STATUTORY INSTRUMENTS

2015 No. 1693

ENERGY, ENGLAND
HOUSING, ENGLAND

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Made - - - - 17th September 2015

Coming into force in accordance with regulation 1(1)

The Secretary of State, in exercise of the powers conferred by section 150(1) to (6) and (10) of the Energy Act 2013(**1**) and paragraph 3(a) of Schedule 4 to the Housing Act 2004(**2**), makes the following Regulations.

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 150(9) of the Energy Act 2013 and section 250(6)(f) of the Housing Act 2004.

PART 1

Introduction

Citation, commencement and application

1.—(1) These Regulations may be cited as the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and come into force on 1st October 2015.

(2) These Regulations apply to England only.

Commencement Information

I1 Reg. 1 in force at 1.10.2015, see **reg. 1(1)**

(**1**) 2013 c. 32.

(**2**) 2004 c. 34. As to the meaning of "appropriate national authority" see section 261(1).

Interpretation

2.—(1) In these Regulations—

"authorised person" means a person authorised in writing by the local housing authority for the purpose of taking remedial action under regulation 7;

"building" includes part of a building;

"penalty charge" means a monetary penalty imposed under regulation 8;

"premises"(**3**) does not include vehicles or vessels or—

(a) an HMO (as defined in section 77 of the Housing Act 2004) in respect of which a licence is required under Part 2 of that Act, or

(b) a house (as defined in section 99 of that Act) in respect of which a licence is required under Part 3 of that Act;

"prescribed alarm" means an alarm which is required to be equipped at residential premises under regulation 4(1)(a);

"remedial action" means action—

(a) to install a prescribed alarm;

(b) to repair a prescribed alarm; or

(c) to check a prescribed alarm is in proper working order;

"remedial notice" means a notice requiring the landlord on whom it is served to take such remedial action as is specified in the notice in accordance with regulation 5(2)(c);

"rent" includes any sum paid in the nature of rent;

"residential premises"(**4**) means premises (as defined above) all or part of which comprise a dwelling; and

"specified tenancy" means a tenancy(**5**) of residential premises in England which—

(a) grants one or more persons the right to occupy all or part of the premises as their only or main residence;

(b) provides for payment of rent (whether or not a market rent); and

(c) is not a tenancy of a description specified in the Schedule to these Regulations.

Commencement Information

I2 Reg. 2 in force at 1.10.2015, see **reg. 1(1)**

PART 2

Prescribed alarms

Meaning of "relevant landlord"

3.—(1) For the purposes of these Regulations, a landlord is a "relevant landlord" if the landlord—

(a) is the immediate landlord in respect of a specified tenancy; and

(**3**) See the definition of "premises" in s. 150(10) of the Energy Act 2013.
(**4**) This definition repeats the definition of "residential premises" in s. 150(10) of the Energy Act 2013 but modifies it so that the narrower definition of "premises" in these Regulations applies.
(**5**) See the definition of "tenancy" in s. 150(10) of the Energy Act 2013.

(b) is not a registered provider of social housing (as to which see section 80(2) of the Housing and Regeneration Act 2008(**6**)).

(2) In paragraph (1) "immediate landlord"—

(a) where the premises are occupied under a specified tenancy which is not a licence means the person for the time being entitled to the reversion expectant on that tenancy; and

(b) where the premises are occupied under a specified tenancy which is a licence means the licensor, except that where the licensor himself or herself occupies the premises under a specified tenancy which is not a licence, it means the person for the time being entitled to the reversion expectant on that tenancy.

Commencement Information

I3 Reg. 3 in force at 1.10.2015, see **reg. 1(1)**

Duties of relevant landlord in relation to prescribed alarms

4.—(1) A relevant landlord in respect of a specified tenancy must ensure that—

(a) during any period beginning on or after 1st October 2015 when the premises are occupied under the tenancy—

(i) a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;

(ii) a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and

(b) checks are made 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.

(2) For the purposes of paragraph (1)(a), a bathroom or lavatory is to be treated as a room used as living accommodation.

(3) For the purposes of paragraph (1)(b), a tenancy begins on the day on which, under the terms of the tenancy, the tenant is entitled to possession under that tenancy.

(4) In this regulation—

"new tenancy" means a tenancy granted on or after 1st October 2015, but does not include—

(a) a tenancy granted in pursuance of an agreement entered into before that date;

(b) a periodic shorthold tenancy which arises under section 5 of the Housing Act 1988(**7**) on the coming to an end of a fixed term shorthold tenancy;

(c) a tenancy which comes into being on the coming to an end of an earlier tenancy, under which, on its coming into being—

(i) the landlord and tenant are the same as under the earlier tenancy as at its coming to an end; and

(ii) the premises let are the same or substantially the same as those let under the earlier tenancy as at that time;

"room" includes a hall or landing; and

(**6**) 2008 c. 17.
(**7**) 1988 c. 50. Section 5 was amended by the Housing and Regeneration Act 2008 (c. 17), Schedule 11, Part 1, paragraphs 5, 6(1), (2) and (3), and by the Housing Act 2004 (c. 34), section 222(1), (2).

"shorthold tenancy" means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of the Housing Act 1988.

Commencement Information

I4 Reg. 4 in force at 1.10.2015, see **reg. 1(1)**

PART 3

Remedial action

Duty of local housing authority to serve a remedial notice

5.—(1) Where a local housing authority has reasonable grounds to believe that, in relation to premises situated within its area, a relevant landlord is in breach of one or more of the duties under regulation 4(1), the authority must serve a remedial notice on the landlord.

(2) A remedial notice must—

(a) specify the premises to which the notice relates;

(b) specify the duty or duties that the local housing authority considers the landlord is failing or has failed to comply with;

(c) specify the remedial action the local housing authority considers should be taken;

(d) require the landlord to take that action within 28 days beginning with the day on which the notice is served;

(e) explain that the landlord is entitled to make written representations against the notice within 28 days beginning with the day on which the notice is served;

(f) specify the person to whom, and the address (including if appropriate any email address) at which, any representations may be sent; and

(g) explain the effect of regulations 6, 7 and 8, including the maximum penalty charge which a local housing authority may impose.

(3) The local housing authority must serve a remedial notice within 21 days beginning with the day on which the authority decides it has reasonable grounds under paragraph (1).

Commencement Information

I5 Reg. 5 in force at 1.10.2015, see **reg. 1(1)**

Duty of relevant landlord to comply with a remedial notice

6.—(1) Where a remedial notice is served on a landlord who is in breach of one or more of the duties under regulation 4(1), the landlord must take the remedial action specified in the notice within the period specified in regulation 5(2)(d).

(2) A landlord is not to be taken to be in breach of the duty under paragraph (1) if the landlord can show he, she or it has taken all reasonable steps, other than legal proceedings, to comply with the duty.

Commencement Information
I6 Reg. 6 in force at 1.10.2015, see **reg. 1(1)**

Duty of local housing authority to arrange remedial action

7.—(1) Where a local housing authority is satisfied, on the balance of probabilities, that a landlord on whom it has served a remedial notice is in breach of the duty under regulation 6(1), the authority must, if the necessary consent is given, arrange for an authorised person to take the remedial action specified in the remedial notice.

(2) The local housing authority must ensure the authorised person takes the remedial action within 28 days beginning with the day on which the authority is first satisfied under paragraph (1).

(3) An authorised person must—

(a) give not less than 48 hours' notice of the remedial action to the occupier of the premises on which it is to be taken; and

(b) if required to do so by or on behalf of the landlord or occupier, produce evidence of identity and authority.

(4) In paragraph (1) "the necessary consent" means the consent of the occupier of the premises on which the remedial action is to be taken.

(5) A local housing authority is not to be taken to be in breach of a duty under this regulation where the authority can show it has taken all reasonable steps, other than legal proceedings, to comply with the duty.

Commencement Information
I7 Reg. 7 in force at 1.10.2015, see **reg. 1(1)**

PART 4

Penalty charges

Penalty for breach of the duty under regulation 6(1)

8.—(1) Where a local housing authority is satisfied, on the balance of probabilities, that a landlord on whom it has served a remedial notice is in breach of the duty under regulation 6(1), the authority may require the landlord to pay a penalty charge of such amount as the authority may determine.

(2) The amount of the penalty charge must not exceed £5,000.

(3) Where a local housing authority decides to impose a penalty charge, the authority must serve notice of that fact on the landlord ("a penalty charge notice") within six weeks beginning with the day on which the authority is first satisfied under paragraph (1).

Commencement Information
I8 Reg. 8 in force at 1.10.2015, see **reg. 1(1)**