
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose duties on landlords of residential premises in respect of smoke and carbon monoxide alarms. The Regulations amend the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (“the 2015 Regulations”) to extend the current duties and to impose such duties on landlords who are registered providers of social housing.

Regulation 3 amends the 2015 Regulations to make express provision that regulation 15 of those Regulations, which made amendments to Schedule 4 of the Housing Act 2004, applies to England and Wales.

Regulation 4 amends the definition of relevant landlord so that landlords who are registered providers of social housing are now included (the previous definition expressly excluded such landlords).

Regulation 5 amends regulation 4 of the 2015 Regulations. From the coming into force of these Regulations, relevant landlords of a specified tenancy are required to ensure that, during any period when the premises are occupied under the tenancy, a smoke alarm is equipped on every storey where there is a room used as living accommodation and a carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (which is a wider duty to the previous requirement for a carbon monoxide alarm to be equipped in any room which contains a solid fuel-burning combustion appliance) except for gas cookers. The amended regulation 4 includes a new requirement to ensure that when a tenant (or a tenant’s nominated representative) reports that an alarm may not be in proper working order is made, and the alarm is found not to be in proper working order, the alarm must be repaired or replaced. New paragraph (3A) provides that the landlord must carry out the new requirements as soon as reasonably practicable.

Regulation 6 amends regulation 5 of the 2015 Regulations to provide a process for dealing with written representations by a landlord following the service of a remedial notice. Where such representations are received, the remedial notice is suspended until those representations have been considered and a decision made whether to confirm the notice.

Regulation 7 amends regulation 6 of the 2015 Regulations to provide for when a landlord must comply with a remedial notice following a period of suspension and makes amendments relating to the duty in the 2015 Regulations that the landlord complies with a remedial notice served by a local housing authority. Regulation 8 makes an equivalent amendment in relation to the duty of the local housing authority to arrange remedial action in certain circumstances. The amendments in regulations 7(c)(ii) and (d) and 8(b) and (c) make it clearer that failure to bring legal proceedings to secure entry to the premises does not alone mean that all reasonable steps to comply with the duty have not been taken.

Regulation 9 amends regulation 8 (penalty for breach of the duty under regulation 6(1)) of the 2015 Regulations so that a landlord can be required to pay a penalty charge for failure to comply with a remedial notice within the time period specified in regulation 6(1A) which is inserted by regulation 7 of these Regulations.

Regulation 10 amends regulation 14 (service of notices) of the 2015 Regulations to omit the power to suspend notices, which is now provided for in regulation 5 of the 2015 Regulations (as amended by regulation 6 of these Regulations).

Regulation 11 adds a review clause to the 2015 Regulations. The first report setting out the conclusions of the review must be published before 1st October 2027, with subsequent reports to be at intervals of not more than five years.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 No. 707*

Regulation 12 amends the list of excluded tenancies in the Schedule to the 2015 Regulations to include tenancies of low cost ownership homes.

Regulation 13 makes an amendment to paragraph 1 of Schedule 4 to the Housing Act 2004 to amend mandatory licence conditions; and regulation 14 makes transitional provision.

An impact assessment of the effect of this instrument on the costs of business, the voluntary sector and the public sector is published with this instrument on www.legislation.gov.uk. Copies may be obtained from the Department for Levelling Up, Housing and Communities, 2 Marsham Street, London, SW1P 4DF.