this regulation “the deadline date”, in relation to a safety check for an appliance or flue, means the last day of the 12 month period within which the check is or was required to be made under regulation 36(3)(a) or (b).]

**F5** Reg. 36A inserted (6.4.2018) by [The Gas Safety \(Installation and Use\) \(Amendment\) Regulations 2018 \(S.I. 2018/139\)](#), regs. 1, 6

**Changes to legislation:**

There are currently no known outstanding effects for the The Gas Safety (Installation and Use) Regulations 1998, PART F.