



# **PRIVATE RENTED SECTOR ELECTRICAL SAFETY POLICY 2021**

## **1.0 INTRODUCTION**

- 1.1 The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 came into force on the 1 June 2020. The purpose of the Regulations is to improve safety in all residential premises, particularly in the private rented sector.
- 1.2 Existing legislation already requires landlords to keep their properties free from electrical hazards and it has previously been best practice for landlords to organise periodic inspection and testing and to provide an electrical safety report to the tenant.
- 1.3 The Regulations put existing best practice on a statutory footing with all landlords now being legally required to make sure the electrical installations in their rented properties are safe by having them inspected and tested by a qualified and competent person, at least every 5 years. A copy of the safety report should be provided to the tenant and if requested, to the Council.
- 1.4 Under the Regulations, the Council has the power to require landlords to carry out vital remedial works or arrange for the works to be carried out directly and recover the cost from the landlord. Landlords who don't comply can be served with a financial penalty.

## **2.0 APPLICATION OF THE REGULATIONS**

- 2.1 The regulations came into force on 1 June 2020 and they apply to new tenancies from 1 July 2020 and existing tenancies from 1 April 2021. The relevant date for determining when the new requirements apply is the date on which the tenancy is granted. A new tenancy is one that was granted on or after 1 June 2020.
- 2.2 If a private tenant has a right to occupy a property as their only or main residence and pays rent, then the Regulations apply. This includes assured shorthold tenancies and licences to occupy.
- 2.3 The Regulations do not apply to:
  - Social housing tenancies
  - Lodgers (where the tenant shares the property with the landlord or a member of the landlord's family)
  - Long leases
  - A tenancy that grants a right of occupation for a term of 7 years or more
  - Student halls of residence
  - Hostels or refuges
- 2.4 Houses in multiple occupation (HMOs) are covered by the Regulations if the property is the tenant's only or main residence and they pay rent.
- 2.5 HMOs with 5 or more tenants must have a licence. The Regulations amend the Housing Act 2004 to require a new mandatory condition in the HMO

licence to ensure that every electrical installation is in proper working order and safe for continued use.

2.6 The Regulations do not cover electrical appliances, only the fixed electrical installations such as the wiring, plug sockets, light fittings and consumer unit.

### **3.0 LANDLORD OBLIGATIONS**

3.1 Under the Regulations, landlords must:

- Ensure national standards for electrical safety are met as set out in the 18<sup>th</sup> Edition of the Wiring Regulations (published as British Standard 7671)
- Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test
- Supply a copy of the report to the existing tenant within 28 days of the inspection and test
- Supply a copy of the report to a new tenant before they occupy the premises
- Supply a copy of the report to any prospective tenant within 28 days of receiving a request for the report
- Supply the Council with a copy of the report within 7 days of receiving a written request for a copy
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test
- Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report
- Supply written confirmation of the completion of the further investigative or remedial works from the electrician to the tenant and the Council within 28 days of the completion of the works

3.2 A report will contain the following classification codes:

- Code 1 (C1): Danger present, risk of injury
- Code 2 (C2): Potentially dangerous
- Further Investigation (FI): Further investigation required without delay
- Code 3 (C3): Improvement recommended (further remedial work is not required for the report to be deemed satisfactory)

3.3 If the report contains a code C1, C2 or FI, the landlord must ensure that further investigative or remedial work is carried out by a qualified person within 28 days or less if specified in the report.

3.4 Landlords can ensure a person is qualified and competent by checking if the inspector is a member of a competent person scheme or by requiring the inspector to sign a checklist certifying their competence, including their experience, whether they have adequate insurance and hold a qualification

covering the current version of the Wiring Regulations and the periodic inspection, testing and certification of electrical installations.

#### **4.0 ENFORCEMENT**

- 4.1 Where the Council is satisfied on the balance of probabilities that a landlord has not complied with one or more of their duties under the Regulations, a Remedial Notice must be served within 21 days of the decision that the landlord has not complied with their duties.
- 4.2 Where the Council is satisfied that the landlord is in breach and the report indicates urgent remedial action is required, the Council can, with the consent of the tenant or tenants, arrange for the necessary works to be carried out and recover any costs from the landlord.
- 4.3 Where the Council does not intend to arrange the works, the Remedial Notice served will require the landlord to carry out the necessary works within 28 days. If the landlord does not comply with the Notice, the Council may, with the tenant or tenant's consent, arrange for the works to be carried out and recover any costs from the landlord.

#### **5.0 REMEDIAL NOTICE**

- 5.1 The Remedial Notice will:
  - Specify the premises to which the notice relates
  - Specify what the Council believes the landlord has failed to do
  - Specify what needs to be done
  - Require the landlord to take action within 28 days from the day the notice is served
  - Explain the landlord's right to make written representations within 21 days of the notice being served
  - Specify the person, address or email that representations should be sent to
  - Explain provisions about financial penalties and rights of appeal
- 5.2 A landlord will not be in breach of the duty to comply with a remedial notice if they can show they have taken all reasonable steps to comply.
- 5.3 Landlord should keep copies of all communications with their tenants and electricians as they try to arrange to carry out the work including any replies they have had.
- 5.4 If a landlord has been prevented from accessing the premises by the tenant, they will not be required to take legal proceedings against them in order to show that all reasonable steps have been taken to comply with their duties.
- 5.5 Landlords should also keep any evidence they have that shows the electrical installation is in a good condition while they attempt to arrange the works. This could include the servicing record and previous condition reports.

## **6.0 REMEDIAL ACTION**

- 6.1 The Council may, with the consent of the tenant or tenants, arrange to carry out remedial work in the following circumstances:
- If a landlord does not comply with a remedial notice
  - If the report indicates that urgent remedial action is required and the landlord has not carried this out within the period specified in the report
- 6.2 Where the Council authorises and carried out the remedial works, a qualified and competent person will be appointed.
- 6.3 The Regulations require that the authorised person must give at least 48 hours' notice to the tenant. They may be asked by the tenant and the landlord to produce evidence of their identity and a letter from the local housing authority confirming their authority to carry out the required works.
- 6.4 The Council will recover the costs incurred from the landlord.

## **7.0 REMEDIAL ACTION FOLLOWING NON-COMPLIANCE WITH A REMEDIAL NOTICE**

- 7.1 Where the Council intends to carry out the remedial work following the landlord's non-compliance with the Remedial Notice, the landlord will be notified in writing. The notification will specify:
- The address of the property where the work will be undertaken
  - The power under which the remedial action is to be taken
  - The date when the remedial action will be undertaken (at least 28 days from the date served)
  - The right of appeal against this decision
- 7.2 The Council will arrange for the works to be carried out within 28 days of the end of the notice period unless the landlord appeals. Where there is an appeal, the works will be arranged within 28 days of the appeal decision confirming or varying the Council's decision.
- 7.3 As already stated, the landlord will not be in breach of the duty to comply with the Remedial Notice served if they can show they have taken all reasonable steps to comply.

## **8.0 URGENT REMEDIAL ACTION**

- 8.1 Where the Council has arranged for urgent remedial action to be carried out, the landlord will be notified of this within 7 days of the works starting. The Council will:
- Serve a notice on the landlord and all occupiers of the premises in relation to which the works are being carried out; or
  - Fix a notice to the premises

8.2 The notice will state:

- What action is going to be undertaken
- The address of the property where the action will be undertaken
- The legal power
- The date when that urgent remedial action was or will be started
- The rights of appeal and the period of time within which an appeal may be made
- Details of any financial penalty and the right of appeal against the financial penalty

## **9.0 FINANCIAL PENALTIES**

9.1 The Council can impose a financial penalty on a landlord where they have failed to comply with the Regulations.

9.2 The process for issuing a financial penalty can be found in the Civil Penalties Charging Policy and at Appendix 2.

9.3 The levels of financial penalty that will be levied by the Council can be found at Appendix 1.

## **10.0 RIGHT TO MAKE WRITTEN REPRESENTATIONS**

10.1 In the first instance, landlords have the right to make written representation and appeal against any remedial action that is proposed.

10.2 Remedial notices must be appealed within 21 days of the notice being served.

10.3 The imposition of a financial penalty must be appealed within 28 days.

10.4 The Council has 7 days to respond to any written representations received.

10.5 Landlords then have the right of appeal to the First-tier Tribunal. The Tribunal may confirm, quash or vary notices served by the local housing authority.

## **11.0 RIGHT OF APPEAL AGAINST REMEDIAL ACTION**

11.1 A landlord can appeal to the First-Tier Tribunal within 28 days from the day the Remedial Notice is served. The Tribunal may allow an appeal to be made after this date if it is satisfied that there are good reasons for the failure to appeal on time.

11.2 A landlord can appeal on the grounds that all reasonable steps had been taken to comply or reasonable progress had been made towards compliance when the notice was served.

11.3 If an appeal is lodged, the remedial notice is suspended until the appeal is finally determined or withdrawn.

## **12.0 APPEALS AGAINST URGENT REMEDIAL ACTION**

12.1 A landlord can appeal to the First-Tier Tribunal within 28 days from the date the urgent remedial action was or was to be started.

12.2 A landlord can appeal on the grounds that all reasonable steps had been taken to comply or reasonable progress had been made towards compliance when the urgent remedial action started.

### **13.0 APPEALS AGAINST DEMANDS FOR THE RECOVERY OF COSTS**

13.1 Any appeal against a demand for the recovery of costs must be made within 21 days from the day the demand was served.

13.2 Landlords can appeal on the grounds that all reasonable steps had been taken to comply or reasonable progress had been made towards compliance with the notice when the Council gave notice of their intention to enter and take the remedial action.

### **14.0 APPEALS AGAINST A FINANCIAL PENALTY**

14.1 Any appeal must be made within 28 days beginning with the day after the day the final notice to impose a financial penalty was served.

14.2 Landlords can appeal the decision to impose the penalty or the amount of the penalty.

14.3 On appeal the final notice is suspended until the appeal is determined or withdrawn.

## Appendix 1

Offence	Civil Penalty	
Failure to ensure all electrical installations have been inspected and tested by a qualified and competent person at least every 5 years	1 <sup>st</sup> Offence	£3,000
	2 <sup>nd</sup> Offence	£6,000
	Subsequent offences by same person/company	£15,000
Failure to obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test	1 <sup>st</sup> Offence	£1,000
	2 <sup>nd</sup> Offence	£2,000
	Subsequent offences by same person/company	£3,000
Failure to supply a copy of the inspection report to the existing tenant within 28 days of the inspection and test	1 <sup>st</sup> Offence	£500
	2 <sup>nd</sup> Offence	£1,000
	Subsequent offences by same person/company	£1,500
Failure to supply a copy of the inspection report to a new tenant before they occupy the premises	1 <sup>st</sup> Offence	£500
	2 <sup>nd</sup> Offence	£1,000
	Subsequent offences by same person/company	£1,500
Failure to supply a copy of the inspection report to any prospective tenant within 28 days of receiving a request for the report	1 <sup>st</sup> Offence	£500
	2 <sup>nd</sup> Offence	£1,000
	Subsequent offences by same person/company	£1,500
Failure to supply the local housing authority with a copy of this report within 7 days of receiving a written request for a copy	1 <sup>st</sup> Offence	£1,000
	2 <sup>nd</sup> Offence	£2,000
	Subsequent offences by same person/company	£3,000

Failure to retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test	1 <sup>st</sup> Offence	£1,000
	2 <sup>nd</sup> Offence	£2,000
	Subsequent offences by same person/company	£3,000
Where the report shows that further investigative or remedial work is necessary, failure to complete this work within 28 days or any shorter period if specified as necessary in the report	1 <sup>st</sup> Offence	£5,000
	2 <sup>nd</sup> Offence	£10,000
	Subsequent offences by same person/company	£20,000
Failure to supply written confirmation of the completion of the further investigative or remedial works from the electrician to the tenant and the local housing authority within 28 days of completion of the works	1 <sup>st</sup> Offence	£1,000
	2 <sup>nd</sup> Offence	£2,000
	Subsequent offences by same person/company	£3,000

## Appendix 2

### Enforcement Procedure

#### **Step 1 Request a copy of the most recent electrical inspection report**

The landlord will be required to supply a copy of the most recent report to the Council within 7 days of the request being made. The request to the landlord must be in writing, this can be by letter or email.

#### **Step 2 Consider whether urgent remedial action should be taken**

If the report shows that urgent remedial action is required and the landlord has not carried this out within the period specified in the report, a decision must be made as to whether the Council should arrange for the works to be completed.

If the works are to be arranged, the landlord must be notified of this within 7 days of the work starting.

Draft an Urgent Remedial Action Notice and serve this on the landlord and all occupiers of the property. A copy of the notice must also be fixed to the property.

#### **Step 3 Serve a Remedial Notice**

If the Council is satisfied on the balance of probabilities that the landlord has not complied with one or more of their duties under the Regulations, and urgent remedial action is not being carried out, a Remedial Notice must be served on the landlord within 21 days of the decision that the landlord has not complied. The notice will require the landlord to undertake the necessary works within 28 days.

#### **Step 4 Non-compliance with a Remedial Notice**

If the landlord does not comply with the Remedial Notice, a decision should be made as to whether the Council will arrange for the works to be done. If the decision is yes, serve a Remedial Action Notice. The work cannot begin until 28 days after the Notice has been served as the landlord has a right of appeal.

#### **Step 5 Issue a Civil Penalty for Non-compliance with a Remedial Notice**

If the landlord fails to comply with the Remedial Notice a Civil Penalty will be issued.

The process for serving a Civil Penalty can be found in the Civil Penalty Charging Policy.