

# West Wales Home Rentals



## A LANDLORD'S GUIDE

### **Gas Safety Regulations 1998**

The Gas Safety (Installation and Use) Regulations 1998 came into force on 31<sup>st</sup> October 1998, consolidating the three previous sets of regulations and making some additional changes. The regulations contain a number of general provisions relating to the supply and installation of gas appliances and equipment, but there are specific provisions relating to Landlords.

#### **Who must comply?**

Any Landlord letting a dwelling on a lease of less than seven years must comply with the regulations. This will include Occupation contracts and conversion contracts both for a fixed period and periodic. The regulations apply to gas appliances owned by the Landlord and any gas appliance or installation pipework which directly, or indirectly, serve the property. The regulations initially came into force in October 1994 but have been strengthened by amendments in April and October 1996, and finally by the consolidation in 1998.

#### **What are the requirements?**

- Ensure instruction books are available at the property for all gas appliances.
- Get all gas appliances checked by a Gas Safe registered installer prior to letting the dwelling.
- Keep all records of the annual maintenance inspections and of any remedial or other work carried out to the appliances.
- Make sure that the annual inspection check is carried out on an annual basis and that the appliances and ventilation are reviewed regularly to make sure that they are in good working order.
- All smoke alarms must be interlinked and mains powered, with battery backup.
- Carbon monoxide alarms must be present in all rooms with a fuel burning appliance (i.e., boiler, cooker or wood burner, etc.)

*It is strongly recommended that heat detectors be installed in kitchens, also.*

#### **Ventilation**

All gas appliances require adequate ventilation in order to ensure correct working and safety. The Landlord must ensure that adequate ventilation is provided at the dwelling and that care has been taken not to block any ventilation duct.

### **Electrical Equipment (Safety) Regulations 1994**

Under mandatory plans being introduced by the Welsh government, **private landlords will be required to hold a valid electrical installation condition report (EICR) for their dwellings that must be renewed every five years.** This is mandatory from the 1<sup>st</sup> December 2022. 'The Landlords and Tenants Act 1985' which requires that all electrical installation within a rented property is safe when a contract begins and is maintained to a safe standard.

#### **What action is required?**

It is recommended that all the appliances supplied in a property after 1<sup>st</sup> January 1997 must be marked with the appropriate CE symbol.

Safety – all electrical appliances must be safe. This applies to items of both alternate and direct current which means the Landlord will have to ensure that such appliances as kettles, toasters, irons and television sets are safe as well as fixed appliances such as electric cookers and immersion heaters. Safety includes the lead of the appliance.

Instruction books – manufacturer's instruction manuals should be provided for each appliance supplied at the premises. The instructions can either be shown on the appliance, or an instruction book can be supplied. This will help to ensure the safety of the occupant.

Plugs – all plugs must have a safety sheath, be fitted with the correct fuse and appropriately fitted and fixed to the appliance.

### **What happens if I fail to comply?**

The maximum penalty for non-compliance with the regulations is £5,000 and/or three months' imprisonment if there is a risk of fire to the property or injury or death to an animal. If the risk is to the life of a human being, the penalty may be up to twelve months' imprisonment.

### **What should be tested?**

The landlord should have all portable and fixed electrical appliances at the property tested. The regulations apply to any electrical equipment between 50 and 1000 volts AC and 75 and 1500 volts DC. This will include:

- Kettle
- Toaster
- Iron
- Television Set
- Electrical Cooker
- Immersion Heater
- Wall mounted Electric Heaters

The landlord also has a statutory duty to maintain the mains wiring to the property. It is recommended that the mains wiring is checked prior to the initial tenancy and again at least every five years in a domestic environment. Under mandatory legislation introduced by the Welsh government in July 2022, private landlords will be required to complete electrical safety checks on their properties every five years.

### **What should I do?**

The Landlord should arrange to have a safety check carried out by a suitably qualified tradesperson prior to the commencement of the first tenancy and annually thereafter. Fixed installations should also be checked for safety prior to a tenancy commencing and then at five to ten yearly intervals thereafter.

Records should be kept of all appliances tested and checks carried out. Any remedial work carried out to appliances should also be noted.

Leads on appliances such as irons, toasters and kettles should be checked regularly as worn or frayed leads can be dangerous. Any defective lead should be replaced immediately, or the appliance should be renewed.

All electrical appliances must be supplied with a correctly fused plug fitted to it.

The plugs should be tested prior to the commencement of a tenancy to ensure that no dangerous fuses have been used during the period of the tenancy.

Instruction books should be supplied for all electrical appliances at the premises if the instructions are not already shown on the appliance. If the landlord does not have the original instruction booklet, he should download a copy from the appropriate website, and confirm to the Agency that has been done.

## **A Landlords Guide to the Furniture and Furnishings (Fire) Safety Regulations**

The regulations concerning furniture in rented property have been tightened to apply to all accommodation available in the residential lettings market, as from 1<sup>st</sup> January 1997. Landlords letting residential property must ensure that all of the furniture is “fire resistant” to comply with the regulations, otherwise they will be committing a criminal offence. The penalty for this offence is a fine of up to £5,000 and/or six months imprisonment.

### **What does fire resistant mean?**

“Fire resistant” means that the furniture must pass the “ignitability test” as well as the “cigarette test” and the “match test”. This means that all suitable furniture must have:

- Covers which cannot be set alight by applying a lighted match to them
- Covers which do not ignite if a smouldering cigarette is applied
- Filling materials which pass an ignitability test
- Permanent labelling proving that the item complies with the regulations

The filling must comply with the regulations as well as the covers, because it is the toxic fumes from the fillings, which are the cause of death.

Any furniture manufactured prior to 1<sup>st</sup> January 1950 need not comply with the regulations, as the toxic substances were not used in manufacture prior to that date. Period or antique furniture is therefore exempt.

### **What furniture must comply?**

All upholstered furniture must comply with the regulations. These include:

- Three piece suites, armchairs and sofas
- Beds, headboards, mattresses, divans and bed bases
- Sofa beds, futons and other convertible furniture
- Nursery and children’s furniture
- Loose, stretch and fitted covers for furniture
- Scatter cushions and seat pads
- Pillows
- Garden furniture suitable for use in a dwelling

### **The regulations do not apply to:**

- Bed clothes including duvets
- Loose covers for mattresses
- Carpets or curtains
- Furniture manufactured before 1<sup>st</sup> January 1950

### **How can the Landlord tell the furniture complies?**

The correct method of displaying compliance is to check that a permanent label is present on all items of furniture. This will apply to new or second hand furniture. Landlords should always check that an item of furniture has a permanent label before making a purchase. Beds and padded bases rarely carry a label, but if the item complies with BS7177, it should meet the required standard.

The Trading Standards department can give guidance, in case of doubt.

### **Can the Regulations be avoided?**

No! It is an offence to either:

- Give the furniture to the occupant
- Sell the furniture to the occupant
- Obtain an indemnity from the occupant that they do not mind that the furniture does not comply
- To store the furniture so that the occupant can put it back in the premises
- To leave the items off the inventory inferring that they do not exist

### **What action should the Landlord take?**

Do not buy or provide any furniture for a residential letting that does not comply with the regulations. Check that all items carry a permanent label.

Keep all receipts and invoices denoting purchase and if a label becomes detached, keep it in a safe place in case it is necessary to prove to the agent, the tenant, or other party that the furniture did comply with the regulations.

Ensure that the permanent labels are noted on the inventory.

### **Energy Performance Certificate**

Since October 2008, all dwellings put onto the market for sale or to let require an Energy Performance Certificate (EPC). The EPC must be produced before the dwelling can be marketed and included on the letting particulars to enable a prospective occupant to be able to estimate their annual energy spend.

An EPC tells the potential tenant or homeowner how energy efficient a property is, and lasts for 10 years. With rising energy prices increasing the cost of living, prospective tenants and homeowners can use this information as an indication of how high their gas and electricity bills will be. This efficiency will be rated on a scale from A to E, with the most energy efficient home achieving an 'A' rating. An EPC will also advise on the impact the property has on the environment and provide recommendations on how to make the property more energy efficient.

### **Rent Smart Wales**

Under the Housing (Wales) Act 2014, there are legal obligations on landlords who have rental property in Wales.

Any landlord who has a rental property in Wales which is rented on an occupational contract or conversion contract is required to register. Depending on how a dwellings is owned will determine who needs to register it, and all registrations are done with Rent Smart Wales. Please make sure if you own multiple dwellings, that all dwellings are registered individually.

Landlords who are not involved in setting up tenancies and managing their rental dwellings do not need a licence, however they must use a licensed agent (such as West Wales Home Rentals) and register as a landlord declaring their agent on the registration.

Landlords who do undertake letting and management tasks at their rental properties in Wales are required to apply for a licence. Such landlords are often described as 'self-managing'. Please make sure if you own multiple properties, that all properties are registered individually under your management license.

Full information can be found on <https://www.rentsmart.gov.wales/en/>.

## **Tenancy Deposit Scheme (England and Wales)**

Many occupants in the private sector give their landlords a deposit against possible non-payment of rent or damage to property. When a contract comes to an end, there is usually no disagreement about the return of the deposit. But sometimes there is, and this can cause much hardship and inconvenience to both landlord and occupant.

The Housing Act 2004 (Chapter 4, sections 212-5; & Schedule 10) made provision for both the protection of tenancy deposits and the resolution of disputes over their return. The Dispute Service was awarded a contract by the Government to run a Tenancy Deposit Scheme.

The legislation came into effect on 6<sup>th</sup> April 2007. All deposits taken for Assured Shorthold Tenancies (ASTs) have had to be covered by a Tenancy Deposit Scheme. This now applies to ASTs where the annual rent does not exceed £25,000 in Wales, or £100,000 in England

### **What are the requirements in the Housing Act 2004?**

- Any landlord or agent who takes a deposit from a tenant for an AST must safeguard it in an approved Tenancy Deposit Scheme, and:
- The occupant must be told which one;
- The deposit must be in money;
- Landlords in breach of these provisions will not be able to issue RHW 16 notice, and may have to pay the Occupant compensation of three times the deposit;
- The landlord/agent must submit the deposit to the operators of their scheme when requested to do so;
- Each scheme must have procedures for resolving disputes without legal action – i.e. by Alternative Dispute Resolution – but the parties can go to court if they prefer.

There are strict time limits for the return of the deposit if there is no dispute.

The Act allows for both custodial and insured schemes. Custodial schemes are where the deposit is lodged with an independent third party i.e. outside the control of the landlord.

Insured schemes allow the landlord or their agent to retain control of the deposit as long as they are subject to suitable insurance arrangements.

### **What is the Tenancy Deposit Scheme?**

The Scheme has been developed to ensure that the deposits are protected and that disputes about their return are resolved swiftly, inexpensively and impartially.

Under the Tenancy Deposit Scheme:

- Deposits will be protected during the contract.
- Where there is no dispute at the end of the contract, the deposit should be returned promptly by whoever is holding it.
- Where there is a dispute about the return of the deposit it will be dealt with fairly by the Independent Case Examiner (ICE)
- The ICE will make a decision quickly, and the deposit will be paid out without unnecessary delay.

### **How are the deposits held and protected?**

The deposit holder, who is a member of TDS, holds the deposit in a separate client account. In most cases the Occupant and the landlord will decide between them, assisted by the agent if one has been involved, how the deposit

should be allocated. If there is a dispute, the landlord or agent has the opportunity to resolve it. If that fails, any of the parties – landlord, agent or tenant can approach the ICE. The ICE will appoint an adjudicator to assist in considering the evidence they provide, and will aim to issue a decision within 28 days of receiving all the necessary papers.

### **If there is a dispute, what happens to the deposit?**

The member will transfer the disputed deposit amount to TDS. It has a special cash fund which enables the ICE to carry on with an adjudication and to pay out the disputed amount, even if the member has not sent it. TDS will pay out the disputed amount according to the instructions of the ICE.

If the member does not send the disputed deposit amount, TDS will take legal action to recover it. TDS will claim the disputed deposit amount from its insurers if member is unable to pay e.g. because it has become insolvent.

### **How are disputes resolved?**

- The tenant has 20 working days to tell the member that they wish to dispute their proposed allocation of the deposit, and the member has 10 working days to resolve it.
- If not, the parties decide if they want to go to court, or to have the ICE deal with it – which is what most people prefer. Either way, the disputed deposit must be sent to TDS.
- The party who wishes to submit a deposit dispute to TDS sends details of the dispute on the **Notification of a Deposit Dispute** form, together with relevant documentation.
- Whoever is holding the deposit must send the amount in dispute to TDS.
- The ICE will copy the details of the dispute to the other parties, giving them 10 working days to send in their side of the story.
- The ICE will appoint an adjudicator with a view to issuing an adjudication within 28 days of receiving all the necessary paperwork.
- The disputed amount will be paid out in accordance with the adjudication within a further 10 working days.

Further information can be found on <https://www.tenancydepositscheme.com/>

## **Smoke Detectors**

From the 1<sup>st</sup> December 2022 regulations require smoke alarms to be hard wired interlinked installed in rented residential accommodation and carbon monoxide alarms in rooms with a solid fuel appliance. Changes are also made to the licence requirements in relation to house in multiple occupation (HMOs), such as shared houses and bedsits which require a licence and also in relation to properties which are subject to selective licensing. The Regulations apply to both houses and flats. Failure to comply can lead to a civil penalty being imposed of up to £5,000.

### **Requirement for Smoke alarms**

During any period beginning on or after 1<sup>st</sup> December 2022 while the premises are occupied under a tenancy (or licence) the landlord must ensure that a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation. A living room will include a lounge dining room and kitchen as well as a bathroom or toilet. It also includes a hall or landing. This means that a smoke alarm must be provided in working order on each storey. The RLA takes the view that mezzanines are caught by this legislation where they contain a room used wholly or partly as living accommodation, including a bathroom or toilet. As regards individual flats located on one floor then there will have to be a least one alarm within the flat itself or alternatively are provided outside the flat on the same floor of the building, i.e. a communal alarm.

Likewise, for flats comprising more than one storey there will need to be a mains fitted interlinked smoke alarm on each floor.

It is the location of an alarm which sounds which is crucial; not the position of detectors.

The Regulations do not stipulate what kind of alarm is required. Ideally it should be a hard wired alarm system. It can, however, be a single standalone alarm. Landlords are recommended by the RLA to fit ten-year long life tamper proof alarms, otherwise there is a problem of batteries being taken out and not being replaced.

As a final note, heat detectors are not considered sufficient. It will have to be a smoke detector.

### **Carbon Monoxide alarms**

Additionally, landlords must ensure that there is a carbon monoxide alarm fitted in any room that is used partly or wholly as living accommodation which also contains any appliance which burns, or is capable of burning, solid fuel. This would include log and coal burning stoves and open fires, even if they are not normally in use, but does not include gas and oil boilers. If an open fireplace is purely decorative and not useable then it is not covered by the regulations.

Gas is not a solid fuel, and so there is no requirement to fit one near a gas boiler. It is still advisable as best practice however.

### **Legionnaire's Disease**

Please see separate information sheet or consult: <http://www.hse.gov.uk/legionnaires/legionella-landlords-responsibilities.htm>

### **Further Information**

Should you require further information regarding the Gas, Electric or Furniture and Furnishings (Fire) Safety Regulations, we recommend you approach:

- The Lettings Agent
- Trading Standards Office
- Environmental Health Office
- Health and Safety Executive
- The Gas Safety action line, which can be contacted on 0800 300 363
- Obtain a copy of the Guide to the Furniture and Furnishings (Fire Safety) Regulations published by the Department of Trade and Industry.
- Rent Smart Wales

The above guides are intended to provide a summary of the regulations to the Landlord. It is not an authoritative interpretation of the regulations, which is a matter for the courts.