




A Brief Guide for  
**TENANTS**



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This guidance has been prepared by the **prhp** for the assistance of tenants wishing to make an application to the **prhp**. It is not, and is not meant to be, a comprehensive description of all aspects of the changes introduced by the Housing (Scotland) Act 2006 in relation to repairs in the private rented sector. The legislation is contained within the Housing (Scotland) Act 2006 and The Private Rented Housing Panel (Applications and Determinations) (Scotland) Regulations 2007 SSI No 173.

# THE PROPERTY I RENT NEEDS TO BE REPAIRED – WHAT CAN I DO ABOUT IT?

Your landlord in the private rented sector has a duty to ensure that the house you rent meets a basic standard of repair called the “repairing standard”. If you believe that your rented house does not meet that standard, and your landlord refuses to carry out the necessary repairs, you can apply to the **prhp** for a decision by a Private Rented Housing Committee (a “Committee”) on whether or not your landlord has failed to comply with that duty. The Committee can then order your landlord to carry out the necessary repairs. Various penalties apply if your landlord then does not do so.



## WHAT IS THE REPAIRING STANDARD?

The standard is fairly basic. A house meets the repairing standard if:

- a) it is wind and watertight 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 and electricity and for sanitation, space heating 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, and
- f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

## THE HOUSE I RENT DOES NOT MEET THE REPAIRING STANDARD – CAN I APPLY TO THE **prhp**?

The Housing (Scotland) Act 2006 (the 2006 Act) sets out the tenancies to which the repairing standard applies. It applies to most tenancies in the private rented sector (including tied houses) but there are some exceptions. Also, you cannot apply to the **prhp** if you have an occupancy arrangement as opposed to a tenancy as such arrangements are not covered by the standard.

### YOU CANNOT APPLY TO THE **prhp** IF YOUR TENANCY IS:

- a Scottish secure tenancy or a short Scottish secure tenancy. (These tenancies are different from a Short Assured Tenancy. If you have a Short Assured Tenancy, then you can apply to **prhp**);
- a tenancy of a house retained or purchased by a local authority for use as housing accommodation as an alternative to demolition;
- an agricultural tenancy or a croft;
- a tenancy of a house on holdings to which the Small Landholders (Scotland) Acts 1886 to 1931 apply.

### YOU CANNOT APPLY TO THE **PRHP** IF YOUR LANDLORD IS:

- a local authority
- a registered social landlord (such as a Housing Association), or
- Scottish Water



## THE PRHP WILL NOT BE ABLE TO HELP YOU IF:

- the repair work needing done does not come within the terms of the repairing standard;
- your tenancy was originally for a period of three years or more, and cannot be terminated during that period, and you are responsible for carrying out all repairs;
- the repair work needing done results from damage caused by you or a member of your family;
- your house has to be rebuilt or reinstated in the event of destruction or damage by fire or by storm, flood or other inevitable accident;
- the work relates to the repair or maintenance of anything that you are entitled to remove from the house.

## I THINK I AM ELIGIBLE TO APPLY – HOW DO I GO ABOUT IT?

First of all, you need to **notify your landlord that work requires to be done** to ensure that your house meets the repairing standard. You will need to attach to your application details of how you carried out this notification and you will be asked to produce evidence to show that you have done so. It is best to e-mail or send a letter by recorded delivery post to the landlord or letting agent. You should keep a copy of the letter you send. (You can download a sample letter from the prhp website or obtain a copy from the **prhp**.)

You must give your landlord fair notice of the problem – it is **not** enough just to make a general statement such as “my house does not meet the repairing standard”. You must set out what work needs to be done. You must ensure that each item of work required in the application (if there is more than one item) is notified clearly to the landlord or letting agent. It is important to carry out this notification requirement as it is only then that an application can be treated as valid and referred to a Committee for a decision.

At the date when the outcome of the application is decided, the Committee must be satisfied that the landlord has had a reasonable time since notification to carry out the required works. How much time is “reasonable” will depend on the nature of the work needing done, and all the circumstances of the case. For example, if your bedroom ceiling is leaking it would be reasonable to expect the landlord to sort this very quickly, whereas an external drain which chokes from time to time would be a less urgent repair.

**The application to prhp must be made in writing.** There is an application form you can use which is available from our website or our office. The application form guides you through what information is required. The form is accompanied by a guidance note telling you what to do. This guidance note is available in various different languages and formats. However, you must submit your application in English, or provide a certified translation from a recognised translator. **Applying to prhp is free of charge and you cannot be held liable for your landlord’s expenses.**


You can deal with the application yourself or you can ask someone else to represent you. Please tell us whether you want us to deal directly with your representative, or whether you wish us to continue to send all correspondence to you by ticking the appropriate box on the application

form. If you have a question about completing your application and the documents to send with it, then you can contact prhp for information, but please note that prhp cannot provide legal advice about housing issues.

## WHEN YOU SEND YOUR APPLICATION TO PRHP YOU MUST ATTACH TO IT THE FOLLOWING:

1. A copy of your **lease, tenancy agreement or rent book**, if you have one. If you don't, then you must give as much information about your tenancy as you can so that we can ensure that your tenancy comes within our jurisdiction.
2. **Evidence to show that the landlord or letting agent has been notified of the required work specified in the application.** It is best to produce a copy of the letter you sent to your landlord or the letting agent, accompanied by a recorded delivery receipt, **or** copy e-mails between you and the landlord or letting agent. These are good ways of showing that you did give notice. However, other forms of evidence will also be accepted provided they show that adequate notice has been given.

It is important that the repairs included in your application match those you have notified to your landlord, as if you add works in your application which you have not notified to your landlord, or even exclude works from your application which you have notified to your landlord, then this will lead to administrative delay because we will clarify with you what repairs you wish to be included in the application. You may be asked to send further notification to the landlord if evidence of notification is unclear.

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## ONCE I'VE MADE MY APPLICATION, WHAT HAPPENS NEXT?


Once a valid application is received, the President has 14 days from the date of receipt to decide whether the application can be referred to a Committee or whether it should be rejected. A valid application will only be rejected if the President considers it to be vexatious or frivolous, or you have recently made an identical or very similar application, or the dispute has already been resolved. **If your application is rejected then you may appeal to the sheriff against this decision within 21 days of being notified of it.**

The President has the power to delay referring the case to a Committee where “there is a reasonable prospect of the dispute being resolved by the parties”. This might be appropriate if, for example, it appears that there has been a simple misunderstanding that could be sorted out.

Prhp also offers the option of **mediation**. Mediation is a way of settling disputes informally without the stress, and bad feeling often involved in using formal procedures. Mediation is confidential, and free. Mediation is only available where you and your landlord agree to it. There is a separate leaflet which explains how the mediation process works. **If you would like to try to resolve your dispute by mediation, please tick the appropriate box on the application form.** If you choose to go to mediation, then you will be contacted to arrange a date for the mediation session to take place. If mediation doesn't work, then you will be able to have your application considered by a Committee just as if you had never tried mediation.

## MY CASE HAS BEEN REFERRED TO A COMMITTEE – WHAT HAPPENS NOW?

If you do not choose mediation, or mediation is not successful in resolving the dispute, then your case will be referred to a Committee. You will be sent a **Notice of Referral** confirming this and asking you whether you wish to attend a hearing or whether you wish to make written representations. You can, if you wish, do both. Your landlord will also be given the same choice.

The background of the lower half of the page features a stylized illustration of two people in profile, facing each other as if in conversation. The figures are rendered in a dark orange color against the lighter orange background. The person on the left is shown from the chest up, and the person on the right is shown from the chest up, with their head tilted slightly towards the other person.


Think carefully before you decide not to attend a hearing. Remember that if you choose not to attend, you will not be able to respond to any of the points your landlord makes on the day of the hearing and the Committee will not have the chance to ask you any questions. Remember that **you must reply to the Committee by the date given on the Notice**. If you need more time, you must contact the Committee to ask for this, giving a brief explanation as to why you need more time. If you want to change or add to your written representations you can do so by writing to the Committee at any time up to 5 working days before the hearing. After that, you can still amend your written representations but only with the consent of the Committee.

The Committee has the power to make inquiries and can require you to attend a hearing or produce documents or information. If you are served with a Notice from the Committee requiring your attendance or further information then **you must comply** with that, otherwise you may be guilty of a criminal offence and you could be fined. It is also an offence to knowingly give false information to the Committee.

Before the hearing, the Committee will generally carry out **an inspection** at your home to look at the problem you have complained about. This will usually happen on the same day as the hearing. The Committee will only be looking at the issue(s) you have raised and will not carry out a comprehensive inspection of your home. However, in some cases another relevant issue may come to light in the course of that inspection. The Committee has the power to make inquiries about matters other than those to which your application relates if they consider it appropriate to do so. You may have to amend your application to take account of a new matter which has arisen, or to submit a second application to deal with this new matter. If that situation arises, the Committee will issue directions making clear to both you and your landlord what needs to be done.

**Hearings** will normally be held in public in a venue which is within reasonable travelling distance of the property in question. If you have a special reason for wishing the hearing to be held in private then you must write to the Committee in advance explaining what the reason is and asking them to hold the hearing in private. The Committee will then decide whether or not to agree to your request.

You can conduct your case yourself or you can have your representative conduct the case for you. You will be able to tell the Committee about the repair issues you have raised and you can also bring witnesses if you wish. You will be able to ask your landlord questions and also question any witnesses he or she has brought to the hearing. The Committee will decide what procedure is to be followed at your hearing, and the chairperson will explain to you what is to happen and when you are able to speak and ask questions. Do not be put off attending a hearing – the procedure is fairly informal and the chairperson will ensure that you know what is happening.

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Everyone attending the hearing is expected to behave in a polite and appropriate manner. The Committee has the power to exclude any person from the hearing, even if they are a party or a representative, if that person is being disruptive.

If you do not attend the hearing, then the Committee can decide to proceed with the hearing in your absence provided the Committee is satisfied that you have received proper notice of the hearing.

The Committee will not usually give a **decision** on the day. It will be sent out to you soon after the hearing along with a statement of reasons for the decision.

## WHAT HAPPENS AFTER A DECISION IS ISSUED?

If the Committee decide that your landlord has failed to comply with the duty, then the Committee must make a “**repairing standard enforcement order**” (RSEO) requiring the landlord to carry out the necessary work.

The Committee must specify the period within which the work must be carried out, **but the landlord must be given at least 21 days.**

The RSEO may specify what particular steps the Committee require the landlord to take, or the Committee may leave it up to the landlord to decide how to carry out the repairs. **The Committee has no power to make an award of compensation.**

The RSEO is registered against the title deed for the house and will remain on the title until it is revoked, which is usually when the works are certified as complete by prhp. The RSEO still applies to the house if a landlord sells it before the works are carried out and the order is revoked.

It is a criminal offence not to comply with an RSEO. It is also a criminal offence to re-let the property to someone else while the RSEO remains in force (unless the Committee gives permission).

After the period specified in the RSEO has expired, the Committee (or sometimes the surveyor member only) will carry out a further inspection of the house.

There may be another hearing fixed but it is more common for there to be no second hearing and for a copy of the re-inspection report to be sent to you and the landlord and you will both be asked to complete a questionnaire on your views on a number of issues. If following consideration of the inspection findings and the further comments received, the Committee decide that your landlord has failed to comply with the RSEO, the Committee will **serve notice of the failure on the local authority** and decide whether to make a **Rent Relief Order**. This is an order which reduces any rent payable under your tenancy by whatever amount the Committee decide, up to a maximum of 90%. It does not affect the terms of your tenancy in any other way. A rent relief order comes into effect 28 days after the last date on which the decision to make the order comes into effect, and cannot be backdated.

## CAN I APPEAL AGAINST A DECISION IF IT IS NOT IN MY FAVOUR?

Yes, you can appeal to the sheriff within **21 days** of being notified of the decision. You can appeal against the following decisions:-

- a decision by the President to reject an application;
- a decision by a Committee on the tenant's application;
- a decision by a Committee to vary or revoke a RSEO;
- a decision by a Committee not to make a rent relief order;
- a decision by a Committee to revoke a rent relief order;
- a decision by a Committee to grant a certificate that the work has been completed.

Your landlord also has the right to appeal against decisions in your favour. An appeal is to the sheriff court by way of summary application. To find out how to make an appeal you should contact the sheriff clerk of the sheriff court which covers the area in which your house is situated. For example, if your house is in Dundee you should contact the sheriff clerk at Dundee Sheriff Court.

## ARE PRHP DECISIONS PUBLICALLY AVAILABLE?

Yes, they can be accessed from the prhp website.

## DOES LANDLORD REGISTRATION SERVICES KNOW OF THESE DECISIONS?

Yes, copies of prhp decisions are intimated to the local authority for the area in which the house is situated.

## IF THE COMMITTEE DECIDE THAT THE LANDLORD HAS FAILED TO COMPLY WITH THE RSEO, CAN I ASK THE LOCAL AUTHORITY FOR THE AREA IN WHICH THE HOUSE IS SITUATED TO CARRY OUT THE WORKS?

Yes, but the decision as to whether or not they will carry out works in these circumstances rests with the local authority (Section 36 of the 2006 Act). If a local authority does decide to carry out the works in the RSEO, then they must give the landlord and tenant 21 days notice of their decision unless the repairs are urgent. There are powers for the local authority to recharge the landlord for the expenses associated with the works and, if the landlord does not pay, then a local authority can register a repayment charge against the title deed for the house to secure payment of the expenses.

## WHAT HAPPENS IF I LEAVE THE PROPERTY OR THE TENANCY IS TERMINATED BY THE LANDLORD BEFORE THE APPLICATION IS DETERMINED?

The President or the Committee, depending on the stage of the application, can decide to continue with the application even if the tenancy has been terminated. If in that situation the Committee decides that the house does not meet the repairing standard, then an RSEO will be made and enforced in the usual way. Whilst an RSEO is in force, the house cannot be re-let to someone else without the Committee's permission, otherwise a criminal offence is committed by the landlord.







### Contact details

If you wish more information about the prhp please contact us at:-

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