

Cancellation of Meetings

June 2020

Currently, all SWLA general meetings and externally organised regional landlord open events are cancelled/postponed until such time that larger gatherings can safely take place.

In the meantime, we will continue to post updates on our website/Facebook page. Any important changes or updates will be sent to members by email. If you are a 'post only' member, without an email address, the quarterly bulletin will keep you informed.

SWLA continue supporting members within the SWLA office, you can raise queries by email or telephone (please leave a message if your call is not answered, we will get back to you at the soonest opportunity).

Important Dates

- 06 April 2017 – 06 April 2020 - Mortgage Interest Relief; New BTL Tax System Phased In
- 01 April 2018 – MEES (Minimum Energy Efficiency Standards) E or above for new tenancies
- 06 April 2018 – Rogue Landlord Database Introduced
- 25 May 2018 – GDPR Introduction
- 01 October 2018 – Extension of Mandatory HMO Licencing
- 20 March 2019 – Homes (Fitness for Human Habitation) Act 2018 on new tenancies
- 01 April 2019 – Letting Agent Mandatory CMP (Client Money Protection) Membership
- 20 March 2020 - Homes (Fitness for Human Habitation) Act 2018 on all tenancies
- 01 June 2019 – Tenant Fees Act (tenant fees ban and cap on deposits)
- 01 April 2020 - MEES E or above for all tenancies in scope of regulations
- 01 June 2020 - Tenant Fees Act (tenant fees ban and cap on deposits) on all tenancies
- 01 July 2020 – Mandatory 5 Year Electrical Safety Checks on new tenancies
- 01 April 2021 – Mandatory 5 Year Electrical Safety Checks on all tenancies
- Date to be confirmed – Making Tax Digital will apply to most landlords earliest 2021

Coronavirus - Possession & Notice Changes

Government Released a Non-Statutory Guidance Document for Landlords & Tenants

Propertymark/ARLA Release Pandemic Checklist for Letting Agents to Operate Safely

Coronavirus - Temporary Measure for Right to Rent Checks

Government Advice on Moving Home During the Covid-19 Outbreak

Coronavirus - The Impact on Student Accommodation

Coronavirus - Universal Credit

Coronavirus - Guides from the Tenancy Deposit Schemes

Coronavirus - Gas Safety

MEES - Minimum Energy Efficiency Standards. Changes now in force.

HMRC Online System for Landlords Reporting Capital Gains Tax Goes Live

Membership Passed on to a New Generation

Coronavirus - Business Rate Relief Extended to Letting Agents

Coronavirus - Financial Support for Self-Employed

New Electrical Safety Standards

Coronavirus – Possession and Notice Changes

Notice Changes

From 26th March 2020, if a landlord intends to seek possession, a minimum notice period of 3 months must be given to a tenant. This increased notice period will apply in law until 30th September 2020, however both the end point and the 3 month notice period can be extended if needed. This protection covers most tenants in the private and social rented sectors in England and Wales, and all grounds of eviction.

As a result of the change in law, the new Form 6a was published on 26th March 2020 and is to be used until 30 September 2020 (note, this date may be extended).

A new Form 3 was also published to be used when serving a Section 8 notice.

Existing Possession Cases

From 27th March 2020, court services suspended all ongoing housing possession action. This means that neither cases that were already in or were about to go into the system can progress to the stage where someone can be evicted. This suspension will initially last for 90 days but can be extended if needed.

If you already had a possession claim in the court system, it will stay at the position it was in until the suspension is lifted, after which it will start again from the point it was at.

If you had already served notice prior to 26th March 2020 but have not yet completed the court paperwork, you can proceed the paperwork to court as normal once the notice period has passed but no further action by the court will be taken until the after the court suspension is lifted (minimum 90 days from 27th March, may be extended).

On 28th March 2020 the Government Released a Non-Statutory Guidance Document for Landlords and Tenants

Here are the main points from the guidance;

- Housing possession cases in the courts are suspended for 90 days – this affects new or existing claims for possession for a 90 day period from 27th March.
- The Government strongly advise landlords not to commence new notices seeking possession during this challenging time without a very good reason to do so.
- Landlords and tenants should adopt a pragmatic, common-sense approach to issues that may arise in the current circumstances.
- Landlords are to ensure that properties are kept in good repair and free from hazards. Tenants should continue to pay rent and abide by all other terms of their tenancy agreement.
- In many if not most cases, the COVID-19 outbreak will not affect tenants' ability to pay rent; rent levels agreed in tenancy agreements remain legally due.
- Local authorities can provide support for tenants to stay in their homes. If tenants are experiencing financial hardship, they may be able to access new funding.
- Mortgage lenders have agreed to offer payment holidays of up to three months where this is needed due to Coronavirus-related hardship, including for buy-to-let mortgages. The sum owed remains and mortgages continue to accrue interest during this period.

- The Government is working with the Master of the Rolls to widen the existing 'pre action protocol' on possession proceedings for Social Landlords, to include private renters and to strengthen its remit. This will ensure that private sector landlords reach out to tenants to understand the financial position they are in before taking possession action through the courts once the 3-month delay on issuing eviction proceedings has ended.
- Housing possession claims already in the court system will be postponed, this means landlords will not be able to progress any claims where they have already issued a notice seeking possession for a 90 day period from 27th March 2020 (subject to review).
- It has never been more important that landlords and tenants take a pragmatic, common sense approach to resolving issues. Tenants should let their landlords know early if there is a problem and landlords should take the appropriate action.
- Current restrictions may prevent routine and obligatory inspections. While resources are stretched, the Government are recommending a pragmatic approach to enforcement from local authorities. Tenants who are living with serious hazards that a landlord has failed to remedy can still be assured of local authority support. Landlords should also know they should not be unfairly penalised where COVID-19 restrictions prevent them from meeting some routine obligations.
- Landlords' repair obligations have not changed. Tenants have a right to a decent, warm and safe place to live – and it is in the best interests of both tenants and landlords to ensure that properties are kept in good repair and free from hazards.
- Where reasonable, safe for tenants and in line with other Government guidance, the Government recommend that tenants allow local authorities, landlords or contractors to access the property in order to inspect or remedy urgent health and safety issues.
- Where reasonable and safe for you, and in line with other Government guidance, you should make every effort to review and address issues brought to your attention by your tenants and keep records of your efforts.
- Inspectors or maintenance workers can still visit blocks of flats and multi-occupied properties for essential or urgent work such as inspecting and testing fire alarm and emergency lighting systems.
- Landlords must provide tenants with all necessary gas and electrical safety and any other relevant certification at the beginning of a tenancy (and carry out all scheduled inspections and tests where required). Where inspections have already been carried out, documents can be provided by post or in some circumstances it may be possible to provide digital copies.

Information from gov.uk

Coronavirus - Propertymark/ARLA Release a Pandemic Checklist for Letting Agents to Operate Safely

Agents need to stay up to date and respond to the latest advice from Government, Public Health England, and the Chief Medical Officer, but wherever possible continue to offer services, play a role in your community and provide the support that your clients need.

Propertymark has created a 29-point list in line with the Government's current property industry guidance (as of 13 May) to support agents through the COVID-19 pandemic while adhering to the social distancing guidelines. This checklist is designed to help you pose relevant questions and support your compliance while observing the requirements necessary to carry out duties.

As the situation is regularly changing it is essential to stay abreast of current Government and official advice. It is vital that everyone observes the measures that are in place to limit the spread of the virus. For the full advice from ARLA, please see; <https://www.propertymark.co.uk/working-in-the-industry/covid-19/>

Article Abridged from ARLA/Propertymark

Coronavirus – Temporary Measures for Right to Rent Checks

****NOTE, ELECTRONIC CHECKS MADE DURING THE TEMPORARY CORONAVIRUS PANDEMIC WILL NEED A FOLLOW UP RETROSPECTIVE CHECK WITHIN 8 WEEKS OF THE COVID-19 MEASURES ENDING. READ MORE AT THE BOTTOM OF THE PAGE****

As of 30th March 2020, the Government made temporary changes to ensure that checks can continue.

- checks can now be carried out over video calls
- tenants can send scanned documents or a photo of documents for checks using email or a mobile app, rather than sending originals
- landlords should use the Landlord's Checking Service if a prospective or existing tenant cannot provide any of the existing documents

Checks will continue to be necessary and you must continue to check the prescribed documents in the code of practice on illegal immigrants and private rented accommodation and right to rent document checks: a user guide. It remains an offence to knowingly lease premises to a person who is not lawfully in the UK.

Because of COVID-19, some individuals will be unable to evidence their right to rent. During this period, you must take extra care to ensure that no-one is discriminated against because they are struggling to evidence their right to rent. For more information, please see the code of practice for landlords: avoiding unlawful discrimination when conducting right to rent checks in the private rented residential sector.

Conducting a right to rent check during the temporary COVID-19 measures

- Ask the tenant to submit a scanned copy or a photo of their original documents via email or using a mobile app.
- Arrange a video call with the tenant – ask them to hold up the original documents to the camera and check them against the digital copy of the documents.
- Record the date you made the check and mark it as “an adjusted check has been undertaken on [insert date] due to COVID-19”.

If the tenant does not have the right documents

You must contact the Landlord's Checking Service if the tenant cannot provide documents from the prescribed lists. Once you have submitted your request to the service, please do not try to contact them again. You will get an answer within 2 working days. You must keep their response to protect against a civil penalty.

After the COVID-19 measures end

We (gov.uk) will let you know in advance when these measures will end. After that date you must revert to the checking process set out in the code of practice on illegal immigrants and private rented accommodation and 'Right to rent document checks: a user guide'.

You should carry out retrospective checks on tenants who:

- started their tenancy during this period
- required a follow-up check during this period

You should mark the retrospective check: “the individual's tenancy agreement commenced on [insert date]. The prescribed right to rent check was undertaken on [insert date] due to COVID-19.” The retrospective check must be carried out within 8 weeks of the COVID-19 measures ending. Both checks should be kept for your records. The Home Office will not take any enforcement action against you if you carried out the adjusted check set out in this guidance, or a check via the Home Office, and follow this up with the retrospective check. If, at the point of carrying out the retrospective check, you find your tenant, who started their tenancy during this period, did not have a right to rent you must take steps to end the tenancy. If you find a tenant who required a follow-up check during this period no longer has a right to rent, you must report this to the Home Office as soon as you have carried out the check. If the check you have undertaken during this period was done with original documentation, you do not need to undertake a retrospective check.

Article from gov.uk. For further information see; <https://www.gov.uk/guidance/coronavirus-covid-19-landlord-right-to-rent-checks>



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Coronavirus - Government Advice on Home Moving During the Coronavirus (COVID-19) Outbreak

Last update 21 May 2020; subject to change, for latest and full guidance please see the [gov.uk](https://www.gov.uk) website

Here are some key points from the guidance;

****Advice to industry****

All businesses should follow the government's latest guidance for employers and businesses on coronavirus and safer working guidance.

As well as government guidance, we encourage all professionals to speak to their representative bodies and familiarise themselves with the guidance that these bodies have prepared for their specific sectors.

It is important that all businesses work together to ensure we stay alert and safe to minimise the spread of infection and we expect all sectors to consider how they can operate in a way which minimises the need for face to face contact.

Letting agents and private landlords

Tenants' safety should be letting agents' and landlords' first priority. The government has put in place protections for tenants during the coronavirus outbreak, including legislation to delay when landlords are able to start proceedings to evict tenants. This means until 30 September 2020, most landlords will not be able to start possession proceedings unless they have given their tenants three-months' notice.

This guidance for landlords and letting agents is to help them safely let empty properties, or properties which tenants are voluntarily vacating. While broader measures to protect tenants during the coronavirus outbreak remain in place, letting agents and landlords should endeavour to avoid ending tenancies where the tenant wants and is able to stay.

Letting agents and landlords should be aware of and follow government guidance on coronavirus and renting, which explains these protections in greater detail, and make sure tenants are aware of this guidance.

Private landlords and letting agents should not conduct viewings in properties where tenants are symptomatic or self-isolating, or where it has been determined that they are clinically extremely vulnerable and are shielding.

In other cases, where viewings can proceed, they should be conducted in line with the guidance on viewings within the document.

Any visits to a property must be made in accordance with government's guidelines on working in other people's homes and social distancing.

If possible, necessary repairs, gas and electrical safety checks should be conducted in the period between a property being vacated and a new tenant moving in. If this is not possible and visits are needed to an occupied property, this should be done by appointment with measures put in place to ensure physical contact is minimised, for example with residents staying in another room during the visit.

Landlords should make every effort to abide by gas and electrical safety requirements, which continue to be of great importance for tenants' safety. This may be more difficult due to restrictions associated with the coronavirus outbreak, for example where a tenant has coronavirus symptoms, is self-isolating or shielding. Under such circumstances, provided the landlord can demonstrate they have taken reasonable steps to comply, they would not be in breach. See further Health and Safety Executive guidance on how to deal with specific circumstances. Letting agents may also want to consider obtaining landlord and tenant consent for inventory clerk appointments to also occur before a tenant moves in or after a tenant moves out during vacant periods if possible.

Letting agents and landlords should take steps to ensure any properties are prepared ready for new tenants, this may include cleaning to minimise any potential spread of the virus in line with government advice.

Letting agents and landlords should consider how best to conduct tenancy check-ins for new tenancies agreed while broader measures remain in place, taking care to follow government advice on social distancing to minimise possible spread of coronavirus.

Letting agents and landlords are reminded of the temporary COVID-19 measures that adjust right to rent checks, temporarily allowing these checks to be conducted remotely. Lettings agents and landlords should consider other areas where in person payments, referencing or checks can be conducted remotely instead and take further advice if required.



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Coronavirus – The Impact on Student Accommodation

'National Code Assured Accommodation', have released information and advice on the impact of Coronavirus on student accommodation, including within the private rented sector. It contains an overview of how the sector is reacting to the challenges it is faced with.

It is a great source of information for landlords who provide student accommodation, for the full information see the nationalcode.org website

Rent refunds and payments

Many student housing suppliers were urged by students to either forgo rent or end contracts and stop charging rent and many universities and private providers decided to do this voluntarily. The Government's formal position remains that outlined in MHCLG Guidance, which is issued across the whole rented sector it says

"Tenants should continue to pay rent and abide by all other terms of their tenancy agreement to the best of their ability. Tenants who are unable to do so should speak to their landlord at the earliest opportunity.

In many, if not most cases, the COVID-19 outbreak will not affect tenants' ability to pay rent. If your ability to pay will be affected, it's important to have an early conversation with your landlord. Rent levels agreed in your tenancy agreement remain legally due and you should discuss with your landlord if you are in difficulty.

If a landlord and tenant agree a plan to pay off arrears at a later date, it is important they both stick to this plan, and that tenants talk to their landlord immediately if they are unable to do so."

Article Abridged from National Code

Coronavirus – Universal Credit

If your tenant is struggling financially, all employment and benefit support information can be found on the website; understandinguniversalcredit.gov.uk

People receiving benefits do not have to attend jobcentre appointments for three months, starting from Thursday 19 March 2020 (this may be extended).

People can still make applications for benefits online if they are eligible.

Those affected by Coronavirus will be able to apply for Universal Credit and can receive up to a month's advance upfront without physically attending a jobcentre.

Landlords can now apply online for UC 'Managed Payment to Landlord' and for 'Rent Arrears' if a tenant is having difficulty paying rent. This is a new online service for landlords to request direct payments of rent and/or rent arrears. It replaces the existing 'UC47' process.

Guidance on when to request a managed payment or rent arrears deduction, or both from a tenant's Universal Credit can be found in the Alternative Payments guide.

A tenant would need to be 2 months or more in arrears before a landlord can apply.

Coronavirus – Guides from the Tenancy Deposit Schemes

Which deposit scheme is your tenant's deposit lodged with? Each scheme has produced a guide with Q&A's to help landlords and tenants with scenarios that may occur during the coronavirus pandemic.

<https://www.tenancydepositscheme.com/covid-19/>

<https://www.mydeposits.co.uk/uncategorized/landlord-covid-19-faqs/>

<https://www.depositprotection.com/news/latest-news/2020/deposit-protection-during-the-coronavirus-crisis-your-questions-answered/>

Coronavirus - Gas Safety

The Health and Safety Executive (HSE) have released 'COVID-19 advice for landlords'.

Landlords have a duty of care to their tenants. This is a legal duty to repair and maintain gas pipework, flues and appliances in a safe condition, to ensure an annual gas safety check on each appliance and flue, and to keep a record of each safety check. During the Coronavirus (COVID-19) outbreak, there is a balance between ensuring people, including the vulnerable, are protected from possibly fatal risks arising from carbon monoxide exposure or gas explosion, while doing what we can to protect people from COVID-19.

The law is flexible and where it is not possible to carry out a gas safety check (for example due to a clinically vulnerable tenant refusing access to the property), it will normally be enough to show that you took reasonable steps to do so. In the event you are unable to gain access to the property, e.g. refusal of access due to tenants self-isolating, or if you are unable to engage a registered gas engineer to carry out the work due to a shortage of available engineers, you will be expected to demonstrate that you took reasonable steps to comply with the law. This should include records of communication with the tenant and details of your engineer's attempts to gain access. You should seek to arrange the safety check as soon as all parties are available.

Example scenarios and further information can be found on the gassaferegister.co.uk website.

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MEES – ‘Minimum Energy Efficiency Standards’ Changes Now in Force for Existing Tenancies (from 01 April 2020)

****NOTE – MEES REGULATIONS HAVE NOT BEEN AFFECTED BY CORONAVIRUS****

The Domestic Minimum Energy Efficiency Standard (MEES) Regulations set a minimum energy efficiency level for domestic private rented properties. Landlords with properties rated F or G must make improvements to gain a minimum E rating, or register an exemption.

The Regulations apply to all domestic private rented properties that are:

let on specific types of tenancy agreement

legally required to have an Energy Performance Certificate (EPC)

Question 1. Is your property let on one of the following types of domestic tenancies:

- an assured tenancy?

- a regulated tenancy?

- a domestic agricultural tenancy?

Question 2. Is your property legally required to have an EPC?

- If the property you let has been marketed for sale or let, or modified, in the past 10 years then it will probably be legally required to have an EPC.

If you answered Yes to both these questions and your property has an EPC rating of F or G, you must take appropriate steps to comply with the requirements of the MEES Regulations.

If a local authority believes a landlord has failed to fulfil their obligations under the MEES

Regulations, they can serve the landlord with a compliance notice. If a breach is confirmed, the landlord may receive a financial penalty.

For further information see the **gov.uk** website.

HMRC Online System for Landlords Reporting Capital Gains Tax Goes Live

If you sell your property after 6 April 2020 you must report and pay Capital Gains Tax within 30 days of selling property in the UK.

Capital Gains Tax is a tax on the profit when you sell (or ‘dispose of’) something (an ‘asset’) that’s increased in value.

It’s the gain you make that’s taxed, not the amount of money you receive.

Some assets are tax-free. You also do not have to pay Capital Gains Tax if all your gains in a year are under your tax-free allowance.

You may have to pay interest and a penalty if you do not report gains on property within the time limit.

You’ll need a Government Gateway user ID and password. If you do not have a user ID, you can create one when you report and pay.

If you sold the property before 6 April 2020, report the gain using the ‘real time’ Capital Gains Tax service or in your next Self Assessment tax return.

For further information; <https://www.gov.uk/capital-gains-tax>

Membership Passed on to a New Generation

It is always very sad when we hear of an SWLA member passing away. We are a local association and get to know most of our members well over the years. Mr John Farrant passed away recently, he was a member for many years. His son Tony got in touch with us in the hope that he could continue his late father’s membership so that he could also receive the help and training and value that we offer to all of our members. Tony’s father had regularly mentioned the good work that SWLA do and recommended us to many landlords that he spoke to.

Mr John Farrant was proud to be a good, fair landlord. His son hopes to continue that and SWLA are happy to help him along the way.

Coronavirus - Business Rate Relief Extended to Letting Agents

The Government have confirmed that business rates relief has been extended to estate and letting agents. Offices that have closed due to the measures implemented to stop the spread of Coronavirus will be exempt from business rates in 2020-2021.

Eligible businesses will be re-billed by their local authority, the new bill will give a 100% discount. If payments have been made in the meantime, they will be refunded by the local authority. The Government advice is for all queries to be directed to the local authority.

Coronavirus - Financial Support for Self-employed

Chancellor Rishi Sunak announced, on 26th March, a new 'Self-Employment Income Support Scheme' for self-employed individuals (including members of partnerships) whose income has been negatively impacted by COVID-19;

- Self-Employment Income Support Scheme opened for applications 13 May 2020
- Those eligible will receive a government grant worth up to £7,500
- Money expected to be in bank accounts by 25 May (or within 6 working days of completing claim)
- Grant worth 80% of average monthly trading profits
- Payments to be paid in a single instalment covering three months

For further information and eligibility, see the gov.uk information page 'Business Support'

<https://www.businesssupport.gov.uk/coronavirus-business-support/>

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New Electrical Safety Standards

Stay tuned for
more next time!

These Regulations apply in England to –

- all new specified tenancies from 1st July 2020; and
- all existing specified tenancies from 1st April 2021.

****Note, if a pre 01 July 2020 tenancy rolls onto a statutory periodic tenancy after 01 July 2020, the Regulations will apply****

Mike Andrews, Chief Executive Officer of NAPIT comments: “As the National Association of Professional Inspectors and Testers, we see it as our duty to provide accurate, consistent and easy to understand Guidance for landlords”

Here's everything you need to know, information taken from the Guidance for Landlords by NAPIT (National Association of Professional Inspectors and Testers);

Following the inspection and testing, 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.

Action needed in the event of an Unsatisfactory Report:

Where an Electrical Installation Safety Report identifies urgent remedial work or requires Further Investigation, the private landlord must ensure that this required work is carried out by a qualified and competent 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.

The landlord must then-

- A. Obtain written confirmation from a qualified and competent person that the further investigative or remedial work has been carried out and that the electrical safety standards are met; or further investigative or remedial work is required;
- B. Supply that written confirmation, together with a copy of the report 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 also to the local housing authority within 28 days of completion of the further investigative or remedial work.

Enforcement

Local Authorities will be responsible for enforcing the new Regulations and can impose a financial penalty of up to £30,000 if they find a landlord is in breach of their duty.

Local Authorities have the power to serve remedial notices on the private landlord. If the remedial notice is ignored by the private landlord and action is not taken within 28 days, the Local Authority can arrange remedial work to be carried out, with consent from the tenant, and recover the costs from the landlord.

Frequently Asked Questions (for the full FAQ's, see the NAPIT Guidance)

What 'report' should I be asking for?

The Regulations just refer to a report being obtained by the person conducting the inspection and test. Typically, an Electrical Installation Condition Report (EICR) is used within the industry for this purpose.

An Electrical Installation Condition Report (EICR) is a report carried out to assess the safety of the existing electrical installation within a property and is used to describe its condition. Parts of the system that are reported on include consumer units, protective bonding, lighting, switches and sockets etc. Its purpose is to confirm as far as possible whether or not the electrical installation is in a safe condition for continued service.

The EICR will show whether the electrical installation is in a Satisfactory or Unsatisfactory condition and will detail a list of observations affecting the safety or requiring improvements.

These observations will be supported by codes:

Unsatisfactory Codes are:

C1 – Danger present, risk of injury, immediate remedial action required

C2 – Potentially Dangerous, urgent remedial action required

F1 – Further investigation required

A Satisfactory Code is:

C3 – Improvement recommended

Action is required if the EICR issued is Unsatisfactory. If an EICR contains a C1, C2 or F1 code, it is unsatisfactory. If a C1 is discovered, the electrician will often take action to make safe the dangerous installation using temporary measures. Then, as is also the case with a C2 or F1 code, it will be the landlord's responsibility to organise a repair, replacement or further investigation within 28 days.

A C3 code, improvement recommended, is given to aspects of the installation that do not present a danger but will result in an increased safety standard within the property. Occasionally a C3 code may be attributed to an item that does not comply with current regulations but did comply at the time it was installed. A C3 code does not mean the installation is unsafe and should not impose a requirement to have work carried out on the owner. Where there are only C3 observations listed, this will result in a Satisfactory EICR being issued, also an EICR without codes would also be Satisfactory

Do I have to have another full electrical installation safety report carried out if my first one is Unsatisfactory?

No. If the electrical installation safety report is Unsatisfactory, you will need to ensure any required remedial work or further investigation is carried out within 28 days or the within the time period specified on your report if less than 28 days. You will need written confirmation (Electrical Installation Certificates or Minor Electrical Installation Works Certificate from the electrical installer you use to do any rectification work to prove the required works have been completed, and these must be kept with the Unsatisfactory report.

NAPIT have created a "Landlord Electrical Installation Safety Record" which is a one page document which confirms either a Satisfactory EICR has been completed, or provides the ability to confirm the required remedial work or further investigation has been completed following the issuing of an Unsatisfactory EICR. This one page 'highlight' report could then be used to issue to tenants to demonstrate compliance with the regulations and will be a lot easier to understand. You could ask for one of these if you would like a one-page verification of compliance.

Continued on next page...

If my property already has a satisfactory Electrical Installation Safety Report which is less than 5 years old, do I have to get another one done to the 18th edition of the Wiring Regulations Standard?

Not necessarily. You should review your report to see what was recommended on it and consider how your property has been let since it was carried out. If big differences to the property have occurred, e.g. high turnover of tenants, DIY work found, flood damage, then it would be prudent to get another electrical safety report done. If no changes have been made, then your report will remain valid until the next inspection date specified.

What happens if I don't comply with these Regulations?

If, as a private landlord, you do not get a satisfactory electrical installation safety report for your property within the timescales outlined within the Regulations, or you fail to undertake required remedial work or further investigation within the necessary timeframe, the Local Housing Authority must serve a remedial notice giving the landlord 28 days to take action.

If the landlord fails to take action, the Local Housing Authority can arrange for an authorised person to undertake the required remedial work, subject to agreement by the tenant. The Local Housing Authority can recover costs reasonably incurred by them acting from the landlord and can impose a financial penalty of up to £30,000.

How much notice should I give to the tenant that an electrician will be attending the property to undertake an electrical inspection and test?

At least 48 hours' notice should be given to the tenant prior to anyone entering their property.

Amidst the Covid-19 pandemic, what happens if I cannot find a competent, qualified electrical inspector to carry out the electrical safety check or my tenant is self-isolating, being shielded or refuses entry due to health concerns?

If you can show that you have taken all reasonable steps to comply with your duty under the regulations, they are not in breach of the duty. You could show reasonable steps by keeping copies of all communications you have had with your tenants and with electricians as you've tried to arrange the work, including any replies you have had. You may also want to provide other evidence that you have that the installation is in a good condition while you attempt to arrange works.

Will an electrical report need to be done at the start of a Statutory Periodic Tenancy or during the transitional period?

Properties let on statutory periodic tenancies where the fixed term expires between July 2020 and April 2021 will require an inspection and test at this point under the Regulations. For statutory periodic tenancies – where on expiry of the fixed term the tenancy rolls over into a periodic tenancy automatically by statute (rather than by contract) – the periodic tenancy would be a new tenancy.

Does this Regulation apply to Houses of Multiple Occupation (HMO)?

Yes. These Regulations repeal the previous legislation which set the requirement on HMO landlords on the 1st June 2020.

If the rented property is a New Build and has an Electrical Installation Certificate which is less than 5 years old, is that an acceptable electrical safety report, or would I be required to have an Electrical Installation Condition Report completed?

If a property is newly built or has been completely rewired, it should have an Electrical Installation Certificate, known as an EIC. Landlords can provide a copy of the EIC to tenants and, if requested, the local authority. The landlord will then not be required to carry out further checks or provide a report for five years after the EIC has been issued.

When premises are re-tested, will the new electrical safety report run from the day that the latest inspect and test was done or will the old anniversary be preserved, like in the Gas Regulations?

The date the next electrical report is due by will be written on the latest Electrical Installation Safety Report. This cannot be longer than 5 years from the date of the latest inspection, and may be shorter. This is very different to the way the Gas Safety Regulations work and the previous anniversary date is NOT preserved.

If you need to arrange an inspection, you can use the SWLA trade directory or the NAPIT tradesperson search to find an electrician.

The full NAPIT guide can be read on their website napit.org.uk. The Government also published a 'Guide for Landlords: electrical safety standards in the private rented sector' on 01 June 2020, this can be accessed on the gov.uk website. How can I ensure the Electrical Inspector I use to undertake the Electrical Inspection and testing of my electrical installation meets the requirement to be qualified and competent?

Any Electrical Inspector you employ to undertake the electrical inspection and testing within your property must have:

- Adequate insurance. This should include at least £2 million public liability insurance and £250,000 professional indemnity insurance.
- A qualification covering the current version of the wiring regulations (BS 7671).
- A qualification covering the periodic inspection, testing and certification of electrical installations.
- At least two years' experience in carrying out periodic inspection and testing.

Article abridged from NAPIT



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Rory Smith, Enigma Solicitors

Rory Smith is a highly experienced specialist in a wide range of disputes and their resolution. Rory can also recommend to you other law firms in Plymouth who will all offer free initial advice to SWLA members in other specialist areas.
Contact Rory on 01752 600567 or by email at rls@enigmawork.com Enigma is located 5 minutes away from SWLA's office at Farrer Court, 77 North Hill PL4 8HB. The office is open 8:30 a.m. until 5:00 p.m. weekdays.

Richard Gore Solicitor in Bristol Richard is with Greg Latchams on 0117 9069424 and will support initial telephone calls to discuss your problems

Did you know that SWLA have a trade listing of local businesses? Head to the SWLA website 'Trade Directory' for all of your landlord needs from Gas Safety Checks to Building Services

SWLA

South West Landlords Association

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You can contact our answerphone service on 01752 510913 or E-mail us at info@landlordssouthwest.co.uk, visit our website www.landlordssouthwest.co.uk

Or visit our office in Dale Road, it is open week days from 10am to 3pm

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