
DRAFT STATUTORY INSTRUMENTS

2020 No.

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

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.