

THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015

STATEMENT OF PRINCIPLES

Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduces legal requirements on all landlords during any period beginning on or after the 1st October 2015 when the premises are occupied under the tenancy 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 solid fuel burning combustion appliance; and
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

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 and lavatory would be classed within this definition.

Enforcement

In those situations where the Local Authority has reasonable grounds for believing that:

1. There are no or insufficient number of smoke and / or carbon monoxide alarms in the property as required by the regulations; or
2. The smoke and / or carbon monoxide alarms were not working at the start of the tenancy or licence

Then the Local Authority shall 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.

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.

Penalty Charge Principles

Any penalty charge levied will cover the cost of all works in default, officer time, recovery costs, administration fee and a penalty.

The provision of smoke detectors and carbon monoxide alarms does not place an excessive burden on a landlord, and the lack of compliance directly impacts the safety and security of tenants, especially those that are vulnerable and those with families.

It is understood that the imposition of the maximum potential fine, being £5,000 under the regulations, can present an excessive financial burden but this is balanced against the risk

and the fact that reasonable opportunity will have been given to comply prior to any penalty charge being levied.

Therefore a penalty charge of £5,000 is set for any initial non-compliance of a Remedial Action Notice. This would be the standard amount charged.

In line with the legislation, a discount of 50% is offered on payment within 14 days of the charge being issued. This discount shall not apply when:

1. The person / company served on has obstructed the Authority in the carrying out of its duties; and / or
2. The person / company has previously received a penalty charge under this legislation;

The discount shall also only apply to the first non-compliance if a number of remedial notices have been served covering a number of premises under the persons / company control.

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 Authority (details on the Notice) within 28 days of the Notice being issued.

On consideration of any representation and evidence, the penalty charge notice can be confirmed, varied or withdrawn. This decision is confirmed by issuing a decision notice on the landlord. If varied or confirmed, the notice shall state a further appeal can be made to a Residential Property Tribunal and details given.

Any representation shall be considered on its individual merit, and be in line with any concession policy approved by the Council.

Recovery of Penalty Charge

The Local Housing Authority may recover the penalty charge as laid out in the regulations. Due to costs incurred by the Council, any penalty charge notice shall be pursued for payment.

Review of Statement

This Statement of Policy shall be reviewed and amended to reflect any change in legislation, Corporate policy or official guidance. Any amendment shall be in line with meeting the requirements of the legislation. A review shall take place annually should no other change have occurred.