



Ministry of Housing,
Communities &
Local Government

Electrical safety in the private rented sector

Government response



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Introduction

The private rented sector is an important part of our housing market. It is the second largest tenure in England, has almost doubled in size over the last decade, and now houses 4.7 million households (20% of all households)¹.

A consultation exercise on electrical safety in the private rented sector was held between 17 February and 16 April 2018 inviting views and comments on the recommendations of the Electrical Safety Standards Working Group. The working group had recommended introducing five yearly mandatory electrical installation checks for private rented property and that other safety measures be encouraged as good practice and set out in guidance. It also made recommendations about the introduction of a new competent person scheme and how the new regulations should be implemented.

The consultation ran from 17 February to 16 April 2018 and received 582 responses from a range of organisations and individuals across the sector, including electricians, landlord associations, housing charities, local authorities, as well as individual landlords and tenants and fire and rescue representatives. The majority of respondents supported most of the recommendations of the working group.

Following the working group and this consultation, **the Government announced on 19 July that regulations would be introduced requiring private sector landlords to undertake five yearly safety checks of electrical installations in their properties.**

This document sets out the full Government response to the consultation exercise and describes what will happen next.

¹ <https://www.gov.uk/government/statistics/english-housing-survey-2016-to-2017-headline-report>

Questions 1 – 2 Respondent Details

| Q.1 | Respondent details (name, address, contact details, etc) | |
|------|------------------------------------------------------------------------|-------|
| Q. 2 | Please indicate if you are replying to this consultation as: | Total |
| | Landlord | 231 |
| | Tenant | 15 |
| | Letting agent | 45 |
| | Letting agent representative Organisation | 5 |
| | Electrician | 149 |
| | Local Authorities | 45 |
| | Fire and Rescue Service | 6 |
| | Other interested party (such as Housing charities and industry bodies) | 74 |
| | TOTAL | 570 |

Questions 1 and 2 covered respondent details. There was a mix of respondents including landlords, tenants and industry representatives. Not every respondent answered every question.

Questions 3 – 4 Electrical Safety Checks

| Question no. | Question | Yes | No |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|
| 3 | Do you agree that landlords should be required by law to arrange safety checks of electrical installations in private rented sector residential properties? | 426 | 132 |

| Question no. | Question | Yes | No |
|--------------|---------------------------------------------------------------------------------------------------------|-----|-----|
| 4 | Do you agree that mandatory electrical installation checks should take place at least every five years? | 333 | 147 |

The Government is committed to tenant safety and believes that the safety of tenants is of paramount importance. The Government notes the strong support for these recommendations and announced on 19 July that we would be making five yearly electrical installation checks mandatory. We intend to introduce the legislative requirements as soon as Parliamentary time allows ensuring industry is given at least 6 months to become familiar with the new duty before it comes into force.

A transitional period will also apply in the first two years, where the new duty will only apply to all new private tenancies in year 1 and then extended to all existing private tenancies in year 2. Properties with an existing electrical installation condition report (EICR) will not be required to replace it for 5 years from its date. For new and fully rewired properties, an Electrical Installation Certificate can be presented in place of an EICR provided that the date of next inspection indicated on the certificate has not elapsed.

This approach is based on the phasing approach used in Scotland in 2015, when the Scottish Government introduced a similar new duty to carry out electrical safety inspections in private rented properties.

Questions 5 – 8 Electrical Installation Condition Report requirements

| Question no. | Question | Yes | No |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| 5 | Do you agree that a report should be issued to the landlord which confirms that an Electrical Installation Condition Report has been completed along with confirmation that any remedial work necessary has been undertaken satisfactorily? | 402 | 139 |
| 6 | Do you agree that a copy of the report outlined in question 5 should be issued to the tenant at the beginning of the tenancy? | 381 | 160 |
| 7 | Do you agree that a copy of the report outlined in question 5 should be made available to local authorities on request? | 376 | 153 |
| 8 | Do you agree that legislative requirements should be phased in, beginning with new tenancies, followed by all existing tenancies? | 374 | 166 |

We note the high level of support for these recommendations and intend to accept the Working Group recommendations covered by questions 5 – 8. We will introduce the legislative requirements as soon as Parliamentary time allows on a phased basis starting with new tenancies.

Questions 9 – 10 Competent Person Scheme

| Question no. | Question | Yes | No | Don't know |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|------------|
| 9 | Do you agree that a private rented sector electrical testing competent person scheme should be set up which would be separate from the existing Building Regulations competent person scheme? | 203 | 290 | 66 |

| Question no. | Question | Yes | No | Don't know |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|------------|
| 10 | Do you agree that the best approach to recognising competent and qualified person 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? | 209 | 216 | 128 |

The data shows that more respondents disagreed with these recommendations than agreed.

Ministers are very clear that the safety of tenants is of paramount importance. In addition, the conclusions of the Independent Review of Building Regulations and Fire Safety by Dame Judith Hackitt noted the importance of ensuring a coherent and comprehensive approach to competence with robust systems of accreditation and enforcement to ensure adequate accountability. Whilst we agree, therefore, with the views of consultees and consider the introduction of a mandatory competent person scheme for the inspection of electrical installations in the privately rented housing to be overly bureaucratic and expensive, we accept the views of the working group that landlords will need a system of ensuring that those carrying out electrical inspections have the required skills.

We will, therefore, produce new guidance for landlords that demonstrates which qualifications provide that level of competence. Landlords should have regard to that guidance in determining who is competent to carry out an electrical safety inspection. This approach will provide clear accountability at each stage of the process, of what is required and whose responsibility it is - without excessive cost and time burdens to the industry. It will be broadly in line with existing regulations in Scotland, ensuring consistency for landlords operating across the two countries.

Alongside the new guidance, existing competent person scheme operators will be invited to set up an electrical inspection and testing scheme which inspectors and testers could choose to join. Any new schemes will be referenced in the Government's "How to Let" guide for landlords.

Questions 11 – 13 Visual Checks at Change of Tenancy & Residual Current Devices

| Question no. | Question | Yes | No |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| 11 | Do you agree that visual checks of the safety of electrical installations by landlords at a change of tenancy should be encouraged as good practice and set out in guidance? | 368 | 171 |

| Question no. | Question | Yes | No |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| 12 | Do you agree that landlord supplied electrical appliance testing and visual checks of electrical appliances at a change of tenancy should be encouraged as good practice and set out in guidance? | 381 | 158 |

There was strong support for the working group recommendations around visual checks at change of tenancy. We will update our ‘How to Let’ guidance for landlords to encourage landlords to conduct visual checks at change of tenancy as good practice.

| Question no. | Question | Yes | No |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| 13 | Do you agree that the installation of residual current devices by landlords should be encouraged as good practice and set out in guidance? | 390 | 138 |

A significant proportion of responses to question 13 were in favour of the working group recommendation for residual current devices (RCDs) to be installed as good practice. We will update our ‘How to Let’ guidance for landlords to encourage the installation of these devices as good practice.

Questions 14 – 17 Enforcement

| Question no. | Question | Yes | No |
|---------------------|-----------------------------------------------------------------------------|------------|-----------|
| 14 | Should any regulations introduced be enforced by local housing authorities? | 315 | 170 |

| Question no. | Question | Remedial/ improvement notice | Financial penalty |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|--------------------------|
| 15 | Do you think that the penalty for non-compliance with any regulations introduced should be; through a remedial or improvement notice, or through a financial penalty? | 535 | 289 |

| Question no. | Question | Yes | No |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| 16 | 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? | 290 | 174 |

| Question no. | Question | Yes | No |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| 17 | 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? | 227 | 256 |

A majority of respondents favoured the serving of an enforcement notice by the local authority, rather than a financial penalty, as a sanction for non-compliance. If financial penalties were to be made a potential sanction, there was clear support for the local authority to keep any funds raised through financial penalties to enable further enforcement.

It is important that regulations are properly enforced and that there are real penalties for failing to comply. These may include financial penalties but could also be extended to include other sanctions, for example, suspending a landlord's right to serve a section 21 notice where they have failed to provide an electrical safety report at the start of the tenancy or failed to comply with the requirement for mandatory five yearly electrical checks.

Next Steps

Regulations requiring landlords to have electrical installations in privately rented homes checked every five years will be introduced as soon as parliamentary time allows. They will include a requirement on landlords to ensure that they must also have regard to new guidance in determining who is competent to carry out an electrical safety inspection. The regulations will be subject to the affirmative procedure and will need to be debated and approved in both Houses of Parliament before they can be brought into force.

We intend to introduce the new requirements on a phased basis starting with new tenancies.

The other recommendations in the consultation paper were concerned with promoting voluntary action by landlords to improve electrical safety standards in the sector, e.g. by carrying out a visual check of electrical installations at the change of a tenancy. There was a high level of support for all of these measures. We will update the 'How to Let' guidance to encourage landlords to carry out these actions at the same time as the new regulatory requirements come into force.

We will engage with industry stakeholders to produce new guidance setting out how landlords could determine competence. Alongside the production of new guidance, we will also encourage competent person scheme operators to set up a new electrical inspection and testing schemes which inspectors and testers could choose to join. The new guidance and any voluntary competent person schemes will be finalised six months ahead of the new regulatory requirements coming into force.

A decision on the most appropriate penalties for non-compliance will be made in good time before the secondary legislation is introduced. These penalties are likely to include a range of sanctions with the local authority having discretion to decide which one is the most appropriate in any particular case. We will engage closely with local authorities in England when setting out the sanctions for non-compliance.