**Duty of landlords with regard to gas appliances – Briefing Paper**

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

Basically this states that:-

Every landlord shall ensure that any relevant gas fitting and any flue is maintained in a safe condition [Reg. 36(2)]

This duty applies to any gas fitting owned by the landlord or under his control (e.g. does not apply to a gas cooker brought in by the tenant) in residential premises [Reg. 36(1)].

The landlord, in addition to maintaining the gas fitting and flue in a safe condition, must also have it checked for safety within 12 months of installation and not less than 12 monthly intervals [Reg. 36 (3)(3)].

Any work or check must be undertaken by a registered gas installer (Reg. 36(3)(4)], i.e. Gas Safe Registered.

The check must state

(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 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 (i.e. a registered gas installer).

The landlord must ensure that a record in respect of any appliance or flue so checked is made and retained for a period of 2 years from the date of that check.

 A safety check 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. [Reg. 36(9)] which states that where a person performs work on a gas appliance he shall immediately thereafter examine -

1. the effectiveness of any flue;
2. the supply of combustion air;
3. its operating pressure or heat input or, where necessary, both;
4. its operation so as to ensure its safe functioning.

It has been argued that it is impossible to fulfil the requirements of Reg. 26(9) without using a flue gas analyser. However, HSE does not seem to have interpreted the Regulations in this way.

**Proposed Change** at 3 (3) (3) (a) as follows:-

'Person undertaking the check must either undertake a service according to manufacturer’s instructions or, following procedures outlined in BS7967 part 4 (or succeeding similar standard), use a Flue Gas Analyser or similar equipment complying with EN50379 (or succeeding similar standards) to measure the combustion gasses for PPM (Parts Per Million) of CO and also the CO/CO2 ratio and make and keep a record of those measurements provided they are within the recommendations made by the manufacturer. If the measurements are not within the specifications made by the manufacturer, a full service must be undertaken and checked, using a flue gas analyser or similar equipment as above. Then a record of those measurements must be made and kept.

Person undertaking the check will also ensure that at least one CO alarm to EN 50291 (or succeeding similar standard) is fitted in the property, in an approved position with reference to the standard, is within date marked on the CO alarm and is working effectively.’

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**Appendix of the most important parts of the Regulations**

**For more see** [**http://books.hse.gov.uk/hse/public/saleproduct.jsf?catalogueCode=9780717616350**](http://books.hse.gov.uk/hse/public/saleproduct.jsf?catalogueCode=9780717616350)

**Gas Safety (Installation and Use ) Regulations 1998**

Reg. 36 (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.

Reg. 36 (1) "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, directy 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.

   Reg. 36 (3) (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);

(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; and

(c) ensure that a record in respect of any appliance or flue so checked 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, 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 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.

**Gas Safety (Installation and Use) Regulations 1998**

Reg. 26(9) Gas Appliances – safety precautions

    (9) Where a person performs work on a gas appliance he shall immediately thereafter examine -

(a) the effectiveness of any flue;

(b) the supply of combustion air;

(c) its operating pressure or heat input or, where necessary, both;

(d) its operation so as to ensure its safe functioning,

and forthwith take all reasonable practicable steps to notify any defect to the responsible person and, where different, the owner of the premises in which the appliance is situated or, where neither is reasonably practicable, in the case of an appliance supplied with liquefied petroleum gas, the supplier of gas to the appliance, or, in any other case, the transporter.

    (10) Paragraph (9) shall not apply in respect of -

(a) the direct disconnection of the gas supply of a gas appliance; or

(b) the purging of gas or air from an appliance or its associated pipework or fittings in any case where that purging does not adversely affect the safety of that appliance, pipe or fitting.