

NEW RIGHTS FOR PRIVATE SECTOR TENANTS

The Repairing Standard and Private Rented Housing Panel

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Important

This leaflet is for tenants and landlords in the private rented sector, to make them aware of their new statutory rights and responsibilities in relation to the new Repairing Standard and Private Rented Housing Panel.

This leaflet is only a general guide; it is not a complete statement of the law. If you want to know more about your rights, you should get advice from a solicitor, your local authority, or your local Citizens Advice Bureau. If you are a tenant, your landlord may also be able to help you.

Introduction

The Scottish Government wants to make sure that everyone has access to decent, affordable housing and the new Repairing Standard will contribute to this. If you are a private tenant and are concerned about the condition of your flat or house, the new Private Rented Housing Panel may be able to help you.

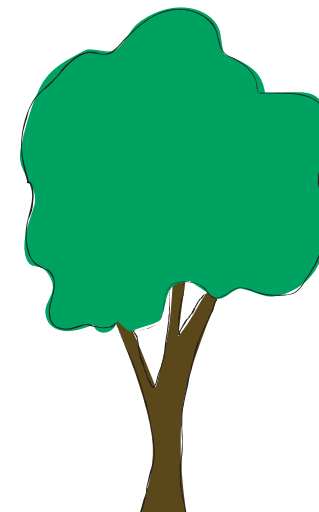
Private landlords are already legally required to repair the properties they rent out, but sometimes this is difficult for tenants to enforce. The Repairing Standard modifies and extends the landlord's obligations and the Private Rented Housing Panel (PRHP) makes it easier for a tenant to enforce these. Most private landlords keep their properties in good repair and make sure they meet their legal obligations. Enforcement action through the PRHP will only be necessary for the small number of landlords who fail to do so.

As part of the Housing (Scotland) Act 2006, provisions come into effect on **3 September 2007**, which extend the statutory obligations of a private landlord to repair a house or flat. From that date, most houses or flats in the private rented sector must meet the new Repairing Standard. On the same date the former Rent Assessment Panel (RAP) will become the new Private Rented Housing Panel (PRHP). This organisation will become the means through which a private tenant can enforce the Repairing Standard.

What is the new Repairing Standard?

The new Repairing Standard will apply to almost all private sector tenancies. It applies to existing tenancies as well as new ones. The Standard extends previous obligations on private landlords to repair and maintain a property. Under the Standard, a private landlord will have to ensure that:

- ❖ the property is wind and water tight and reasonably fit for human habitation (taking account of the extent to which the house falls short of any building regulations, because of disrepair or sanitary defects);
- ❖ the structure and exterior of the property (including drains, gutters and external pipes) are in reasonable repair and proper working order (having regard to the property's age, character and prospective life and the locality). Where the property forms part of a premises (eg, a flat), this criterion includes any part of the premises that the owner is responsible for maintaining, solely or communally, but the Repairing Standard only applies if any part of, or anything in, the premises that the tenant is entitled to use is adversely affected;
- ❖ the installations in the property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in reasonable repair and proper working order (including installations outside the house but serving it, and which the owner is responsible for maintaining, solely or communally);
- ❖ any fixtures, fittings and appliances provided under the tenancy are in reasonable repair and proper working order;
- ❖ any furnishings provided under the tenancy are capable of being used safely for the purpose for which they are designed; and
- ❖ there is satisfactory provision of smoke alarms.



It is a landlord's duty to make sure a house meets the Repairing Standard at the start of the tenancy and at all times during it. The landlord must inspect the house before the tenancy starts, in order to identify work necessary to meet the Standard, and must notify the tenant of any work. Once the tenancy starts, the duty only applies where the landlord is aware that work needs to be done, for example, because the tenant has told them about this. The landlord must then carry out the work within a reasonable time.

At the start of the tenancy, the landlord must provide the tenant with written information on the effect of the Repairing Standard in relation to their tenancy, including how it can be enforced through the PRHP. Guidance from the Scottish Executive states that in most cases landlords can fulfil this requirement by giving tenants a standard letter available from the PRHP website.

There are a small number of exceptions to the landlord's duty to repair, for example, where the landlord is willing to carry out the work, but lacks the necessary rights to do so, despite having taken reasonable steps to acquire them. This might include a landlord being unable to gain access to the property to carry out the work. Landlords and tenants cannot contract out of the duty unless both parties agree and a sheriff grants consent to this arrangement.



What is the new Private Rented Housing Panel (PRHP)?

The PRHP offers tenants a quicker and easier route to enforce a landlord's obligations and should result in more privately rented houses being in better repair. From 3 September 2007, if after trying to resolve the matter with their landlord, a tenant considers that the landlord has failed to meet their duty to repair, the tenant can apply for the case to be considered by the Panel.

The tenant will need to complete an application form (available from the PRHP website) setting out basic information and an explanation of the problem. If the case is accepted, it will be referred to a Committee for consideration. The PRHP may delay referring the case if there is a good chance that the dispute could be resolved by the tenant and landlord. This might be achieved through mediation, which involves independent mediators attempting to work with both parties to achieve a satisfactory resolution. The landlord or tenant can be supported by a representative, if they wish.

If the Committee decides that the landlord has failed to comply with the Repairing Standard the Committee can make an enforcement order requiring the landlord to carry out the work. It is an offence to fail to comply with an enforcement order. If the landlord still fails to carry out the work then the Committee can impose a rent relief order to reduce the rent payable on the property until the Committee is satisfied that the work has been completed. The local authority may carry out work that is not done and recover its costs from the landlord.

Procedures for the operation of the PRHP and Committees are set out in the Housing (Scotland) Act 2006 and in Regulations. In addition, the PRHP is producing detailed procedural guidance for tenants and landlords involved in cases. The PRHP will continue to carry out its current duties as the Rent Assessment Panel in addition to its new role.

How do I find out more?

Further information on the PRHP, including more information on how to take a case to the Panel is available from the PRHP website: www.prhpscotland.gov.uk. You can also download further copies of this leaflet and a standard letter that private landlords can use to inform tenants of their rights. You can contact the PRHP by phone, email or post as shown below. More general information on private renting in Scotland is available from www.betterrentingscotland.com.

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