Draft Regulations laid before the Scottish Parliament under section 191(5) of the Housing (Scotland) Act 2006, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

HOUSING

The Investigation and Commencement of Repair (Scotland) Regulations 2026

Made - - - -	*2026*
Coming into force - -	*6th October 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 27(2) and 109(2) of the Housing (Scotland) Act 2001(**a**), sections 20A(1) and (3) and 191(2) of the Housing (Scotland) Act 2006 ("the 2006 Act")(**b**) and all other powers enabling them to do so.

In accordance with section 191(5) of the 2006 Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Investigation and Commencement of Repair (Scotland) Regulations 2026 and come into force on 6 October 2026.

Interpretation

2. In these Regulations—

"the 2002 Regulations" means the Scottish Secure Tenants (Right to Repair) Regulations 2002(**c**),

"the 2006 Act" means the Housing (Scotland) Act 2006.

Modification of the repairing standard

3.—(1) The 2006 Act is modified as follows.

(2) In section 13 (the repairing standard)—

(**a**) 2001 asp 10. Section 27(2) of the 2001 Act was amended by section 46 of the Housing (Scotland) Act 2025 (asp. 13). The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) and the Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(**b**) 2006 asp 1. Section 20A(1) of the 2006 Act was inserted by section 24(1) of the Housing (Scotland) Act 2014 (asp 14).

(**c**) S.S.I. 2002/316.

(a) in subsection (1), after paragraph (h) insert—

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

(b) in subsection (7), in the opening words—

(i) after "any" insert "related", and

(ii) after "Ministers" insert ", including any such guidance".

(3) In section 14 (landlord's duty to repair and maintain), after subsection (4) insert—

"(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.".

(4) In section 24 (determination by the First-tier Tribunal), after subsection (1) insert—

"(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.".

Modification of the right to repair

4.—(1) The 2002 Regulations are modified as follows.

(2) In regulation 2 (interpretation), after the definition of "the Act", insert—

""competent person" means a person who, in the reasonable opinion of the landlord, has the skills and experience necessary to determine whether a qualifying repair is required in relation to regulation 8A,".

(3) In regulation 8 (procedure for notification of and carrying out qualifying repairs), in the opening words, for "Where a tenant", substitute "Subject to regulation 8A, where a tenant".

(4) After regulation 8 insert—

"Repairs to remove damp and mould

8A.—(1) This regulation applies where a tenant notifies a landlord, or the landlord otherwise becomes aware, that the tenant's house is or may be affected by damp or mould.

(2) Regulations 5 and 8(a) do not apply.

(3) The landlord must ensure that an investigation is completed by a competent person within the period of 10 working days beginning with the day after the day on which the landlord is notified, or otherwise becomes aware of the damp or mould, to determine whether a qualifying repair is required.

(4) 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.

(5) If the investigation identifies that a qualifying repair is required, the landlord must ensure that the qualifying repair is commenced by the primary contractor within the period of 5 working days beginning with the day after the day on which the investigation is completed.

(6) The landlord must ensure that following a qualifying repair—

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

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

(7) The period in paragraph (3) is suspended for so long as there are circumstances, beyond the control of the landlord which prevent the investigation being completed.

(8) The period in paragraph (5) is suspended for so long as there are circumstances, beyond the control of the landlord which prevent the qualifying repair being commenced.

(9) Where the period specified in paragraph (3) or (5) is suspended under paragraph (7) or (8), as the case may be, the landlord must—

(a) give notice to the tenant specifying—

(i) that the period specified in paragraph (3) or (5), as the case may be, is suspended, and the reason why, and

(ii) the period within which the investigation is to be completed or, as the case may be, the qualifying repair is to be commenced,

(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) For the avoidance of doubt, regulation 8(b) and (c) continues to apply.".

(5) In regulation 9 (failure to provide access), for "regulation 8" substitute "regulation 8 or 8A".

(6) In regulation 10(2)(b) (maximum period), for "regulation 8(a)" substitute "regulation 8(a) or 8A".

(7) In regulation 12 (compensation)—

(a) in paragraph (1), for "paragraph (2)" substitute "paragraphs (2) and (5)",

(b) after paragraph (1) insert—

"(1A) Where the competent person has failed to investigate the damp or mould by the end of the period specified in regulation 8A(3), and that period has not been suspended in accordance with regulation 8A(7), the landlord must pay the tenant a sum of compensation calculated in accordance with paragraphs (3) and (5).

(1B) Where the primary contractor has failed to commence the qualifying repair by the end of the period specified in regulation 8A(5), and that period has not been suspended in accordance with regulation 8A(8), the landlord must pay the tenant a sum of compensation calculated in accordance with paragraphs (4) and (5).",

(c) in paragraph (2)(b), ", subject to a maximum amount of compensation of £100" is omitted,

(d) after paragraph (2), insert—

"(3) The amount of compensation referred to in paragraph (1A) is the sum of—

(a) £15, and

(b) £3 for every working day, if any, in the period beginning on the day after the day on which the period in regulation 8A(3) ended and ending with the day on which the investigation is completed under regulation 8A(3).

(4) The amount of compensation referred to in paragraph (1B) is the sum of—

(a) £15, and

(b) £3 for every working day, if any, in the period beginning on the day after the day on which the period in regulation 8A(5) ended and ending with the day on which the qualifying repair is commenced under regulation 8A(5).

(5) The maximum amount of compensation payable under paragraphs (2), (3) or (4) is £100 and compensation may be paid under each paragraph.".

(8) In the schedule (defects, repairs of which are qualifying repairs and maximum time for completion)—

(a) at the bottom of column 1 (defect), insert "Substantial damp and mould.",

(b) at the bottom of column 2 (maximum period in working days from date immediately following the date of notification of qualifying repair or inspection), insert “20”.

Name
A member of the Scottish Government

St. Andrew's House
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Housing (Scotland) Act 2006 ("the 2006 Act") and the Scottish Secure Tenants (Right to Repair) Regulations 2002 ("the 2002 Regulations") to introduce time-limits for the investigation and commencement of repairs to damp or mould in private residential tenancies, Scottish secure tenancies and short Scottish secure tenancies.

Regulation 3(2) amends section 13(1) of the 2006 Act to add "the house is substantially free from damp and mould" to the repairing standard. It also amends section 13 to introduce a modified guidance-making power for the Scottish Ministers.

Regulation 3(3) amends section 14 of the 2006 Act to set out a private landlord's duties to investigate and commence repairs in relation to damp or mould. They must complete an investigation of the damp or mould within ten working days, provide a written summary of the investigation to the tenant within three working days, and secure that any required relevant safety work is commenced within five working days. Regulation 3(3) also provides for circumstances where the landlord cannot comply with these duties for reasons beyond their control - the landlord must inform the tenant in writing that they cannot comply with the relevant duty, the reasons why the landlord cannot comply, and the reasonable timescale within which the landlord is able to comply with the duty. They must also 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.

Regulation 3(4) amends section 24 of the 2006 Act to require the First-tier Tribunal to consider whether the landlord has complied with the new duties under section 14 when considering whether a landlord has complied with the repairing standard.

Regulation 4(4) adds a new regulation 8A to the 2002 Regulations to set out a social landlord's duties to investigate and commence qualifying repairs in relation to damp or mould. They must complete an investigation of the damp or mould within ten working days, provide a written summary of the investigation to the tenant within three working days, and secure that any required qualifying repair is commenced within five working days.

New regulation 8A(6) provides that the landlord must ensure that following a qualifying repair, the house is substantially free from damp and mould, and so far as reasonably practicable, the house will continue to be substantially free from damp and mould.

New regulation 8A(7), (8), and (9) make provision for when a social landlord cannot comply with these duties for reasons beyond their control - the landlord must inform the tenant in writing that the landlord cannot comply with the relevant duty, the reason why the landlord cannot comply, and the reasonable timescale within which the landlord is able to comply with the duty. They must also 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

Regulation 4(5) and (6) make consequential changes to regulations 9 and 10 of the 2002 Regulations. Regulation 4(7) amends regulation 12 of the 2002 Regulations to include provision for compensation to be payable to the tenant where the timescales in the new regulation 8A have not been complied with. Regulation 4(8) adds substantial damp and mould as a qualifying repair in the schedule of the 2002 Regulations and sets the maximum period for repairs in relation to substantial damp and mould at twenty days.

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Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

ISBN 978-0-11-106509-9

£6.40

http://www.legislation.gov.uk/id/sdsi/2026/9780111065099