



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 1

#### HOUSING STANDARDS

#### CHAPTER 4

##### THE REPAIRING STANDARD

##### *Landlord's duty to repair and maintain*

### 12 Tenancies to which repairing standard duty applies

- (1) This Chapter applies to any tenancy of a house let for human habitation unless it is—
- (a) a Scottish secure tenancy or a short Scottish secure tenancy,
  - (b) a tenancy of a house retained or purchased by a local authority under section 121 of the 1987 Act for use as housing accommodation,
  - (c) a tenancy of a house which is—
    - (i) on land comprised in a lease constituting—
      - (A) a 1991 Act tenancy (within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11)),
      - (B) a short limited duration tenancy (within the meaning of that Act),<sup>F1</sup>...
      - (C) a limited duration tenancy (within the meaning of that Act), and
      - [<sup>F2</sup>(D) a modern limited duration tenancy (within the meaning of that Act), or
      - (E) a repairing tenancy (within the meaning of that Act).]
    - (ii) occupied by the tenant of the relevant lease,
  - (d) a tenancy of a house on a croft (within the meaning of the Crofters (Scotland) Act 1993 (c. 44)), or

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- (e) a tenancy of a house on a holding situated outwith the crofting counties (within the meaning of that Act of 1993) to which any provision of the Small Landholders (Scotland) Acts 1886 to 1931 applies.
  - (f) a tenancy of a house which does not exceed 31 days where the purpose of the tenancy is to confer on the tenant the right to occupy the house for a holiday [<sup>F3</sup>unless the tenancy is a short-term let].
- (2) A reference in this Chapter to a tenancy refers only to a tenancy to which this Chapter applies.
- [<sup>F4</sup>(3) For the purposes of this Chapter, a short-term let is a type of tenancy (and the terms landlord, let and tenant are to be construed accordingly).
- (4) In this section, a short-term let has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022.]

#### Textual Amendments

- F1** Word in s. 12(1)(c)(i) repealed (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 9\(2\)\(a\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch. (with reg. 14)
- F2** S. 12(1)(c)(i)(D)(E) inserted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 9\(2\)\(b\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch. (with reg. 14)
- F3** Words in s. 12(1)(f) inserted (1.3.2022) by [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) Order 2022 \(S.S.I. 2022/32\)](#), art. 1, [sch. 4 para. 2\(2\)](#)
- F4** S. 12(3)(4) inserted (1.3.2022) by [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) Order 2022 \(S.S.I. 2022/32\)](#), art. 1, [sch. 4 para. 2\(3\)](#)

## 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 [<sup>F5</sup>, electricity (including residual current devices) and any other type of fuel] and for sanitation, space heating [<sup>F6</sup>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, <sup>F7</sup>...
  - <sup>F8</sup>(f) .....
  - <sup>F8</sup>(g) .....
  - [<sup>F9</sup>(h) the house meets the tolerable standard.]
  - [<sup>F10</sup>(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.]

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- (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.
- [<sup>F11</sup>(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 guidance issued by the Scottish Ministers 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.]

#### Textual Amendments

- F5** Words in s. 13(1)(c) substituted (1.3.2024) by [The Housing \(Scotland\) Act 2006 \(Modification of the Repairing Standard\) Regulations 2019 \(S.S.I. 2019/61\)](#), regs. 1(4), **3(2)(a)(i)**
- F6** Words in s. 13(1)(c) inserted (1.3.2024) by [The Housing \(Scotland\) Act 2006 \(Modification of the Repairing Standard\) Regulations 2019 \(S.S.I. 2019/61\)](#), regs. 1(4), **3(2)(a)(ii)**
- F7** Word in s. 13(1) repealed (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 22(a)**, 104(3); [S.S.I. 2015/272](#), art. 2, Sch.
- F8** S. 13(1)(f)(g) omitted (1.2.2022) by virtue of [The Housing \(Scotland\) Act 2006 \(Modification of the Repairing Standard\) Regulations 2019 \(S.S.I. 2019/61\)](#), regs. 1(3), **3(2)(b)** (as amended by [S.S.I. 2021/47](#), reg. 2(2))
- F9** S. 13(1)(h) inserted (1.3.2019) by [The Housing \(Scotland\) Act 2006 \(Modification of the Repairing Standard\) Regulations 2019 \(S.S.I. 2019/61\)](#), regs. 1(2), **3(2)(c)**
- F10** S. 13(1)(i)(j)(k) inserted (1.3.2024) by [The Housing \(Scotland\) Act 2006 \(Modification of the Repairing Standard\) Regulations 2019 \(S.S.I. 2019/61\)](#), regs. 1(4), **3(2)(d)**
- F11** S. 13(7) substituted for s. 13(4A)(5)(6) (1.3.2019) by [The Housing \(Scotland\) Act 2006 \(Modification of the Repairing Standard\) Regulations 2019 \(S.S.I. 2019/61\)](#), regs. 1(2), **3(3)**

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## **14 Landlord's duty to repair and maintain**

- (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.

## **15 Application of duty in relation to flats etc.**

- (1) Where a house forms part only of any premises, the reference in section 13(1)(b) to the house includes reference to any part of those premises which the owner of the house is responsible for maintaining (solely or in common with others) by virtue of ownership, any real burden or otherwise.
- (2) Nothing in subsection (1) requires the landlord to carry out any work unless any part of the premises, or anything in the premises, which the tenant is entitled to use is adversely affected by the disrepair or failure to keep in proper working order.

## **16 Exceptions to landlord's repairing duty**

- (1) The duty imposed by section 14(1) does not require—
  - (a) any work to be carried out which the tenant is required by the terms of the tenancy to carry out,
  - (b) any work to be carried out for which the tenant—
    - (i) is liable by virtue of the tenant's duty to use the house in a proper manner, or
    - (ii) would be so liable but for any express undertaking on the landlord's part,
  - (c) the house to be rebuilt or reinstated in the event of destruction or damage by fire or by storm, flood or other inevitable accident, or
  - (d) the repair or maintenance of anything that the tenant is entitled to remove from the house.
- (2) The exception made by subsection (1)(a) applies only if the tenancy concerned is—
  - (a) for a period of not less than 3 years, and
  - (b) not determinable at the option of either party within 3 years of the start of the tenancy.
- (3) Where the terms of a tenancy are not agreed until after the tenancy starts, the tenancy is, for the purposes of subsection (2), to be treated as starting on the date of agreement.

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(4) A landlord is not to be treated as having failed to comply with the duty imposed by section 14(1) where the purported failure occurred only because the landlord lacked necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights.

[<sup>F12</sup>(5) For the purpose of subsection (4), in relation to any work intended to be carried out to parts owned in common with other owners but where a majority of the owners has not consented to the intended work, a landlord is to be treated as lacking necessary rights.]

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#### Textual Amendments

**F12** S. 16(5) inserted (1.3.2019) by [The Housing \(Scotland\) Act 2006 \(Supplemental Provision\) Order 2019 \(S.S.I. 2019/62\)](#), arts. 1, 2

### 17 Prohibition on contracting out

(1) The terms of a tenancy and of any other agreement between the landlord and the tenant are of no effect in so far as they purport to—

- (a) require the tenant to carry out, or to pay for or contribute towards the cost of, any work which the landlord requires to ensure be carried out for the purposes of complying with the duty imposed by section 14(1),
- (b) exclude or limit that duty, or
- (c) provide for termination of the tenancy, or impose on the tenant any penalty, disability or obligation, in the event of the tenant enforcing compliance by the landlord of that duty.

(2) This section is subject to any contrary provision made by order under section 18.

### 18 [<sup>F13</sup>Contracting out with consent of First-tier Tribunal]

(1) The [<sup>F14</sup>First-tier Tribunal] may, on the application of the landlord or the tenant, by order exclude or modify the application to the tenancy of any of the provisions of sections 14, 15 and 17.

(2) An order under subsection (1) may be made only if—

- (a) the other party under the tenancy consents, and
- (b) the [<sup>F15</sup>Tribunal], having regard to the terms of the tenancy and to all the circumstances, considers that it is reasonable to do so.

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#### Textual Amendments

**F13** S. 18 title substituted (1.12.2017) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\)](#), ss. 17(3), 104(3); [S.S.I. 2017/330](#), art. 3, sch.

**F14** Words in s. 18(1) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), ss. 17(2)(a), 104(3); [S.S.I. 2017/330](#), art. 3, sch.

**F15** Word in s. 18(2)(b) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), ss. 17(2)(b), 104(3); [S.S.I. 2017/330](#), art. 3, sch.

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## **19 Pre-tenancy inspection**

The landlord must—

- (a) inspect the house before the tenancy starts for the purpose of identifying any work necessary to comply with the duty imposed by section 14(1)(a), and
- (b) notify the tenant of any such work.

### **[<sup>F16</sup>19A Duty to ensure regular electrical safety inspections**

- (1) The landlord must ensure that regular inspections are carried out for the purpose of identifying any work which—
  - (a) relates to installations for the supply of electricity and electrical fixtures, fittings and appliances, and
  - (b) is necessary to ensure that the house meets the repairing standard.
- (2) The duty in subsection (1) is complied with if—
  - (a) an inspection has been carried out before the tenancy starts (but not earlier than 5 years before the start of the tenancy), and
  - (b) inspections are carried out during the tenancy at such intervals to ensure that there is a period of no more than 5 years between each inspection.
- (3) The landlord must—
  - (a) before the start of the tenancy, provide the tenant with a copy of the record of the most recent inspection carried out, and
  - (b) provide the tenant with a copy of the record of any inspection carried out during the tenancy.
- (4) For the purposes of sections 16(4), 17, 22 and 24 and schedule 2, references to a duty under section 14(1) include the duties under this section.

#### **Textual Amendments**

**F16** Ss. 19A 19B inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 23\(2\), 104\(3\); S.S.I. 2015/272, art. 2, Sch.](#) (with art. 3)

## **19B Electrical safety inspections**

- (1) An inspection carried out in pursuance of section 19A must be carried out by a competent person.
- (2) The person carrying out the inspection must prepare a record of the inspection including the following information—
  - (a) the date on which the inspection was carried out,
  - (b) the address of the house inspected,
  - (c) the name and address of the landlord or the landlord's agent,
  - (d) the name, address and relevant qualifications of the person who carried out the inspection,
  - (e) a description, and the location, of each installation, fixture, fitting and appliance inspected,
  - (f) any defect identified,
  - (g) any action taken to remedy a defect.

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- (3) A copy of the record must be—
  - (a) given to the landlord, and
  - (b) retained by the landlord for a period of 6 years.
- (4) The Scottish Ministers must publish guidance on the carrying out of inspections.
- (5) In determining who is competent to carry out an inspection, the landlord must have regard to the guidance.]

#### Textual Amendments

**F16** Ss. 19A 19B inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), ss. **23(2)**, 104(3); S.S.I. 2015/272, art. 2, Sch. (with art. 3)

## 20 Tenant's right to information about landlord's duty

- (1) The landlord must, on or before the start of a tenancy, provide the tenant with written information about the effect of this Chapter in relation to the tenancy.
- (2) The Scottish Ministers may issue guidance to such persons as they think fit about the form and content of information to be provided under subsection (1) and the manner in which the information should be provided.
- (3) Any landlord to whom such guidance is issued must have regard to it.
- (4) The Scottish Ministers may vary or revoke any such guidance.

### [<sup>F17</sup>20A Power to modify repairing standard etc.

- (1) The Scottish Ministers may by regulations vary or extend the repairing standard and a landlord's duty to ensure a house meets that standard.
- (2) Regulations under subsection (1) may, in particular, make provision about—
  - (a) the tenancies to which this Chapter applies,
  - (b) determining whether a house meets the repairing standard,
  - (c) carrying out inspections in relation to the repairing standard.
- (3) Regulations under subsection (1) may modify sections 12 to 14 and any other provision of this Chapter.]

#### Textual Amendments

**F17** S. 20A inserted (20.11.2014) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), ss. **24(1)**, 104(3); S.S.I. 2014/264, art. 2, Sch.

### *Enforcement of repairing standard*

## <sup>F18</sup>21 Naming of panel and re-naming of committees

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**Textual Amendments**

**F18** S. 21 omitted (1.12.2016) by virtue of [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(2)** (with sch. 1)

**22** **[<sup>F19</sup>Application in respect of the repairing standard]**

(1) A tenant may apply to the [<sup>F20</sup>First-tier Tribunal] for determination of whether the landlord has failed to comply with the duty imposed by section 14(1)(b).

[<sup>F21</sup>(1A) A person mentioned in subsection (1B) may apply to the [<sup>F22</sup>First-tier Tribunal] for determination of whether a landlord has failed to comply with the duty imposed by section 14(1)(b) (a person who makes such an application being referred to as a “third party applicant”).

(1B) The persons are—

- (a) a local authority,
- (b) a person specified by order made by the Scottish Ministers.]

(2) An application under subsection [<sup>F23</sup>(1) or (1A) must set out the tenant's, or as the case may be, the third party applicant's] reasons for considering that the landlord has failed to comply with that duty.

(3) No [<sup>F24</sup>application under this section may be made unless the person making the application] has notified the landlord that work requires to be carried out for the purpose of complying with that duty.

(4) No [<sup>F25</sup>application under this section] may be made where the landlord is—

- (a) a local authority landlord (within the meaning of the Housing (Scotland) Act 2001 (asp 10)),
- (b) a registered social landlord (being a body registered in the register maintained under [<sup>F26</sup>section 20(1) of the Housing (Scotland) Act 2010 (asp 17)]),
- <sup>F27</sup>(c) .....
- (d) Scottish Water.

[<sup>F28</sup>(4A) The tenant of the house concerned is entitled to be a party in the determination of any application made under subsection (1A).]

(5) Schedule 2 makes further provision about the procedure for making and determining an application under this section.

<sup>F29</sup>(6) .....

**Textual Amendments**

**F19** S. 22 heading substituted (1.12.2015) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 25(2), 104(3)**; [S.S.I. 2015/349](#), art. 3, sch.

**F20** Words in s. 22(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(2) (a)** (with sch. 1 para. 5)



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- F21** S. 22(1A)(1B) inserted (1.12.2015 for specified purposes, 1.4.2016 for specified purposes, 1.6.2016 in so far as not already in force) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(1)(a)**, 104(3); S.S.I. 2015/349, art. 3, sch.
- F22** Words in s. 22(1A) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(2)(b)** (with sch. 1 para. 5)
- F23** Words in s. 22(2) substituted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(1)(b)**, 104(3); S.S.I. 2015/349, art. 3, sch.
- F24** Words in s. 22(3) substituted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(1)(c)**, 104(3); S.S.I. 2015/349, art. 3, sch.
- F25** Words in s. 22(4) substituted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(1)(d)**, 104(3); S.S.I. 2015/349, art. 3, sch.
- F26** Words in s. 22(4)(b) substituted (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **Sch. 2 para. 14**; S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)
- F27** S. 22(4)(c) repealed (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **Sch. 2 para. 17(a)**; S.S.I. 2014/264, art. 2, Sch.
- F28** S. 22(4A) inserted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(1)(e)**, 104(3); S.S.I. 2015/349, art. 3, sch.
- F29** S. 22(6) repealed (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **Sch. 2 para. 17(b)**; S.S.I. 2014/264, art. 2, Sch.

#### Commencement Information

- II** S. 22 wholly in force at 3.9.2007; s. 22 not in force at Royal Assent see s. 195(3); s. 22(5) in force for certain purposes at 4.12.2006 by S.S.I. 2006/569, **art. 2**; s. 22 in force at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table}

#### [<sup>F30</sup>22A Information to be given to local authority

- (1) On receipt of an application under section 22(1) [<sup>F31</sup>, or under section 22(1A) where the applicant is not a local authority], the [<sup>F32</sup>First-tier Tribunal] must provide the information mentioned in subsection (2) to the local authority for the area in which the house concerned is situated for the purpose of the local authority maintaining the register under section 82(1) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8).
- (2) The information is—
- the address of the house concerned,
  - the name of the landlord of the house (if known),
  - the landlord's address (if known),
  - the landlord registration number of the landlord (if known), and
  - the name and address (if known) of any person who acts as agent for the landlord.]

#### Textual Amendments

- F30** S. 22A inserted (1.4.2013) by Private Rented Housing (Scotland) Act 2011 (asp 14), **ss. 11**, 41(3); S.S.I. 2013/82, art. 2(1), sch.
- F31** Words in s. 22A(1) inserted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(3)**, 104(3); S.S.I. 2015/349, art. 3, sch.

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**F32** Words in s. 22A(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(3)** (with sch. 1 para. 5)

## 23 <sup>F33</sup>**Consideration of applications**

- (1) <sup>F34</sup>The Chamber President] must decide whether to—
- (a) refer an application under section 22(1) <sup>F35</sup>or 22(1A)] to <sup>F36</sup>the First-tier Tribunal] , or
  - (b) reject the application.
- (2) The <sup>F37</sup>Chamber President] may reject an application only if the <sup>F37</sup>Chamber President] considers—
- (a) that it is vexatious or frivolous,
  - (b) where the tenant <sup>F38</sup>or third party applicant] has previously made an identical or substantially similar application in relation to the same house, that there has not been a reasonable period of time between the applications, or
  - (c) that the dispute to which the application relates has been resolved.
- (3) The <sup>F39</sup>Chamber President] must make a decision under subsection (1)—
- (a) within 14 days of the <sup>F40</sup>First-tier Tribunal’s] receipt of the application concerned, or
  - (b) where the <sup>F41</sup>Chamber President] considers—
    - (i) that the decision cannot be made without further information, or
    - (ii) that there is a reasonable prospect of the dispute being resolved by the parties,
 by such later date as the <sup>F42</sup>Chamber President] considers reasonable.
- (4) The <sup>F43</sup>Chamber President] must, as soon as practicable after rejecting an application <sup>F44</sup>under section 22(1)] give notice of the rejection—
- (a) to the tenant, and
  - (b) where the <sup>F43</sup>Chamber President] is aware of the name and address of a person who acts for the tenant in relation to the application, to that person.
- <sup>F45</sup>(4A) The <sup>F46</sup>Chamber President] must, as soon as practicable after rejecting an application under section 22(1A) give notice of the rejection to—
- (a) the third party applicant, and
  - (b) the tenant.]
- (5) <sup>F47</sup>A notice under subsection (4) or (4A)] must—
- (a) set out the reasons for the rejection, and
  - (b) explain the procedure for appealing against it.

### Textual Amendments

**F33** S. 23 heading substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(5)** (with sch. 1 para. 5)

**F34** Words in s. 23(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(4) (a)** (with sch. 1 para. 5)

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- F35** Words in s. 23(1) inserted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(4)(a)**, 104(3); S.S.I. 2015/349, art. 3, sch.
- F36** Words in s. 23(1)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(3)** (with sch. 1)
- F37** Words in s. 23(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(4)(b)** (with sch. 1 para. 5)
- F38** Words in s. 23(2)(b) inserted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(4)(b)**, 104(3); S.S.I. 2015/349, art. 3, sch.
- F39** Words in s. 23(3) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(4)(c)(i)** (with sch. 1 para. 5)
- F40** Words in s. 23(3)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(4)(c)(ii)** (with sch. 1 para. 5)
- F41** Words in s. 23(3)(b) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(4)(c)(iii)** (with sch. 1 para. 5)
- F42** Words in s. 23(3) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(4)(c)(iv)** (with sch. 1 para. 5)
- F43** Words in s. 23(4) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(4)(d)** (with sch. 1 para. 5)
- F44** Words in s. 23(4) inserted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(4)(c)**, 104(3); S.S.I. 2015/349, art. 3, sch.
- F45** S. 23(4A) inserted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(4)(d)**, 104(3); S.S.I. 2015/349, art. 3, sch.
- F46** Words in s. 23(4A) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(4)(e)** (with sch. 1 para. 5)
- F47** Words in s. 23(5) substituted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 25(4)(e)**, 104(3); S.S.I. 2015/349, art. 3, sch.

#### [<sup>F48</sup>23A. Delegation of Chamber President’s functions

- (1) The Chamber President may delegate the Chamber President’s functions under this Act to any legal or ordinary member of the First-tier Tribunal.
- (2) A delegation under this section does not affect the Chamber President’s—
  - (a) responsibility for the carrying out of delegated functions, or
  - (b) ability to carry out delegated functions.]

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#### Textual Amendments

- F48** S. 23A inserted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(6)** (with sch. 1 para. 5)

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Chapter 4. (See end of Document for details)*

## 24 **[<sup>F49</sup>Determination by the First-tier Tribunal]**

- (1) The [<sup>F50</sup>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).
- (2) Where the [<sup>F51</sup>First-tier Tribunal decides] that the landlord has failed to comply with that duty, [<sup>F52</sup>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 [<sup>F53</sup>First-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 [<sup>F54</sup>First-tier Tribunal requires] the landlord to take in complying with the order.
- (6) Where the [<sup>F55</sup>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 [<sup>F56</sup>First-tier Tribunal] must serve notice on the local authority stating that [<sup>F57</sup>it considers] the landlord to be unable to comply with that duty.
- (7) Where the [<sup>F58</sup>First-tier Tribunal] has made an order under section 18(1) in relation to a tenancy—
  - (a) the [<sup>F59</sup>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 [<sup>F60</sup>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.

### Textual Amendments

- F49** S. 24 heading substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(5)** (with sch. 1)
- F50** Words in s. 24(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(4)(a)** (with sch. 1)
- F51** Words in s. 24(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(4)(b)(i)** (with sch. 1)
- F52** Word in s. 24(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(4)(b)(ii)** (with sch. 1)

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*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Chapter 4. (See end of Document for details)*

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- F53** Words in s. 24(4) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(4)(c)** (with sch. 1)
- F54** Words in s. 24(5) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(4)(d)** (with sch. 1)
- F55** Words in s. 24(6) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(4)(e)(i)** (with sch. 1)
- F56** Word in s. 24(6) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(4)(e)(ii)** (with sch. 1)
- F57** Words in s. 24(6) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(4)(e)(iii)** (with sch. 1)
- F58** Words in s. 24(7) substituted (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 50(a)**; S.S.I. 2017/330, art. 3, sch.
- F59** Words in s. 24(7)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(4)(f)** (with sch. 1)
- F60** Word in s. 24(7)(a) substituted (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 50(b)**; S.S.I. 2017/330, art. 3, sch.

## 25 Variation and revocation of repairing standard enforcement orders

- (1) <sup>F61</sup>Where the First-tier Tribunal has made a repairing standard enforcement order, it] may, at any time—
- (a) vary the order in such manner as <sup>F62</sup>it considers] reasonable, or
  - (b) where <sup>F62</sup>it considers] that the work required by the order is no longer necessary, revoke it.
- (2) Where subsection (3) applies, the <sup>F63</sup>First-tier Tribunal] must vary the repairing standard enforcement order in question—
- (a) so as to extend, or further extend, the period within which the work required by the order must be completed, and
  - (b) in such other manner as <sup>F64</sup>it thinks] fit.
- (3) This subsection applies where—
- (a) the <sup>F65</sup>First-tier Tribunal considers], on the submission of the landlord or otherwise, that the work required by a repairing standard enforcement order has not been, or will not be, completed during the period within which the order requires the work to be completed, and
  - (b) the <sup>F66</sup>First-tier Tribunal] —
    - (i) <sup>F67</sup>considers] that satisfactory progress has been made in carrying out the work required, or
    - (ii) <sup>F68</sup>has] received a written undertaking from the landlord stating that the work required will be completed by a later date which the <sup>F66</sup>First-tier Tribunal] consider satisfactory.
- (4) References in this Act (including this section) to a repairing standard enforcement order or to work required by such an order are, where the order has been varied under

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this section, to be treated as references to the order as so varied or, as the case may be, to work required by the order as so varied.

#### Textual Amendments

- F61** Words in s. 25(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 6(6)(a)(i)** (with Sch. 1)
- F62** Words in s. 25(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 6(6)(a)(ii)** (with Sch. 1)
- F63** Words in s. 25(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 6(6)(b)(i)** (with Sch. 1)
- F64** Words in s. 25(2)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 6(6)(b)(ii)** (with Sch. 1)
- F65** Words in s. 25(3)(a) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 6(6)(c)(i)** (with Sch. 1)
- F66** Words in s. 25(3)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 6(6)(c)(ii)(aa)** (with Sch. 1)
- F67** Word in s. 25(3)(b)(i) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 6(6)(c)(ii)(bb)** (with Sch. 1)
- F68** Word in s. 25(3)(b)(ii) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 6(6)(c)(ii)(cc)** (with Sch. 1)

## 26 Effect of failure to comply with repairing standard enforcement order

- (1) It is for the <sup>F69</sup>First-tier Tribunal] to decide whether a landlord has complied with a repairing standard enforcement order made by the <sup>F70</sup>First-tier Tribunal].
- (2) Where the <sup>F71</sup>First-tier Tribunal decides] that a landlord has failed to comply with the repairing standard enforcement order, the <sup>F72</sup>First-tier Tribunal] must—
  - (a) serve notice of the failure on the local authority, and
  - (b) decide whether to make a rent relief order.
- (3) The <sup>F73</sup>First-tier Tribunal] may not decide that a landlord has failed to comply with a repairing standard enforcement order—
  - (a) unless the period within which the order requires the work to be completed has ended, or
  - (b) if the <sup>F74</sup>First-tier Tribunal is] satisfied, on the submission of the landlord or otherwise—
    - (i) that the landlord is unable to comply with the order because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights, or
    - (ii) that the work required by the order is likely to endanger any person.



*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Chapter 4. (See end of Document for details)*

- (4) Where the [<sup>F75</sup>First-tier Tribunal is] prevented by reason only of subsection (3)(b) from deciding that a landlord has failed to comply with a repairing standard enforcement order, the [<sup>F76</sup>First-tier Tribunal] must serve notice on the local authority stating that [<sup>F77</sup>it considers] the landlord to be unable to comply with the repairing standard enforcement order.

#### Textual Amendments

- F69** Words in s. 26(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(7)(a)(i)** (with sch. 1)
- F70** Words in s. 26(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(7)(a)(ii)** (with sch. 1)
- F71** Word in s. 26(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(7)(b)(i)** (with sch. 1)
- F72** Words in s. 26(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(7)(b)(ii)** (with sch. 1)
- F73** Words in s. 26(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(7)(c)(i)** (with sch. 1)
- F74** Word in s. 26(3)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(7)(c)(ii)** (with sch. 1)
- F75** Words in s. 26(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(7)(d)(i)** (with sch. 1)
- F76** Words in s. 26(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(7)(d)(ii)** (with sch. 1)
- F77** Word in s. 26(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(7)(d)(iii)** (with sch. 1)

## 27 Rent relief orders

- (1) A rent relief order is an order by [<sup>F78</sup>the First-tier Tribunal] which reduces any rent payable under the tenancy in question by such amount (not exceeding 90% of the rent which would, but for the order, be payable) as may be specified in the order.
- (2) [<sup>F79</sup>The First-tier Tribunal] may make a rent relief order only where [<sup>F80</sup>it has] decided that a landlord has failed to comply with a repairing standard enforcement order which has effect in relation to the house concerned.
- (3) A rent relief order does not affect the terms or validity of the tenancy to which it relates (otherwise than by reducing the rent payable under the tenancy).
- (4) The [<sup>F81</sup>First-tier Tribunal] may decide to revoke a rent relief order at any time; and the [<sup>F81</sup>First-tier Tribunal] must decide to do so if—

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*Changes to legislation:* There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Chapter 4. (See end of Document for details)

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- (a) the repairing standard enforcement order to which the rent relief order relates is revoked, or
  - (b) a certificate is granted under section 60 in relation to the work required by that repairing standard enforcement order.
- (5) The revocation of a rent relief order does not make a tenant liable to pay any rent which the tenant would, but for the rent relief order, have been liable to pay under the tenancy while the rent relief order had effect.

#### Textual Amendments

- F78** Words in s. 27(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(8)(a)** (with sch. 1)
- F79** Words in s. 27(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(8)(b)(i)** (with sch. 1)
- F80** Word in s. 27(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(8)(b)(ii)** (with sch. 1)
- F81** Words in s. 27(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(8)(c)** (with sch. 1)

## 28 The repairing standard: offences

- (1) A landlord who, without reasonable excuse, fails to comply with a repairing standard enforcement order commits an offence.
- (2) For the purposes of subsection (1), a landlord has reasonable excuse for failing to comply with a repairing standard enforcement order if—
  - (a) the landlord is unable to comply with the order because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights, or
  - (b) the work required by the order is likely to endanger any person.
- (3) Subsection (2) does not affect the generality of the defence of reasonable excuse.
- (4) A landlord cannot be guilty of an offence under subsection (1) unless the [<sup>F82</sup>First-tier Tribunal] has decided that the landlord has failed to comply with it (but such a decision does not establish a presumption that the landlord has committed an offence under subsection (1)).
- (5) A landlord commits an offence if the landlord enters into a tenancy or occupancy arrangement in relation to a house at any time during which a repairing standard enforcement order has effect in relation to the house.
- (6) A landlord does not commit an offence under subsection (5) if the [<sup>F83</sup>First-tier Tribunal] has consented to the landlord entering into the tenancy or occupancy arrangement.
- (7) A landlord who is guilty of an offence under subsection (1) or (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.



*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Chapter 4. (See end of Document for details)*

### Textual Amendments

- F82** Words in s. 28(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(9)(a)** (with sch. 1)
- F83** Word in s. 28(6) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(9)(b)** (with sch. 1)

### [<sup>F84</sup>28A [<sup>F85</sup>Landlord application to the First-tier Tribunal]

- (1) A landlord may apply to the [<sup>F86</sup>First-tier Tribunal] for assistance under section 28C in exercising the landlord's right of entry to the house concerned under section 181(4).
- (2) The [<sup>F87</sup>Chamber President] must allocate an application under subsection (1) to an individual member of the [<sup>F88</sup>First-tier Tribunal] , and may subsequently reallocate it at any time to another individual member of the [<sup>F88</sup>First-tier Tribunal] (the member to whom it is, for the time being, allocated being referred to as “the [<sup>F88</sup>First-tier Tribunal] member”).
- (3) The [<sup>F89</sup>First-tier Tribunal] member must decide whether—
  - (a) to assist the landlord in exercising the landlord's right of entry to the house concerned under section 181(4) in accordance with section 28C, or
  - (b) to reject the application (and notify the landlord accordingly).
- (4) The [<sup>F90</sup>First-tier Tribunal] member may require the landlord to produce such further information as the [<sup>F90</sup>First-tier Tribunal] member considers necessary to reach a decision on the application.
- (5) Where the [<sup>F91</sup>First-tier Tribunal] member decides to assist the landlord under subsection (3)(a) the [<sup>F91</sup>First-tier Tribunal] member must send the landlord and the tenant a notice—
  - (a) indicating that—
    - (i) the [<sup>F91</sup>First-tier Tribunal] member has decided to assist the landlord, and
    - (ii) the [<sup>F91</sup>First-tier Tribunal] member will be seeking to arrange a suitable time for the landlord to exercise the landlord's right of entry under section 181(4), and
  - (b) informing the tenant of the tenant's right under subsection (6).
- (6) A tenant may, within the period of 14 days beginning with the date of receipt of a notice under subsection (5) (or such longer period as the [<sup>F92</sup>First-tier Tribunal] member considers appropriate in the circumstances), make representations to the [<sup>F92</sup>First-tier Tribunal] member as to why it is inappropriate or unnecessary for the landlord to exercise the landlord's right of entry under section 181(4) at that time.
- (7) Where representations are made by the tenant under subsection (6), the [<sup>F93</sup>First-tier Tribunal] member—
  - (a) may make such further enquiries of the landlord and tenant as the [<sup>F93</sup>First-tier Tribunal] member considers appropriate, and
  - (b) must decide whether to—
    - (i) continue to assist the landlord, or

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- (ii) stop assisting the landlord.
- (8) A decision—
- (a) to reject an application under subsection (3),
  - (b) of the [<sup>F94</sup>First-tier Tribunal] member under subsection (7),
  - (c) by the [<sup>F94</sup>First-tier Tribunal] member to stop acting in accordance with section 28C(9),
- is final.
- (9) No application may be made under subsection (1) where the landlord is—
- (a) a local authority landlord (within the meaning of the Housing (Scotland) Act 2001 (asp 10)),
  - (b) a registered social landlord (being a body registered in the register maintained under section 57 of that Act), or
  - (c) Scottish Water.

#### **Textual Amendments**

- F84** Ss. 28A-28C inserted (22.9.2015 for specified purposes, 1.12.2015 in so far as not already in force) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 35(4)**, 41(3); S.S.I. 2015/326, art. 2(2)(b)(3)
- F85** S. 28A heading substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(8)** (with sch. 1 para. 5)
- F86** Words in s. 28A(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(7)(a)** (with sch. 1 para. 5)
- F87** Words in s. 28A(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(7)(b)(i)** (with sch. 1 para. 5)
- F88** Words in s. 28A(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(7)(b)(ii)** (with sch. 1 para. 5)
- F89** Words in s. 28A(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(7)(c)** (with sch. 1 para. 5)
- F90** Words in s. 28A(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(7)(d)** (with sch. 1 para. 5)
- F91** Words in s. 28A(5) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(7)(e)** (with sch. 1 para. 5)
- F92** Words in s. 28A(6) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(7)(f)** (with sch. 1 para. 5)
- F93** Words in s. 28A(7) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(7)(g)** (with sch. 1 para. 5)
- F94** Words in s. 28A(8) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(7)(h)** (with sch. 1 para. 5)

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Chapter 4. (See end of Document for details)*

## **28B** [F95] **Landlord application to the First-tier Tribunal: further provision**

- (1) The Scottish Ministers may by regulations make further provision about the making or deciding of applications under section 28A.
- (2) Those regulations may, in particular, make provision—
  - (a) about the form and content of applications and notices,
  - (b) prescribing a fee to accompany applications,
  - (c) specifying circumstances when the [F96]First-tier Tribunal] member must decide to reject an application or stop assisting a landlord,
  - (d) about the procedure for—
    - (i) making decisions under section 28A(3) or (7),
    - (ii) giving notice under section 28A(5),
    - (iii) making representations under section 28A(6).
- (3) In this section, “the [F97]First-tier Tribunal] member” means the member of the [F98]First-tier Tribunal] to whom the case has been allocated under section 28A(2).

### **Textual Amendments**

- F84** Ss. 28A-28C inserted (22.9.2015 for specified purposes, 1.12.2015 in so far as not already in force) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 35(4)**, 41(3); S.S.I. 2015/326, art. 2(2)(b)(3)
- F95** S. 28B heading substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(10)** (with sch. 1 para. 5)
- F96** Words in s. 28B(2)(c) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(9)(a)** (with sch. 1 para. 5)
- F97** Words in s. 28B(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(9)(b)(i)** (with sch. 1 para. 5)
- F98** Words in s. 28B(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(9)(b)(ii)** (with sch. 1 para. 5)

## **28C** [F99] **First-tier Tribunal Member to arrange suitable time for access**

- (1) Subsection (2) applies where the [F100]First-tier Tribunal] member has decided to assist the landlord under section 28A(3)(a).
- (2) The [F101]First-tier Tribunal] member must liaise with the landlord and the tenant with a view to agreeing a suitable date and time (or dates and times) for the landlord to exercise the landlord's right of entry under section 181(4).
- (3) Subsection (4) applies if the tenant (without reasonable excuse) has failed or refused, within a reasonable time, to—
  - (a) respond to the [F102]First-tier Tribunal] member, or
  - (b) agree a suitable date and time (or dates and times) for the landlord to exercise the landlord's right of entry under section 181(4).
- (4) The [F103]First-tier Tribunal] member may fix a date and time (or dates and times) for the landlord to exercise the landlord's right of entry to the house under section 181(4).

*Changes to legislation:* There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Chapter 4. (See end of Document for details)

- (5) Where a date and time has been agreed under subsection (2), the [F104First-tier Tribunal] member may, on the request of either the landlord or the tenant and where there are reasonable grounds for doing so, liaise with the parties with a view to agreeing a different date and time (or dates and times) for the landlord to exercise the landlord's right of entry under section 181(4).
- (6) The [F105First-tier Tribunal] member must as soon as reasonably practicable notify the landlord and tenant of any date and time (or dates and times) agreed or fixed under this section for the landlord to exercise the landlord's right of entry under section 181(4).
- (7) When notifying the parties of the date and time (or dates and times) agreed or fixed under this section, the [F106First-tier Tribunal] member must also—
  - (a) provide the tenant with information about the action that the [F106First-tier Tribunal] member may take under section 182 if the tenant refuses the landlord's exercise of the landlord's right of entry to the house under section 181(4), and
  - (b) inform both parties that the [F106First-tier Tribunal] member (or a person authorised by the [F106First-tier Tribunal] member) may be requested to attend when the landlord exercises such right of entry.
- (8) The [F107First-tier Tribunal] member may, at the request of the landlord or the tenant, attend at the house at the time agreed or fixed for the landlord to exercise the landlord's right of entry under section 181(4).
- (9) The [F108First-tier Tribunal] member may, at any time, stop assisting the landlord under this section if the [F108First-tier Tribunal] member considers it appropriate to do so.
- (10) The [F109First-tier Tribunal] member may—
  - (a) authorise a person (other than the landlord or a representative of the landlord) to exercise any function conferred on the [F110First-tier Tribunal] member under this section, F111 ...
  - F111(b) .....
- F112(11) .....
- (12) In this section, “the [F113First-Tier Tribunal] member” means the member of the [F114First-tier Tribunal] to whom the case has been allocated under section 28A(2).]

**Textual Amendments**

- F84** Ss. 28A-28C inserted (22.9.2015 for specified purposes, 1.12.2015 in so far as not already in force) by Private Rented Housing (Scotland) Act 2011 (asp 14), ss. 35(4), 41(3); S.S.I. 2015/326, art. 2(2)(b)(3)
- F99** S. 28C heading substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), sch. 2 para. 2(12) (with sch. 1 para. 5)
- F100** Words in s. 28C(1) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), sch. 2 para. 2(11)(a) (with sch. 1 para. 5)
- F101** Words in s. 28C(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), sch. 2 para. 2(11)(b) (with sch. 1 para. 5)
- F102** Words in s. 28C(3)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), sch. 2 para. 2(11)(c) (with sch. 1 para. 5)

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Chapter 4. (See end of Document for details)*

- F103** Words in s. 28C(4) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(d)** (with sch. 1 para. 5)
- F104** Words in s. 28C(5) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(e)** (with sch. 1 para. 5)
- F105** Words in s. 28C(6) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(f)** (with sch. 1 para. 5)
- F106** Words in s. 28C(7) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(g)** (with sch. 1 para. 5)
- F107** Words in s. 28C(8) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(h)** (with sch. 1 para. 5)
- F108** Words in s. 28C(9) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(i)** (with sch. 1 para. 5)
- F109** Words in s. 28C(10) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(j)(i)** (with sch. 1 para. 5)
- F110** Words in s. 28C(10)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(j)(ii)** (with sch. 1 para. 5)
- F111** S. 28C(10)(b) and word repealed (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(j)(iii)** (with sch. 1 para. 5)
- F112** S. 28C(11) repealed (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(k)** (with sch. 1 para. 5)
- F113** Words in s. 28C(12) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(l)(i)** (with sch. 1 para. 5)
- F114** Words in s. 28C(12) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(11)(l)(ii)** (with sch. 1 para. 5)

**F115** **29 Annual report**

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**Textual Amendments**

- F115** S. 29 repealed (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(13)** (with sch. 1 para. 5)

**Changes to legislation:**

There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Chapter 4.