

Gas Safety Checks Landlords' duties during the COVID-19 pandemic

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As the urgent drafting of emergency legislation slows, landlords now have a clearer position on their responsibilities during the COVID-19 pandemic. In this bulletin we examine the duties imposed on landlords to carry out their annual gas safety inspections.

Is the duty still in force?

Yes it is. The Gas Safety (Installation and Use) Regulations (1998) ('GSR') have not been amended or revoked. The Ministry of Housing, Communities and Local Government ('MHCLG') made this point very clearly in their guidance published on 28 March 2020. Landlords repair obligations have not changed. It follows that the duty on landlords to comply with inspecting gas appliances continues. The MHCLG put it like this:

"Landlords should make every effort to abide by existing gas safety regulations..."

What does this mean in practise?

In effect that landlords will be expected to carry out gas safety inspections during the COVID-19 pandemic and may be subject to criminal prosecution if they don't.

What if a tenant refuses access?

On 30 March 2020 the Health and Safety Executive ('HSE') issued guidance on the practical steps landlords should take to gain access.

The HSE guidance makes it clear that if landlords can't get access because, for example, a tenant is self-isolating or there is a shortage of gas engineers, they will be expected to be able to demonstrate that they "took all reasonable steps to comply with the law".

Detailed record keeping

This will include keeping records of communications with tenants and details of all access attempts by engineers.

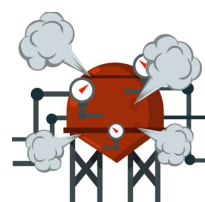
So essentially, it's 'business as usual'. Although arguably now, even more so for the reasons we set out below.

Act early

The HSE go on to clarify their guidance by drawing landlords' attention to the ability to carry out checks any time from 10 to 12 calendar months after the previous check. They go on to state:

"You are encouraged to arrange your annual gas safety checks as early as possible, as a contingency against

tenants being in self-isolation for a period of 14 days, or gas engineers being unavailable due to illness."



The HSE then go further to state that this two month window "should provide adequate resilience in most situations."

In other words, if you fail to get access during the COVID-19 pandemic, you will need a very good and well documented reason to justify non-compliance.

Remedies

Aside from possession, all your other legal remedies remain available to gain access at this time. Given the new Civil Court Practice Direction 51Z, introduced by the master of the Rolls on 27 March 2020 expressly states that claims for Injunctive relief are not affected by the stay on possession claims, you will still be expected to seek Injunctions to gain access.

For more information, please contact the team at housing law services