EXPLANATORY MEMORANDUM TO

THE ELECTRICAL SAFETY STANDARDS IN THE PRIVATE RENTED SECTOR (ENGLAND) (AMENDMENT) (EXTENSION TO THE SOCIAL RENTED SECTOR) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Matthew Pennycook MP, (Minister of State for Housing) at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Ruhena Ahmed, Deputy Director for Social Housing Quality and Residents, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Luke Spanton at the Ministry of Housing, Communities and Local Government Telephone: 030 3444 0000 or email: correspondence@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 ("the 2020 Regulations"). It imposes new duties on social landlords in relation to electrical installations and equipment and makes some changes to the existing duties on private landlords.

4.2 All landlords, private and social, who grant a tenancy specified in the instrument are obliged to ensure that the electrical safety standards are met during any period that premises are occupied under a specified tenancy and that the electrical installations in the premises are inspected and tested at least every five years, issue a copy of a report of the inspection to their tenants and complete any remedial works that are required within 28 days.

4.3 Social landlords are obliged to ensure that any electrical equipment they provide under a specified tenancy is safe for continued use during any period the premises are occupied under the tenancy and that in-service inspection and testing of the equipment (ISIT, previously known as 'PAT' testing) is carried out at least every five years, issue a copy of a report of the ISIT report to their tenants (if requested) and complete any remedial works that are required within 28 days.

4.4 The instrument also sets out the duties of landlords to provide to the local housing authority copies of any ISIT reports; and clarifies the types of rented properties that are in scope.

4.5 The provisions of the 2020 Regulations relating to remedial action, urgent remedial action and the imposition of financial penalties will apply in respect of a breach of requirements relating to electrical equipment as they do to those in respect of a breach of requirements relating to electrical installations.

Where does the legislation extend to, and apply?

4.6 The territorial extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.7 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 Faulty and poorly maintained electrical installations and equipment in the home cause fires, injuries and deaths. Tenants of private or social landlords are at a higher risk of electric shock than homeowners. That is why the 2020 Regulations required private landlords to comply with electrical safety standards and organise periodic inspection and testing of electrical installations and to provide an electrical safety report to the tenant.

5.2 In 2020, in the social housing white paper known as the Charter for Social Housing Residents, the government committed to consult on measures to ensure that social housing residents are protected from harm caused by poor electrical safety.

5.3 Following the publication of the white paper, the government formed the Electrical Safety in Social Rented Homes Working Group to build the evidence base and appraise policy options. The findings of the Working Group informed the development of a consultation exercise, which was held between 8 June 2022 to 31 August 2022.

5.4 This instrument brings the social housing sector into line with the private rented sector and introduces new requirements for social landlords on the safety of electrical equipment. This instrument does this by making provision that social and private landlords must:

5.5 Ensure national standards for electrical safety are met. These are set out in the 18th edition of the 'Wiring Regulations', which are published as British Standard 7671.

5.6 Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every five years.

5.7 Obtain a report from the person conducting the inspection and test which gives the results and sets a date by which the next inspection and test must take place.

5.8 Supply a copy of this report to the existing tenant within 28 days of the inspection and test, to a new tenant before they occupy the premises, to any prospective tenant within 28 days of receiving a request for the report and to the local housing authority within 7 days of receiving a written request for a copy.

5.9 Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.

5.10 Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.

5.11 Supply written confirmation of the completion of the further investigative or remedial works from the electrician to the tenant, and to the local housing authority if a written request is received, within 28 days of completion of the works.

5.12 This instrument also makes provision that social landlords must:

5.13 Ensure all electrical equipment that is provided under a specified tenancy is inspected and tested by a qualified and competent person at least every five years.

5.14 Obtain a report from the person conducting the inspection and test which gives the results and sets a date by which the next inspection and test must take place.

5.15 Supply a copy of this report to the existing tenant within 28 days of the inspection and test, to a new tenant before they occupy the premises, to any prospective tenant within 28 days of receiving a written request for a copy, and to the local housing authority within 7 days of receiving a written request for a copy.

5.16 Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.

5.17 Where the report shows that further investigative or remedial work is necessary, complete this work as soon as practicable and no later than 28 days after the test.

5.18 The instrument also makes provision for enforcement for non-compliance with its requirements.

5.19 A remedial notice must be served where the local housing authority is satisfied on the balance of probabilities that a landlord has not complied with their duties. The notice must be served within 21 days of the decision that the landlord has not complied with their duties.

5.20 If a local housing authority has reasonable grounds to believe a landlord is in breach of their duties and a report indicates urgent remedial action is required to the electrical installation or, in the case of social landlords, to electrical equipment, the local housing authority may arrange for a qualified person to take the urgent remedial action and recover their costs.

5.21 Otherwise, the local housing authority must serve a remedial notice requiring the landlord to take remedial action within 28 days. Should a landlord not comply with the notice the local housing authority may arrange for any remedial action to be taken themselves.

5.22 The local housing authority can recover the costs of taking the action from the landlord and may also impose a financial penalty on landlords who are in breach of their duties. The maximum possible financial penalty that may be imposed by the local housing authority is increased from £30,000 to £40,000.

5.23 Landlords can make written representations about and appeal against remedial action and the imposition of financial penalties.

5.24 The 2020 Regulations included a requirement that private landlords of moveable structures, vehicles and vessels being used as residential accommodation must ensure the standards set out in the 18th edition of the ‘Wiring Regulations’, which are published as British Standard 7671, are met. These standards, however, do not apply

to these dwellings. This instrument, therefore, adds an exclusion for tenancies of moveable structures, vehicles and vessels.

What was the previous policy, how is this different?

5.25 Previously, general requirements covering electrical safety for residential premises are set out in different pieces of law but do not require social landlords to proactively inspect and test electrical installations or equipment or provide proof that it is safe to their tenants. All landlords are obliged to keep the electrical installations – the wiring, the plug sockets, the consumer units, the light fittings - in their property safe and in proper working order. Since 2020, private landlords have been required to inspect and test their electrical installations at least once every five years, carry out remedial works as necessary and inform their tenants.

5.26 The Housing Act 2004 places duties on local housing authorities to take enforcement action if they identify electrical safety hazards at the most dangerous 'category 1' level, assessed using the Housing Health and Safety Rating System (HHSRS) and social housing must be free from category 1 hazards to meet the Decent Homes Standard. The Landlord and Tenant Act 1985 requires landlords to keep applicable rented properties fit for human habitation during the term of the lease and to keep installations for the supply of electricity in repair and proper working order. The tenants of such properties may seek redress through the courts if their home is not fit for human habitation because of electrical safety failings or if the landlord has not complied with their repairing obligation.

5.27 There was no requirement for any landlord to carry out in-service inspection and testing of electrical equipment that they provide, although this is recognised as good practice.

5.28 Section 122 of the Housing and Planning Act 2016 ("HPA 2016") conferred powers on the Secretary of State to impose duties on private landlords of residential premises in England for purposes of ensuring that electrical safety standards are met during any period when the premises are occupied under a tenancy, and section 123 conferred powers relating to the enforcement of such duties. Section 122 HPA 2016 defined private landlord as excluding any landlord capable of granting a secured tenancy under the Housing Act 1985. Such landlords are mainly local authorities, but some other public bodies are also capable of granting secure tenancies.

5.29 The power in section 122 HPA 2016 was originally exercised by the Secretary of State to make the 2020 Regulations which this instrument amends. Excluded from the application of the 2020 Regulations were tenancies where the landlord is a private registered provider of social housing ("PRPs") although the enabling power could capture such tenancies (as PRPs are not capable of granting secure tenancies).

5.30 Section 11 of the Social Housing (Regulation) Act 2023 amended section 122 HPA 2016 to extend that power so that it can now also be used to impose requirements relating to electrical safety standards on local authority registered providers of social housing.

5.31 This instrument, for the first time, imposes requirements under section 122 HPA 2016 relating to electrical safety standards on PRPs and local authority registered providers of social housing. This brings regulation of electrical safety standards for electrical installations in the social rented sector in line with the private rented sector.

5.32 It also imposes on PRPs and local authority registered providers of social housing a new requirement to carry out in-service inspection and testing of electrical equipment.

6. Legislative and Legal Context

How has the law changed?

6.1 The Social Housing (Regulation) Act 2023 amended the powers in sections 122 and 123 of the Housing and Planning Act 2016, under which the 2020 regulations were made, enabling electrical safety standards to be imposed on social landlords.

6.2 The 2020 regulations oblige private landlords, who grant a tenancy specified in the instrument, to ensure that the electrical safety standards are met during any period that premises are occupied under a specified tenancy and that the electrical installations in the premises are inspected and tested at least every five years, issue a copy of a report of the inspection to their tenants and complete any remedial works that are required within 28 days. The 2020 regulations are amended to extend this requirement to social landlords.

6.3 The 2020 regulations are also amended to oblige social landlords to ensure that any electrical equipment they provide under a specified tenancy is safe for continued use during any period the premises are occupied under the tenancy and that the equipment is checked at least every five years, issue a copy of a report of the report to their tenants (if requested) and complete any remedial works that are required within 28 days.

6.4 The 2020 regulations are also amended to increase the maximum possible financial penalty that may be imposed by the local housing authority from £30,000 to £40,000.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 A consultation ran from 8 June to 31 August 2022, exploring the ways to best protect social residents from the dangers of poor electrical safety. The consultation received 119 responses, 18 from local authorities, 26 from individuals, 31 from trade associations and organisations representing housing professionals and 44 from housing associations and representatives of tenants.

7.2 97% of respondents agreed with mandatory electrical installation checks in the social rented sector and 83% of respondents agreed with the testing of electrical appliances that the social landlord provides.

8. Applicable Guidance

8.1 The Ministry of Housing, Communities and Local Government will amend the non-statutory guidance at https://www.gov.uk/government/publications/electrical-safety-standards-in-the-private-rented-sector-guidance-for-landlords-tenants-and-local-authorities to reflect the new and amended electrical safety duties to which this instrument gives effect.

8.2 The amended guidance will be published when the Regulations come into force.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector formed part of the impact assessment for the Social Housing (Regulation) Act 2023. A copy is available at https://bills.parliament.uk/publications/46714/documents/1906. A hard copy can be obtained by writing to the Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is minimal because most social landlords are already meet this standard.

9.3 The legislation impacts small or micro businesses.

9.4 There is an impact on local authorities. Local authority landlords will be required to maintain electrical safety standards during any period where residential premises are occupied under a specified tenancy and ensure electrical safety inspections are conducted at a minimum of every five years. They will also have other duties as set out in paragraphs 4.2, 4.3 and 4.4.

9.5 We estimate that the average cost to private registered providers of social housing (PRPs) of an electrical safety check will be around £170.67 per property and £164.80 for local authorities (LAs) (but there will be variation across the sector according to portfolio size and geographic location). If PRPs and LAs were required to carry out an electrical safety check every 5 years, that would equate to a cost of about £34.13 and £32.96 respectively per year per property.

9.6 On average the requirement to carry out a 5 yearly electrical safety checks is estimated to impose a direct cost on PRPs of £5.59m per annum, with an estimated one-off familiarisation cost of £101k. For LAs, the estimated direct cost is £3.50m per annum, with a one-off familiarisation cost of £10K. The total cost for the policy over the initial 10-year period is around £56.04 million for PRPs and £31.37 million for LAs.

9.7 There are likely to be remedial costs associated with fixing any hazards identified in the electrical safety checks. These are not a direct impact of the legislation because landlords are already legally required to ensure there are no serious electrical hazards in their properties.

9.8 Mandatory regulations will also require associated local housing authority enforcement, and therefore a new burden will occur.

9.9 This instrument will therefore have minimal impact on the majority of landlords who already comply with the existing standards set out above. The only new burden on landlords is to get the electrical installations and equipment inspected every five years to show that it is safe. The main upfront cost will be the time taken to become familiar with the regulations.

9.10 Based on engagement with stakeholders, we estimate that 75% of social landlords already carry out safety checks at least every 5 years and are therefore compliant with the proposed legislation. We estimate that the remaining 25% of social landlords carry out electrical safety checks on average at least every 10 years and will therefore have to carry out additional checks under the proposed legislation.

9.11 A legal requirement to carry out electrical safety checks every five years would result in 25% of social landlords carrying out an additional check once every 10 years. This means that by 2025 the sector will be obliged to carry our 2 checks per dwelling every 10 years, when it currently carries out 1.75 checks per dwelling every 10 years. Therefore, 12.5% of the checks carried out under new requirements will be an additional burden to the sector in our lower compliance scenario.

9.12 The remedial work that social landlords carry out in response to the five yearly checks will deliver benefits to the social rented sector. These benefits will be in the form of reduced numbers of fires, injuries and fatalities associated with unsafe electrical installations and equipment in the social rented sector. It is not possible to accurately estimate the financial aspects of these benefits as the existing statistical evidence from the Office for National Statistics, the NHS and Fire and Rescue services do not specify tenure. In practice, most social landlords already conduct checks of at least this frequency.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 As local housing authorities are responsible for enforcing the provisions of this instrument and recording this enforcement, the approach to monitoring this legislation is to contact local housing authority stakeholders at regular intervals to monitor enforcement.

10.2 A statutory review clause is included in the instrument.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Matthew Pennycook MP, (Minister of State for Housing) at the Ministry of Housing, Communities and Local Government, has made the following statement regarding Human Rights:

"In my view the provisions of the Electrical Safety Standards in the Private Rented Sector (England) (Amendment) (Extension to the Social Rented Sector) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").