

# Landlord electrical safety checks - why bother?

## Introduction

The Gas Safety (Installations and Use) regulations 1998 place explicit and unambiguous requirements on landlords to ensure the safe operation of gas appliances under their control. These regulations are ably supported and policed by the Council for Registered Gas Installers (CORGI).

Whilst there is clearly a similar statutory requirement for landlords to maintain electrical systems under their control in a safe condition, the legislation is less explicit and there is no electrical equivalent of CORGI, (although there are several trade associations). This document outlines 3-Step Safety Check's interpretation of the relevant legislation and authoritative guidance notes.

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

There are two main Acts of Parliament that impose a statutory duty on landlords with respect to the safety of electrical equipment:

1. The Consumer Protection Act 1987
2. The Health and Safety at Work etc. Act 1974

The Consumer Protection Act affects all persons who let 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:

1. The Low Voltage Electrical Equipment Regulations 1989
2. The Electrical Equipment (Safety) Regulations 1994
3. The General Product Safety Regulations 1994
4. The Plugs and Sockets etc. (Safety) Regulations 1994

In essence, these regulations 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', i.e. a landlord can defend a contravention of the Act if he can demonstrate that he took reasonable steps to avoid committing the offence.

The Health and Safety at Work etc. Act places a duty of care upon both employer and employee to ensure the safety of all persons using the work premises. This general requirement has been galvanised by several recent regulations, some of which explicitly extended their requirements to cover "self employed persons" and "all persons affected by their operations". In the Electricity at Work Regulations, a self-employed person is defined as follows:

*"A self-employed person is an individual who works for gain or reward otherwise than under a contract of employment whether or not he employs others."*

This definition would appear to apply to landlords and agents; similarly, tenants would appear to be a group of persons affected by the landlord's operations. This tends to suggest that electrical regulations, which are ostensibly directed at employers and the work place, are equally applicable to landlords, their premises and their tenants.

Some of the specific regulations that are applicable to electrical installations include:

**Regulation 3(1b) of The Management of Health and Safety at Work Regulations 1992 states:**

"Every employer shall make a suitable and sufficient assessment of: the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him or his undertaking"

**Regulation 3 of the Electricity at Work Regulations states:** "It shall be the duty of every employer and self-employed person to comply with the provisions of these Regulations in so far as they relate to matters within his control."

**Regulation 4(2) of the Electricity at Work Regulations states:** "As may be necessary to prevent danger, all **[electrical] systems shall be maintained** so as to prevent, so far as is reasonably practicable, such danger."

In summary, a landlord has duties both as a 'supplier of goods' and as the 'person responsible' for an electrical installation. As a 'supplier of goods' he must ensure that goods are checked before the tenant takes them over and as a 'person responsible' he 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, 3-Step Safety Check recommends an annual safety inspection of all residential lets.

### **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:

1. The Institute of Electrical Engineers (IEE) - Code of Practice for in-service inspection and testing of electrical equipment.
2. Health and Safety Executive (HSE) - Maintaining portable and transportable electrical equipment.
3. HSE - Maintaining portable electrical equipment in hotels and tourist accommodation.
4. HSE - Maintaining portable electrical equipment in offices and other low risk environments.
5. IEE - Inspection & Testing Guidance Note 3. Again the landlord/tenant scenario is not explicitly covered in any of the above

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 equipment 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. No rigid guidelines can be laid down, but the factors influencing the decision will include the following:

- (a) **The environment** - equipment installed in an undisturbed, controlled environment such as an office will suffer less damage than equipment in an arduous environment.
- (b) **The users** - if the users of equipment 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.
- (c) **The equipment construction** - the safety of a Class I appliance is dependent upon a connection with the earth of a fixed installation. If the flexible cable is damaged the connection with earth can be lost.
- (d) **The equipment type** - hand-held appliances are more likely to be damaged than fixed appliances. If they are also Class I the risk of danger is increased.

The same document also provides guidance on the frequency of inspection for various situations ranging from construction sites to offices and shops. An examination of this guidance would suggest that the landlord/tenant situation falls between what the IEE describe 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 hotels 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).

Therefore 3-Step Safety Check recommends an inspection and testing frequency of 12 months, which falls between the IEE guidance for the two situations outlined.

The guidance contained in the "IEE Code of Practice for in-service inspection and testing of electrical equipment" refers to electrical appliances rather than fixed installations although the document does state: "Similar procedures must be followed for the fixed installation".

IEE Guidance Note 3, Inspection and Testing provides guidance on the inspection, testing and maintenance required for fixed installations. This document places a general requirement for a "routine check" on commercial properties of 1 year with a more thorough examination including inspection and testing every 5 years, or at change of tenancy. 3-Step Safety Check recommends an annual inspection that is more rigorous than the "routine check" but should obviate the need for a more thorough 5 yearly inspection.

## **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 adequately covered by IEE documentation. There is also an array of specialist equipment designed specifically to complete IEE test regimes for portable and fixed electrical equipment.

3-Step Safety Check adhere to the guidance on portable appliance testing and expand on the annual "routine check" for fixed installations by carrying out electrical tests to confirm correct wiring, correct earthing and the correct operation of safety devices.

## **Whom should landlords employ to carry out electrical checks?**

As with almost all safety legislation, the person required to carry out electrical checks must be a competent person. Competency is judged on a combination of training, knowledge and experience. All of 3-Step Safety Check's inspection engineers are qualified electricians with several years experience of electrical installation and testing work.

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