

Awaab's Law- Private Rented Sector

**This document shows the Repairing Standard as set out in Chapter 4 of the Housing (Scotland) Act 2006
([Housing \(Scotland\) Act 2006](#))**

The order makes changes to:

Sc 13 the repairing standard;

Sc 14 the landlord's duty to repair and maintain;

and

Sc 24 Determination by the First Tier Tribunal

The changes are shown in bold where they sit in these two sections for the 2006 act.

13 The repairing standard

(1)A house meets the repairing standard if—

- (a)the house is wind and water tight and in all other respects reasonably fit for human habitation,
- (b)the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
- (c)the installations in the house for the supply of water, gas [F6, electricity (including residual current devices) and any other type of fuel] and for sanitation, space heating by a fixed heating system] and heating water are in a reasonable state of repair and in proper working order,
- (d)any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,
- (e)any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed, F8...
- (f).....
- (g).....
- (h)the house meets the tolerable standard.

(ha) the house is substantially free from damp and mould,

(i)any common parts pertaining to the house can be safely accessed and used,

(j)the house has satisfactory provision for, and safe access to, a food storage area and a food preparation space, and

(k)where the house is in a tenement, common doors are secure and fitted with satisfactory emergency exit locks.

(2)In determining whether a house meets the standard of repair mentioned in subsection (1)(a), regard is to be had to the extent (if any) to which the house, by reason of disrepair or sanitary defects, falls short of the provisions of any building regulations.

(3)In determining whether a house meets the standard of repair mentioned in subsection (1)(b), regard is to be had to—

(a)the age, character and prospective life of the house, and

(b)the locality in which the house is situated.

(4)The reference in subsection (1)(c) to installations in a house includes reference to installations outwith the house which, directly or indirectly, serve the house and which the owner is responsible for maintaining (solely or in common with others) by virtue of ownership, any real burden or otherwise.

(7)In determining whether a house meets the standards of repair mentioned in subsection (1)(c) to (k) regard is to be had to any **related** guidance issued by the Scottish Minister, **including any such guidance** in relation to—

(a)the condition of pipes supplying water for human consumption,

(b)electrical safety standards in relation to—

(i)installations for the supply of electricity, and

(ii)electrical fixtures, fittings and appliances,

(c)installation of a fixed heating system,

(d)equipment for detecting fire and for giving warning of fire or suspected fire,

(e)the tolerable standard,

(f)the type of emergency exit locks to be fitted to common doors in tenements,

(g)equipment for detecting, and for giving warning of, carbon monoxide in a concentration that is hazardous to health,

(h)the provision for, and safe access to, a food storage area and a food preparation space.

(1) The landlord in a tenancy must ensure that the house meets the repairing standard—

(a) at the start of the tenancy, and

(b) at all times during the tenancy.

(2) The duty imposed by subsection (1) includes a duty to make good any damage caused by carrying out any work for the purposes of complying with the duty in that subsection.

(3) The duty imposed by subsection (1)(b) applies only where—

(a) the tenant notifies the landlord, or

(b) the landlord otherwise becomes aware,

that work requires to be carried out for the purposes of complying with it.

(4) The landlord complies with the duty imposed by subsection (1)(b) only if any work which requires to be carried out for the purposes of complying with that duty is completed within a reasonable time of the landlord being notified by the tenant, or otherwise becoming aware, that the work is required.

(5) If the landlord is notified by the tenant, or otherwise becomes aware, that the house is or may be affected by damp or mould, the landlord must ensure that an investigation is carried out by a competent person to determine—

(a) whether or not the house is substantially free from damp and mould, and

(b) if not, whether any relevant safety work is required in relation to the house.

(6) The investigation must be completed within the period of 10 working days beginning with the day after the day on which the landlord is notified, or otherwise becomes aware, that the house is or may be affected by damp or mould (but see subsection (9)).

(7) The landlord must give the tenant a written summary of the results of the investigation within the period of 3 working days beginning with the day after the day on which the investigation is completed.

(8) If an investigation determines that relevant safety work is required in relation to the house, the landlord must ensure that the work is commenced within the period of 5 working days beginning with the day after the day on which the investigation

is completed (but see subsection (9)).

(9) If, due to circumstances beyond the control of the landlord, the landlord is unable to comply with the duty imposed by subsection (6) or (8) within the period specified in the subsection in question (“the specified period”), the landlord must—

(a) give notice to the tenant specifying—

- (i) that the landlord is unable to comply with the duty in question within the specified period, and the reason why, and
- (ii) the period within which the landlord considers that the landlord will be able to comply with the duty,

(b) ensure that, until the landlord is able to comply with the duty, reasonable steps are taken where practicable to minimise the extent to which the house is affected by damp or mould.

(10) A landlord must have regard to any guidance issued by the Scottish Ministers about the exercise of the landlord’s functions under this section.

(11) In this section—

“competent person” means a person who, in the reasonable opinion of the landlord, has the skills and experience necessary to determine the matters mentioned in paragraphs (a) and (b) of subsection (5),

“relevant safety work” means, in relation to a house, work to ensure that the house—

(a) is substantially free from damp and mould, and

(b) so far as reasonably practicable, will continue to be substantially free from damp and mould,

“working day” means any day other than a Saturday, a Sunday or a day which, under the Banking and Financial Dealings Act 1971, is a bank holiday in Scotland.”

(there are no further changes in the act until sc 24)

24 Determination by the First-tier Tribunal]

(1) The First-tier Tribunal, must in relation to an application under section 22(1) or (1A) decide whether the landlord has complied with the duty imposed by section 14(1)(b).

1A) In deciding whether the landlord has complied with that duty in accordance with section 14(4), the First-tier Tribunal must have regard to whether the landlord has complied with the duties imposed by subsections (5), (6), (8) and (9) of that section

(2)Where the First-tier Tribunal decides] that the landlord has failed to comply with that duty, it must by order (a “repairing standard enforcement order”) require the landlord to carry out such work as is necessary for the purposes of ensuring—

- (a)that the house concerned meets the repairing standard, and
- (b)that any damage caused by the carrying out of any work in pursuance of that duty or the order is made good.

(3)A repairing standard enforcement order must specify the period within which the work required by the order must be completed.

(4)The period so specified must be the period beginning with the date from which the order has effect within which the [F5First-tier Tribunal reasonably considers] that the work required can be completed (but must not, in any case, be a period of less than 21 days).

(5)A repairing standard enforcement order may specify particular steps which the First-tier Tribunal requires the landlord to take in complying with the order.

(6)Where the First-tier Tribunal is prevented by reason only of section 16(4) from deciding that a landlord has failed to comply with the duty imposed by section 14(1)(b), the First-tier Tribunal must serve notice on the local authority stating that it considers] the landlord to be unable to comply with that duty.

(7)Where the First-tier Tribunal has made an order under section 18(1) in relation to a tenancy—

(a)the First-tier Tribunal must, when determining whether the landlord has failed to comply with the duty imposed by section 14(1)(b), treat sections 14, 15 and 17 as having been modified or excluded in the manner described in the Tribunal's order,

(b)a repairing standard enforcement order may not require the carrying out of any work which the duty imposed by section 14(1)(b) does not, because of that modification or exclusion, require to be carried out.