



**Government response to the CLG Select Committee's report
Building Regulations Certification of Domestic Electrical Work**

Presented to Parliament
by the Secretary of State for Communities and Local Government
by Command of Her Majesty

May 2014



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This publication is available at www.gov.uk/government/publications

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Print ISBN 9781474102155

Web ISBN 9781474102162

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

ID 30041401 05/14

Printed on paper containing 75% recycled fibre content minimum

Government response to the Communities and Local Government Select Committee Report: Building Regulations certification of domestic electrical work

Introduction

1. The Communities and Local Government Select Committee conducted an inquiry into the Building Regulations certification of domestic electrical work. This inquiry builds upon the 10th Report - Building Regulations applying to electrical and gas installation and repairs in dwellings published by the Select Committee in 2012. Following the submission of written evidence and a number of evidence sessions earlier this year, the Committee published this current report on 6 March 2014.

Committee's conclusions and recommendations

2. The Select Committee has drawn a number of conclusions and made specific recommendations around seven related policy areas. These are set out below under individual headings and followed by the Government's response.

The 2013 revisions to Part P

We found some of the arguments that the Government advanced on 18 December 2012, to justify narrowing the scope of Part P, to lack evidence and therefore to be unconvincing. (Paragraph 11)

We recommend that when the Government reviews the operation of Part P in 2015 that, as well as the effects on safety and the burden on business and local government, it assess the impact that making the 2013 changes has had on public awareness of Part P and on the understanding that (i) those carrying out DIY and large and small contractors have of what is and what is not notifiable for the purpose of building control and (ii) all work is still subject to compliance with relevant standards. (Paragraph 13)

In order to allow us to review the outcome of the 2015 review of Part P, it would assist us if in response to this report the Minister could supply the following. First, the Department's timetable for carrying out the work and confirmation that the work will be completed and passed to us by the end of February 2015, to allow us to consider it and, if necessary, take evidence and report before the end of the parliament. Second, it would be of assistance to know: (i) against what criteria Part P will be reviewed (including those we have suggested in this report), (ii) who will carry out the review, (iii) how the evidence will be collected and (iv) the degree of independence in the process. (Paragraph 15)

3. The Government has already agreed to monitor the impacts of the changes to Part P which were introduced in April 2013 and report back to the Committee within two years of when any changes come into effect. The changes made to Part P covered two aspects:
 - Changes to electrical work which has to be notified; and
 - The introduction of third-party certification schemes for electrical work.
4. The first third-party certification schemes were only authorised to start in April 2014, following an invitation for schemes to apply to operate issued in the Autumn.
5. The impact assessment published to accompany the 2013 changes to Part P included an analysis of how any changes to the numbers of electrical accidents or fires arising from faulty electrical installations might be ascribed to the introduction of Part P in 2005.
6. The Government intends to update that analysis with the most recent information on accidents and fires which are available. Information, based on routine six-monthly monitoring, will also cover:
 - The numbers of domestic electrical jobs now being notified;
 - The number of installers registered with competent persons schemes for electrical work; and
 - The number of certifiers registered with third-party schemes and the number of domestic electrical installations they have checked. Given that these schemes have only been in operation since April 2014, conclusions which can be drawn will necessarily be limited.
7. The Government intends to conduct this further analysis in-house. It will be using an approach used in the Part P impact assessment which was validated by the independent Regulatory Policy Committee.
8. The timing of the work will depend on the availability of up-to-date statistics. For example, statistics on accidental fires in dwellings due to faulty wiring, cabling or plugs in the UK to be published in December 2014 will cover the period from April 2013 to March 2014. The Government notes the Committee's request to see the results of this work by February 2015 and will use its best endeavours to achieve this.
9. The Government will also report on a similar timescale on the outcome of the discussions with industry on the arrangements for qualified supervisors to ensure that they are able to supervise all the work for which they are responsible (see paragraph 24) and also the results of any further consumer awareness surveys which are available.

Competent persons schemes

In our view the Government has until 2015 to show that the competent persons scheme model can work effectively for domestic electrical installation. We emphasise that it is for the Government – not the competent person scheme operators or local authorities – to ensure the effective and consistent operation of Part P. This Government and its predecessors have favoured the competent person model for the implementation of building control compliance over a mandatory requirement to use a qualified electrician. The Government has to demonstrate that its preferred model can match a mandatory model. (Paragraph 23)

10. The Government notes the Committee's comments and will keep the arrangements for competent person schemes under review, for example in light of any lessons from the current assessment of schemes being undertaken by the UK Accreditation Service (UKAS) (see paragraph 16 below). The competent person scheme model was developed in recognition that a requirement for building control bodies to check some kinds of building work which are controlled by Building Regulations would have overwhelmed those bodies given the volumes involved. Electrical work falls into this category. The Government considers it right also that competent firms, which have demonstrated their competence in joining a scheme, should be allowed to self-certify that their work complies with Building Regulations' requirements.
11. The Government has strengthened the model with the introduction of the new conditions of authorisation and the requirement for scheme operators to be assessed by UKAS against those conditions and also to be accredited to the quality management standard BS EN 45011, which is one of the new conditions.
12. The Government does not believe that the case has been made for the introduction of a mandatory register for electricians or that a mandatory register would be more effective than the current arrangements. Doing so would involve the costs for setting up and moving to a register, and potential upheaval in the industry as people working in the industry had to go through the registration process.

UK Accreditation Service review

We cannot see any convincing reason why results of the UK Accreditation Service review of the competent person schemes should not be published in full and indeed any reticence or withholding of the results risks being counter-productive and interpreted as screening the operation of the Part P competent person schemes from scrutiny and criticism. We recommend that the results of the UK Accreditation Service review of the Part P competent person scheme operators due in June 2014 be published in full. (Paragraph 17)

We welcome the UKAS review and when it produces its findings we shall pay close attention to what it reports on competence. It will, understandably, measure the operation of the system against the rules set by government. We would therefore expect it to focus on the competence of the qualified supervisor rather than directly on that of the electrician on the doorstep. The concerns put to us go to the competence of the electrician on the doorstep and whether the qualified supervisor ensures competence, which is a question we examine later in this report. (Paragraph 21)

13. The Government is aware that UKAS has written to the Committee to clarify their role in assessing and accrediting competent person scheme operators and what information will be made publicly available once they have finished that process. As is their usual practice, UKAS will publish on their website a list of those scheme operators who have been successfully accredited to BS EN 45011. In addition they will list on their website those operators who have been assessed as compliant with all the DCLG's conditions of authorisation. By extension, any operator which has not been assessed as compliant will not be listed. So it will be apparent by the due date of 6 June as to which organisations have been successful in this process and which have not. The Government will inform the Committee of these results when they are published.
14. The letter from UKAS sets out their position with regard to internal reports which are drawn up on individual schemes, to inform decisions. The Government recognises UKAS's position on the confidentiality of these reports, and does not intend to ask UKAS to change its practice in this regard.
15. As UKAS make clear in their letter to the Committee, whilst their assessors do generate reports on individual scheme operators during the course of their assessments, they are designed to support UKAS's internal decision making processes and are not suitable for public release. They are also covered by confidentiality agreements between UKAS and those organisations seeking accreditation, required to protect the integrity of the accreditation process.
16. Those organisations that have failed the accreditation process or have not met all the rest of our conditions of authorisation are at risk of being de-authorised. The UKAS process allows for an organisation which has failed an assessment to appeal against the decision. The Government's final decision on de-authorisation will follow the conclusions of any appeal. The Government will inform the Committee of any schemes which are to be de-authorised at the end of this process.

17. The Government will also review with UKAS general points arising from the assessment process which may be relevant for any new applications or which may lead us to consider amending any of our conditions. There may also be general points arising that may be helpful to UKAS in the on-going audit process. The Government will inform the Committee of any lessons to be drawn from the process
18. Whilst the detailed findings from UKAS assessments will not be made public, those schemes that are listed on the UKAS website as having met DCLG's conditions of authorisation will have been deemed by UKAS to have adequately assessed the technical competence of their scheme members (i.e. registered businesses including sole traders). In the case of Part P schemes, UKAS will have needed to satisfy themselves that scheme operators have assessed their members against the minimum technical competence requirements set out in the Electrotechnical Assessment Specification published by the Institute of Engineering and Technology in October 2012. Appendix 6 sets out the particular requirements for competent person schemes, including the technical competence requirements for qualified supervisors within the enterprise.

Qualifications

We recommend that the Government change the terms of the competent persons schemes for Part P to require by a specified date that all those carrying out domestic electrical work have a qualification equivalent to NVQ, Level III and to have completed successfully a significant period of supervised on the job training for the work they undertake, which is notifiable under Part P. Our aim is to ensure that all work notifiable for the purposes of Part P will have to be carried out by a suitable qualified person. (Paragraph 32)

In our view a requirement for those carrying out notifiable domestic electrical work to have a qualification equivalent to NVQ, Level III and to have completed successfully a significant period of supervised on the job training would have additional benefits. It could feature in a campaign to raise public awareness as a guarantee of an assured standard by the person carrying out the electrical work and also in the longer term reduce the need for vigorous enforcement as the quality of work improved. (Paragraph 33)

19. The Government supports the view that at least one person involved in carrying out each domestic electrical installation should have competences equivalent to those for an NVQ Level 3 award. Qualified supervisors registered with Part P competent person schemes must demonstrate this level of competence before registration. They must also have two years experience before registration.
20. However, we consider that it would be unreasonable to attempt to require that every individual working in a business registered with a Part P competent person scheme must have competences equivalent to an NVQ Level 3 award. Many building and installation businesses employ unqualified or partially qualified workers, including trainees and apprentices, to help carry out their work. What is important is that such workers are supervised by someone who does have the relevant competences.

Qualified supervisors

We recommend that all qualified supervisors—not just those new to the profession or moving within the profession—be required to meet the standards, including qualifications, set out in the Building Regulations: Competent Person Self-Certification Schemes—Conditions of Authorisation from 6 June 2012 within the next 10 years. (Paragraph 38)

We recommend that there should be a limit on the maximum number of transactions that a single qualified supervisor/competent person can effectively review each year. The purpose of our recommendation is to increase the time that a qualified supervisor has to review the work carried out by those who are not competent persons for the purpose of a Part P scheme. We do not specify a ratio. Instead, the Government and the competent persons scheme operators should agree what is a reasonable number given the obvious current imbalance. They could, for example, define what a reasonable audit process would be, which would give a number of audits and with a given time per audit that would define reasonable numbers. (Paragraph 40)

21. The arrangements for having qualified supervisors in electrical enterprises have been established by the industry for some decades to ensure that there would be one or more individuals in each enterprise responsible on a day to day basis for the safety, quality and technical standards of electrical installations. The system applies equally to domestic and non-domestic installations which benefits businesses carrying out both.
22. The requirements on qualified supervisors are set out in paragraphs 11.9 to 11.11 of the Electrotechnical Assessment Specification. This requires that the competences of qualified supervisors must be kept up to date. Condition 10 of the Competent Person Schemes Conditions of Authorisation also requires scheme operators to ensure that its members' competences are kept up to date. The Government does therefore not agree that there are significant numbers of qualified supervisors with out of date competences.
23. Over 70% of the electrical installation businesses registered with Part P competent person schemes are one or two person businesses. In these cases the qualified supervisor is likely also to be carrying out the installations in people's homes and therefore can fully carry out their responsibilities.
24. In larger businesses the Government recognises the Committee's concerns that qualified supervisors should not be responsible for so many jobs that they do not have time properly to supervise them. We will therefore discuss with the industry whether any changes are needed to be made to the current arrangements to ensure supervision of electrical work is robust.

Conclusions on competent persons schemes

In our view it is not acceptable to say that, because enforcement is poor, improvements cannot be made to the Part P competent persons schemes. We conclude that the Part P competent persons schemes need to change. All those carrying out domestic electrical work should be brought up to the competency level of those who meet the 2012 requirements for a qualified supervisor. When this is achieved the need for qualified supervisors will reduce. We recognise that such a change will take time and we propose that this adjustment be made over a five year period. At the end of this period any person carrying out domestic electrical work would have to be certified competent, which would mean that they were qualified, trained and experienced. At the moment the scheme has the effect of branding as competent some who are plainly incompetent and in the process undermining the operation of competent persons schemes. Pending the full implementation there needs to be an end to the ‘grandfather’ rights enjoyed by those qualified supervisors who came into a scheme before 2013 and a limit on the number of notifications that a single qualified supervisor can authorise in a year.

(Paragraph 42)

25. The Government accepts that there is always some scope for improvement. However, any changes must be properly justified, proportionate to the risks and be practicable. The Government does not accept that all people engaged in domestic electrical work need to meet the current entry requirements for qualified supervisors. There are many people who are working in the industry and many potential new entrants that would be unfairly disadvantaged if this were to be required. As set out above (see paragraph 24 in this paper), we will review the arrangements for qualified supervisors to ensure that they are able to supervise all the works for which they are responsible.

Public awareness

Our inquiry is not the vehicle to examine the merits or otherwise of targets but it must be accepted that 14% public awareness of Part P or of competent person schemes that implement compliance is unacceptable. We conclude that the Government should aim to double this figure within two years and aim for an awareness level broadly comparable with Gas Safe within five years. (Paragraph 45)

We welcome the establishment of a single register open to, and covering, all those registered with a competent persons scheme for Part P. We urge the competent persons scheme operators to build on the work they have done and to ensure that a single register linked to a single brand is fully operational by 30 June this year. (Paragraph 49)

We recommend that the Government, through the conditions of the Building Regulations: Competent Person Self-Certification Schemes – Conditions of Authorisation permit, or if necessary seek legislative provision, to require the competent persons scheme operators for Part P to focus publicity on the single electrical register and linked brand mark.

(Paragraph 50)

26. The Government recognises the importance of public awareness of electrical safety issues. We note that the response rates to market research questions will depend critically on the way questions are asked. It is perhaps not surprising that only 14% of respondents to the question had heard of Part P. We would expect more to know that electrical work in the home should be done by a competent person. For instance, we note that 52% of respondents to the Electrical Safety Council's Consumer Survey in 2009 were aware that a 'trained'/'registered' or 'approved'/'qualified' electrician must do electrical work in the home.
27. The Government takes the view that industry is best placed to take forward public awareness campaigns and, under Condition 6 of the conditions of authorisation, requires scheme operators to promote the development and growth of their schemes to potential members and its use to customers. Like the Committee, the Government warmly welcomes the establishment of a single register for all full scope Part P scheme registrants linked to a single brand mark. We have been told that the main scheme operators are funding a major publicity campaign to be run by Electrical Safety First (which was the Electrical Safety Council) to promote the new register and brand mark, and that the effects of this campaign will be tracked via their annual consumer survey. The Government respects the time that it will take to prepare for the launch and accepts that it will not take place until 2 July 2014.
28. The Government takes the view that to require scheme operators to focus publicity on the single electrical register and linked brand mark could amount to a restraint of trade. In any case, we expect that the marketing advantages of using the single brand mark will be sufficient incentive to ensure that the voluntary agreement that has been reached between scheme operators will be maintained.

Enforcement

With the results of the UKAS review of the Part P competent persons scheme operators due in June 2014 and on the basis that the report is published in full, we conclude that it would be premature in this report to comment further on the monitoring and supervision of the competent persons by the scheme operators. We shall consider the matter further when the UKAS review has been completed and consider the matter again. (Paragraph 52)

We conclude that the evidence points at best to patchy enforcement by local authorities, though for understandable reasons. If the competent persons schemes continue and if the changes we have recommended in this report are made, it is essential that those who stay outside a scheme and attempt to carry out notifiable work in breach of building control be identified, reported and prosecuted. We recommend that as a matter of urgency the Government put in place new arrangements to incentivise and assist local authorities to strengthen enforcement of Part P.

We suggest such arrangements could include the following:

a) a levy on those registered with a competent persons scheme to be used to provide a fund to enhance enforcement; the funding arrangements for enforcement could be managed on behalf of local authorities, possibly through an agency such as LABC;

b) local authorities to inspect a sample of the notifications;

c) the Government working with local authorities to put in place and publicise arrangements to allow householders, contractors and scheme operators to report work carried out in breach of Part P;

d) where there is prima facie evidence of a breach the local authority should investigate and, where a breach has been found to have occurred, the authority should have a range of sanctions available including on-the-spot fines; and

e) where a local authority successfully prosecutes a breach through the courts, the court should as a matter of course award the local authority its full costs from initiating and pursuing the prosecution and a portion of the fine imposed because of the breach. (Paragraph 55)

29. Local authorities have formal enforcement powers in the Building Act 1984 to allow them, where appropriate, to enforce the requirements in the Building Regulations. Under section 35 of the Act they have powers to prosecute breaches in the Magistrates' Courts and under section 36 to serve a notice on the building owner requiring work to be brought up to the required standard. These powers are not heavily used as local authorities find that informal enforcement through advice and guidance is sufficient in almost all cases to achieve compliance. Local authority enforcement powers are not disapplied where work is carried out by installers registered with competent person schemes.
30. It is also important to remember that electrical installations are only one of many types of work that can be self-certified as competent by installers registered with competent person schemes. Whatever enforcement provisions are in place would in fairness need to be applicable in respect of all the types of work subject to self-certification (such as the installation of combustion appliances and heating and hot water systems, mechanical ventilation systems, replacement windows and doors, cavity and solid wall insulation, microgeneration and renewables appliances).
31. More than one million electrical installation jobs in dwellings are self-certificated as compliant each year. On investigation by local authorities and competent person scheme operators almost all of these are found to be in fact compliant.
32. The Committee suggests that arrangements be put in place to allow householders, contractors and scheme operators to report breaches of Part P to local authorities. Such arrangements are already in place and used. In response to complaints and reported breaches local authorities will inspect and take formal enforcement action where they consider it appropriate to do so.

33. The Government is not convinced that it would be fair or proportionate to place a levy on installers registered with competent person schemes to fund enforcement activities of local authorities. There are currently no powers to require such a levy. More importantly, a levy would financially penalise installers (and their customers) and act as a deterrent to continued membership of a scheme.
34. The level of fines, the award of costs and the disposition of the sums raised from fines are matters for the Ministry of Justice and HM Treasury. The Government does not consider that it would be appropriate to make special arrangements only for breaches of Part P of the Building Regulations.
35. At present the maximum fine available for a breach of the Building Regulations is £5000. Powers in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 allow the maximum level of fines to be raised by Order. The Ministry of Justice state that it will be making an announcement on this in due course.
36. The Committee suggests that local authorities should have a range of sanctions available for non-compliance, including on-the-spot fines. The Regulatory Enforcement and Sanctions Act 2008 makes provision for a number of civil sanctions including monetary penalties for breaches of legislation. However, in a Written Ministerial Statement on 8 November 2012 the Minister of State for Business and Enterprise announced that fixed monetary penalties and variable monetary penalties would, as a general rule, only be available where their use was restricted to undertakings with more than 250 employees. As all but a handful of electrical installation businesses have fewer than 250 employees the monetary penalties will not be available.
37. With regard to award of costs, provisions on the award of costs apply generally across all the different types of court cases and the Government does not consider that it would be appropriate to make special provision in respect of cases concerning breaches of Part P of the Building Regulations.

ISBN 978-1-4741-0215-5



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