

Appendix : B

**The Smoke And Carbon Monoxide Alarm (England) Regulations 2015 as amended by the Smoke And Carbon Monoxide Regulations 2022
Statement Of Principles (Revised) under regulation 13**

Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduced the requirement for landlords to equip their properties with smoke and carbon monoxide detection. The **Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022** amend the 2015 regulations, and impose additional duties on private and social landlords who are required to:

1. Equip a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation;
2. Equip a carbon monoxide alarm in any room of the premises which is used wholly or partly as living accommodation and contains a fixed combustion device appliance (other than a gas cooker)
3. Carry out checks by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.
4. Ensure smoke alarms and carbon monoxide alarms are repaired or replaced once informed and found that they are faulty.

For the purposes of the legislation, living accommodation is a room that is used for the primary purposes of living, or is a room in which a person spends a significant amount of time, and a bathroom or lavatory is classed within this definition.

Enforcement

In those situations where the council has 'reasonable grounds' for believing that a private landlord has breached one or more of the duties specified in the Regulations, then

the Local Authority shall, within 21 days, serve on the landlord, a Remedial Notice detailing the actions that must be taken to comply with the regulations, and the Notice shall be in line with the requirements of the regulations.

The regulations do not require the local housing authority to enter the property or prove non-compliance to issue a remedial notice. Information from a tenant or letting agent could constitute 'reasonable grounds' for issuing the Notice.

Any person issued with a remedial notice shall have a period of 28 days to make representations to the Council and the Council must consider those representations. Where representations are made, the effect of the Remedial Notice is suspended, pending the Council's deliberations.

If after the given period, being 28 days, the Notice has not been complied with, then a Penalty Charge will be levied by means of a Penalty Charge Notice on the landlord.

Standard of Alarm Provision

The type of smoke alarms to be required are alarms powered by a 10 year duration battery and where more than one alarm is required they are to be interlinked so that all will sound on activation of any single alarm.

Carbon Monoxide alarms are to be stand-alone alarms powered by a 10 year duration battery.

Landlords should be aware that these are the minimum standard required to protect tenants, and that the Council reserves the right to use other legislative tools to require the installation of further smoke detection commensurate to the size and use of the building. Landlords should seek advice from a competent fire risk assessor or fire engineer on the most appropriate detection system for their property. All alarms should comply with BS 5839-6

Penalty Charge Principles

Any penalty charge should be set at a level which is proportionate to the risk posed by non-compliance with the requirements of the regulations, and which will deter non-compliance. It should also cover the costs incurred by the council in administering and implementing the regulations.

Fire and Carbon Monoxide are two of the 29 hazards prescribed by the Housing Health and Safety Rating System and often result in death and serious injury.

In the case of fire, the absence of working smoke alarms in residential premises is a significant factor in producing worse outcomes. This is particularly so at night, as without the early warning they provide, a small fire can develop unnoticed rapidly to the stage where smoke and fumes block escape routes or render a sleeping occupant unconscious. Working smoke alarms alert occupiers to a fire at an early stage before it prevents physical escape to safety.

The Department of Communities and Local Government estimate that 231 deaths and 5860 injuries could be prevented over ten years accruing a saving of almost £607.7 million by the provision of smoke alarms.

Carbon Monoxide is a colourless, odourless and extremely toxic gas. At high concentrations it can cause unconsciousness and death. At lower concentrations it causes a range of symptoms from headaches, dizziness, weakness, nausea, confusion and disorientation to fatigue, all symptoms which are sometimes confused with influenza and sometimes with depression. For these reasons Carbon Monoxide is often dubbed "the silent killer". Open fires and solid fuel appliances can be a significant source of Carbon Monoxide. Carbon Monoxide alarms alert occupiers to the presence of the gas at an early stage before its effects become serious.

The Department of Communities and Local Government estimate that six to nine deaths and 306 to 460 injuries could be prevented over ten years accruing a saving of almost £6.8 million by the provision of Carbon Monoxide alarms.

The provision of smoke detectors and carbon monoxide alarms does not place an excessive burden on a landlord. The cost of the alarms is low, and in many cases they can be self-installed without the need for a professional contractor. The impact on occupiers, damage to property and financial costs resulting from a Fire or a Carbon Monoxide poisoning event significantly out-weigh the cost of installing alarms.

For these reasons, an effective incentive to comply with these regulations is fully justified. It is understood that the imposition of the maximum potential fixed penalty charge, being £5,000 under the regulations, could potentially be perceived as an excessive financial burden but this is balanced against the risk, the low cost of compliance and the fact that all reasonable opportunity will have been given to comply prior to any penalty charge being levied. A recipient of a fixed penalty charge has a right of appeal.

For these reasons a penalty charge of £5,000 is set for non-compliance with a Remedial Notice. This will be the usual charge. The council may exercise discretion and reduce the penalty charge if there are extenuating circumstances following a representation made by the landlord. This discretion will not apply when:

1. The person/company has obstructed the council in the carrying out of its duties; and/or
2. The person/company has previously received a penalty charge under these regulations.

Representations and Appeals in relation to a penalty charge notice

The landlord has a right to seek a review of the penalty charge notice by writing to the council (details included with the Notice) within 28 days of the Penalty Charge Notice being issued.

On consideration of any representation and accompanying evidence, the council may confirm, vary or withdraw the penalty charge notice. This decision is then confirmed by issuing a decision notice on the landlord. If the penalty charge is confirmed or varied, the notice will state a further appeal can be made to the First Tier Tribunal (Property Chamber) and details given.

Any representation will be considered on its individual merits. Any extenuating circumstances will be considered by the council in deciding whether to confirm, vary or withdraw the penalty charge. Extenuating circumstances may be where a landlord has made all reasonable attempts to comply with the notice, but has been prevented from doing so by the tenant.

If following a representation to the Council, the penalty is confirmed and the recipient wishes to challenge the penalty, they must appeal Penalty Charge Notice at the First Tier Tribunal. The Tribunal may quash, confirm or vary the penalty, but cannot increase the level of penalty.

Recovery of Penalty Charge

The council may recover the penalty charge as laid out in the regulations. Any penalty charge will be pursued through the Courts if necessary.

Review of Statement

This Statement of Principles shall be further revised to reflect any change in legislation, corporate policy or official guidance and any revised statement will be duly published.