



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case reference** : **LON/00BK/HNA/2022/0026**

**Property** : **Flat 37 Warwick Crescent, London W2  
6NE  
Flat 60 Warwick Crescent, London W2  
6NE**

**Applicant** : **Centremonex Limited**

**Representative** : **Robert Shackleford FRICS**

**Respondent** : **Westminster City Council**

**Representative** : **Geraint Maddocks**

**Type of application** : **Appeal against a financial penalty  
In relation to a breach of the Electrical  
Safety Standards in the Private Rented  
Sector (England) Regulations 2020**

**Tribunal  
member(s)** : **Judge D Brandler  
Ms F MacLeod MCIEH**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of hearing** : **24<sup>th</sup> November 2022**

**Date of decision** : **29<sup>th</sup> November 2022**

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**DECISION**

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**Decision of the tribunal**

**(1) The appeal against the financial penalty notice issued on 27<sup>th</sup> April 2022 against Centremonex Limited in relation to Flat 37 Warwick Crescent, London W2 6NE is dismissed.**

**Centremonex Limited is ordered to pay £2,000 as detailed in that notice.**

- (2) The appeal against the financial penalty notice issued on 27<sup>th</sup> April 2022 against Centremonex Limited in relation to Flat 60 Warwick Crescent, London W2 6NE is dismissed. Centremonex Limited is ordered to pay £2,000 as detailed in that notice.**

The relevant legislative provisions are set out in an Appendix to this decision.

## **Reasons for the tribunal's decision**

### **Background**

1. The Applicant appeals against the imposition of two financial penalties by the Respondent, in relation to two flats, Flat 37 Warwick Crescent, London W2 6NE (“flat 37”), and Flat 60 Warwick Crescent, London W2 6NE (“flat 60”).

2. Both the financial penalties were dated 27<sup>th</sup> April 2022, each in the sum of £2,000, imposed by the Respondent. The original penalty proposed at the date of the Notice of Intention was £5,000 for each flat. Further to works having been carried out to remedy unsatisfactory condition reports by the date of the final notice, these were reduced by the Council to £2,000 for each flat.

3. The Respondent asserts that the Applicant is in breach of Regulation 3 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (“the Regulations”). The penalties were imposed pursuant to Part 5 of the Regulations and under section 123 of the Housing and Planning Act 2016. The Regulations came into force on 1<sup>st</sup> June 2020. The reasons given to the Applicant by the Respondent for imposing the two financial penalties are detailed below:

4. The final notice in relation to 60 Warwick Crescent, London W2 [R/247]

*“On 8<sup>th</sup> March 2022 the council considers that you were in breach of your duties under Regulation 3 in relation to the electrical installation at the property.*

1. *A specified tenancy commenced at 60 Warwick Crescent on 2<sup>nd</sup> May 2020.*
2. *You failed to ensure the whole electrical installation in the dwelling was inspected and tested and then failed to commission an appropriate report showing the current condition of the same installation (Regulation 3(1)(b)).*

3. *A HMO licence application was received on 08/09/2021 that included an electrical installation certificated (sic) for a new consumer unit. An Electrical Installation Condition Report (EICR) was subsequently requested as required by the regulations and also as part of the councils HMO licensing process.*
4. *Emails were sent on 23.11.21 and 10.12.21 requesting a full condition report. This resulted in the same, inadequate certificate being provided on 10.12.21. The certificate clearly states that it is an installation certificate and should not be used to report on the full condition of the electrical installation. An installation certificate would only negate the need for a condition report for a period of 5 years where a complete new electrical installation is provided.*
5. *A formal request was sent via first class post to provide a copy of an EICR within 7 days on 13<sup>th</sup> January 2022*
6. *A reasonable amount of time was provided and the council was advised that the certificate would be received on 25<sup>th</sup> February 2022 or shortly after when a new electrician attends*
7. *As of 8<sup>th</sup> March 2022 the council has received not received (sic) the condition report (EICR) in accordance with Regulation 3(3)(c).*

*The penalty sum has been calculated using the Council's Penalty Matrix and Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 enforcement policy which has been adopted as part of its Private Sector Housing Enforcement Policy. The factors taken into account when assessing the penalty are:-*

- *The combined breaches of Regulation 3 duties are rated are (sic) significant when committed by a landlord who has been made aware of their responsibilities and has failed to take action.*
- *Consideration has been given to the fact that applications for HMO licences have been received which is how the breaches were brought to the attention of the council, demonstrating a level of compliance*
- *Consideration has been given that other electrical works have been undertaken in the property, notably a replacement of a consumer unit and the circuit tests associated with this.*
- *Consideration has been given to the fact that the regulations are relatively new, introduced for new tenancies from 1 July 2020 and applicable to the existing tenancies from 1 April 2021."*

5. The final notice in relation to 37 Warwick Crescent [R/237] provides details of the same evidence relied upon.

6. The Applicants grounds for appeal are that:
- (a) At the time of making an application for a HMO licence on 8/9/2021 the Applicant provided a Domestic Installation Certificate dated 4/12/2020 relating to a new consumer board installation which also included a full survey and report on all of the electrical installations in the flats
  - (b) Westminster accepted those certificates because they granted the HMO licences on 17/3/2022 to start from 8/9/2021
  - (c) When Westminster requested a Domestic Installation Condition Report on 13/01/2022, the Applicant tried to provide these but found that their electrical company, VP Electrical, had travelled to defend Ukraine
  - (d) When the Applicant instructed a new electrical company, Job Electrical, Westminster were informed. The flats were inspected on 25/02/2022 but there was an error on the report and it was corrected on 22/3/22. That corrected report was sent to Westminster on 26/3/2022
  - (e) The Applicant kept Westminster informed throughout
  - (f) The Applicant considers a penalty to be unfair and not “in the public interest”. The granting of the HMO licence indicates Westminster’s approval of the valid DEIC
  - (g) Delays were due to extenuating circumstances due to Ukraine, and mistakes by the new contractors, but the date required of 25/2/22 was met.

## **THE HEARING**

7. This has been a face to face hearing. The Applicant was represented by Robert Shackleford FRICS who is a director of the Applicant company. The sole shareholders being himself and family members. The Applicant company manages investment properties. The Respondent was represented by Geraint Maddocks, a Chartered Environmental Health Practitioner employed as a senior practitioner in the Private Sector Housing Team at Westminster City Council. The Applicant provided a bundle of documents of [118] pages. Reference to pages in that bundle are referred in square brackets [A/page number]. The Respondent provided a bundle of documents of [258] pages. Any reference to pages in that bundle appear as [R/page number].

## **The Applicants’ evidence**

8. Mr Shackleford stated in oral evidence that he had taken objection to the financial penalties because he has always tried to comply with the law as a landlord and disagrees with Westminster’s assertion that the breach of the duties is because of poor administration and management. He is a chartered surveyor and has been a landlord for many years and for at least 10 years for the subject flats. He issued the appeal because he says there is an important point to be established. That point being that it is not clear

what the difference is between the Domestic Electrical Installation Certificates, as provided by him, and the Domestic Electrical Installation Condition Report, as required by the Regulations. He asserts that the content of the Installation Certificates confirms that which is required by the Condition Report.

9. He further relies on the contents of the “*schedule of circuit details and test results*” [R/17,24] in the Installation Certificates dated 4/12/2020 [A/13,20] to demonstrate the condition of those items.

10. The argument put forward by Mr Shackleford is that he had thought this was the correct certificate, and to support this argument he relies on the Domestic Electrical Installation Condition Report prepared on 24/09/2020 in relation to Flat 7 Warwick Crescent, London W2 6NE [A/28]. Flat 7 belongs to Mr Shackleford’s wife.

11. Mr Shackleford was asked whether he had read the “*notes for recipients*” on the installation certificates [A/19,26] which state “*This certificate should not have been issued for reporting on the condition of an existing electrical installation. An Installation Condition Report should be issued for such an inspection*”, he had not.

12. Mr Shackleford further argues that he tried his best to comply with Westminster’s requests to obtain the correct reports. Firstly his electrician had returned to Ukraine to defend his country, and Mr Shackleford found it hard to find another electrician until his letting agents gave him a contact. Secondly, Mr Shackleford had been on holiday in South Africa in March which had further hindered him in being able to resolve issues.

13. When asked for evidence that he had tried to find an electrician prior to his agents putting him in contact with one in February 2022, he had no anecdotal or documentary evidence to support that claim.

14. When referred to the “unsatisfactory” condition reports produced on 25/02/2022 [R/191, 200] although there were 10 C2 classification codes requiring urgent remedial action in flat 37, and 4 C2 classification codes requiring urgent remedial action in flat 60, Mr Shackleford chose to ignore those in oral evidence, seeking to rely on what he called an error in the report in relation to a C3 classification code.

15. When asked why that Report had not been sent to Westminster until 28/03/2022, Mr Shackleford’s response was that he had not received the certificate. His evidence was that he had received an email from the electrician with a list of remedial works and a quotation for those works. He was asked why he hadn’t asked the electricians for the report and his response was that he was on holiday and he thought the most important thing was to get the works done to ensure the tenants safety, rather than prioritising the paper work.

16. In relation to the deadlines which he says he met, he accepted that although he had obtained a report dated 25/02/2022, he had failed to

communicate the content of it to Westminster. The reason for this was that he was on holiday.

17. Mr Shackelford confirmed that the tenancy granted for flat 60 to the three individuals who now occupy it, commenced on 5/7/2020.

18. He confirmed he had been a landlord for some years, but could not clarify exactly how many properties he/the Applicant company owned.

### **The Respondent's evidence**

19. The Respondent's bundle of documents provides a detailed account of the evidence relied upon to issue the final notice and the reasoning behind their assessment of the penalty taking into account Westminster's matrix in accordance with the statutory guidance.

20. In oral evidence Mr Maddocks explained the Council's 20% reduction policy if there is compliance. In this case a more than 20% reduction was made because works were carried out, and a licence was obtained.

21. He did not accept that Westminster granted the licence on the basis of the installation certificate.

### **Nature of the appeal**

22. By virtue of paragraph 5 of Schedule 2 of the Regulations an appeal is by way of a re-hearing with the Tribunal having the power to vary, confirm or quash the Respondent's decision.

23. When considering a Local Authorities policy the Tribunal reminds itself of the principles in *Marshall v Waltham Forest London Borough Council* [2020] UKUT 35 (LC): [2020] WLR 1 3187 at 54

*"...The court can and should depart from the policy that lies behind an administrative decision, but only in certain circumstances. The court is to start from the policy, and it must give proper consideration to arguments that it should depart from it. It is the appellant who has the burden of persuading it to do so. In considering reasons for doing so, it must look at the objectives of the policy and ask itself whether those objectives will be met if the policy is not followed."*

24. The Applicant does not challenge the policy but rather argues mitigating factors that mean a penalty should not have been imposed.

### **Findings**

25. The starting point is that there was an undoubted breach under Regulation 3:

*Duties of private landlords in relation to electrical installations*

*(1) A private landlord who grants or intends to grant a specified tenancy*

*must—*

*(a) ensure that the electrical safety standards are met during any period when the residential*

*premises<sup>2</sup> are occupied under a specified tenancy;*

*(b) ensure every electrical installation in the residential premises is inspected and tested at*

*regular intervals by a qualified person; and*

*(c) ensure the first inspection and testing is carried out—*

*(i) before the tenancy commences in relation to a new specified tenancy; or*

*(ii) by 1st April 2021 in relation to an existing specified tenancy.*

26. Specifically:

(a) Flat 60 had an existing specified tenancy which commenced on 02/05/2020 which required inspection and testing by 1/4/2021 which the Applicant failed to carry out until after the Notice of Intention. When the Condition report was obtained, it was “unsatisfactory”.

(b) Flat 37 had a new specified tenancy from 5/7/2020 and thus required the first inspection and testing to be carried out prior to the tenancy commencing, which did not take place until 25/02/2022. That inspection found the condition to be unsatisfactory and required urgent remedial works.

27. No condition reports appear to have ever been commissioned by the Applicant for either flat until 25/2/2022. The reports produced for both flats required several thousand pounds of remedial works to be carried out before a “satisfactory” condition report was obtained.

28. The Applicant had every opportunity to engage with Westminster in relation to the Condition Reports obtained, albeit being unsatisfactory, but he failed to do so, although he had previously been in contact with them.

29. The Applicant has not demonstrated difficulties in finding an alternative electrician until he found one through his letting agents. The fact that his previous electrician left the UK does not assist him in his assertions.

30. The Tribunal had regard to the Respondent’s policy and particularly Appendix 1. [R/60-61]. The Tribunal also had regard to the application of that policy and particularly the findings in relation to each factor to be considered in their policy [R/163]. Arriving at a score of 5 in relation to the penalty matrix was not unreasonable or wrong. The starting point of £5,000 for each breach was therefore in accordance with their policy and the Tribunal does not propose to find a different starting point. The final notice gives a significant deduction from that starting point for the factors recited in paragraph 4 above. This could be seen as a generous reduction from the starting point but the Tribunal does not propose to interfere with the Respondent’s decision making in relation to that reduction.

31. As such the £2,000 penalty on each property against the Applicant company is upheld by the Tribunal.

**Name:** Judge D. Brandler **Date:** 29<sup>th</sup> November 2022

**ANNEX - RIGHTS OF APPEAL**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.



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

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*Made 18th March 2020*

*Coming into force 1st June 2020*

The Secretary of State, in exercise of the powers conferred by sections 122 and 123 of the Housing and Planning Act 2016 and section 234 of, and paragraph 3 of Schedule 4 to, the Housing Act 2004<sup>1</sup> makes the following Regulations.

In accordance with section 214(2) of the Housing and Planning Act 2016 and section 250(4) and (6) of the Housing Act 2004, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

## Notes

<sup>1</sup> The powers conferred by paragraph 3 of Schedule 4 to the Housing Act 2004 are exercisable in England by the

Secretary of State. As to the meaning of "appropriate national authority", see section 261(1).

## Extent

Preamble: England

# PART 1

## Introduction

Law In Force

# 1.— Citation, commencement and application

(1) These Regulations may be cited as the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

(2) These Regulations come into force on 1st June 2020.

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(3) These Regulations apply in England only to—

(a) all new specified tenancies from 1st July 2020; and

(b) all existing specified tenancies from 1st April 2021.

## Commencement

Pt 1 reg. 1(1)-(3)(b): June 1, 2020

## Extent

Pt 1 reg. 1(1)-(3)(b): England

Law In Force

## 2. Interpretation

In these Regulations—

"authorised person" means a person authorised in writing by the local housing authority<sup>1</sup> for the purpose of taking remedial action under regulations 6 and 10;

"electrical installation" has the meaning given in regulation 2(1) of the Building Regulations 2010<sup>2</sup>;

"electrical safety standards" means the standards for electrical installations in the eighteenth edition of the Wiring Regulations, published by the Institution of Engineering and Technology and the British Standards Institution as BS 7671: 2018<sup>3</sup>;

"existing specified tenancy" means a specified tenancy which was granted before the coming into force of these Regulations;

"new specified tenancy" means a specified tenancy which is granted on or after the coming into force of these Regulations;

"qualified person" means a person competent to undertake the inspection and testing required under regulation 3(1) and any further investigative or remedial work in accordance with the electrical safety standards;

"remedial notice" means a notice served under regulation 4(1) of these Regulations;  
"specified tenancy" means a tenancy<sup>4</sup> of residential premises in England which—  
(a) grants one or more persons the right to occupy all or part of the premises as their only or main residence;  
(b) provides for payment of rent (whether or not a market rent); and  
(c) is not a tenancy of a description specified in Schedule 1 to these Regulations;  
"urgent remedial action" means such action identified in a report under regulation 3(3) as is immediately necessary in order to remove the danger present and risk of injury.

#### Notes

<sup>1</sup> See the definition of "local housing authority" in section 123(6) of the Housing and Planning Act 2016.

<sup>2</sup> There are no relevant amendments.

<sup>3</sup> ISBN-13: 978-1-78561-170-4. Copies can be obtained from the Institution of Engineering and Technology, Michael

Faraday House, Six Hill Way, Stevenage SG1 2AY.

<sup>4</sup> See the definition of "tenancy" in section 122(6) of the Housing and Planning Act 2016.

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#### Commencement

Pt 1 reg. 2 definition of "authorised person"- definition of "urgent remedial action": June 1, 2020

#### Extent

Pt 1 reg. 2 definition of "authorised person"- definition of "urgent remedial action": England

## PART 2

### Duties of private landlords

Law In Force

## 3.— Duties of private landlords in relation to electrical installations

- (1) A private landlord<sup>1</sup> who grants or intends to grant a specified tenancy must—  
(a) ensure that the electrical safety standards are met during any period when the residential premises<sup>2</sup> are occupied under a specified tenancy;  
(b) ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; and  
(c) ensure the first inspection and testing is carried out—  
(i) before the tenancy commences in relation to a new specified tenancy; or  
(ii) by 1st April 2021 in relation to an existing specified tenancy.  
(2) For the purposes of sub-paragraph (1)(b) "at regular intervals" means—  
(a) at intervals of no more than 5 years; or  
(b) where the most recent report under sub-paragraph (3)(a) requires such inspection and testing to be at intervals of less than 5 years, at the intervals specified in that report.  
(3) Following the inspection and testing required under sub-paragraphs (1)(b) and (c) a private landlord must—  
(a) obtain a report from the person conducting that inspection and test, which gives the results of the inspection and test and the date of the next inspection and test;  
(b) supply a copy of that report to each existing tenant of the residential premises within 28 days of the inspection and test;  
(c) supply a copy of that report to the local housing authority within 7 days of receiving a request in writing for it from that authority;  
(d) retain a copy of that report until the next inspection and test is due and supply a copy to the person carrying out the next inspection and test; and  
(e) supply a copy of the most recent report to—  
(i) any new tenant of the specified tenancy to which the report relates before that tenant occupies those premises; and  
(ii) any prospective tenant within 28 days of receiving a request in writing for it from that prospective tenant.

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(4) Where a report under sub-paragraph (3)(a) indicates that a private landlord is or is potentially in breach of the duty under sub-paragraph (1)(a) and the report requires the private landlord to undertake further investigative or remedial work, the private landlord must ensure that further investigative or remedial work is carried out by a qualified person within—

- (a) 28 days; or  
(b) the period specified in the report if less than 28 days,

starting with the date of the inspection and testing.

(5) Where paragraph (4) applies, a private landlord must—

(a) obtain written confirmation from a qualified person that the further investigative or remedial work has been carried out and that—

(i) the electrical safety standards are met; or

(ii) further investigative or remedial work is required;

(b) supply that written confirmation, together with a copy of the report under sub-paragraph

(3)(a) which required the further investigative or remedial work to each existing tenant of the residential premises within 28 days of completion of the further investigative or remedial work; and

(c) supply that written confirmation, together with a copy of the report under sub-paragraph (3)(a) which required the further investigative or remedial work to the local housing authority within 28 days of completion of the further investigative or remedial work.

(6) Where further investigative work is carried out in accordance with paragraph (4) and the outcome of that further investigative work is that further investigative or remedial work is required, the private landlord must repeat the steps in paragraphs (4) and (5) in respect of that further investigative or remedial work.

(7) For the purposes of sub-paragraph (3)(e)(ii) a person is a prospective tenant in relation to residential premises if that person—

(a) requests any information about the premises from the prospective landlord for the purpose of deciding whether to rent those premises;

(b) makes a request to view the premises for the purpose of deciding whether to rent those premises; or

(c) makes an offer, whether oral or written, to rent those premises.

#### **Notes**

<sup>1</sup> See the definition of "private landlord" in section 122(6) of the Housing and Planning Act 2016.

<sup>2</sup> See the definition of "residential premises" in section 122(6) of the Housing and Planning Act 2016.

#### **Commencement**

Pt 2 reg. 3(1)-(7)(c): June 1, 2020

#### **Extent**

Pt 2 reg. 3(1)-(7)(c): England

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## **PART 3**

# **Remedial action**

Law In Force

## **4.— Duty of local housing authority to serve a remedial notice**

(1) Where a local housing authority has reasonable grounds to believe that, in relation to residential premises situated within its area, a private landlord is in breach of one or more of the duties under regulation 3(1)(a), (1)(b), (1)(c), (4) and (6), and the most recent report under regulation 3(3) does not indicate that urgent remedial action is required, the authority must serve a remedial notice on the private landlord.

(2) A remedial notice must—

(a) specify the premises to which the notice relates;

(b) specify the duty or duties that the local housing authority considers the private landlord has failed to comply with;

(c) specify the remedial action the local housing authority considers should be taken;

(d) require the private landlord to take that action within 28 days beginning with the day on which the notice is served;

(e) explain that the private landlord is entitled to make written representations against the notice within 21 days beginning with the day on which the notice is served;

(f) specify the person to whom, and the address (including if appropriate any email address) to which, any representations may be sent; and

(g) explain the effect of regulations 11 and 12, including the maximum financial penalty which a local housing authority may impose.

(3) The local housing authority must serve a remedial notice within 21 days beginning with the day on which the authority decides it has reasonable grounds under paragraph (1).

(4) The local housing authority must consider any representations made under paragraph (2).

(5) Where a private landlord makes written representations the remedial notice is suspended until the local housing authority has complied with paragraphs (4) and (6).

- (6) The local housing authority must—
- (a) inform the private landlord in writing of the outcome of the consideration under paragraph (4) within 7 days beginning with the day on which the period under sub-paragraph (2)(e) expires; and
  - (b) where the outcome of the consideration under paragraph (4) is to confirm the remedial notice, confirm that notice and inform the private landlord in writing that the remedial notice is confirmed and the suspension under paragraph (5) ceases to have effect.
- (7) The local housing authority may withdraw the remedial notice at any time.

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#### **Commencement**

Pt 3 reg. 4(1)-(7): June 1, 2020

#### **Extent**

Pt 3 reg. 4(1)-(7): England

Law In Force

## **5.— Duty of private landlord to comply with a remedial notice**

(1) Where a remedial notice is served on a private landlord, the private landlord must take the remedial action specified in the notice within—

- (a) where no representations are made under regulation 4(2) and the remedial notice is not withdrawn, the period specified in regulation 4(2)(d); or
- (b) where representations are made under regulation 4(2) and the outcome of the consideration under regulation 4(4) is to confirm the remedial notice, 21 days from the day on which the private landlord is informed that the suspension under regulation 4(5) ceases to have effect.

(2) A private landlord is not to be taken to be in breach of the duty under paragraph (1) if the private landlord can show they have taken all reasonable steps to comply with that duty.

(3) For the purposes of paragraph (2), where a private landlord is prevented from entering the residential premises to which the duty under paragraph (1) relates by the tenant or tenants of those premises, the private landlord will not be considered to have failed to have taken all reasonable steps to comply with the duty under paragraph (1) solely by reason of a failure to bring legal proceedings with a view to securing entry to the premises.

#### **Commencement**

Pt 3 reg. 5(1)-(3): June 1, 2020

#### **Extent**

Pt 3 reg. 5(1)-(3): England

Law In Force

## **6.— Power of local housing authority to arrange remedial action**

(1) Where a local housing authority is satisfied, on the balance of probabilities, that a private landlord on whom it has served a remedial notice is in breach of the duty under regulation 5(1), the authority may, with the consent of the tenant or tenants of the premises in relation to which the remedial action is to be taken, arrange for an authorised person to enter those premises to take the remedial action specified in the remedial notice.

(2) Before the remedial action is taken the local housing authority must serve a notice on the private landlord specifying—

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- (a) the premises in relation to which the remedial action is to be taken by the authorised person under paragraph (1) and the nature of that remedial action;
- (b) the power under which the remedial action is to be taken by the authorised person in paragraph (1);
- (c) the date when the remedial action will be taken by the authorised person; and
- (d) the right of appeal under regulation 7 against the decision of the authority to arrange for an authorised person to take the remedial action.

(3) The local housing authority must arrange for an authorised person to take the remedial action within 28 days of—

- (a) the end of the notice period in regulation 7(3) where there is no appeal; or
- (b) an appeal decision that confirms or varies the decision of the local housing authority where there is an appeal.

(4) An authorised person must—

- (a) give not less than 48 hours' notice of the remedial action to the tenant or tenants of the

residential premises on which it is to be taken; and

(b) if required to do so by or on behalf of the private landlord or tenant or tenants, produce evidence of identity and authority.

**Commencement**

Pt 3 reg. 6(1)-(4)(b): June 1, 2020

**Extent**

Pt 3 reg. 6(1)-(4)(b): England

Law In Force

## **7.— Appeals relating to remedial action by local housing authorities**

(1) A private landlord on whom a notice under regulation 6(2) has been served may appeal to the First-tier Tribunal against the decision of the local housing authority to take that action.

(2) An appeal may be brought on the grounds that all reasonable steps had been taken to comply with the remedial notice, or reasonable progress had been made towards compliance with that notice, when the local housing authority gave notice under regulation 6(2).

(3) An appeal under paragraph (1) must be made within the period of 28 days beginning with the day on which the notice is served under regulation 6(2).

(4) The First-tier Tribunal may allow an appeal to be made to it after the end of that period if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

(5) If a private landlord appeals under paragraph (1) the remedial notice is suspended until the appeal is finally determined or withdrawn.

(6) The tribunal may confirm, quash or vary the decision of the authority.

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**Commencement**

Pt 3 reg. 7(1)-(6): June 1, 2020

**Extent**

Pt 3 reg. 7(1)-(6): England

Law In Force

## **8.— Recovery of costs**

(1) The local housing authority may recover costs reasonably incurred by them in taking action—

(a) under regulation 6(1) from the private landlord on whom the remedial notice was served;

or

(b) under regulation 10(1) from the private landlord on whom the notice under regulation 10(3) was served.

(2) A demand for recovery of costs under paragraph (1) must be served on the private landlord from whom the local housing authority is seeking recovery.

(3) If no appeal is brought under regulation 9, the costs become payable at the end of the period of 21 days beginning with the day on which the demand is served.

**Commencement**

Pt 3 reg. 8(1)-(3): June 1, 2020

**Extent**

Pt 3 reg. 8(1)-(3): England

Law In Force

## **9.— Appeals against recovery of costs**

(1) A private landlord on whom a demand for the recovery of costs has been served may appeal to the First-tier Tribunal against the demand.

(2) An appeal must be made within the period of 21 days beginning with the day on which the demand is served under regulation 8(2).

(3) The First-tier Tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

(4) An appeal may be brought on the ground that all reasonable steps had been taken to comply with the remedial notice, or reasonable progress had been made towards compliance with that notice, when the local housing authority gave notice under regulation 6(2) of their intention to enter and take the action.

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(5) The tribunal may confirm, quash or vary the demand.

(6) Where an appeal is brought against a demand for recovery of costs served under regulation 8(2), the costs become payable as follows—

- (a) if a decision is given on the appeal which confirms the demand and the period within which an appeal to the Upper Tribunal may be brought expires without such an appeal having been brought, the costs becomes payable at the end of that period;
  - (b) if an appeal to the Upper Tribunal is brought and a decision is given on that appeal which confirms the demand, the costs becomes payable at the time of that decision.
- (7) For the purposes of sub-paragraph (6)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the demand, and
  - (b) references to a decision which confirms the demand are to a decision which confirms it with or without variation.
- (8) No question may be raised on appeal under this regulation which might have been raised on an appeal against the remedial notice.

#### **Commencement**

Pt 3 reg. 9(1)-(8): June 1, 2020

#### **Extent**

Pt 3 reg. 9(1)-(8): England

## **PART 4**

# **Urgent remedial action**

Law In Force

## **10.— Urgent remedial action**

(1) Where—

- (a) the report under regulation 3(3)(a) indicates that urgent remedial action is required in relation to the residential premises, and
- (b) the local housing authority in whose area the residential premises are situated is satisfied on the balance of probabilities that a private landlord is in breach of the duty under regulation 3(4) to undertake the required remedial or investigative work in relation to those residential premises within the period specified in the report, the authority may, with the consent of the tenant or tenants of those residential premises, arrange for an authorised person to take the urgent remedial action.

(2) Subject to paragraph (5), the power of the local housing authority to arrange remedial action conferred by paragraph (1) may be exercised at any time.

(3) The local housing authority must serve a notice on the private landlord and—

*SI 2020/312 Page 9*

- (a) every person who to the authority's knowledge is an occupier of the premises in relation to which the authorised person is taking urgent remedial action; or
  - (b) fix the notice to some conspicuous part of the premises; within the period of seven days beginning with the day on which the authorised person commences the urgent remedial work.
- (4) The notice required by regulation 10(3) must specify and explain—
- (a) the nature of the urgent remedial action required;
  - (b) the premises in relation to which that urgent remedial action was (or is being or is to be) taken by the authority;
  - (c) the power under which that urgent remedial action was (or is being or is to be) taken by the authority;
  - (d) the date when that urgent remedial action was (or is to be) started;
  - (e) the right to appeal under regulation 7 against the decision of the authority to take the urgent remedial action;
  - (f) the period within which an appeal may be made; and
  - (g) the effect of regulations 11 and 12, including the maximum financial penalty which an authority may impose.

(5) An authorised person must—

- (a) give not less than 48 hours' notice of the urgent remedial action to the tenant or tenants of the residential premises on which it is to be taken; and
  - (b) if required to do so by the private landlord or a tenant, produce evidence of identity and authority.
- (6) Regulation 7 applies to the taking of urgent remedial action as it applies to the taking of remedial action, save that—
- (a) an appeal under regulation 7(2) must (instead of being made in accordance with regulation 7(3)) be made within the period of 28 days beginning with the date specified in the notice, under sub-paragraph (4)(d), as the date when the urgent remedial action was (or was to be) started; and
  - (b) regulation 7(5) does not apply to urgent remedial action.

**Commencement**

Pt 4 reg. 10(1)-(6)(b): June 1, 2020

**Extent**

Pt 4 reg. 10(1)-(6)(b): England

## **PART 5**

### **Financial penalties**

*SI 2020/312 Page 10*

Law In Force

#### **11.— Financial penalties for breach of duties**

(1) Where a local housing authority is satisfied, beyond reasonable doubt, that a private landlord has breached a duty under regulation 3, the authority may impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of the breach.

(2) A financial penalty—

(a) may be of such amount as the authority imposing it determines; but

(b) must not exceed £30,000.

**Commencement**

Pt 5 reg. 11(1)-(2)(b): June 1, 2020

**Extent**

Pt 5 reg. 11(1)-(2)(b): England

Law In Force

#### **12. Procedure for and appeals against financial penalties**

Schedule 2 to these Regulations (procedure for and appeals against financial penalties) has effect.

**Commencement**

Pt 5 reg. 12: June 1, 2020

**Extent**

Pt 5 reg. 12: England

## **PART 6**

### **Licences under Parts 2 and 3 of the Housing Act 2004**

Law In Force

#### **13. Amendments to Schedule 4 to the Housing Act 2004**

In paragraph 1(3) of Schedule 4 to the Housing Act 2004 (licensing under parts 2 and 3: mandatory conditions) at the end of paragraph (b), insert—  
";

(c) where the house is in England, additionally—

(i) to ensure that every electrical installation in the house is in proper working order and safe for continued use; and

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(ii) to supply the authority, on demand, with a declaration by him as to the safety of such installations;

(d) for the purposes of paragraph (c) "electrical installation" has the meaning given in regulation 2(1) of the Building Regulations 2010."

**Commencement**

Pt 6 reg. 13: June 1, 2020

**Extent**

Pt 6 reg. 13: England

## **PART 7**

# **Duty of manager to supply and maintain gas and electricity**

Law In Force

## **14. Amendments to the Management of Houses in Multiple Occupation (England) Regulations**

### **2006**

In the Management of Houses in Multiple Occupation (England) Regulations 2006, omit regulation 6(3).

#### **Commencement**

Pt 7 reg. 14: June 1, 2020

#### **Extent**

Pt 7 reg. 14: England

Law In Force

*Signed by authority of the Secretary of State for Housing, Communities and Local Government*

*Luke Hall*

Parliamentary Under Secretary of State

Ministry of Housing, Communities and Local Government

18th March 2020

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## **SCHEDULE 1**

### **Excluded tenancies**

#### **Regulation 2**

Law In Force

### **1. Private registered provider of social housing**

A tenancy where the landlord is a private registered provider of social housing<sup>1</sup>.

#### **Notes**

<sup>1</sup> See section 80(3) of the Housing and Regeneration Act 2008 (c. 17) for meaning of "private registered provider

of social housing". Section 80(3) was substituted by S.I. 2010/844.

#### **Commencement**

Sch. 1 para. 1: June 1, 2020

#### **Extent**

Sch. 1 para. 1: England

Law In Force

### **2.— Shared accommodation with landlord or landlord's family**

(1) A tenancy under the terms of which the occupier shares any accommodation with the landlord or a member of the landlord's family.

(2) For the purposes of this paragraph—

(a) an occupier shares accommodation with another person if the occupier has the use of an amenity in common with that person (whether or not also in common with others);



- (b) "amenity" includes a toilet, personal washing facilities, a kitchen or a living room but excludes any area used for storage, a staircase, corridor or other means of access;
- (c) a person is a member of the same family as another person if—
- (i) those persons live as a couple;
  - (ii) one of them is the relative of the other; or
  - (iii) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple;
- (d) "couple" means two people who are married to, or civil partners of, each other or who live together as if they are a married couple or civil partners;
- (e) "relative" means parent, grandparent, child, grandchild, brother, sister, aunt, uncle, nephew, niece or cousin;
- (f) a relationship of the half-blood is to be treated as a relationship of the whole blood; and
- (g) a stepchild of a person is to be treated as that person's child.

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#### **Commencement**

Sch. 1 para. 2(1)-(2)(g): June 1, 2020

#### **Extent**

Sch. 1 para. 2(1)-(2)(g): England

Law In Force

### **3.— Long leases**

- (1) A tenancy that—
- (a) is a long lease; or
  - (b) grants a right of occupation for a term of 7 years or more.
- (2) In this paragraph "long lease" means a lease which is a long lease for the purposes of section 7 of the Leasehold Reform, Housing and Urban Development Act 1993 or which, in the case of a shared ownership lease (within the meaning given by section 7(7) of that Act), would be such a lease if the tenant's total share (within the meaning given by that section) were 100 per cent.
- (3) A tenancy does not grant a right of occupation for a term of 7 years or more if the agreement can be terminated at the option of a party before the end of 7 years from the commencement of the term.

#### **Commencement**

Sch. 1 para. 3(1)-(3): June 1, 2020

#### **Extent**

Sch. 1 para. 3(1)-(3): England

Law In Force

### **4.— Student halls of residence**

- (1) A tenancy that grants a right of occupation in a building which—
- (a) is used wholly or mainly for the accommodation of students, and
  - (b) is a hall of residence.
- (2) In this paragraph "student" has the same meaning as in an order made under paragraph 4 of Schedule 1 to the Local Government Finance Act 1992.

#### **Commencement**

Sch. 1 para. 4(1)-(2): June 1, 2020

#### **Extent**

Sch. 1 para. 4(1)-(2): England

*SI 2020/312 Page 14*

Law In Force

### **5.— Hostels and refuges**

- (1) A tenancy that grants a right of occupation in a hostel or refuge.
- (2) In this paragraph "hostel" means a building which satisfies the following two conditions.
- (3) The first condition is that the building is used for providing to persons generally, or to a class of persons—
- (a) residential accommodation otherwise than in separate and self-contained premises; and
  - (b) board or facilities for the preparation of food adequate to the needs of those persons (or both).
- (4) The second condition is that either of the following applies in relation to the building—
- (a) it is managed by a private registered provider of social housing;
  - (b) it is not operated on a commercial basis and its costs of operation are provided whole or in part by a government department or agency, or by a local authority; or
  - (c) it is managed by a voluntary organisation or charity.
- (5) In this paragraph "refuge" means a building which satisfies the second condition in sub-paragraph (4) and is used wholly or mainly for providing accommodation to persons who have been subject

to any incident, or pattern of incidents, of —

(a) controlling, coercive or threatening behaviour;

(b) physical violence;

(c) abuse of any other description (whether physical or mental in nature); or

(d) threats of any such violence or abuse.

(6) In this paragraph "government department" includes any body or authority exercising statutory functions on behalf of the Crown.

(7) In this paragraph "voluntary organisation" means a body, other than a public or local authority, whose activities are not carried on for profit.

#### **Commencement**

Sch. 1 para. 5(1)-(7): June 1, 2020

#### **Extent**

Sch. 1 para. 5(1)-(7): England

Law In Force

## **6.— Care homes**

(1) A tenancy that grants a right of occupation in a care home.

(2) In this paragraph "care home" has the meaning given in section 3 of the Care Standards Act 2000<sup>1</sup>.

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#### **Notes**

<sup>1</sup> Heading was substituted by Schedule 3(1), paragraph 3(d) of the Regulation and Inspection of Social Care (Wales)

Act 2016, anaw. 2; sub-section (1) was amended by Schedule 3(1), paragraph 3(a) of the Regulation and Inspection

of Social Care (Wales) Act 2016; sub-section (3) and words in sub-section (4) were repealed by the Regulation

and Inspection of Social Care (Wales) Act 2016; sub-section (4) was added by Schedule 5(1), paragraph 4(3) of

the Health and Social Care Act 2008, c. 14.

#### **Commencement**

Sch. 1 para. 6(1)-(2): June 1, 2020

#### **Extent**

Sch. 1 para. 6(1)-(2): England

Law In Force

## **7.— Hospitals and hospices**

(1) A tenancy that grants a right of occupation in a hospital or hospice.

(2) In this paragraph "hospital" has the meaning given in section 275 of the National Health Service Act 2006.

(3) In this paragraph "hospice" means an establishment other than a hospital whose primary function is the provision of palliative care to persons who are suffering from a progressive disease in its final stages.

#### **Commencement**

Sch. 1 para. 7(1)-(3): June 1, 2020

#### **Extent**

Sch. 1 para. 7(1)-(3): England

Law In Force

## **8.— Other accommodation relating to healthcare provision**

(1) A tenancy—

(a) under which accommodation is provided to a person as a result of a duty imposed on a relevant NHS body by an enactment; and

(b) which is not excluded by another provision of this Schedule.

(2) In this paragraph "relevant NHS body" means—

(a) [ an integrated care board ] <sup>1</sup>; or

(b) the National Health Service Commissioning Board.

(3) In this paragraph "enactment" includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.

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## Notes

1

Words substituted by Health and Care Act 2022 (Consequential and Related Amendments and Transitional

Provisions) Regulations 2022/634 Sch.1 para.1(1) (July 1, 2022)

### Commencement

Sch. 1 para. 8(1)-(3): June 1, 2020

### Extent

Sch. 1 para. 8(1)-(3): England

## SCHEDULE 2

# Procedure for and appeals against financial penalties

## Regulation 12

Law In Force

### 1.— Notice of intent

(1) Before imposing a financial penalty on a private landlord for a breach of a duty under regulation 3, a local housing authority must serve a notice on the private landlord of its intention to do so (a "notice of intent").

(2) The notice of intent must be served before the end of the period of 6 months beginning with the first day on which the authority is satisfied, in accordance with regulation 11, that the private landlord is in breach ("the relevant day"), subject to sub-paragraph (3).

(3) If the breach continues beyond the end of the relevant day, the notice of intent may be served—

(a) at any time when the breach is continuing; or

(b) within the period of 6 months beginning with the last day on which the breach occurs.

(4) The notice of intent must set out—

(a) the amount of the proposed financial penalty;

(b) the reasons for proposing to impose the penalty; and

(c) information about the right to make representations under paragraph 2.

### Commencement

Sch. 2 para. 1(1)-(4)(c): June 1, 2020

### Extent

Sch. 2 para. 1(1)-(4)(c): England

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Law In Force

### 2. Right to make representations

The private landlord may, within the period of 28 days beginning with the day after that on which the notice of intent was served, make written representations to the local housing authority about the proposal to impose a financial penalty on the private landlord.

### Commencement

Sch. 2 para. 2: June 1, 2020

### Extent

Sch. 2 para. 2: England

Law In Force

### 3.— Final notice

(1) Within 28 days of the end of the period mentioned in paragraph 2 the local housing authority must—

(a) decide whether to impose a financial penalty on the private landlord; and

(b) if it decides to do so, decide the amount of the penalty.

(2) If the authority decides to impose a financial penalty on the private landlord, it must serve a notice on the private landlord (a "final notice") imposing that penalty.

(3) The final notice must require the penalty to be paid within the period of 28 days beginning with

the day after that on which the notice was served.

(4) The final notice must set out—

- (a) the amount of the financial penalty;
- (b) the reasons for imposing the penalty;
- (c) information about how to pay the penalty;
- (d) the period for payment of the penalty;
- (e) information about rights of appeal; and
- (f) the consequences of failure to comply with the notice.

**Commencement**

Sch. 2 para. 3(1)-(4)(f): June 1, 2020

**Extent**

Sch. 2 para. 3(1)-(4)(f): England

Law In Force

**4.— Withdrawal or amendment of notice**

(1) A local housing authority may at any time—

- (a) withdraw a notice of intent or final notice; or

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- (b) reduce the amount specified in the notice of intent or final notice.

(2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the private

landlord on whom the notice was served.

**Commencement**

Sch. 2 para. 4(1)-(2): June 1, 2020

**Extent**

Sch. 2 para. 4(1)-(2): England

Law In Force

**5.— Appeals**

(1) A private landlord on whom a final notice is served may appeal to the First-tier Tribunal against—

- (a) the decision to impose the penalty; or
- (b) the amount of the penalty.

(2) An appeal under this paragraph must be brought within the period of 28 days beginning with

the day after that on which the final notice was served.

(3) If a private landlord appeals under this paragraph, the final notice is suspended until the appeal

is finally determined or withdrawn.

(4) An appeal under this paragraph—

- (a) is to be a re-hearing of the local housing authority's decision; but
- (b) may be determined having regard to matters of which the authority was unaware when

it made that decision.

(5) On an appeal under this paragraph the First-tier Tribunal may confirm, quash or vary the final notice.

(6) The final notice may not be varied under sub-paragraph (5) so as to make it impose a financial penalty of more than £30,000.

**Commencement**

Sch. 2 para. 5(1)-(6): June 1, 2020

**Extent**

Sch. 2 para. 5(1)-(6): England

Law In Force

**6.— Recovery of financial penalty**

(1) This paragraph applies if the private landlord does not pay the whole or any part of a financial

penalty which, in accordance with this Schedule, the private landlord is liable to pay.  
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(2) The local housing authority which imposed the financial penalty may recover the penalty or

part on the order of the county court as if it were payable under an order of that court.

(3) In proceedings before the county court for the recovery of a financial penalty or part of a financial

penalty, a certificate which—

(a) is signed by the chief finance officer of the local housing authority which imposed the

penalty; and

(b) states that the amount due has not been received by a date specified in the certificate

is conclusive evidence that the amount has not been received by that date.

(4) A certificate to that effect and purporting to be so signed is to be treated as being so signed,

unless the contrary is proved.

(5) In this paragraph "chief finance officer" has the same meaning as in section 5 of the Local

Government and Housing Act 1989<sup>1</sup>.

#### **Notes**

<sup>1</sup> Relevant part amended by Schedule 22(4), paragraph 1 of the Marine and Coastal Access Act 2009 (c. 23); words

inserted by section 132(2) of the Greater London Authority Act 1999 (c. 29), Schedule 16(13), paragraph 202(6)(a)

of the Police Reform and Social Responsibility Act 2011 (c. 13), and Schedule 1(2), paragraph 63(4)(a) of the

Policing and Crime Act 2017 (c. 3).

#### **Commencement**

Sch. 2 para. 6(1)-(5): June 1, 2020

#### **Extent**

Sch. 2 para. 6(1)-(5): England

Law In Force

#### **7.— Proceeds of financial penalties**

(1) Where a local housing authority imposes a financial penalty under these Regulations, it may

apply the proceeds to meet the costs and expenses incurred in, or associated with, carrying out any

of its enforcement functions in relation to the private rented sector.

(2) Any part of any financial penalty recovered which is not to be applied in accordance with

sub-paragraph (1) must be paid into the Consolidated Fund.

(3) In sub-paragraph (1)—

"enforcement function" means, in relation to a local authority—

(a) any of its functions—

(i) under these Regulations;

(ii) under Parts 1 to 4 of the Housing Act 2004; or

(iii) under Part 2 of the Housing and Planning Act 2016; or

(b) in a case not covered by paragraph (a), any of its functions—

(i) connected with an investigation of, or proceedings relating to, a contravention of the law relating to housing or landlords and tenants; or

(ii) connected with the promotion of compliance with the law relating to housing or landlords and tenants; and

"private rented sector" means—

(a) residential premises in England that are let, or intended to be let by a private landlord under a tenancy;

(b) the activities of a private landlord under a tenancy of residential premises in England.

**Commencement**

Sch. 2 para. 7(1)-(3) definition of "private rented sector" (b): June 1, 2020

**Extent**

Sch. 2 para. 7(1)-(3) definition of "private rented sector" (b): England

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Law In Force

These Regulations impose duties on private landlords of residential premises in England in respect of electrical safety standards. The duties do not apply to landlords of social housing. The Regulations require local housing authorities to enforce the duties, and include a power to arrange remedial action.

Part 1 sets out preliminary matters and defines terms used in the Regulations.

Part 2 sets out the duties of a private landlord.

Regulation 3(1) requires a private landlord to ensure that the electrical safety standards are met

during any period when the residential premises are occupied under a tenancy, and that every fixed electrical installation is inspected and tested at least every five years by a qualified person.

Regulation 3(3) provides that a private landlord is required to obtain a report which gives the results of the inspection and test, supply that report to each tenant within 28 days, and to the local housing authority within 7 days of a request, and retain a copy until the next inspection is due. The private landlord must supply a copy of the last report to any new tenant before occupation, or any prospective tenant within 28 days of a request from the prospective tenant.

Regulation 3(4) provides that, where the report requires the private landlord to carry out further investigative or remedial work, the private landlord must undertake such further investigative or remedial work within 28 days or within such lesser time period as specified in the report.

Regulation 3(5) provides that the private landlord must obtain and supply written confirmation of completion of such further investigative or remedial work to the tenant and local housing authority.

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Part 3 provides for remedial action (other than urgent remedial action) to remedy any failure by

the private landlord to comply with a duty.

Regulation 4 places a duty on a local housing authority to serve a remedial notice on a

private landlord where they have reasonable grounds to believe that the private landlord is in breach of a duty under regulation 3(1)(a), (1)(b), (4) or (6). Regulation 5 requires a private landlord to take the remedial action specified in the remedial notice. Regulation 6 gives a local housing authority the power to arrange remedial action. Regulation 7 provides that a private landlord may appeal against the decision of the local housing authority to take that remedial action. Regulation 8 provides that a local housing authority may recover costs reasonably incurred in taking action under regulations 6(1) and 10(1). Regulation 9 provides that a private landlord may appeal against a demand for the recovery of costs served under regulation 8(2). Part 4 provides for urgent remedial action to be taken by a local housing authority. Regulation 10 gives a local housing authority a power to arrange urgent remedial action, and provides for the service of notice of such action and appeals relating to such action. Part 5 provides for a local housing authority to impose a financial penalty on a private landlord who has breached a duty under regulation 3. Schedule 2 sets out the procedure to be followed in imposing a financial penalty and the right of appeal to the First-tier Tribunal against a local authority's decision. The process for bringing an appeal is governed by the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (SI 2009/1976). Schedule 2 also provides for the recovery of a financial penalty and for the proceeds of financial penalties. Part 6 amends paragraph 1 of Schedule 4 to the Housing Act 2004. This has the effect of introducing new conditions, in respect of electrical safety standards, which must be included in a licence under Part 2 or 3 of that Act of a house in England. Part 7 amends the Management of Houses in Multiple Occupation (England) Regulations 2006 (S.I. 2006/372). A full impact assessment has not been produced for this instrument as the regulatory provision that it makes relates to the safety of tenants, residents and occupants and so falls within an exclusion from the requirement under the Government's Better Regulation Framework to produce regulatory impact assessments. This exclusion was put in place as part of the Government's response to the Grenfell tragedy.

**Commencement**

para. 1: June 1, 2020

**Extent**

para. 1: Englan



# Housing and Planning Act 2016

## 122 Electrical safety standards for properties let by private landlords

(1) The Secretary of State may by regulations impose duties on a private landlord of residential premises in England for the purposes of ensuring that electrical safety standards are met during any period when the premises are occupied under a tenancy.

(2) “Electrical safety standards” means standards specified in, or determined in accordance with, the regulations in relation to—

(a) the installations in the premises for the supply of electricity, or

(b) electrical fixtures, fittings or appliances provided by the landlord.

(3) The duties imposed on the landlord may include duties to ensure that a qualified person has checked that the electrical safety standards are met.

(4) The regulations may make provision about—

(a) how and when checks are carried out;

(b) who is qualified to carry out checks.

(5) The regulations may require the landlord—

(a) to obtain a certificate from the qualified person confirming that electrical safety standards are met, and

(b) to give a copy of a certificate to the tenant, or a prospective tenant, or any other person specified in the regulations.

(6) In this section—

- “premises” includes land, buildings, moveable structures, vehicles and vessels;
- “private landlord” means a landlord who is not within section 80(1) of the Housing Act 1985 (the landlord condition for secure tenancies);
- “residential premises” means premises all or part of which comprise a dwelling;
- “tenancy” includes a licence to occupy (and “landlord” is to be read accordingly).

### Commencement Information

11 [S. 122](#) in force at 25.10.2019 by [S.I. 2019/1359](#), [reg. 2](#)

## 123 Electrical safety standards: enforcement

(1) Regulations under section 122 may provide for covenants to be implied into a tenancy.

(2) Regulations under that section—

(a) may make provision about the enforcement of a duty imposed by the regulations;

(b) may confer functions on a local housing authority in England.

(3) The provision that may be made about enforcement includes provision—

(a) requiring a landlord who fails to comply with a duty imposed by the regulations to pay a financial penalty (or more than one penalty in the event of a continuing failure);

(b) conferring power on a local housing authority to arrange for a person to enter on the premises, with the consent of the tenant, to remedy any failure by the landlord to comply with a duty imposed by the regulations.

(4) The provision that may be made in reliance on subsection (3)(a) includes provision—

(a) about the procedure to be followed in imposing penalties;

(b) about the amount of penalties;

(c) conferring rights of appeal against penalties;

(d) for the enforcement of penalties;

(e) about the application of sums paid by way of penalties (and such provision may permit or require the payment of sums into the Consolidated Fund).

(5) The provision that may be made in reliance on subsection (3)(b) includes provision—

(a) about procedural matters;

(b) enabling a local housing authority to recover from the landlord any costs incurred by it in remedying the failure;

(c) about the application of costs recovered (and such provision may permit or require the payment of sums into the Consolidated Fund).

(6) In this section “local housing authority” has the meaning given by section 1 of the Housing Act 1985.