



Department for
Communities and
Local Government

Review of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015

A consultation paper



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November 2017

ISBN: 978-1-4098-5130-1

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Scope of the consultation

Topic of this consultation:	This consultation seeks views on the effectiveness of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (“the regulations”) which came into force on 1 October 2015.
Geographical scope:	These regulations apply in England only.
Impact Assessment:	This consultation does not propose any policy change. The purpose of the consultation is to assess the effectiveness of the existing regulations and there should be no expectation that it will lead to changes to the regulations. Any legislation brought forward as a result of the consultation would be subject to appropriate assessment.

Basic Information

Duration:	This consultation will last for 9 weeks from 7 November 2017 until 9 January 2018
Enquiries:	For any enquiries about the consultation please email smokeandcarbonreview@communities.gsi.gov.uk
How to respond:	<p>You may respond by completing an online survey at: https://www.surveymonkey.co.uk/r/smokeandcarbonreview</p> <p>This is the preferred method for responding to this consultation.</p> <p>Alternatively you can email your response to the questions in this consultation to smokeandcarbonreview@communities.gsi.gov.uk</p> <p>If you are responding in writing, please make it clear to which questions you are responding.</p> <p>Written responses should be sent to: Smoke and Carbon Monoxide Alarm Regulations Consultation, Better Rented and Leasehold Sector Division, 3rd Floor, Fry Building, 2 Marsham Street, London, SW1P 4DF</p> <p>When you reply please indicate whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"> - your name, - your position (if applicable), - the name of organisation (if applicable), - an address (including post-code), - an email address, and - a contact telephone number

Introduction

1. The private rented sector is an important part of our housing market. It is the second largest tenure in England, and has almost doubled in size over the last decade and now houses 4.5 million households (20% of all households).
2. All tenants should have a safe place to live, regardless of tenure. In 2015, the Government introduced the Smoke and Carbon Monoxide Alarm (England) regulations to protect private sector tenants from death or injury in the home caused by smoke and carbon monoxide poisoning. The regulations aim to ensure more homes in the sector have working smoke and carbon monoxide alarms.
3. During the passage of the regulations through Parliament in 2015, Ministers made a commitment to review them in 2017. This consultation invites views and comments to gather evidence on the effectiveness of the regulations to date. It does not indicate any intention to change the regulations. Any legislation brought forward as a result of the consultation would be subject to appropriate assessment and consultation.
4. Following the Grenfell Tower fire tragedy, the Government has commissioned an Independent Review of Building Regulations and Fire Safety¹. This independent Review led by Dame Judith Hackitt will submit an interim report before the end of 2017 and a final report in spring 2018. Any proposed changes to the Smoke and Carbon Monoxide Alarm (England) Regulations would follow and be subject to the conclusions of the independent review. The findings from this consultation will be used to inform, but will not presuppose, the Dame Judith Hackitt Review.

Scope of primary legislation and regulations

5. Section 150 of the Energy Act 2013 gave the Secretary of State for Communities and Local Government the power to make regulations imposing duties on a landlord of residential premises in England to ensure that properties are equipped with smoke and carbon monoxide alarms. Regulations introduced in October 2015 were aimed at the most at-risk properties. Private rented sector properties have fewer alarms installed than other types of housing tenures. At the time the regulations were introduced, data from the English Housing Survey showed that 83% of private renters had at least one working smoke alarm compared with 88% of owner occupiers, 89% of local authority tenants and 92% of housing association tenants.

¹ [Independent Review of Building Regulations and Fire Safety: terms of reference](#)

6. The regulations require private rented sector landlords to have at least one smoke alarm installed on every storey of their properties on which there is a room used wholly or partly as living accommodation and a carbon monoxide alarm in any room wholly or partly used as living accommodation containing a solid fuel burning appliance. The landlord must make sure the alarms are in working order at the start of each new tenancy. Landlords are not responsible for testing alarms during the course of the tenancy. Guidance recommends that tenants should take responsibility for their own safety by testing all alarms regularly. Testing monthly is generally considered an appropriate frequency for smoke alarms.
7. Guidance for landlords and tenants is published online at www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords. Separate guidance for local authorities is published online at www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-local-authorities.

Exclusions

8. The regulations apply to private landlords of residential premises. They apply to specified tenancies (a licence, lease, sub-lease or sub-tenancy) granting tenants the right to occupy all or part of the premises as their only or main residence, for a rent. The regulations do not apply to registered providers of social housing.
9. Licensed HMOs are exempt from the regulations. This is because the regulations also amend the HMO licensing requirements in Schedule 4 of the Housing Act 2004, imposing similar requirements through the HMO licensing scheme. A landlord of a licensed HMO is required to keep the alarms in proper working order. However, these regulations do apply to HMOs that are not within the licensing requirements.
10. The regulations do not apply where a long lease has been granted (a lease of 7 years or more without a break clause) as this type of arrangement is closer to home ownership than a private renting arrangement. The regulations do not apply to live-in landlords as they are not aimed at owner occupied properties.
11. Student halls, hostels, refuges, care homes, hospitals, hospices, and other accommodation provided by a relevant NHS body are also excluded. Occupants of these have existing protections under the Regulatory Reform (Fire Safety) Order 2005. Under the Order, certain premises must be equipped with appropriate fire-fighting equipment and with fire detectors and alarms. Fire and rescue authorities enforce the duties and, if there is a very serious risk to life, have powers to issue a notice preventing the premises being used as accommodation.

12. The regulations do not apply to holiday lets. The Regulatory Reform (Fire Safety) Order 2005 applies to properties which offer holiday or short term accommodation to paying guests.

Enforcement

13. In order for the regulations to be effective there is a process for ensuring compliance. The enforcement body for these regulations is the local authority.

14. If a local authority has reasonable grounds to believe a landlord is in breach of their duties under Regulation 4, the authority must serve a remedial notice on the relevant landlord indicating which property it relates to, the reason it is being issued and what action the landlord needs to take next. 'Reasonable grounds' would include being informed by a tenant, letting agent or housing officer that the required alarms are not installed.

15. The landlord has 28 days beginning with the day on which the remedial notice is served to comply with the notice. If a landlord does not prove they have taken all reasonable steps to comply, it is then up to the local authority to decide if they are in breach, by judging on a balance of probabilities. For example, if a tenant informs the local authority that no remedial action has been taken is it reasonable for the local authority to be satisfied, on the balance of probabilities, that the landlord is in breach.

16. If the local authority is satisfied, on the balance of probabilities, that a landlord has breached the duty to comply with the remedial notice within 28 days, the authority must arrange for remedial action to be taken (where the occupier consents). This may involve installing a required alarm, repairing an installed alarm or checking an installed alarm is in proper working order.

17. The enforcing authority can impose a civil penalty of up to £5,000 on landlords who do not comply with the remedial notice. Where a local housing authority intends to impose a penalty, it must give written notice of its intention to do so – a 'penalty charge notice'. This must set out the reasons for the penalty, the amount, and state that the landlord must either pay the penalty charge or request a review within the specified period. There is no other provision made in the regulations for enforcement authorities to redeem costs for any remedial works carried out. Collection of the civil penalty fine is the only method.

18. If a landlord does not agree with a penalty charge notice, they can make a written request to the relevant local authority for it to be reviewed. If a local authority receives a request for a review, the authority must consider any representations made by the landlord, decide whether to confirm, vary or withdraw the notice, and serve a notice of

its decision on the landlord. Where an authority decides to confirm or vary a penalty charge notice, it must inform the landlord that they can appeal to the First-tier Tribunal.

19. To ensure that the enforcement process is administered fairly, landlords are provided with a means of appeal against penalties. A landlord may appeal to the First-tier Tribunal if the penalty charge notice is confirmed or varied by a local authority after a review. The penalty cannot be enforced until the appeal is disposed of. Appeals can be made on the grounds that the decision of the local authority to vary or confirm the penalty charge notice was based on a factual error, was wrong in law, or was unreasonable for any other reason. Appeals can also be made on the grounds that the amount of the penalty is unreasonable.

Devolved Administrations

20. The regulations apply to England only.

21. Similar regulations exist in Scotland. Since 1 December 2015, private rented sector landlords have been required to install at least one smoke alarm on every storey of their rental properties and a carbon monoxide alarm in any room containing *any* type of combustion appliance, excluding appliances used solely for cooking. The private rented sector in Scotland represents around 14% of all households. It has grown considerably in the last 15 years (it represented c.5% of households in 1999).

Questions

Respondent details

Name	
Position (if applicable)	
Organisation (if applicable)	
Address (including postcode)	
Email address	
Telephone number	

All respondents should answer the questions in Part A.

Those responding as landlords or agents should respond to the additional questions in Part B.

Tenants should respond to the additional questions in Part C.

Local authority enforcement officers should respond to the additional questions in Part D.

Any additional comments not captured elsewhere can be added at Part E.

Part A – Questions for all respondents

Question 1	Select one
Please indicate whether you are applying to this consultation as: <ul style="list-style-type: none">• Landlord• Tenant• Letting Agent• Local Authority enforcement officer• Fire and Rescue authority officer• Other interested party (please specify)	

Question 2	Yes/No
Before reading this document, were you aware of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015	

Question 3	Select all that apply
<p>Before reading this consultation document, were you aware that under the regulations:</p> <ul style="list-style-type: none"> • Landlords must ensure that a working smoke alarm is installed on every storey of a rental property • Landlords must ensure that a working carbon monoxide alarm is installed in any room containing a solid fuel combustion appliance • Landlords must ensure that alarms are in working order on the first day of a tenancy • Whilst the regulations do not impose legal obligations upon Tenants, they are advised to test the alarms regularly to ensure they are working • I was not previously aware of the requirements. • I thought the regulations imposed different requirements. Please provide details. 	

Question 4	Select 1 or more
<p>How were you made aware of the regulations?</p> <ul style="list-style-type: none"> • I was not aware before reading this document • The Gov.uk website • Communication from DCLG • Social media • Word of mouth (friend/family) • Letting or managing agent • Professional association • Informed by tenant • Communication from landlord • Local authority remedial notice • Other (please specify) 	

Question 5	Yes/No+Answer
<p>Do you consider that information about the regulations is easily accessible? If 'no', how could the information be improved?</p>	

Question 6	Answer
<p>Have the regulations had a positive impact on the number of smoke and carbon monoxide alarms installed? Please provide details.</p>	

Question 7	Answer
<p>Have the regulations had a positive impact on protecting tenants from death or injury resulting from smoke or carbon monoxide poisoning? Please provide details.</p>	

Question 8	Yes/No+Answer
Are the regulations still required in full? If 'no', please provide details.	

Question 9	Yes/No+Answer
Do you think that the properties excluded from the regulations are the right ones? If no, please provide details	

Question 10	Yes+Answer/No
Do you think that the regulations could be improved? If 'yes', please provide details of any improvements needed.	

Part B – Questions for landlords and letting agents

Question 11	Answer
How do you ensure that you/your landlord customers are complying with the requirements to have in place smoke and carbon monoxide alarms?	

Question 12	Answer
How do you ensure that you/your landlord customers are complying with the requirements for testing smoke and carbon monoxide alarms?	

Question 13	Yes+Answer/No
Have you encountered any problems complying with the regulations? If 'yes', please give details.	

Question 14	Yes/No/Don't know
Have the regulations led to increased rents being charged for properties? If 'yes', please provide details and explain why.	

Question 15 (letting agents)	Answer
What fees, if any, do you charge to landlords or tenants for administering the requirements of the regulations? How often are any fees charged?	

Part C – Questions for tenants

Question 16	Date
When did your tenancy begin? (date or nearest approximation)	

Question 17	Select one
What type of property do you live in? <ul style="list-style-type: none"> - Self contained house/flat rented from a private landlord - Self contained house/flat rented from a registered social housing provider - Licenced house in multiple occupation (HMO) - Unlicenced HMO - Other, please specify 	

Question 18	Yes/No/Don't know
On the first day of your tenancy, was there a working smoke alarm installed on every storey of your property used as living accommodation?	

Question 19	Select answer / date
When did your landlord fit smoke alarms on every storey of your property used as living accommodation? <ul style="list-style-type: none"> - Date (or nearest approximation) - No alarms have been installed - Smoke alarms already installed at the start of the tenancy 	

Question 20	Select one or more
Does your rented accommodation contain any combustion appliances (fire, stove, boiler, etc.) in rooms used as living accommodation (specify below)? <ul style="list-style-type: none"> - Yes, one or more solid fuel burning combustion appliance (eg. wood burning stove, working open fire). Continue to next question - Yes, one or more combustion appliance which does not burn solid fuel (eg. gas fire, gas boiler, oil fired boiler, etc.). Proceed directly to question 23 - No. Proceed directly to question 23 	

Question 21 (for accommodation with one or more solid fuel appliance)	Yes/No/Don't know
On the first day of your tenancy, was there a working carbon monoxide alarm(s) installed in all rooms used as living accommodation which contain a solid fuel combustion appliance?	

Question 22 (for accommodation with one or more solid fuel appliance)	Select answer / date
When did your landlord install carbon monoxide alarms in all rooms used as living accommodation which contain a solid fuel combustion appliance? <ul style="list-style-type: none"> - Date (month/year or nearest approximation) - No alarms have been installed - Carbon monoxide alarms already installed at the start of the tenancy 	

Question 23	Select all that apply
If there are landlord supplied carbon monoxide alarms in your rented accommodation, are these located: <ul style="list-style-type: none"> - In all rooms containing a solid fuel combustion appliance (eg. coal fire, wood burning stove, etc.) - In room(s) containing a combustion appliance other than solid fuel (eg. gas fire, gas boiler, oil fired boiler, etc.) - In room(s) with no combustion appliance (but where there is a combustion appliance elsewhere in the dwelling) - In room(s) with no combustion appliance (and where there is <u>no</u> combustion appliance anywhere in the dwelling) - Other (please specify) 	

Question 24	Yes+Answer/No
Have you faced any problems with regularly testing your alarm(s)? If yes, please provide details.	

Question 25	Yes+Answer/No
Have you supplied and installed your own smoke or carbon monoxide alarms in your rented accommodation? If yes, please provide details and include why you installed alarms yourself.	

Part D – Questions for local authorities

Question 26	Answer
Who enforces the regulations in your local authority?	

Question 27	Answer
How many enquiries about the regulations do you receive from landlords? Have any common themes emerged from enquiries received?	

Question 28	Answer
How many enquiries about the regulations do you receive from tenants? Have any common themes emerged from enquiries received?	

Question 29	Number
How many investigations have you carried out to test that landlords are complying with the regulations since they came into force on 1 October 2015?	

Question 30	Number
How many remedial notices have you served on landlords since the regulations came into force in 1 October 2015?	

Question 31	Number
In how many cases have you arranged for alarms to be installed since the regulations came into force on 1 October 2015?	

Question 32	Number
How many civil penalties have been issued to landlords since the regulations came into force on 1 October 2015?	

Question 33	Number
How many landlords have requested a review following receipt of a civil penalty?	

Question 34	Number
Of reviews that have taken place, how many have confirmed the penalty charge notice?	

Question 35	Number
How many landlords have appealed to the first tier tribunal following receipt of a civil penalty?	

Question 36	Number
Of the appeals that have been considered by the First-tier Tribunal, how many of the penalties were upheld?	

Question 37	Yes+Answer/No
Have you encountered any problems enforcing the regulations? If 'yes', please explain.	

Question 38	Yes+Answer/No
Could enforcement be improved? If 'yes' please explain.	

Part E – Optional question for all respondents

Question 39	Yes+Answer/No
Do you have any other comments that have not been captured elsewhere in this consultation? If 'yes', please provide details.	

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Annex A: The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

The regulations can be viewed online at the following link:

<https://www.legislation.gov.uk/ukdsi/2015/9780111133439/contents>