

## Property Litigation Update

### Gas Safety - A Warning to All Landlords!

#### March 2009

Until recently, in light of the relatively poor returns on the stock market and with house prices then seemingly rising ever higher many investors placed their hard-earned cash in buy-to-let property. In the vast majority of cases, landlords anticipated being able to enjoy many years of stress-free letting. However with the stock market in turmoil, house prices tumbling and with banks being propped up by the Government, that business model is being severely tested.

In addition to the issues relating to current economic circumstances there are also pitfalls for the unwary and those with an imperfect knowledge of the property management business as one landlord has recently discovered to his peril.

There is a raft of rules and regulations which landlords need to be aware of and (more importantly) comply with, covering everything from tenancy deposits to basic requirements about the state and condition of the property. Importantly, if the property benefits from gas, there is also a requirement for a landlord to comply with the Gas Safety (Installation and Use) Regulations 1998.

As a landlord, these Regulations require you to "maintain in a safe condition any relevant gas fittings" in the property – this covers pipework, appliances which the tenant cannot remove and any flues. Checks of these gas fittings must be carried out every 12 months by a CORGI registered fitter.

In some cases where a landlord is effectively a 'self-employed professional landlord' the Health & Safety at Work Act 1974 also needs to be borne in mind.

In the humdrum of everyday life, it is easy for a landlord to overlook these checks. This is perhaps what happened to a Mr Shahid Hussain, the manager of his family business who owned 12 properties, 9 of which had gas appliances fitted. Only 2 properties had gas safety certificates. Upon inspection, a number of appliances were found to be "immediately dangerous" and others were "at risk." Sadly, it appears that one tenant of Mr Hussain's tenants was not lucky enough to have had the gas installations in his property inspected: he died of Carbon Monoxide poisoning in February 2006.

In February 2009, the Health and Safety Executive successfully prosecuted Mr Hussain. He was fined £40,000 and ordered to pay £44,500 costs, with 18 months imprisonment to be served in default of payment.

Even more recently, on 9 April 2009, Mr Ellis who was a former landlord, admitted to five breaches of the gas safety regulations including carrying out work on a boiler without being competent to do so and a failure to ensure that appropriate safety checks were made, retained and provided to the tenant. As a result, he was ordered to pay £20,000 in fines and legal costs within 56 days or face a 12-month jail term.

It is easy for the gas safety legislation to be overlooked, to fall down a list of priorities. This recent prosecution should serve as a stark warning to all landlords to ensure that this does not happen.

## Property Litigation Update

If you do require further assistance with the legislation or if you are experiencing difficulties in obtaining access to carry out annual gas safety checks, the Housing and Property Litigation team at Ashfords would be happy to assist.

**If you would like further information please contact:**



**Joanne Young**

T: +44 (0)1392 33 4106  
j.young@ashfords.co.uk

**Ashfords LLP** is regulated by the Solicitors Regulation Authority. The information in this guidance note is intended to be general information about English law only and not comprehensive. It is not to be relied on as legal advice or as an alternative to taking professional advice relating to specific circumstances