

Draft Regulations laid before Parliament under section 214(2) of the Housing and Planning Act 2016 and section 250(4) and (6) of the Housing Act 2004, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2020 No.

HOUSING, ENGLAND

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

Made - - - - *****
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⁽¹⁾ and section 234 of, and paragraph 3 of Schedule 4 to, the Housing Act 2004⁽²⁾ 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.

PART 1

Introduction

Citation, commencement and application

1.—(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.

(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.

(1) 2016 c. 22.

(2) 2004 c. 34. 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).

Interpretation

2. In these Regulations—

“authorised person” means a person authorised in writing by the local housing authority⁽³⁾ 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⁽⁴⁾;

“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⁽⁵⁾;

“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⁽⁶⁾ 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.

PART 2

Duties of private landlords

Duties of private landlords in relation to electrical installations

3.—(1) A private landlord⁽⁷⁾ 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⁽⁸⁾ 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.

(3) See the definition of “local housing authority” in section 123(6) of the Housing and Planning Act 2016.

(4) *S.I. 2010/2214*. There are no relevant amendments.

(5) 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.

(6) See the definition of “tenancy” in section 122(6) of the Housing and Planning Act 2016.

(7) See the definition of “private landlord” in section 122(6) of the Housing and Planning Act 2016.

(8) See the definition of “residential premises” in section 122(6) of the Housing and Planning Act 2016.

- (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.
- (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.

PART 3

Remedial action

Duty of local housing authority to serve a remedial notice

4.—(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 subparagraph (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.

Duty of private landlord to comply with a remedial notice

5.—(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.

Power of local housing authority to arrange remedial action

6.—(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—

- (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.

Appeals relating to remedial action by local housing authorities

7.—(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.

Recovery of costs

8.—(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.

Appeals against recovery of costs

9.—(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.

(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.

PART 4

Urgent remedial action

Urgent remedial action

10.—(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—

- (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.

PART 5

Financial penalties

Financial penalties for breach of duties

11.—(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.

Procedure for and appeals against financial penalties

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

PART 6

Licences under Parts 2 and 3 of the Housing Act 2004

Amendments to Schedule 4 to the Housing Act 2004

13. 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
 - (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.”.

PART 7

Duty of manager to supply and maintain gas and electricity

Amendments to the Management of Houses in Multiple Occupation (England) Regulations 2006

14. In the Management of Houses in Multiple Occupation (England) Regulations 2006⁽⁹⁾, omit regulation 6(3).

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

Date

Name
Minister of State
Ministry of Housing, Communities and Local
Government

SCHEDULE 1

Regulation 2

Excluded tenancies

Private registered provider of social housing

1. A tenancy where the landlord is a private registered provider of social housing⁽¹⁰⁾.

Shared accommodation with landlord or landlord's family

2.—(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.

Long leases

3.—(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⁽¹¹⁾ 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.

Student halls of residence

4.—(1) A tenancy that grants a right of occupation in a building which—

⁽¹⁰⁾ 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.

⁽¹¹⁾ 1993 c. 28

- (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⁽¹²⁾.

Hostels and refuges

5.—(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.

Care homes

6.—(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⁽¹³⁾.

Hospitals and hospices

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

⁽¹²⁾ 1992 c. 14

⁽¹³⁾ 2000 c. 14. 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.

(2) In this paragraph “hospital” has the meaning given in section 275 of the National Health Service Act 2006⁽¹⁴⁾.

(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.

Other accommodation relating to healthcare provision

8.—(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) a clinical commissioning group; 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⁽¹⁵⁾.

SCHEDULE 2

Regulation 12

Procedure for and appeals against financial penalties

Notice of intent

1.—(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.

Right to make representations

2. 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.

⁽¹⁴⁾ 2006 c. 41

⁽¹⁵⁾ 1978 c. 30

Final notice

3.—(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.

Withdrawal or amendment of notice

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

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

Appeals

5.—(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.

Recovery of financial penalty

6.—(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.

(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⁽¹⁶⁾.

Proceeds of financial penalties

7.—(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.

⁽¹⁶⁾ 1989 c. 42. 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).

EXPLANATORY NOTE

(This note is not part of the Regulations)

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.

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.