

Title: Duties of landlords

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This Technical Bulletin provides clarification to Gas Safe registered businesses/engineers on certain requirements for landlords with regard to the Gas Safety (Installation and Use) Regulations (GSIUR) 1998

Introduction

This Technical Bulletin has been written to clarify certain aspects of Regulation 36 (Duties of Landlords), of the Gas Safety (Installation and Use) Regulations (GSIUR) 1998. The information below has been taken from a response received from the Health and Safety Executive (HSE).

Q1. Does regulation 36 GSIUR apply to hotel accommodation?

A1. The landlord's duties, including the maintenance and safety check provision, apply to any relevant gas fitting, as defined in Regulation 36(1). This definition in turn refers to relevant premises that include premises occupied under a lease or a licence. The term licence extends the scope of requirements beyond leased property to a wide range of other residential premises. This would include hotel accommodation.

For example, a hotel should display (in a prominent position for the guests), a landlord's gas safety record, covering all relevant appliances on the premises. (This should even include boiler houses). However, this would not include appliances/pipework used exclusively in non-residential areas of the property, such as bars and restaurants, but it would be to those areas that are limited to access to residents only.

Q2. What equipment is covered by the landlord's duties?

A2. The application of the landlord's duties under GSIUR is to a large extent, covered by the definition in regulation 36(1). As far as flues are concerned, the duties extend to any flue, which serves any relevant gas fitting. (See regulation 36(2) and 36(3)).

The definition of relevant gas fitting excludes an appliance, which the tenant owns and is entitled to remove from the relevant premises when the tenant moves.

Flues serving tenant's own appliances are not covered under GSIUR; however, landlords have a duty of care under the Health and Safety at Work etc. Act 1974 (HSWA), which covers a wider range of duties such as the fabric of the building and chimneys. This would be in addition to the requirements of Regulation 36 of GSIUR.

The HSE has advised that the extent of these duties would be for a court to decide but it seems likely that they would take the view that any chimney should be maintained in a condition so as to be "fit for purpose" i.e. to effectively remove products of combustion.

Q3. What should I do when I find open-flued appliances in rooms used temporarily as sleeping accommodation e.g. by the elderly/disabled?

A3. This is an issue that has been raised with the HSE before, regarding the use of rooms containing open-flued appliances as 'temporary' sleeping accommodation. The problem with this situation is how long is 'temporary', because there is always the possibility that it would lead to a 'permanent' change of use. Because of this possibility, the HSE has advised that these restrictions should be applied as good practice in these situations taking into account Regulation 36(11) and advising the responsible person of the restrictions.

Where tenants have altered their sleeping arrangements as described above, landlords have a duty of care under section 3 of HSWA, to take reasonably practical steps to ensure the safety of their tenants. They could therefore consider:

- a) Replacing/removing the appliances;
- b) Providing tenants with carbon monoxide detectors Kitemarked to BS EN 50291⁽¹⁾;
- c) Increasing the frequency of planned routine servicing and maintenance of the appliances;
- d) Re-housing the tenant into other suitable accommodation.

In the event of an accident occurring in such premises, it would be for the landlord to show that they did all that was reasonably practical to avoid the incident occurring.

For further guidance on the duties of landlords, visit:

- <http://www.hse.gov.uk/pubns/indg285.pdf>
- http://www.hse.gov.uk/gas/domestic/gas_law.htm
- <http://www.hse.gov.uk/gas/domestic/faqtenant.htm>
- <http://www.hse.gov.uk/search/googlecoop.htm?q=duties+of+landlords&sa=G&cof=FORID%3A11&cx=015848178315289032903%3Akous-jano68#1194>
- <http://www.hse.gov.uk/gas/domestic/alert021008.htm>

Bibliography

(1) *BS EN 50291 Electrical apparatus for the detection of carbon monoxide in domestic premises. Test methods and performance requirements*

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