



Electrical Safety Standards

PETER
JAMES

Context

The Housing and Planning Act 2016 allowed Ministers to introduce electrical safety standards for tenancies in the private rented sector.

The Changes

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 were passed by Parliament on 18 March 2020.

Eligibility

The Regulations apply in England to all new tenancies from **1 July 2020** and all existing tenancies from **1 April 2021**.

NB: For Contractual Periodic Tenancies (where it is written in the original tenancy agreement that on expiry of the fixed term the tenancy will become periodic) the periodic tenancy will be part of the same tenancy and no new tenancy would be created.

NB: For Statutory Periodic Tenancies (where on expiry of the fixed term the tenancy rolls over into a periodic tenancy automatically by statute, rather than by contract) the periodic tenancy would be a new tenancy. Therefore, properties let on statutory periodic tenancies where the Fixed Term expires between 1 July 2020 and 1 April 2021 will require an inspection and test at this point under the Regulations.

✘ Excluded Tenancies

The rules do not apply to social housing, shared accommodation with a landlord or landlord's family, long leases, student halls of residence, hostels and refuges, care homes, hospitals and hospices as well as other accommodation relating to healthcare provision.

NB: Sharing accommodation with a landlord means if the occupier uses amenities (toilet, personal washing facilities, a kitchen or living room). A member of the landlord's family is defined as a married or civil partner and an immediate family relative.



What does this mean?

Private landlords must ensure:

- Electrical safety standards are met when the property is occupied during a tenancy.
- Every fixed electrical installation at the property is inspected and tested at least every five years by a qualified person.
- The first inspection and testing is carried out before new tenancies commence on or after 1 July 2020 and by 1 April 2021 for existing tenancies.

NB: Where the most recent report requires an inspection and testing to be at intervals of less than five years, it must be at intervals specified in that report.

Electrical safety standards: the inspection and test of the installation is carried out in accordance with the eighteenth edition of the wiring regulations BS 7671:2018 (the national standard to which all domestic wiring must conform).

Electrical installation: fixed electrical cables or fixed electrical equipment located on the consumer's side of the electricity supply meter as set out in the Building Regulations 2010.

Qualified person: someone who is competent to undertake the inspection and testing as well as any further investigative or remedial work in accordance with the electrical safety standards.



What you need to do?

Following the inspection and testing a landlord must:

1. Obtain a report that includes the results of the inspection and test and the date of the next inspection and test.
2. Supply a copy of that report to each existing tenant at the property with 28 calendar days of the inspection and test.
3. Supply a copy of the most recent report to any new tenant before the tenant moves in and to any prospective tenant within 28 days of receiving a request in writing for the report.
4. Retain a copy of the report until the next inspection and test is due as well as supply a copy to the person carrying out the next inspection and test.

NB: When requested the report must be provided to the local authority within seven calendar days.

NB: A prospective tenant is someone who wants to view the property, makes an offer (either verbally or in writing) or requests any information about the property for the purpose of deciding to rent.

Electrical Installation Safety Report: Typically, an Electrical Installation Condition Report (EICR) is used to conduct an electrical installation safety report.



Further work is required

Where a report requires the landlord to undertake further investigative or remedial work, the landlord must ensure that the work is carried out by a qualified person within 28 calendar days or the period specified in the report if less than 28 days, starting with the date of the inspection and testing.

1. Obtain: landlords must obtain written confirmation from a qualified person that further work has been carried out and that the electrical safety standards have been met.
2. Supply: written confirmation together with a copy of the report which required the further investigative or remedial work to each existing tenant and the local housing authority within 28 days of completion of the work.

NB: This process must be repeated every time further investigative and remedial work is carried out.



Remedial notice

Where a local housing authority believe that a private landlord is in breach of the rules and the most recent report does not indicate that urgent remedial action is required, the authority must serve a Remedial Notice on the landlord.

A Remedial Notice must:

- specify the premises to which the notice relates
- specify that the local authority believes that the landlord has failed to comply with
- specify the remedial action that should be taken
- require the landlord to take action within 28 days (beginning on the day the notice is served)
- explain that the landlord can make written representation against the Notice with 21 days
- explain the financial penalties that a landlord could be liable for

NB: Where the landlord has been prevented from entering the property by the tenant or tenants, the landlord will not be deemed to have failed to comply with the Regulations.

Urgent remedial action: Where the report says that urgent remedial action is required at the property and the local authority is satisfied that the landlord is in breach of the rules, with the consent of the tenants, they can arrange for an authorised person to take the urgent remedial action.

The local authority must serve the Remedial Action Notice on the landlord and every occupier at the property or fix the notice to the property where it will be seen within seven days (beginning with the day on which the authorised person starts the urgent remedial work).



Financial penalties

Where a local housing authority is satisfied, beyond reasonable doubt, that a landlord has breached the rules, the local authority may impose financial penalties not exceeding £30,000.

Before imposing a financial penalty, the local authority must serve a Notice of Intent within six months from when the landlord is in breach outlining the amount, reasons and right to appeal.

Landlords can appeal within 28 days from when the Notice of Intent was served. After this period the local authority must decide whether to impose a financial penalty that will need to be paid with 28 days.

NB: At any point the local authority can withdraw or reduce the amount in a Final Notice. Landlords can appeal to the First-tier Tribunal against the decision or the amount of the penalty.

If the landlord refuses to pay, local authorities can pursue the amount through the County Court.