

Electrical Safety Standards Policy 2021

This document sets out our policy for requiring landlords to meet their duties and comply with electrical safety standards legislation in the private rented sector

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1. Introduction

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 came into force on 1 June 2020. Their purpose is to require landlords to ensure that electrical

installations in rented properties are safe, by having them inspected and tested by a qualified and competent person, at least every five years, and providing a copy of the electrical safety report to their tenants and if requested to their local council.

The Government has produced guidance for tenants, landlords, and local authorities which can be found by following this link [electrical-safety-standards-guidance-for-landlords-tenants-and-local-authorities](#)

Under these Regulations, we can require landlords to carry out remedial works or even arrange for the repairs to be done and to recover the cost from the landlord.

The level of penalty for landlords who do not comply is up to £30,000, and section 5 contains information about how we will decide what the level will be.

2. Overview of the Regulations

The Regulations were introduced in two phases:

- For new tenancies granted from 1 June 2020, from 1 July 2020.
- For existing tenancies, from 1 April 2021.

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 (exceptions are set out in Schedule 1 of the Regulations).

The landlord's duties

Landlords of privately rented accommodation must:

- Ensure national standards for electrical safety are met, as set out in the [18th edition of the Wiring Regulations](#) (British Standard 7671).
- Ensure all electrical installations are inspected and tested by a qualified and competent person at least every five years.
- Obtain a report from the person conducting the inspection and test, which sets out the results and a date for the next inspection and test.
- Supply a copy of this report to:
 - an existing tenant within 28 days of the inspection and test;
 - a new tenant before they occupy the property;
 - any prospective tenant within 28 days of receiving a request;
 - to us within seven 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.
- Supply written confirmation of the completion of the further investigative or remedial works from the electrician to the tenant and to us within 28 days of completion of the works.

Qualified and competent person

Guidance has been produced by the electrical safety industry that covers how landlords can choose a qualified and competent inspector and tester. This includes but is not limited to:

- [Electrical Safety Roundtable](#)
- [Registered Competent Person Electrical single mark and register](#)

Results of the inspection and test

The following codes are used to indicate where a landlord must undertake remedial work:

- Code C1 – danger present and risk of injury.
- Code C2 - potentially dangerous.
- Code C3 – improvement recommended.
- Further investigation (FI) – further investigation required without delay.

If the report contains a code C1, C2 or FI, then the landlord must ensure further investigative or remedial work is carried out by a qualified person within 28 days, or less if specified in the report. As regards C3 codes, we will not require landlords to undertake remedial work but we may draw the recommended improvement to their attention.

3. Enforcement

Our duties and powers

We have certain duties and powers under this legislation.

We must serve a remedial notice where we are satisfied on the balance of probabilities that a landlord has not complied with their duties. The notice must be served within 21 days of the decision that the landlord has not complied with their duties. The landlord has 28 days to take the remedial action.

If the landlord does not comply, with the notice, we may, with the tenant's consent, arrange for the remedial action to be taken.

Where we have reasonable grounds to believe a landlord is in breach of a duty and the report indicates that urgent remedial action is required, we may with the consent of the tenant/s, arrange for a qualified person to take the action. We will recover costs from the landlord.

Landlords have the right to make written representations and to appeal against remedial action.

We can recover the costs of taking action from the landlord and we may impose a financial penalty of up to £30,000 where the landlord is in breach of his/her duties.

Remedial notice

The guidance sets out what the remedial notice will include.

Landlords who are not able to comply with a remedial notice

If a landlord can show s/he has taken all reasonable steps to comply with a remedial notice, they are not in breach of the duty to comply.

Reasonable steps could include keeping copies of communications with tenants and with electricians where they have tried to arrange to carry out the work, and the provision of documents such as the servicing record and previous safety reports.

A landlord who has been prevented from gaining access to the premises will not be required to begin legal proceedings against their tenant to demonstrate that s/he is taking reasonable steps.

4. Remedial action

With the consent of the tenant, we may arrange to carry out remedial work in the following circumstances:

- If the 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.

If we go ahead and arrange remedial work, we will authorise a qualified and competent person to undertake it.

This person must give at least 48 hours' notice to the tenant and produce evidence of their identity if required. We will provide them with a letter confirming their authority to carry out works.

Remedial action following non-compliance with a remedial notice

Before we arrange remedial action where a landlord has not complied with a remedial notice, we must give the landlord notice that we are going to arrange for the work to be done. The

notice will include the date that the remedial action will be undertaken which will be at least 28 days from the date that the notice is served, and information about the right of appeal.

We will arrange for the work to be undertaken within 28 days of the end of the notice period. If the landlord appeals, the remedial action must be arranged within 28 days of the appeal decision.

A landlord is not in breach of the duty to comply with a remedial notice if s/he can show they have taken all reasonable steps to comply.

Urgent remedial action

Within seven days of the person we have authorised starting to take the urgent remedial action we must either:

- a) Serve a notice on the landlord and all occupiers to advise who the authorised person is **or**;
- b) Fix a notice on the premises.

The notice will include:

- The works that will be undertaken.
- The legal power.
- The date when the works will start (or started).
- Appeal information.
- Details of financial penalties and appeal information.

5. Financial penalties

Where there is a failure to comply with the Regulations, we can apply a financial penalty of up to £30,000. The proceeds of penalties can be used to carry out enforcement in the private rented sector.

We are required to have our own policy to set out how we will determine the appropriate level of a financial penalty. The Government's guidance is that generally the maximum amount will be for the very worst offenders. The amount that we will apply will reflect the severity of the offence as well as taking account of the landlord's previous record of offending.

The Government guidance suggests that local housing authorities may wish to consider the policy previously developed for civil penalties under the Housing and Planning Act 2016 and associated guidance. To ensure consistency of approach and clarity for landlords, our Private Sector Housing Enforcement Policy 2021 sets out our decision to use the principles set out in our Civil Penalty Policy 2019 for determining the amount of the penalty. This can be found by following this link [civil-penalty-policy-for-landlords](#) and specifically the civil penalty matrix.

Principles to be applied in determining the amount of a financial penalty

Reduction in Penalty

We will consider mitigating factors, including any admission of guilt. Any reduction in the level of financial penalty will be decided on a case by case basis, with a maximum discount of a third of the financial penalty.

If the landlord who has been served with a notice of intent carries out the required works before the final notice is served, we will consider a reduction of up to one third in the financial penalty. A discount for an admission of guilt and for completing required works may be applied, but the combined discount will not be greater than one third.

Financial hardship

We will assess the landlord's assets and income, and not just rental income. The landlord will have the opportunity to make representations following the service of the notice of intent and may include the details of any financial hardship.

We may need to request further information from the landlord to support financial claims. Where this is incomplete, appears to be inaccurate, or the landlord is being deliberately misleading, we may decide that the representations should not be considered.

Due to the combination of high property values and rental income levels in the Borough of Tunbridge Wells and an upper limit of £30,000 for offences under these Regulations, it is unlikely that landlords with multiple properties will be able to demonstrate financial hardship.

6. Representations

Landlords can make written representations to us about the following matters:

- remedial notice – within 21 days.
- intention to impose a financial penalty – within 28 days.

We have seven days to respond to the representations.

7. Appeals

Landlords have the following right of appeals to the First-tier Tribunal, which may confirm, quash, or vary the notices served.

a. Appeal against remedial action

The appeal must be made to the Tribunal within 28 days of the date that the remedial notice is served. The grounds for appeal are that all reasonable steps had been taken to comply or reasonable progress had been made towards compliance.

If a landlord appeals, the remedial notice is suspended until the appeal is finally determined or withdrawn.

b. Appeal against urgent remedial action

The appeal must be made to the Tribunal within 28 days of the date that the urgent remedial action was or was due to be started. The grounds for appeal are that all reasonable steps had been taken to comply or reasonable progress had been made towards compliance when the urgent remedial action started.

c. Appeal against demand for the recovery of costs

The appeal must be made within 21 days from the day that the demand is served. The grounds for appeal are that all reasonable steps had been taken to comply or reasonable progress had been made towards compliance with the notice at the point that we gave notice of our intention to enter and take the remedial action.

d. Appeal against a financial penalty

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

Landlords can appeal against the decision to impose the penalty or the amount of the penalty, and the final notice is suspended until the appeal is determined or withdrawn.

The First-tier Tribunal can be contacted as follows:

First-tier Tribunal (Property Chamber) Residential Property
Havant Justice Centre
The Court House
Elmleigh Road
Havant
Hampshire
PO9 2AL
Email: rpsouthern@justice.gov.uk

Telephone: 01243 779394

8. How to contact us

If you require any further information about this Policy, please contact us as follows:

Private Sector Housing Team
Tunbridge Wells Borough Council
Town Hall
Royal Tunbridge Wells
Kent
TN1 1RS
Tel no 01892 554241
e-mail privatesectorhousing@tunbridgewells.gov.uk

9. Review

This Policy will be reviewed annually and updated in line with legislation and Government guidance.