



# ELECTRICAL SAFETY BRIEFING FOR LANDLORDS

The electrical safety of any property under your control falls into two main areas:

- The electrical installation (wiring, sockets, light fittings)
- The electrical appliances (the things that plug in)

Under Health and Safety legislation, landlords have a duty of care towards their tenants which requires both these areas to be monitored and maintained in a safe condition.

There is no hard and fast regulation requiring electrical inspection or certification, which leaves it wide open to interpretation in the event of any conflict between landlord and tenant or, worse, between landlord and the legal system.

This briefing has been prepared as an aid to understanding what you may need to do and how to go about it.

We hope you find it useful – if you have any questions please don't hesitate to contact us for more information.

## CONTENTS

- Safety checks – why bother
- Electrical Safety – a landlord's guide
- PAT testing – what is it and why
- Homes in Multiple Occupation
- Services and prices

## Landlord electrical safety checks - why bother?

### Introduction

Landlords must, by law, get gas equipment checked regularly. There's no such legal requirement for electrical checks, so why bother? Why pay another bill if you don't have to?

The *Gas Safety (Installations and Use) Regulations 1998* place explicit requirements on landlords to ensure safe operation of gas appliances under their control, but the legislation for electricity is less explicit.

And while the Confederation of Registered Gas Installers looks after the rules on gas, there is no electrical equivalent organisation. In fact there are several trade associations - such as the *Electrical Contractors Association* (ECA), the *National Association of Professional Inspectors and Testers* (NAPIT) and the *National Inspection Council for Electrical Installation Contractors* (NICEIC) – which perform a CORGI-like function, but without the legal authority to disconnect supplies if there is a perceived danger.

### Why do landlords need to complete an electrical inspection?

There are two main Acts of Parliament that impose a statutory duty on landlords over the safety of electrical equipment - *The Consumer Protection Act 1982* and *The Health and Safety at Work Act 1974*.

The Consumer Protection Act affects anyone who lets property in the course of their business because it defines them as "suppliers", i.e. they are supplying goods to the tenant. There are several items of secondary legislation under the umbrella of the Consumer Protection Act which are directly relevant to the supply of electrical goods, including *The Low Voltage Electrical Equipment Regulations 1992*, *The Electrical Equipment (Safety) Regulations 1993*, *The General Product Safety Regulations 1994* and *The Plugs and Sockets (Safety) Regulations 1994*

These all impose a duty on landlords to ensure that all electrical equipment supplied by them is safe for use by the tenant. The Consumer Protection Act provides a defence of "due diligence", which means a landlord can defend a contravention of the Act if s/he can demonstrate that s/he took reasonable steps to avoid committing the offence.

The *Health and Safety at Work Act* places a duty of care upon both employer and employee to ensure the safety of anyone using the work premises. Without going into the detailed interpretation, this is generally accepted to include a landlord and/or his agent and tenant under the employer/employee heading.

So a landlord has duties both as a "supplier of goods" and as the "person responsible" for an electrical installation. As a "supplier of goods" s/he must ensure that goods are checked before the tenant takes them over, and as a "person responsible" must ensure an adequate system of maintenance.

A regular inspection programme is an essential part of any maintenance system. For this reason, and to provide a demonstration of due diligence, an annual safety inspection of all residential lets is recommended.

### When do landlords need to complete an electrical inspection?

Unlike the gas regulations there is not a statutory period for completing electrical safety inspections or maintenance. There are several authoritative documents that suggest suitable intervals including:

- The Institute of Electrical Engineers (IEE) - Code of Practice for in-service inspection and testing of electrical equipment (also known as PAT testing).
- Health and Safety Executive (HSE) - Maintaining portable and transportable electrical equipment.
- HSE - Maintaining portable electrical equipment in hotels and tourist accommodation.
- HSE - Maintaining portable electrical equipment in offices and other low-risk environments.
- IEE - Inspection & Testing Guidance Note 3 (the guidance is intended mainly for electricians rather than landlords or householders).

Again, the landlord/tenant scenario is not explicitly covered in any of the above documents. However, the *Code of Practice for In-Service Inspection and Testing of Electrical Equipment*, states:

"The relevant requirement of the *Electricity at Work Regulations* is that [appliances] shall be maintained so as to prevent danger. Inspection and testing are means of determining whether maintenance is required. The frequency of inspecting and testing will depend upon the likelihood of maintenance being required and the consequence of the lack of maintenance."

The same document also provides guidance on how often equipment should be checked in various situations, ranging from construction sites to offices and shops. Interpreting this guidance puts the landlord/tenant situation falls somewhere between what the IEE describes as a "hotel" situation and a situation where "equipment is used by the public".

Clearly the landlord/tenant situation is slightly more onerous than a hotel situation because there is no daily inspection of premises by hotel staff (which would uncover electrical problems) and it is slightly less arduous than the public use situation (because the tenant has some knowledge and control over the electrical equipment).

IEE *Guidance Note 3, Inspection and Testing* provides guidance on the inspection, testing and maintenance required for electrical installations. This document places a general requirement for a yearly "routine check" on commercial properties, with a more thorough examination including inspection and testing every five years, or at change of tenancy.

### What do landlords need to check?

Once a landlord has established the need to test, the decision on the level of testing required is a technical matter covered by the IEE's documentation. There is also an array of specialist equipment designed specifically to complete IEE test regimes for portable and fixed electrical equipment.

## Electrical Safety

### Key Points

- If you let property in England and Wales you must ensure that electrical equipment and the electrical system is safe.
- The electrical safety regulations are enforced by the Health and Safety Executive.
- There is currently no statutory requirement to have annual safety checks on electrical equipment as there is with gas, but it advisable to do so.
- You should ensure that tenants are given copies of operating and safety instructions for ALL equipment in the premises.

If you let property you must ensure that the electrical system and all appliances supplied are safe - failure to comply with the *Electrical Equipment (Safety) Regulations 1994* and the *Consumer Protection Act 1987* is a criminal offence and may result in:

- A fine of £5,000 per item not complying
- Six months' imprisonment
- Possible manslaughter charges in the event of deaths
- The tenant may sue you for civil damages
- Your property insurance may be invalidated

### Landlord Guide

It's important to ensure that all electrical appliances and fittings within the property are safe and in good working order. If any electrical fittings or appliances within your rental property cause harm to a tenant you could be held liable, with the tenant taking you to court with a claim for damages for negligence.

You're advised to make visual inspections yourself as landlord or agent in residential properties – and record the fact on a safety checklist - and have periodic checks carried out by a suitably qualified electrician.

- Keep supplied appliances to a minimum.
- Make sure appliances supplied are complete and in working order - keep purchase receipts.
- Pay particular attention to second-hand equipment - always have these items checked.
- Ensure that operating instructions and safety warning notices are supplied with the appliances.
- Ensure that flexes are in good order and properly attached to appliances and plugs.
- Ensure that earth tags are in place.
- Ensure that plugs are of an approved type with sleeved live and neutral pins.
- Ensure that plugs and sockets conform to BS1363, or BS1363/A for heavy duty uses.
- Ensure that all fuses are of the correct type and rating.
- Make sure that tenants know the location of, and have access to, the main consumer unit, fuses and isolator switches.
- Make a note of all fuse ratings on the inventory.

If you are in any doubt about the wiring or the safety of any appliances consult a qualified electrician.

## Regulations

There is no statutory obligation on landlords or agents to have professional checks carried out on the electrical system or appliances. However, under the *Electrical Equipment (Safety) Regulations 1994*, the *Plugs and Sockets (Safety) Regulations 1994*, both of which come under the *Consumer Protection Act 1987*, there is an obligation to ensure that all electrical equipment is safe.

In January 2005 new legislation under **Part P** of the **Building Regulations** made it a requirement that certain types of electrical work in dwellings, plus garages, sheds, greenhouses and outbuildings, comply with the standards laid down in the Wiring Regulations. This means an approved, competent electrician must carry out the work.

For D-I-Y electrical work you must belong to one of the approved Competent Person Self-Certification schemes or submit a building notice to the local authority before doing the work.

## Compliance

We would strongly recommend that any landlord should make absolutely sure they are complying with these regulations to ensure that all electrical equipment supplied is safe.

To do this we recommend:

- Annual visual inspections by the landlord or agent - recording this on a safety checklist,
- Inspections on tenant change-overs, making a record of electrical equipment, its condition and fuses fitted
- Periodic inspections of electrical equipment by a qualified electrician.
- At least five-yearly inspections by a qualified electrician to ensure safety and that the electrical system complies with current electrical regulations. This should be what is known as a Periodic Inspection, a full and detailed inspection of the installation including stripdown testing of the consumer unit/fusebox.
- Keep all records of these inspections.

## Due Diligence

In the event of a tenant complaint or an incident the defence of "due diligence" may be accepted where it can be shown that the landlord or agent took all reasonable steps to avoid committing an offence - you will need documentary evidence of this.

## **PAT Testing**

### **Landlord Legal Requirements**

Anyone who lets residential accommodation (such as houses, flats and bedsits, holiday homes, caravans and boats) as a business activity is required by law to ensure the equipment they supply as part of the tenancy is safe.

The *Electrical Equipment (Safety) Regulations 1994* requires that all mains electrical equipment (cookers, washing machines, kettles, etc), new or second-hand, supplied with the accommodation must be safe. Landlords therefore need to regularly maintain the electrical equipment they supply to ensure it is safe.

The supply of goods occurs at the time of the tenancy contract. It is, therefore, essential that property is checked prior to the tenancy to ensure that all goods supplied are in a safe condition. A record should be made of the goods supplied as part of the tenancy agreement and of checks made on those goods. The record should indicate who carried out the checks and when they did it.

It is strongly advisable to have the equipment checked before the start of each let. It would be good practice to have the equipment checked at regular intervals thereafter. You should obtain and retain test reports detailing the equipment, the tests carried out and the results.

**For more information see <http://www.pat-testing.info/landlords.htm>**

### **Equipment to be tested**

There are many European standards and guidance notes regarding portable appliances and equipment, though they do not establish a common and specific definition of such equipment. Even so, there does seem to be a consensus of opinion that it comprises equipment which is either hand-held while connected to the supply, or is intended to be moved while connected to the supply, or is capable of being moved without undue difficulty while connected to the supply.

### **Who tests?**

Anyone carrying out the inspection and testing must be competent to undertake the work, having due regard of their own safety and that of others. The 'danger' to be prevented, includes not just the dangers which may arise during the testing procedure to the tester and others, but also the dangers which may arise at a later date as a result of using equipment which has not been effectively tested.

The tester must have an understanding of the modes of electrical, mechanical or thermal damage to electrical equipment and appliances and their flexes which may be encountered in any environment.

### How often?

The Health & Safety Executive offers no absolute rules on the frequency of the testing and inspection of portable appliances. The *Memorandum of Guidance on the Electricity at Work Regulations* suggests that 'regular inspection of equipment is an essential part of any preventative maintenance programme', but no attempt is made to specify the intervals of time implied by the word 'regular'. In arriving at a judgement as to the frequency of testing, a landlord should assess the following factors:-

1. The environment - equipment installed in a benign environment will suffer less damage than equipment in an arduous environment
2. Users - if the users report damage as and when it becomes evident, hazards will be avoided. Conversely, if equipment is likely to receive unreported abuse, more frequent inspection and testing is required
3. The equipment construction - the safety of a Class 1 appliance is dependant upon a connection with earth of the electrical installation. If the flexible cable is damaged the connection with earth can be lost. Safety of Class 2 equipment is not dependent upon the fixed electrical installation
4. The equipment type - appliances which are hand-held are more likely to be damaged than fixed appliances. If they are Class 1 the risk of danger is increased, as the safety is dependant upon the continuity of the protective conductor from the plug to the appliance.

### Recording the tests

The keeping of suitable records of equipment testing is essential. They provide evidence for the defence in the event of a prosecution; more practically, such records enable the monitoring of the equipment, highlighting potential faults or adverse trends.

## Houses in Multiple Occupation

Houses in Multiple Occupation (HMO) are generally an entire house or flat which is let to **three or more** tenants who form **two or more** households and who share a kitchen, bathroom or toilet, though definitions are complex. In some cases landlords who operate such a letting will need a licence, which is issued by the local authority.

### Definition of a House in Multiple Occupation

In the main, in residential letting, the properties that are generally associated with an HMO are student lets, though they also include properties converted into self-contained accommodation by landlords to maximise the rental yield.

The *1985 Housing Act* definition of an HMO was “a house which is occupied by persons who do not form a single household”. The rules were updated in the *2004 Housing Act* and now take far more account of electrical matters, some of which may not be immediately apparent as electrical concerns.

For instance, an HMO must have a constant supply of clean hot and cold water – if the water heating in the property is by electricity, such as an immersion heater, then this can become a job for an electrician as much as for a plumber.

You must safeguard against electric shock by having the installation tested by a suitably qualified contractor, and against fires by installing smoke detectors as standard – often a task carried out by an electrician.

### The electrical installation

The electrical rules governing HMOs come under the *Plugs Sockets (Safety) Regulations 1994*, *The Electrical Equipment (Safety) Regulations 1994*, and *Low Voltage Electrical (Safety) Regulations 1990*.

The electrical installation must be in sound condition and therefore the only way to make certain that this is safe and to the current Wiring Regulations the installation must be inspected by an accredited contractor. It is a good idea to plan for regular (perhaps annual) checks, as damage by tenants or alterations on the property can affect the property condition.

This also applies to any electrical appliances supplied for the tenants – items such as fridges, irons, vacuum cleaners and so on which may be provided as part of the rental package must be safe to use. **See PAT TESTING.**

We recommend that on every change of tenancy the property should have a landlord's inspection and PAT testing of any landlord-owned appliances. A full periodic inspection should be carried out on rental property at least every five years. In this way you can be assured that each new tenant is moving in to an electrically-safe property.

## SERVICES AND PRICES

Full periodic inspection and test of the electrical installation: **£135.00**  
(based on 3-bed property – variations may apply for larger or smaller properties)

Landlord's inspection: **£ 45.00**

PAT testing: **£ 2.00**  
**per appliance**

(price based on PAT testing being carried out at the same time as a safety inspection, otherwise minimum charge of £35.00 applies)

Repair and maintenance work can be quoted for on an individual job basis  
– all work is carried out to the highest standard and carries a minimum 12-month warranty on parts and workmanship.

Prices correct at time of going to press but may vary from time to time – please check prices when ordering any work.

**CALL 01242 269916 or 07973 783103  
to discuss your requirements**