

East Riding of Yorkshire Council

**The Electrical Safety Standards in the Private Rented Sector
(England) Regulations 2020**

Public Protection Private Sector Housing Procedure

This document is based on the government 'Guide for local authorities: electrical safety standards in the private rented sector' and sets out the requirements of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. It also sets out the procedure for making representations and appeals.

Further guidance setting out how the Regulations affect landlords and tenants can be found at:

<https://www.gov.uk/government/publications/electrical-safety-standards-in-the-private-rented-sector-guidance-for-landlords-tenants-and-local-authorities>

1. Introduction

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 came into force on 1 June 2020 improve safety in all residential premises, and particularly in the private rented sector.

Existing legislation already requires landlords to keep their properties free from electrical hazards. It has previously been best practice for landlords to organise periodic inspection and testing and to provide an electrical safety report to the tenant.

The Regulations require landlords to have the electrical installations in their properties inspected and tested by a person who is qualified and competent, at least every 5 years. Landlords must provide a copy of the electrical safety report to their tenants, and if requested to their local authority.

Under these Regulations the council can require can landlords to carry out vital remedial works or even arrange for the repairs to be done and recover their cost from the landlord. They can decide the level of penalty for landlords who don't comply, up to £30,000 and can spend the proceeds on enforcement purposes, helping them to keep up the good work driving up standards in privately rented homes.

2. Overview of the Regulations

The regulations came into force on 1 June 2020 and apply to new tenancies from 1 July 2020 and 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. There are some excluded tenancies which 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. These are set out in the 18th edition of the 'Wiring Regulations', which are 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 this report to the existing tenant within 28 days of the inspection and test.
- Supply a copy of this report to a new tenant before they occupy the premises.
- Supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
- Supply the council with a copy of this 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 completion of the works.

Results of the inspection and testing

Landlords must obtain a report giving the results of the test and setting a date for the next inspection. Landlords must comply within 7 days with a written request from the council for a copy of the report and must also supply the council with confirmation of any remedial or further investigative works required by a report.

The council may wish to request reports following inspections of properties to ascertain the condition of the electrical installation and confirm the landlord is complying with the Regulations.

Inspectors will use the following classification codes to indicate where a landlord must undertake remedial work. More information can be found in the 18th edition of the Wiring Regulations.

- 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.

If the report contains a code C1, C2 or FI, then 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.

The C3 classification code does not indicate remedial work is required, only that improvement is recommended.

3. Enforcement

A remedial notice must be served 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. The notice must be served within 21 days of the decision that the landlord has not complied with their duties.

If the council has reasonable grounds to believe a landlord is in breach of one or more of the duties in the Regulations and the report indicates urgent remedial action is required, the council may, with the consent of the tenant or tenants, arrange for a qualified person to take the urgent remedial action and recover their costs.

Otherwise, they must serve a remedial notice requiring the landlord to take remedial action within 28 days. Should a landlord not comply with the notice the council may, with the tenant's consent, arrange for any remedial action to be taken themselves.

Landlords have rights to make written representation and appeal against remedial action. The council can recover the costs of taking the action from the landlord and may also impose a financial penalty of up to £30,000 on landlords who are in breach of their duties in accordance with East Riding of Yorkshire Council Civil Penalty Policy for Housing Act Offences.

The remedial notice issued by the council will:

- specify the premises to which the notice relates

- specify what the local housing authority 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 entitlement to make written representations within 21 days
- specify the person and address, or email address, that representations can be sent to
- explain provisions about financial penalties and rights of appeal

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

A landlord could show reasonable steps by keeping copies of all communications they have had with their tenants and with electricians as they tried to arrange to carry out the work, including any replies they have had. Landlords may also want to provide other evidence they have that the electrical installation is in a good condition while they attempt to arrange works. This could include the servicing record and previous condition reports.

A landlord who has been prevented from accessing the premises will not be required to begin legal proceedings against their tenant in order to show that all reasonable steps have been taken to comply with their duties.

4. Remedial action

The council may, with the consent of the tenant, 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.

The council will authorise a qualified and competent person in writing to undertake the remedial action.

The Regulations require that the authorised person must give at least 48 hours' notice to the tenant. The authorised person will have evidence of their identity in the form of a letter from the council confirming their authority to carry out the required works.

The council can recover the costs incurred.

Remedial action following non-compliance with a remedial notice

Before arranging remedial action following non-compliance with a remedial notice, the council will give the landlord notice that they are going to do work. This notice 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

The council will arrange for an authorised person to take the remedial action within 28 days of the end of the notice period. Where there is an appeal, remedial action must be arranged within 28 days of the appeal decision confirming or varying the decision of the council.

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

A landlord could show reasonable steps by keeping copies of all communications they have had with their tenants and with electricians as they tried to arrange the work, including any replies they have had. Landlords may also want to provide other evidence they have that the installation is in a good condition while they attempt to arrange works. This could include the servicing record and previous safety reports.

Urgent remedial action

Within 7 days of the authorised person starting to take the urgent remedial action the council will either:

- serve a notice on the landlord and all occupiers of the premises in relation to which the authorised person is taking urgent remedial action; or
- fix a notice to the premises

The notice will specify:

- 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
- 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

5. Financial penalties

Following failure to comply with the Regulations, the council can impose a financial penalty of up to £30,000 on a landlord.

The council will use East Riding of Yorkshire Council Civil Penalty Policy for Housing Act Offences to decide the actual amount levied in any particular case.

6. Appeals

Representations

In the first instance, landlords can make written representations – preferably by email, to the council within:

- 21 days, against a remedial notice
- 28 days, against the intention to impose a financial penalty

The council will respond within 7 days to the representations.

Representations should be made to:

Private Sector Housing and Safety Manager

Public Protection

County Hall

Beverley

HU17 9BA

Email: private.sector.housing@eastriding.gov.uk

In this Manager's absence representations will be passed to the Public Protection Group Manager for consideration with the relevant officer and / or Senior Environmental Health Officer.

Landlords then have the following rights of appeal to the First-tier Tribunal. The Tribunal may confirm, quash or vary notices served by the council.

Appeals against remedial action

An appeal must be made to the First-Tier Tribunal within 28 days from the day on which a remedial notice is served. The Tribunal may allow an appeal to be made after this date if it is satisfied there are good reasons for the failure to appeal on time.

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

Appeals against urgent remedial action

An appeal to the First-Tier Tribunal must be made within 28 days from the date the urgent remedial action was, or was to be, started.

Landlords 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.

Appeals against demands for the recovery of costs

An appeal must be made with 21 days from the day on which the demand is served.

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.

Appeals against a financial penalty

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

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

The regional office covering East Riding of Yorkshire Council is:

First-tier Tribunal (Property Chamber)

1st Floor

Piccadilly Exchange

2 Piccadilly Plaza

Manchester

M1 4AH

Email: rpnorthern@justice.gov.uk

Telephone: 0161 237 9491

Fax: 01264 785 128