



Ministry of Housing,
Communities &
Local Government

Electrical Safety in the Private Rented Sector

A consultation paper



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February 2018

ISBN: 978-1-4098-5193-6

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Scope of the consultation

Topic of this consultation:	This consultation seeks views on the recommendations of the Private Rented Sector Electrical Safety Working Group.
Geographical scope:	This consultation applies to England only.
Impact Assessment:	The consultation document highlights the potential costs to landlords, and we welcome feedback about whether the assumptions used are correct. An impact assessment will be published if secondary legislation is brought forward.

Basic Information

Duration:	This consultation will last for 8 weeks from 17 February 2018 until 16 April 2018
Enquiries:	For any enquiries about the consultation please email PRSElectricalConsultation@communities.gsi.gov.uk
How to respond:	<p>You may respond by completing an online survey at: https://www.surveymonkey.co.uk/r/PRSElectricalConsultation</p> <p>This is the preferred method for responding to this consultation.</p> <p>Alternatively you can email your response to the questions in this consultation to PRSElectricalConsultation@communities.gsi.gov.uk</p> <p>If you are responding in writing, please make it clear to which questions you are responding.</p> <p>Written responses should be sent to: PRS Electrical Safety Consultation, Private Rented Sector Division, MHCLG, 3rd Floor, Fry Building, 2 Marsham Street, London, SW1P 4DF</p> <p>When you reply please indicate whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"> - your name, - your position (if applicable), - the name of organisation (if applicable), - an address (including post-code), - an email address, and - a contact telephone number

Introduction

1. The private rented sector is an important part of our housing market. It is the second largest tenure in England, and has almost doubled in size over the last decade and now houses 4.7 million households (20% of all households). The proportion of families in the private rented sector has also increased. Between 2006-07 and 2016-17, the proportion of households in the private rented sector with children increased from 34% to 38%¹.
2. Tenants in the private rented sector face a higher risk of electrical shock and fires caused by electrical faults in their homes than those in social and housing association accommodation. In 2015, 60%² of homes in the private rented sector had all five recommended electrical safety features installed. Whilst this represents an improvement on previous years, the private rented sector lags behind the social rented sector, where 74% of local authority homes and 76% of housing association homes had all five safety features installed in 2015. Ensuring that electrical installations are safe benefits both landlords and tenants by helping to prevent fires.
3. Through the passage of the Housing and Planning Act in 2016, MPs and peers from across the political divide raised electrical safety in the private rented sector as an important issue and called for a regulatory requirement for landlords to arrange periodic electrical safety checks in their rental properties. These calls were backed up by tenant representative groups and electrical safety lobby groups. In response, the Government introduced an enabling power in the Housing and Planning Act 2016, allowing requirements for electrical safety standards in the private rented sector, and their enforcement, to be set through secondary legislation at a later date, if needed.
4. Following Royal Assent of the Housing and Planning Act 2016, a working group was established to provide recommendations to ministers on what, if any, legislative requirements for electrical safety in the private rented sector should be introduced, and to ensure that any requirements strike the right balance by protecting tenants while not over burdening landlords.
5. This consultation invites views and comments to gather additional evidence on the recommendations made by the working group. We particularly welcome views from individual landlords, landlord associations, tenants and tenant groups, letting agents, electricians, local authorities, fire and rescue authorities, and electrical safety groups.

¹ English Housing Survey Headline Report, 2016-17

<https://www.gov.uk/government/statistics/english-housing-survey-2016-to-2017-headline-report>

²https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/627686/Private_rented_sector_report_2015-16.pdf. The five key features are: modern PVC wiring, modern earthing, modern consumer units, miniature circuit breakers and Residual Current Devices.

Any legislation brought forward as a result of this consultation will be subject to appropriate assessment.

6. Following the Grenfell Tower fire tragedy, the Government has commissioned an Independent Review of Building Regulations and Fire Safety³. This Independent Review led by Dame Judith Hackitt published an Interim Report on 18 December 2017 and will submit its Final Report in spring 2018. Any legislation introduced would follow and be subject to the conclusions of the Independent Review.

Scope of primary legislation

7. Sections 122 and 123 of the Housing and Planning Act 2016 give the Secretary of State for Housing, Communities and Local Government the power to make regulations imposing 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 and to make provision about the enforcement of a duty imposed by regulations.

Existing Regulatory Environment

8. There are existing regulatory requirements to help protect tenants from electrical hazards in the home:
 - The Landlord and Tenant Act 1985 requires landlords to keep installations in the property, including the supply of electricity, in good repair and proper working order.
 - Five yearly electrical installation checks are mandatory for Houses in Multiple Occupation (HMOs).
 - Local authorities have powers, through the Housing Act 2004, to take action where there are electrical hazards in a property.
 - In normal circumstances, all circuits in new or rewired homes would need to be protected by a Residual Current Device (RCD) in order to comply with Building Regulations Part P, which references BS 7671: 2008 (Requirements for electrical installations IET wiring regulations) as the approved method of compliance.

³ [Independent Review of Building Regulations and Fire Safety: terms of reference](#)

Existing Non-Regulatory Best Practice

9. Non regulatory best practice currently includes:

- RICS PRS code of practice⁴ advises landlords to organise five yearly periodic inspection and testing of the fixed wiring by a competent electrician, provide a report to the tenant, visually check for faults at the change of tenancy and conduct regular checks of supplied portable appliances;
- Industry bodies and lobby groups, such as Electrical Safety First, recommend electrical installation checks be carried out at a least every five years in PRS properties, carried out by a competent person to identify any remedial action necessary to bring the property up to the current BS 7671 standard. Many also recommend installing Residual Current Devices (RCDs) and carrying out electrical safety checks of supplied appliances; and

Electrical Safety Standards Working Group

10. Following Royal Assent of the Housing and Planning Act 2016, the Private Rented Sector Electrical Safety Standards Working Group was established to provide a forum to discuss the current risk posed to private sector tenants in the home from electrical hazards and whether legislative intervention is required to improve electrical safety standards in the sector.

11. Working group members discussed a variety of non-legislative options including the promotion of a guidance note for landlords on their obligations under the Landlord and Tenant Act 1985, backed up with similar messages in the current 'How to Rent' guide for tenants. All working group members thought that stand-alone non-regulatory options such as these would not be sufficient and that legislation was needed to improve electrical safety standards in private rented properties.

12. All working group members agreed the need to use the enabling power in the Housing and Planning Act and introduce regulations for mandatory electrical installation checks in private rented properties. The aim of the regulations would be to ensure that the electrical installation is safe for continued use. An Electrical Installation Condition Report (EICR) would confirm that the electrical installation is satisfactory for continued use and where identified would detail any remedial works required. Any properties which were deemed to be unsafe for continued use would require remedial work to be funded by the landlord. The group agreed that an EICR and associated electrical installation certification confirming that remedial work had been undertaken in

⁴ <http://www.rics.org/uk/knowledge/professional-guidance/codes-of-practice/private-rented-sector-code-1st-edition/>

compliance with relevant standards should be issued to the landlord. The group proposed that a copy should also be issued to the tenant at the beginning of the tenancy and should be made available to local authorities on request.

13. The Working Group made a total of eight agreed recommendations:

- **Recommendation 1:** 5 yearly mandatory electrical installation checks should be set out in secondary legislation.
- **Recommendation 2:** Visual checks of the safety of the electrical installation by landlords at a change of tenancy should be encouraged as good practice and set out in guidance.
- **Recommendation 3:** A report should be issued to the landlord which confirms that an Electrical Installation Condition Report (EICR) has been completed along with confirmation that any remedial work necessary has been undertaken satisfactorily. A copy should be issued to the tenant at the beginning of the tenancy and should be made available to local authorities on request.
- **Recommendation 4:** Landlord supplied electrical appliance testing and visual checks of electrical appliances by landlords at a change of tenancy should be encouraged as good practice and set out in guidance.
- **Recommendation 5:** The installation of RCDs by landlords should be encouraged as good practice and set out in guidance.
- **Recommendation 6:** A private rented sector electrical testing competent person's scheme should be set up which would be separate from existing Building Regulations competent person's scheme.
- **Recommendation 7:** MHCLG should commission the Electrotechnical Assessment Specification (EAS) management committee to consider the most effective method of recognising 'competent PRS testers' to carry out electrical inspections and tests.
- **Recommendation 8:** Legislative requirements should be phased in, beginning with new tenancies, followed by all existing tenancies.

14. The Working Group report can be accessed online at:

<https://www.gov.uk/government/publications/electrical-safety-standards-in-the-private-rented-sector-working-group-report>

Recommendation to Introduce Regulation

15. The Electrical Safety Standards Working Group recommended using the enabling power in the Housing and Planning Act and introduce regulations for mandatory electrical installation checks in private rented sector properties. The aim of the

recommendations would be to ensure that the electrical installation is safe for continued use. The majority of members favoured regulating for checks every 5 years.

16. We estimate that the average cost to landlords of an electrical safety check will be around £160 per property every five years, although there is likely to be significant variation across the sector depending on portfolio size and geographic location. We estimate that introducing mandatory five year electrical installation checks will create a new cost burden for landlords of at least £100m per annum (or around £70 per landlord per annum) over ten years. This includes the cost of five yearly checks, hidden costs including those associated with researching and liaising with electrical testers, preparing the property and overseeing the checks, and one off familiarisation costs.
17. Any installations which were deemed to be unsafe for continued use would require remedial work to be funded by the landlord (estimated at around £140m per annum or £97 per landlord per annum). These are preliminary estimates. Further work will be needed to establish the benefits of reduced instances of electric shock and electrical fires, such as the prevention of deaths and injuries and property damage. As well as making homes safer for tenants, electrical installation improvements benefit the landlord as a material improvement to their properties, helping prevent fires which could cause costly and significant damage.
18. Working group members discussed whether landlords should be required to arrange for the inspection and testing of electrical installations at a change of tenancy but agreed that this would introduce excessive burdens on landlords and did not recommend legislating for this. Group members agreed that visual checks of the safety of the electrical installations by landlords on a change of tenancy should be encouraged as good practice and recommended including this in guidance for landlords.

Phasing of Regulatory Requirements

19. The Working group recommended taking a similar approach to the phasing in of requirements as the Scottish Government had taken. Requirements are applied to new tenancies in the first year, all tenancies in the second year and where a satisfactory EICR is already in place a new test is not required until 5 years from its date.

Recognising Electrical Inspectors and Testers

20. The working group members discussed options for assessing and recognising 'competent and qualified persons' who would carry out the inspections and testing of electrical installations.
21. The group agreed that there would need to be a scheme or schemes, open to anyone with the necessary competencies, whose members would need to pass a competence

assessment in inspecting and testing electrical installations in existing dwellings. It was recognised that an inspection and testing scheme for the private rented sector would need to be separate from the existing Building Regulations competent person schemes which deal only with the installation of electrical installations.

22. In the Department's view a scheme for assessing and recognising competent and qualified persons could be introduced by schemes accredited under ISO/IEC 17024 (the international standard for organisations operating personnel certification) which allows one or more scheme operators to be established, overseen by the United Kingdom Accreditation Service (UKAS). Electrical inspectors and testers would be individually certified by the scheme operators to ensure they have the necessary competence to carry out electrical inspection and testing work. The competence framework is set out in the Institution of Engineering and Technology's *Electrotechnical Assessment Specification*.
23. In the Department's view schemes of this nature would provide a robust framework for ensuring that inspection and testing was carried out properly. This consultation therefore invites views on this approach or whether an alternative scheme model would be more effective.

Other Recommendations

Portable Electrical Appliances

24. Working group members discussed whether regulations should include a mandatory requirement for landlords to arrange the inspection and testing of electrical appliances which are present in the property. These are typically small portable electrical items (for example a convection heater, a toaster or a kettle), larger stationary items (such as washing machines and tumble dryers) and fixed items (such as showers and storage heaters). They are often supplied by the landlord, but also by tenants.
25. The group acknowledged that the testing of appliances supplied by the landlord was a requirement in the Scottish legislation. Working group members agreed that electrical appliance testing would introduce unnecessary burdens for landlords and could result in landlords not supplying these electrical items with their properties, to the detriment of tenants.
26. On 21 January, the Department for Business, Energy and Industrial Strategy (BEIS) published the Government's response to a working group report on product recalls and safety⁵ and announced the creation of a new Office for Product Safety and Standards

⁵ <https://www.gov.uk/government/publications/working-group-on-product-recalls-and-safety-report-government-response>

tasked with identifying consumer risks and managing responses to large-scale product recalls and repairs⁶.

Residual Current Devices

27. Working group members discussed whether to introduce a requirement for landlords to install Residual Current Devices (RCDs) in their properties. RCDs are designed to minimise the possibility of injury through electric shock. RCDs are usually fixed to the electrical consumer unit and are designed to switch off electricity automatically if there is an earth fault; protecting against fatal electric shocks and fire caused by earth faults.
28. The group noted that whilst this would be a less burdensome option for landlords as it would require a one off cost, rather than regular costs of 5 yearly checks and costs of remedial works, RCD protection alone would not ensure tenants' safety, as RCDs can become unreliable if not regularly tested. The group also noted that RCDs do not provide protection against overload or short-circuit. An electrical installation check might recommend the fitting of RCD protection in some circumstances.
29. The group concluded that RCDs alone were not sufficient to ensure electrical safety but that their installation should be recommended. However, the absence of an RCD does not necessarily mean that an installation is unsafe – the inspection and testing would be the determining factor of safety. The Group therefore felt that the installation of RCDs should be recommended as good practice, rather than required by new regulations.

Enforcement

30. The Government recognises that robust and effective enforcement would be essential to the successful implementation of any regulations introduced. Section 123 of the Housing and Planning Act 2016 allows for enforcement powers and functions to be conferred on local housing authorities in England and for financial penalties to be imposed on landlords for non-compliance. The Government recognises the concern over the resources available to local authorities. This consultation invites views on whether local authorities should enforce the regulations, the level of financial or other penalties that should be imposed for non-compliance and whether any monies recovered through financial penalties should be retained by the enforcement authority and used for future enforcement in the private rented sector. The Government would also be interested in hearing views on whether enforcement authorities should be able to issue sanctions other than a financial penalty. These may include a remedial notice requiring a non-compliant landlord to arrange for an electrical installation safety check or an

⁶ <https://www.gov.uk/government/news/government-launches-new-office-for-product-safety-and-standards>

improvement notice requiring landlords to undertake remedial work where an electrical installation safety check has shown the installation to be unsafe for continued use.

31. Where a landlord fails, for example, to provide a working smoke alarm on every storey of their rental properties local authorities can impose a penalty of up to £5,000. The Government recognises that there does need to be a sufficient deterrent to landlords failing to comply with any regulations introduced and is therefore interested in understanding whether a financial penalty of up to £30,000 (in line with the new civil penalties for housing offences introduced on April 6 2017 under the Housing and Planning Act 2016) would be more appropriate than a civil penalty of up to £5,000.
32. In addition, for tenancies that started on or after 1st October 2015, a landlord cannot evict a tenant using a Section 21 notice if they have not given the tenants copies of certain prescribed information including the property's Energy Performance Certificate, a current gas safety record (where required) and a copy of the government's 'How to Rent' guide. The Government would be interested in hearing views on whether the list of prescribed information should be extended to include electrical installation safety documentation.

Public Sector Equality Duty

33. The Public Sector Equality Duty, as set out in section 149 of the Equalities Act 2010⁷, states that all public authorities must have due regard to the need to:
- Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act;
 - Advance equality of opportunity between people who share a protected characteristic⁸ and people who don't; and
 - Foster good relations between people who share a protected characteristic and people who don't.
34. This consultation invites views on whether respondents think that any of the recommendations would impact on people who share a protected characteristic differently from people who do not share it.

Devolved Administrations

35. The Working Group recommendations apply to England only.

⁷ <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

⁸ Protected characteristics are: age; disability; race; religion or belief; sex; sexual orientation; pregnancy and maternity; and gender reassignment.

36. The Scottish Government recently introduced regulations for mandatory five-yearly electrical checks, carried out by a registered electrician, of the electrical installation and electrical appliances supplied with privately rented homes. The duty applies to all private tenancies from 1 December 2016.
37. The Welsh Government recently consulted on a Fitness for Human Habitation (FFHH) standard under the Renting Homes (Wales) Act 2016. The standard would require a landlord to hold an electrical installation condition report (EICR) in accordance with British Standard BS7671 obtained from an electrician who is able to undertake such work. This report will be provided following a periodic inspection and test of the electrical installation in the dwelling. Testing would need to take place at least every five years.

Next Steps

38. Responses to this consultation will be analysed in April 2018 and a Government Response will follow. This will take into account the findings of the Independent Review of Building Regulations and Fire Safety being led by Dame Judith Hackitt, which will submit its Final Report in spring 2018.

Questions

Respondent details

Question 1	
Name	
Position (if applicable)	
Organisation (if applicable)	
Address (including postcode)	
Email address	
Telephone number	

Question 2	Select one
<p>Please indicate whether you are applying to this consultation as:</p> <ul style="list-style-type: none">• Landlord• Landlord representative organisation• Tenant• Tenant representative organisation• Letting agent• Letting agent representative organisation• Electrician• Local Authority enforcement officer• Fire and Rescue Authority representative• Other interested party (please specify)	

Question 3	Yes/No/Don't know
<p>The Working Group has recommended that landlords should be required by law to arrange safety checks of the electrical installation in private rented sector residential properties. Do you agree with the recommendation? If no, please provide details.</p>	

Question 4	Select 1
<p>The Working Group has recommended that mandatory electrical installation checks should take place at least every five years. Do you agree with the recommendation?</p> <ul style="list-style-type: none">• Yes, checks should be at least every five years• No, I think checks should be at a different frequency (please provide details)• Don't know• I do not think that electrical installation checks should be mandatory	

Question 5	Yes/No/Don't know
The Working Group has recommended that that a report should be issued to the landlord which confirms that an Electrical Installation Condition Report (EICR) has been completed along with confirmation that any remedial work necessary has been undertaken satisfactorily. Do you agree with the recommendation? If no, please provide details.	

Question 6	Yes/No/Don't know
The Working Group has recommended that a copy of the report outlined in question 5 should be issued to the tenant at the beginning of the tenancy. Do you agree with the recommendation? If no, please provide details.	

Question 7	Yes/No/Don't know
The Working Group has recommended that a copy of the report outlined in question 5 should be made available to local authorities on request. Do you agree with the recommendation? If no, please provide details.	

Question 8	Yes/No/Don't know
The Working Group recommended that legislative requirements should be phased in, beginning with new tenancies, followed by all existing tenancies. Do you agree with the recommendation? If no, please provide details	

Question 9	Yes/No/Don't know
The Working Group has recommended that a private rented sector electrical testing competent person scheme should be set up which would be separate from existing Building Regulations competent person schemes. Do you agree with the recommendation? If no, please provide details.	

Question 10	Yes/No/Don't know
Do you agree that the best approach to recognising competent and qualified persons would be to introduce a scheme under ISO/IEC 17024, which would allow one or more UKAS accredited scheme operators to certify the competence of individual electrical inspectors and testers? If no, please provide details.	

Question 11	Yes/No/Don't know
The Working Group has recommended that visual checks of the safety of the electrical installation by landlords at a change in tenancy should be encouraged as good practice and set out in guidance? Do you agree with the recommendation? If no, please provide details.	

Question 12	Yes/No/Don't know
The Working Group has recommended that landlord supplied electrical appliance testing and visual checks of electrical appliances by landlords at a change of tenancy should be encouraged as good practice and set out in guidance. Do you agree with the recommendation? If no, please provide details.	

Question 13	Yes/No/Don't know
The Working Group has recommended that the installation of residual current devices (RCDs) by landlords should be encouraged as good practice and set out in guidance. Do you agree with the recommendation? If no, please provide details.	

Question 14	Yes/No/Don't know
Should any regulations introduced be enforced by local housing authorities? If no, please provide details?	

Question 15	Select 1 or more
Do you think that the penalty for non-compliance of any regulations introduced should be: <ul style="list-style-type: none"> • Remedial notice (eg. where no check has taken place) • Improvement notice (eg. where faults are not rectified) • A civil penalty of up to £5,000 • A civil penalty of up to £30,000 • Other (please specify) • Don't know 	

Question 16	Yes/No/Don't know
If local housing authorities are the enforcement body for any regulations introduced, should they retain any monies recovered through financial penalties and use these for future enforcement in the private rented sector? If no, please provide details	

Question 17	Yes/No/Don't know
Should landlords be restricted from evicting tenants using a Section 21 notice if they have not given the tenant a copy of electrical installation safety documentation? Please provide details	

Question 18	Yes/No/Don't know
Do you consider that any of the Working Group recommendations would impact on people who share a protected characteristic, as defined under the Equalities Act 2010, differently from people who do not share it? If yes, please provide details.	

Question 19 (optional)	Yes+Answer/No
Do you have any other comments that have not been captured elsewhere in this consultation? If yes, please provide details.	

Annex A: Working Group Report

The Private Rented Sector Electrical Safety Standards Working Group report can be accessed online at:

<https://www.gov.uk/government/publications/electrical-safety-standards-in-the-private-rented-sector-working-group-report>

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).