

Title: Duties of landlords

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Note: This version of Technical Bulletin (TB) 055 replaces the version originally published 19th Feb 2021 which is now withdrawn. This version has been reviewed and where appropriate revised to ensure that it remains both current and relevant.

This Technical Bulletin provides clarification to Gas Safe registered businesses/engineers on certain requirements for landlords with regard to the Gas Safety (Installation and Use) Regulations (GSIUR) 1998

Introduction

This Technical Bulletin (TB) has been written to clarify certain aspects of the primary legislation concerning the safe installation, maintenance and use of gas systems and appliances, (i.e. in Great Britain (GB) – the Gas Safety (Installation and Use) Regulations (GSIUR) 1998), in particular, Regulation 36 (Duties of Landlords). The information below has been taken from a response received from the Health and Safety Executive (HSE) in GB. Additionally, information has been included to provide general guidance on the requirements of a landlord gas safety inspection in order to clarify the minimum level of information necessary to be recorded to satisfy legal requirements

Note 1: Similar requirements apply in other geographical areas covered by Gas Safe Register. For details of current health and safety legislation, gas safety legislation, building legislation and industry standards for the geographical areas covered by Gas Safe Register, see the [Legislative, Normative & Informative Document List \(LNIDL\)^{\(4\)}](#) at: <https://www.gassaferegister.co.uk/sign-in/> - login and visit the Technical Information area.

Note 2: Although the following guidance applies particularly to GB, the health and safety enforcing authorities in all geographical areas covered by Gas Safe Register, i.e. GB, Northern Ireland, Isle of Man and Guernsey, regard the guidance in this TB as a 'best practice' requirement and would expect all Gas Safe registered businesses/engineers to apply the requirements of this TB when and where appropriate circumstances/relevant installations are encountered.

Q1. Does regulation 36 GSIUR apply to hotel accommodation?

- A1.** The landlord's duties, including the maintenance and safety check provision, apply to any relevant gas fitting, as defined in Regulation 36(1). This definition in turn refers to relevant premises that include premises occupied under a lease or a licence. The term licence extends the scope of requirements beyond leased property to a wide range of other residential premises. This would include hotel accommodation.
- A hotel should display (in a prominent position for the guests), a landlord's gas safety record, covering all relevant appliances on the premises, (this should even include boiler houses). However, this would not need to include appliances/pipework used exclusively in non-residential areas of the property, such as bars and restaurants. It would need to include appliances/pipework in those areas that are limited to access to residents only.

Q2. What equipment is covered by the landlord's duties?

- A2.** The application of the landlord's duties under GSIUR is to a large extent, covered by the definition in regulation 36(1). As far as flues are concerned, the duties extend to any flue, which serves any relevant gas fitting, (see regulation 36(2) and 36(3)).

The definition of relevant gas fitting excludes an appliance, which the tenant owns and is entitled to remove from the relevant premises when the tenant moves.

Flues serving tenant's own appliances are not covered under GSIUR; however, landlords have a duty of care under the Health and Safety at Work etc. Act 1974 (HSWA), which covers a wider range of duties such as the fabric of the building and chimneys (see also [Note 1](#)). This would be in addition to the requirements of Regulation 36 of GSIUR.

The HSE has advised that the extent of these duties would be for a court to decide but it seems likely that they would take the view that any chimney should be maintained in a condition so as to be 'fit for purpose' i.e. to effectively remove products of combustion.

Q3. What should I do when I find open-flued appliances in rooms used temporarily as sleeping accommodation e.g. by the elderly/disabled?

A3. Legislation does not make any allowance for temporary use. Therefore if the appliance(s) has a heat input greater than 12.7kW net (14kW gross), or less than 12.7kW but does not incorporate a safety control designed to shut down the appliance before a dangerous quantity of products of combustion built up in the room, the installation does not comply with current requirements. As such it should be classified as 'At Risk' ('AR') in accordance with the current Gas Industry Unsafe Situations Procedure (GIUSP) until the situation can be resolved.

Where tenants have altered their sleeping arrangements as described above, landlords have a duty of care under section 3 of HSWA, to take reasonably practical steps to ensure the safety of their tenants. They could therefore consider:

- a) Replacing/removing the appliances;
- b) Re-housing the tenant into other suitable accommodation.

In the event of an accident occurring in such premises, it would be for the landlord to show that they did all that was reasonably practical to avoid the incident occurring.

Q4 If I make a mistake in completing a record form can I make a change to the information I have recorded?

A4 For minor amendments, such as incorrect postcodes or telephone numbers, then it may be possible to change the record, but only within a reasonable period of time e.g. within 1 to 2 weeks of the check being undertaken. Changes would need to be made by the registered business that undertook the work and the change should be signed so an audit trail can be maintained. The amended copy (showing the changes) of the record should be given to the landlord.

No changes should be made to any technical data or test results and if an error was made the check would need to be redone and a new record issued.

Where the date the check was undertaken is found to be incorrect, the check would need to be redone and a new record issued.

Q5 Do I have to record all and any type of 'Defect' on a Landlord Gas Safety Record?

A5 Only safety related defects, i.e. ID or AR defects on "relevant gas fittings," are required to be recorded on the LGSR. All safety defects must be addressed under 36(2) by the Landlord.

Q6 **Do I have to record all tenants own appliances on the Landlord Gas Safety record?**

A6 Tenants' own appliances are not required to be recorded on the LGSR.

However, through contractual agreements with the Landlord it could be agreed to record Tenants' own appliances on the LGSR.

Q7 **When undertaking a 'Visual Risk Assessment' on a tenants own appliance (appliances not owned by the landlord) what is recorded in the 'Appliance Safe' recording box on the paperwork or electronic device?**

A7 The issue is many landlords/clients require their registered gas engineer to record their tenant's own appliances on the 'Landlord Gas Safety Record' and expect an answer of YES or NO in the 'Appliance Safe' recording box after a 'Visual Check'.

Clearly if the visual check identifies safety issues then NO is recorded and GIUSP is implemented.

However, Gas Safe registered engineers are often cautious recording YES after a visual check as it may be presumed by some that they have undertaken tests to arrive at their indicated decision and the Landlord will have wrongly discharged their duty of care.

In order to produce consistency in the industry it is suggested that when recording tenants own appliances (appliances not owned by the landlord) on LGSR it is clearly marked 'Visual Check Only' across the boxes used to record the outcomes of the checks required by 26(9) with YES or NO recorded in the 'Appliance Safe' box (dependant on check outcome).

It is strongly recommended the following statement (or something very similar) is recorded on each LGSR job sheet: "For appliances not owned by the landlord the recorded 'Appliance Safe' response is based on a visual check for obvious defects only".

Note 3: There can be difficulty with some electronic recording devices which are a pre-set programme not allowing any variations and not allowing the recording or wording of 'Visual Check Only' – also it may not be possible to modify the electronic system, so, in these circumstances it is suggested the gas engineer/gas business advises the client in writing that: "All visual checks on appliances not owned by the landlord recording a YES to 'Appliance Safe' is based in a visual check for obvious defects only with no physical tests undertaken".

Q8 **Do I have to record all and any type of defect on tenants appliances on the Landlord gas safety record?**

A8 There is no requirement under Regulation 36 to check, or record, any defects with tenants' own appliances on the LGSR.

There is no requirement to proactively check tenant's own appliances except a 'Visual Inspection' if the gas has been interrupted and appliances are re-lit.
Any gas safety defects encountered shall be dealt with in accordance with GIUSP.

Q9 Is a safety check the only legally required duty on Landlords to be completed within each 12 months on "relevant gas fittings" i.e. Landlords own appliances?

A9 There should also be "effective maintenance" of appliances owned by the Landlord, which is an ongoing programme of regular inspections e.g. servicing.
This would normally be a full service of all Landlord's appliances, along with a visual inspection of the rest of the installation and a gas tightness test.

Q10 Is there any leeway in the renewal date of the safety check?

A10 The renewal date is the date by which the next safety check must be carried out. There can be no overrun of this date. However, Regulation 36 now allows for 'MOT style' checks that can be carried out up to 2 months early, while retaining the renewal date. For instance, a landlord's gas safety check that is due for renewal on April 12th 2021 can be carried out anytime between that date and 12th February 2021, and the renewal date of this check would be 12th April 2022. The last 2 safety checks must be retained for this to come into effect.

General requirements for the inspection

To conform to the requirements of Regulation 36(3) of GSIUR, a landlord needs to:

- (a) Ensure that appliances and chimneys/flues to which the landlord's duty extends, are checked for gas safety at periods not exceeding 12 months.
- (b) Although installation pipework is not covered by the requirements of the annual safety check, there is a requirement for landlords to provide effective maintenance. Guidance Note 59 of Approved Code of Practice and guidance (L56)⁽²⁾ to the Gas Safety (Installation and Use) Regulations 1998 confirms the requirement for installation pipework to be maintained in a safe condition. Gas Safe Register recommends that a test for tightness on the whole gas system, including installation pipework, together with visual examination (as far as is reasonably practicable) of the pipework, be made at the same time as the safety check.

Note 4: Newly installed gas appliances must be checked for gas safety within 12 months of installation. It is however recommended that at the date of the safety check, all installed appliances are checked for gas safety, so as to bring them in line with the date of the annual safety check (otherwise more than one visit would be required).

- (c) Ensure that a record in respect of any appliance or flue so checked is made and retained until there have been two further checks of the appliance or flue under this paragraph or, in respect of an appliance or flue that is removed from the premises, for a period of 2 years from the date of the last check of that appliance or flue, which record shall include the following information:

- (1) The date on which the appliance or chimney/flue was checked;
- (2) The address of the premises at which the appliance or chimney/flue is installed;

- (3) The name and address of the landlord of the premises (or, where appropriate, an agent) at which the appliance or chimney/flue is installed;
- (4) A description of and the location of each appliance or chimney/flue checked;
- (5) Any defect identified;⁵
- (6) Any remedial action taken;
- (7) Confirmation that the check undertaken complies with but is not be limited to, an examination of the requirements referred to in sub-paragraphs (a) to (d) of Regulation 26(9) of GSIUR;
- (8) The name and signature of the individual carrying out the check; and
- (9) The registration number with which the individual, or their employer, is registered with Gas Safe Register (for the purposes of Regulation 3(3) of GSIUR).

Note 5 Regulation 36(3-c5) requires that only **safety** related defects, i.e. ID or AR defects on "relevant gas fittings", are required to be recorded on the LGSR.

GSIUR Regulation 26(9) requires that after 'work' has been undertaken on an installed gas appliance, registered engineers need to undertake the necessary gas safety checks and tests to ensure that the appliance and any associated chimney/flue, is safe for continued use. In particular as a minimum, they need to examine:

- (a) the effectiveness of any flue;
- (b) the supply of combustion air;
- (c) subject to paragraph (ca), its operating pressure or heat input or, where necessary, both;
 - (ca) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance
- (d) its operation so as to ensure its safe functioning

Note 6: Item (d) would include any appliance specific, or manufacturer specified safety checks e.g. combustion analysis.

The term 'work' is defined in GSIUR and lists specific activities, which are:

- maintaining, servicing, permanently adjusting, disconnecting, repairing, altering or renewing the fitting or purging it of air or gas;
- where the fitting is not readily movable, changing its position;
- removing the fitting.

Where a Landlords' gas safety check, or other maintenance work involves an appliance incorporating a pre-mix burner and a zero set pressure regulator, and the installation does not incorporate a gas meter (e.g. many LPG installations) it will not be possible to check the heat input or burner pressure. This is a requirement of Regulation 26(9)(c) of the Gas Safety (installation and use) Regulations. In such circumstances, providing the registered engineer is equipped with a suitable electronic portable combustion gas analyser (ECGA) that is both operating in current calibration and capable of measuring a combustion ratio, then a satisfactory combustion ratio reading in accordance with the manufacturer's published value or BS 7967⁽³⁾ will be acceptable as an alternative check.

Measuring the gas inlet working pressure on a boiler fitted with an air gas ratio valve would not fulfil the requirements of Regulation 26(9)(c).

Note 7: For further guidance on the use of an ECGA to confirm safe operation of a gas appliance, see [TB 013^{\(4\)}](#) and [TB 143^{\(5\)}](#).

The 'landlord gas safety record' is often referred to as a 'gas safety record' or certificate. Gas Safe Register does not produce its own gas safety check record form but many retailers do sell these forms.

Note 8: For guidance about the use of electronic records and signatures in relation to a landlord gas safety record check, reference should be made to [TB 076^{\(6\)}](#).

Note 9: For general information about the process behind the development of Gas Safe Register Technical Bulletins and the expectations for all Stakeholders, see [TB 1000^{\(7\)}](#).

For further guidance on the duties of landlords in GB, visit:

- <http://www.hse.gov.uk/pubns/indg285.pdf>
- http://www.hse.gov.uk/gas/domestic/gas_law.htm
- <http://www.hse.gov.uk/gas/landlords/>
- <http://www.hse.gov.uk/gas/domestic/fagtenant.htm>
- <http://www.hse.gov.uk/gas/domestic/faglandlord.htm>
- <http://www.hse.gov.uk/gas/landlords/gassaferecord.htm#standard>
- <http://www.hse.gov.uk/gas/domestic/alert021008.htm>

Bibliography

- (1) LNIDL - Gas Safe Register Legislative, Normative & Informative Document List
- (2) HSE L56 – Safety in the installation and use of gas systems and appliances - Approved code of Practice and Guidance to the Gas Safety Installation and use) Regulations (This document is available online via the following link: <http://www.hse.gov.uk/pubns/priced/L56.pdf>)
- (3) BS 7967: 2015 - Guide for the use of electronic portable combustion gas analysers for the measurement of carbon monoxide in dwellings and the combustion performance of domestic gas-fired appliances
- (4) TB 013 - Air/Gas ratio valves
- (5) TB 143 - CO and combustion ratio checks using an Electronic Combustion Gas Analyser (ECGA) when commissioning a condensing boiler incorporating air/gas ratio control valve technology.
- (6) TB 076 - Electronic records and signatures - Information for landlords and gas installation businesses
- (7) TB 1000 - An introduction to Gas Safe Register Technical Bulletins

Note: Gas Safe Register Technical Bulletins and the Legislative, Normative & Informative Document List can be viewed at: <https://www.gassaferegister.co.uk/sign-in/> - login and visit the Technical Information area

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