
DRAFT STATUTORY INSTRUMENTS

2015 No.

**The Smoke and Carbon Monoxide
Alarm (England) Regulations 2015**

PART 4

Penalty charges

Penalty for breach of the duty under regulation 6(1)

8.—(1) Where a local housing authority is satisfied, on the balance of probabilities, that a landlord on whom it has served a remedial notice is in breach of the duty under regulation 6(1), the authority may require the landlord to pay a penalty charge of such amount as the authority may determine.

(2) The amount of the penalty charge must not exceed £5,000.

(3) Where a local housing authority decides to impose a penalty charge, the authority must serve notice of that fact on the landlord (“a penalty charge notice”) within six weeks beginning with the day on which the authority is first satisfied under paragraph (1).

Content of penalty charge notice

9.—(1) A penalty charge notice must state—

- (a) the reasons for imposing the penalty charge;
- (b) the premises to which the penalty charge relates;
- (c) the number and type of prescribed alarms (if any) which an authorised person has installed at the premises;
- (d) the amount of the penalty charge;
- (e) that the landlord is required, within a period specified in the notice—
 - (i) to pay the penalty charge, or
 - (ii) to give written notice to the local housing authority that the landlord wishes the authority to review the penalty charge notice;
- (f) how payment of the penalty charge must be made; and
- (g) the person to whom, and the address (including if appropriate any email address) at which, a notice requesting a review may be sent and to which any representations relating to the review may be addressed.

(2) A penalty charge notice may specify that if the landlord complies with the requirement in paragraph (1)(e)(i) or (ii) within 14 days beginning with the day on which the penalty charge notice is served, the penalty charge will be reduced by an amount specified in the notice.

(3) The period specified under paragraph (1)(e) must not be less than 28 days beginning with the day on which the penalty charge notice is served.

Review of penalty charge notice

10.—(1) Paragraph (2) applies if, within the period specified under regulation 9(1)(e), the landlord serves a notice on the local housing authority requesting a review.

(2) The local housing authority must—

- (a) consider any representations made by the landlord;
- (b) decide whether to confirm, vary or withdraw the penalty charge notice; and
- (c) serve notice of its decision to the landlord.

(3) A notice under paragraph (2)(c) confirming or varying the penalty charge notice must also state the effect of regulation 11.

Appeals

11.—(1) A landlord who is served with a notice under regulation 10(2)(c) confirming or varying a penalty charge notice may appeal to the First-tier Tribunal against the local housing authority's decision.

(2) The grounds for appeal are that—

- (a) the decision to confirm or vary the penalty charge notice was based on an error of fact;
- (b) the decision was wrong in law;
- (c) the amount of the penalty charge is unreasonable;
- (d) the decision was unreasonable for any other reason.

(3) Where a landlord appeals to the First-tier Tribunal, the operation of the penalty charge notice is suspended until the appeal is finally determined or withdrawn.

(4) The Tribunal may quash, confirm or vary the penalty charge notice, but may not increase the amount of the penalty charge.

Recovery of penalty charge

12.—(1) The local housing authority may recover the penalty charge on the order of a court, as if payable under a court order.

(2) Proceedings for the recovery of the penalty charge may not be started before the end of the period specified under regulation 9(1)(e).

(3) Paragraph (4) applies if, within that period, the landlord gives notice to the local housing authority that the landlord wishes the authority to review the penalty charge notice.

(4) Proceedings for the recovery of the penalty charge may not be started—

- (a) before the end of the period within which the landlord may appeal to the First-tier Tribunal against the local housing authority's decision on review; and
- (b) where the landlord so appeals, before the end of the period of 28 days beginning with the day on which the appeal is finally determined or withdrawn.

(5) In proceedings for the recovery of the penalty charge a certificate which is—

- (a) signed by the local housing authority's chief finance officer (within the meaning of section 5 of the Local Government and Housing Act 1989(1)), and
- (b) states that the penalty charge has not been received by a date specified in that certificate,

is conclusive evidence of that fact, and a certificate to that effect and purporting to be signed is to be treated as being signed, unless the contrary is proved.

(1) 1989 c. 42; amendments have been made to section 5 but they are not relevant to these Regulations.

(6) Sums received by a local housing authority under a penalty charge may be used by the authority for any of its functions.

Information to be published by local housing authority

13.—(1) A local housing authority must prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge.

(2) A local housing authority may revise its statement of principles and, where it does so, it must publish the revised statement.

(3) In determining the amount of a penalty charge, a local housing authority must have regard to the statement of principles which was most recently prepared and published at the time when the breach in question occurred.