

**Review of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015
Response from ARLA Propertymark
January 2018**

Background

1. ARLA Propertymark is the UK's foremost professional and regulatory body for letting agents; representing over 9,000 members. ARLA Propertymark agents are professionals working at all levels of letting agency, from business owners to office employees.
2. Our members operate to professional standards far higher than the law demands, hold Client Money Protection and we campaign for greater regulation in this growing and increasingly important sector of the property market. By using an ARLA Propertymark agent, consumers have the peace of mind that they are protected and their money is safe.

Part A – Questions for all respondents

Question 2. Before reading this document, were you aware of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015?

3. Yes, ARLA Propertymark was aware of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 before reading this document.

Question 3. Before reading this consultation document, were you aware that under the regulations:

- 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.
4. Yes, before reading this consultation document we were aware that under the regulations landlords in the private rented sector in England are responsible for ensuring that smoke and carbon monoxide detectors are appropriately installed and are in proper working order at the start of a new tenancy. We were also aware that during the tenancy it is a tenant's responsibility to ensure the alarms work and it is

their responsibility to change the batteries during the tenancy. However, should the alarms become faulty during the tenancy landlords are responsible for replacing them.

Question 4. How were you made aware of the regulations?

5. ARLA Propertymark had direct engagement with the Department for Communities and Local Government on developing the regulations.

Question 5. Do you consider that information about the regulations is easily accessible? If 'no', how could the information be improved?

6. ARLA Propertymark fully supports the principle that all tenants should benefit and expect a working smoke and carbon monoxide alarm in their property. However, we do not consider that information about the regulations is easily accessible. The Government has only provided limited guidance to the sector and the very short period of time between the passing of these regulations and their coming into force meant that agents struggled to comply in time.
7. When the rules were implemented enquiries that we made showed that there were insufficient alarms available for sale, to allow landlords to comply fully, for all rented properties. Furthermore, the implementation date meant it was simply impracticable for letting agents, many of whom manage large property portfolios, to gain access to the properties and to install these alarms on behalf of their clients in the time frame allotted. As we outlined to the Government it would have been more practical if all new tenancies from 1 October 2015 had to comply with the regulations and all existing tenancies allowed to have until 1 January 2016 to comply. This would have given letting agents a more realistic period of time to both be informed of the regulations and also to ensure they are able to implement the rules.
8. The information could be improved by providing guidance with greater detail and specific examples relating to how the regulations work in practice. For example, a concern for letting agents and inventory providers is that "proper working order" is not clearly defined or explained. The guidance only states to press the test button. Clearer guidance is particularly important for Carbon Monoxide detectors because by pressing the test button this only tests the circuitry of the detector, it does not test the actual sensor that lets you know if there is Carbon Monoxide in the air.
9. The Government must do more to promote the use of landlords and letting agents who are members of professional bodies, such as ARLA Propertymark. Through their membership these agents and landlords are kept up to date with legislative changes

and industry best practice guidelines. However, agents and landlords who are not members of professional bodies may not be aware of new (and existing) legal requirements and may pose a greater risk in non-compliance through ignorance of new laws.

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

10. Yes, we believe that the regulations have had a positive impact on the number of smoke and carbon monoxide alarms installed. Letting agents are forcing landlords to comply with the rules or dis-instructing themselves.

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

11. We believe that the regulations have only partially had a positive impact on protecting tenants from death or injury resulting from smoke or carbon monoxide poisoning. The regulations should include all combustion appliances (e.g. gas/oil boiler, gas/oil fire, heaters fuelled by oil or gas) as required under the Scotland (Housing) Act 2014¹, not just solid fuel (e.g. wood, coal or biomass).

Question 8. Are the regulations still required in full? If 'no', please provide details.

12. Yes, the regulations are still required in full. However, improvements should be made about testing on the first day of the tenancy.

Question 9. Do you think that the properties excluded from the regulations are the right ones? If no, please provide details.

13. Yes, we do think that the properties excluded from the regulations are the right ones.

Question 10. Do you think that the regulations could be improved? If 'yes', please provide details of any improvements needed.

14. Yes, we do think that regulations could be improved. The regulations should be amended so that landlords or their agents must make sure the alarms are tested either a fortnight prior or post the start of each new tenancy. For instance, a tenancy commencing on 1 November 2018, testing must take place between 18 October and

¹ <http://www.legislation.gov.uk/asp/2014/14/contents/enacted>

15 November 2018. This would allow some leeway for landlords that have multiple properties and agents who may be managing multiple check-ins on the same day.

Part B – Questions for landlords and letting agents

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

15. It is not applicable for us to answer this question.

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

16. It is not applicable for us to answer this question.

Question 13. Have you encountered any problems complying with the regulations? If 'yes', please give details.

17. Yes, letting agents have encountered problems. The requirement for alarms to be tested on the day the tenancy begins (not the day before or the day they sign the tenancy agreement) is difficult for many letting agents where they have to check in multiple properties on the same day.

18. The rules are also inconsistent with the Gas Safety (Installation and Use) Regulations 1998 where landlords must arrange an annual gas safety check on every gas appliance and flue by a registered Gas Safe engineer.² Under these rules before any new tenancy starts landlords must ensure these checks have been carried out within one year before the start of the tenancy date, unless the appliances in the property have been installed for less than 12 months, in which case they should be checked within 12 months of their installation date. Greater flexibility on the time frame for implementing legislation ensures that the sector is less likely to fall foul of the regulations as landlords and letting agents will have a realistic period of time to both be informed of regulations and also to ensure they are able to comply.

19. Furthermore, we have seen little or no enforcement of the rules by local authorities as the rules requiring testing on the day the tenancy begins means it is almost impossible for Councils to enforce. There are not enough resources and local authorities do not have the capacity required to enforce these standards. To explain this point further, up to June 2015, there were 145 laws with over 400 regulations that

² <http://www.legislation.gov.uk/ukxi/1998/2451/contents/made>

landlords need to abide by to legally let property in England and Wales.³ However, in 2014 only 428 landlords in England were prosecuted for housing offences.⁴ Laws are passed but not enforced. Local authorities are under resourced and enforcement is not a high enough priority for local Councils.

Question 14. Have the regulations led to increased rents being charged for properties? If 'yes', please provide details and explain why.

20. We are not aware that the regulations have led to increased rents being charged for properties.

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

21. We do not know of any additional charges imposed on either landlords or tenants for administering the requirements of the regulations.

Part C – Questions for tenants

Question 16 -25

22. It is not applicable for us to answer these questions.

Part D – Questions for local authorities

Questions 26 – 38

23. It is not applicable for us to answer these questions.

Part E – Optional question for all respondents

Question 39. Do you have any other comments that have not been captured elsewhere in this consultation? If 'yes', please provide details.

24. No, we do not have any other comments.

³ http://www.propertychecklists.co.uk/downloads/20170508_1

⁴ <https://publications.parliament.uk/pa/cm201516/cmpublic/housingplanning/memo/hpb106.htm>