

ELECTRICAL SAFETY

Key Points

There are no specific regulations relating to electrical safety in the same way as there is for gas safety. Electrical appliances provided by the landlord must be safe at the commencement of the tenancy. There will be a legally implied term on the tenancy that the electrical installation is kept in good repair and proper working order. Under Part P of the Building Regulations there are detailed requirements applicable to carrying out of work to the electrical installation in residential accommodation. There are detailed regulations relating to electrical appliances and plugs and sockets. A landlord is potentially liable under the Defective Premises Act if a tenant or resident suffers death or injury or has personal belongings damaged as a result of a defect in the electrical system in the premises. In the case of houses in multiple occupation (whether licensable or not) there is a requirement to have a five yearly safety check carried out to the electrical installation by a competent electrician. This has to be produced to the local authority on demand. Where the HMO is licensable then there will be a licence condition requiring the licence holder to make a declaration as to the safety of the electrical system on demand. This licence condition also requires electrical appliances in such HMOs to be kept in good repair, where provided by the landlord.

Introduction

- 1.1 The law regarding electrical safety is less clear cut than for gas safety. There are no overarching safety regulations in the same way as there is for gas safety. One has to look at various regulations and general landlord's duties and responsibilities.
- 1.2 There has been a major change relating to electrical safety with the introduction from 1st January 2005 of Part P of the Building Regulations relating to domestic property.
- 1.3 There are various codes particularly the Institute of Electrical Engineers ("IEE") requirements and relevant British Standards. Unless the Building Regulations apply these may not be directly enforceable as legal requirements. Instead, there may be accepted standards by which compliance with legal obligations is judged, in a similar way to the Highway Code. For example, a particular item such as earthing may not comply with the current IEE requirements but it will not necessarily be "unsafe" or not in working order as a result.
- 1.4 Examples of the way in which electrical safety could be enforced are as follows:-
 - (1) Building Regulations
 - (2) Various Statutory Regulations such as the Electrical Safety Regulations and the Plugs and Sockets regulations
 - (3) Section 11 of the Landlord & Tenant Act 1985 imposing landlord's repairing obligations relating to short residential tenancies – there is an obligation to keep electrical installations in repair and in proper working order
 - (4) Defective Premises Act 1972 - if a tenant or resident is injured as a result of a defective electrical installation or their personal property is damaged then there would be a liability in damages
- 1.5 Another area where electrical safety is relevant is in relation to the testing of emergency lighting and fire detection/warning systems.
- 1.6 Under the Health & Safety at Work etc Act 1974 there is a requirement for portable electrical appliances to undergo a PAT Test. This applies to premises where employees work e.g. sheltered type accommodation.
- 1.7 There are recognised standards for electrical inspection governed by the National Inspection Council. These operate in conjunction with the IEE requirements.
- 1.8 Electrical safety for domestic equipment and items is regulated by the Consumer Protection Legislation and two sets of regulations made under that Act. The first is the Electrical Equipment (Safety) Regulations 1994 (ESR) and the second set of regulations are contained in the Plugs and Sockets etc (Safety) Regulations 1994 (PSR). Thus plugs, sockets and certain other appliances are subject to this second set of regulations and are governed by a separate code. There is some overlap between the two.
- 1.9 ESR have their origin in two European Directives, the second of which introduces "CE marking".

Building Regulations – Part P (Electrical Safety)

- 2.1 Part P of the Building Regulations which introduce building control

Requirements in relation to electrical safety came into effect on the 1st January 2005.

- 2.2.1 Part P applies to electrical installations in a dwelling (including a flat); in the common parts of a building serving one or more dwelling/flat (excluding power supplies to lifts); in a building that receives electricity from a source located within or shared with a dwelling (including a flat); or in a garden or in or on land associated with a building where the electricity is from a source located within or shared with a dwelling. It is intended to improve electrical safety in residential accommodation.
- 2.2.2 The definition of an "electrical installation" is "an assembly of associated electrical equipment supplied from a common original to fulfil a specific purpose and having certain co-ordinated characteristics". For the purpose of the Building Regulations effectively it is the fixed electrical cables or fixed electrical equipment which are located on the consumer side of the meter; not the appliance that actually uses the supply of electricity
- 2.3 The Requirement relates to the design installation inspection and testing of electrical installations. As part of the building work reasonable provision must be made in the design installation and testing of electrical installations in order to protect persons from fire or injury. Sufficient information must be provided so that persons wishing to operate maintain or alter an electrical installation can do so with reasonable safety.
- 2.4 Thus, as well as applying for dwelling houses or flats the requirement relates to dwellings and business premises would have a common supply (e.g. flats above shops) as well as common access areas in blocks of flats (such as corridors and staircases and shared amenities as blocks of flats such as laundries). It includes fixed lighting and pond pumps in gardens and electrical installations in outbuildings such as sheds garages and greenhouses.
- 2.5 As is usual the compliance is limited to reasonable standards to meet health and safety.

- 2.6 Other requirements of the Building Regulations also affect electrical installations. These include depth of chases in walls, the size of holes and notches in roof and door joists, fire safety, provision of fire alarm and fire detection systems, resistance of penetrations through floors and walls, and moisture resistance of cable penetrations through external walls. Also covered are penetrations through floors and walls, ventilation grates for walls of dwellings, energy efficient lighting, reduced current capacity of cables in insulation and height of switches and socket outlets. Upon completion a building must be no worse in terms of level of compliance with other applicable regulations. For instance, a perforation in the ceiling lining beneath a floor made to accommodate recess lighting or fittings may have an effect on the resistance of the floor to fire and sound penetration.
- 2.7 The Approved Document for these purposes is BS7671 Code 2001, otherwise known as the IEE Regulation 16th Edition. The requirement will be fulfilled so long as the fundamental principles set out in that document are met. This means that the installations must be designed and installed to afford appropriate protection against mechanical and thermal damage, so that they do not present electric shock and fire hazards to people. They must be suitably inspected and tested to verify that they meet the relevant equipment and installation standards. The technical rules set out in this document must be followed. Guidance given in appropriate manuals which are consistent with the Standard must also be met.
- 2.8 The general rule is that notification of proposals to carry out electrical work must be given to the local authority (or approved building inspector) work begins.
- 2.9 It is not necessary to give prior notification where:-
- (i) installation work is undertaken by a competent person under a registered electrical self-certification or scheme authorised by the Communities and Local Government (CLG). In such a situation that person is then responsible for ensuring compliance with the Requirements including any other Requirements contained in the Building Regulations. On completion of the work a signed building regulation self-certification certificate should be issued. A copy of this should be sent to the local authority (or an approved inspector). The client should also receive a duly completed electrical installation certificate in the model form. This certificate must be made out and signed by the competent person or persons who carried out the design, construction and inspection and tested the works. Different people may need to give this certificate where different aspects are undertaken by those different people, or
 - (ii) The electrical installation work is not notifiable work as designated in the Regulations (see paragraph 12). So long as it does not include the provision of a new circuit.
- 2.10 Thus where non-notifiable work as described (under 2.9) is undertaken professionally the way to show compliance would be to follow the standards and to issue to the client a minor electrical installation work certificate modelled on the form set out in the British Standard. This certificate must be made out and signed by a competent person in respect of the installation and testing of the installation. Such a person need not necessarily be the person registered under an electrical self-certification scheme. It may be a third party. If the non-notifiable work is to be undertaken by a do it yourself worker then compliance can be shown by following IEE Guidance and also then to have a competent person inspect and test the work and supply a minor electrical installation work certificate. Again, that person need not necessarily be registered but must be competent as regards inspection and testing of installations. The circuits protective measures/current carrying capacity of conductors must be unaffected by increased thermal insulation.
- 2.11 In any event non-notifiable works should be drawn to the attention of the electrician carrying out the subsequent works or periodic inspections. This can be done by supplying a copy of the minor works electrical installation certificate covering the additions and alterations made. Where non-notifiable work is carried out the local authority does not have to be informed nor does the person carrying out the work need to be a member of a self certification scheme. However, the Building Regulations must be complied with by the person doing the electrical work.
- 2.12 (1) Non-notifiable work consists of any of the following:-
- (a) replacing any electrical fitting including socket outlets and control switches and ceiling roses
 - (b) replacing a cable for a single circuit only where damaged
 - (c) refixing/replacing the enclosures of existing electrical installation components. This is subject to the circuits protective measures being protected.
 - (d) providing mechanical protection for an existing fixed installation
 - (e) Adding lighting points (light fittings and switches) to an existing circuit. This applies only if the existing circuit protective device is suitable and provides protection for the circuit as modified (so long as this work is not in a kitchen or special location or involving special installations).
 - (f) Adding socket outlets and fuse spurs to existing ring or radial circuit. Again, this only applies to existing circuit protective devices suitable and provides protection for the circuit as modified (so long as this work is not in a kitchen or special location or involving special installations).
 - (g) Installing or upgrading main or supplementary equipotential bonding. This work must comply with other applicable legislation e.g. Gas Safety Regulations (so long as this work is not in a kitchen or special location or involving special installations).
 - (h) Work not in a special location on telephone or similar wiring and equipment.

Please note that items (e) (f) and (g) only apply if the work is not in a kitchen or special location and does not involve a special installation.

NOTES:

- (1) A kitchen is defined as a room or part of room which contains a sink and food preparation facilities. In open plan areas the zone of a kitchen may be considered to extend from the edge of the sink to a distance of 3 metres or to a dividing wall (if nearer).
- (2) Special locations:-
 - (i) Locations containing bath tub or shower basin
 - (ii) Swimming pools or paddling pools
 - (iii) Hot air saunas
- (3) Special installations are:-

Electric floor or ceiling, heating systems, garden lighting or power installations, solar power p.v. supply systems, small-scale generators, extra low voltage lighting installations (except pre-assembled CE marked lighting sets).

- 2.13 There are therefore important exceptions to the normal rules relating to minor works applicable in the place of both kitchens and bathrooms. In such instances work must always be carried out by a registered self-certified electrician or alternatively notification must be given to the local authority (or approved inspector) under the Building Regulations. Clearly the combination of electricity and water is potentially fatal and, for example, special requirements apply under the British Standard in relation to bathrooms.

2.14 The following are registered self-certification certificates:-

BRE Certification Limited
British Standards Institution
ELECSA Limited
NICEIC Certification Limited
NAPIT Certification Limited

2.15 The safety requirement will be applicable to alterations and additions to existing installations (including rewires), as well as to new construction. There will be a requirement to ensure that parts of an existing installation upon which new work depends for safety (such as the earthing and bonding arrangement) comply with the requirements of Building Society 7671:2001. This requirement for consequential remedial work is a departure from the normal Building Regulations approach.

2.16 In summary the requirement under Part P applies to all fixed electrical installation work in dwellings, whether carried out professionally or by DIY, whether or not minor work, and whether or not the work is notifiable to a building control body. However, certain relaxations may apply for the inspection, testing and certification of minor work undertaken as DIY.

Electrical Safety Regulations (ESR)

3.1 ESR (with certain exceptions) applies to any electrical equipment, including any electrical apparatus or device, which is designed or adapted for use with a voltage between 50 and 1000 volts AC or 75 and 1,500 volts DC. There are certain exceptions including parts for passenger or goods lifts and electricity supply meters, as well as plugs and sockets so long as they are for domestic use. The current version of the ESR came into force on the 9th January 1997.

3.2 ESR require that electrical equipment shall be:-

- (a) safe – this has the same meaning as under Consumer Protection Legislation although its meaning is modified so that “risk” also includes references to risk of death or injury to domestic animals and damage to property as well. However, risk excludes any risk arising from improper installation or maintenance of the equipment or any use or application for which it was not made
- (b) constructed in accordance with good engineering practice in relation to safety matters – it must be designed and constructed to be safe so as to protect against electric shock. This must be done by a combination of insulation and protective earthing, or other approved means.
- (c) conform with the designated safety objectives as specified in the Regulations. In summary these involve the following requirements

i) essential characteristics must be marked on the equipment or accompanying notice

ii) equipment must be made so that it can be properly assembled and connected

iii) equipment must be designed and managed so as to ensure protection against hazards when in use for application for which it is made as well as being adequately maintained

There is no supply when goods comprised in a building are hired out when a tenancy is granted. The Regulations therefore do not apply to such items but would apply to loose items such as appliances.

The fundamental requirement is that no person may supply equipment which does not comply with these requirements. For these purposes the CPA 87 definition of “supply” is modified. As indicated under the Section relating to CPA 87 supply is a one off act at the outset of the tenancy. Thus the fundamental requirement is to ensure that equipment subject to ESR is safe when any tenancy commences (with a new tenant).

3.3 ESR also imposes obligations on manufacturers. CE marking is also normally required but does not apply to second-hand or hired out goods so that for practical purposes it does not normally apply when letting a property. Normally an EC Declaration Form is required but again this does not apply to second-hand or hired out goods.

Plugs and Sockets etc

4.1 Plugs and sockets used in this Country are different to those found in continental Europe. The Plugs and Sockets Regulations (PSR) gives statutory force to relevant British Standards. Alternatively they must conform with a standard specification recognised for use in an EC Member state or other state of European Economic Area. These must provide a level of safety equivalent to those provided for under the relevant British Standard.

4.2 PSR apply to plugs, sockets or adapters and certain designated appliances and conversion plugs

4.3 So far as standard plugs i.e. three pin plugs, are concerned no person may supply a standard plug unless it is of an approved type. Any other type of plug or any socket or adapter can only be supplied if it complies with the relevant British Standard. Additionally any standard plug must also have a fuse link which complies with the relevant British Standard.

4.4 Where there is the appliance with a flexible cord or cable for domestic use. A standard plug must be fitted and be of an approved type together with a properly rated fuse.

4.5 There are information requirements to accompany standard plugs or approved conversion plugs.

4.6 PSR came into force on the 3rd August 1994.

4.7 PSR list out all the relevant British Standards which were applicable and have to be adhered to in respect of plugs and sockets etc. Thus, if there is non-compliance with the relevant British Standard at the time of supply an offence would be committed.

4.8 The prosecution requirements are modified under PSR in that prosecution must be commenced within 12 months from the time the offence is committed.

4.9 There is a further modification in where the risk of death or injury to a domestic animal or damage to property (or both) is involved but not to persons the maximum level of imprisonment is reduced to 3 months (from the normal 6).

Breach of Regulations

5. If a supply is made in breach of either the ESR or PSR then an offence under CPA 87 is committed. This can lead to prosecution and criminal conviction. Normally there is a maximum sentence of 6 months imprisonment and/or a fine. The offence is committed where there is a "supply" in breach of the Regulations. The concept of supply is dealt with under the General Section in relation to CPA 87 but any modifications under the individual Regulations are as referred to above. There can also be civil liability. Trading Standards are the enforcement authority.

Electricity at Work Regulations 1989

- 6.1 Electrical installations carried out by persons on whom duties are imposed by the Electricity at Work Regulations 1989 must meet the requirements of those Regulations.
- 6.2. Regulation 3 imposes duties on employers, employees and the self-employed. Regulation 3(2)(b) places duties on employees equivalent to those placed on employers and self-employed persons where there are matters within their control.
- 6.3. The Regulations require that electrical work is only carried out by persons that are competent to prevent danger and injury while doing it, or who are appropriately supervised (Regulation 16).
- 6.4. The Regulations set general requirements for the design, construction and suitability of equipment for its intended use

Electricity Safety, Quality and Continuity Regulations 2002

- 7.1 The Electricity Safety, Quality and Continuity Regulations 2002 came into force on 31st January 2003. These Regulations replaced the Electricity Supply Regulations 1988 (as amended).
- 7.2 The Regulations specify safety standards which are aimed at protecting the general public from danger. In addition, the Regulations specify power quality and supply continuity requirements to ensure an efficient and economic electricity supply service for consumers. The Regulations were introduced to improve standards in public safety and to align requirements to modern electricity markets.
- 7.3 The duty holders are generators, distributors, suppliers, meter operators, consumers and specified persons. Most of the duties apply to distributors who own or operate networks used to supply customers' installations, street furniture or other networks.
- 7.4 Amongst other duties, distributors are required to provide an earthing facility for new connections (unless this would be inappropriate for safety reasons), to maintain the supply within defined tolerance limits and to provide certain technical and safety information to consumers to enable them to design their installations.
- 7.5 Distributors and meter operators must ensure that their equipment on consumers' premises is suitable for its purpose and safe in its particular environment and that the polarity of conductors is clearly indicated.
- 7.6. The Regulations allow the Secretary of State to issue safety enforcement notices to consumers in circumstances where consumers' installations outside buildings present a danger to the public.
- 7.7 Distributors are prevented by the Regulations from connecting installations to their networks which do not comply with BS 7671. Other persons may connect installations to distributors' networks providing they obtain the prior consent of the distributor, who may require evidence that the installation complies with BS 7671 and that the connection itself will meet safety and operational requirements. Distributors may disconnect consumers' installations which are a source of danger or cause interference with their networks or other installations.

Part P of the Building Regulations makes requirements covering the safety of fixed electrical installations, but does not cover system functionality. The functionality of electrically powered systems such as fire alarm systems, fans and pumps is covered in other Parts of the Building Regulations and other legislation.

Landlord's repairing responsibilities/defective premises obligations

- 8.1 Under a residential tenancy there is a statutory implied obligation on the part of landlord to keep the electrical installations in good repair and proper working order. For more details on this obligation [click here](#).
- 8.2 Where there is a defect in the electrical installation if this causes death or injury to a tenant or resident then the landlord may be liable to pay damages in respect of the person injured or killed. There is also an obligation to pay for damages in respect of any personal property belonging to a tenant or resident which may be damaged in consequence. For more information about liability under the Defective Premises Act [click here](#).

Houses in Multiple Occupation

- 9.1 Under the HMO Management Regulations there is an obligation to carry out a five yearly electrical safety check. This must be carried out by a competent electrician. The local authority are entitled to demand to see this report. The regulations also impose duties regarding the safety of occupiers. All electrical lighting, space heating or water appliances must be maintained in good repair and proper working order. These requirements apply whether the house in multiple occupation is licensable or not. House in multiple occupation includes properties such as shared houses and bedsits. For more information about the definition of House in Multiple Occupation [click here](#). If you require additional information regarding the HMO Management Regulations [click here](#).
- 9.2 If the House in Multiple Occupation is licensable then it will be a condition of the HMO licence that on demand the licence holder must give the local authority a declaration as to the safety or electrical appliances. There is no requirement as such to obtain a report from a competent electrician but a landlord giving such a declaration without having proper advice as to the safety of the electrical appliances concerned will be laying himself/herself open to further action if such declaration proved to be incorrect. There is also a licence condition requiring the appliances to be kept in a safe working condition. For more information about HMO licence conditions [click here](#).

Housing Health and Safety Rating System

10. Under the Housing Health and Safety Rating System electrical hazards and defect in the lighting in the premises are hazards. If this hazard exists at the property the local authority can carry out a Housing Health and Safety Rating System assessment. If the risk is sufficiently serious as a result of this hazard that it is classified as a Category 1 hazard then the local authority must take enforcement action against the landlord. If it is a less serious Category 2 hazard they have a discretion to do so. For more information about the Housing Health and Safety Rating System [click here](#). Works may therefore be required as a result which could lead to the property being upgraded/improved to deal with a particular hazard.