

These draft Regulations supersede the draft of the same title which was laid before the Scottish Parliament on 12 December 2018 and published on 13 December 2018 (ISBN 978-0-11-104030-0). They are being issued free of charge to all known recipients of those draft Regulations.

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

2019 No.

HOUSING

The Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019

Made - - - - 2019

Coming into force - - 1st March 2019

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 20A of the Housing (Scotland) Act 2006⁽¹⁾ and all other powers enabling them to do so.

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

Citation, commencement, effect and interpretation

1.—(1) These Regulations may be cited as the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 and come into force on 1 March 2019.

(2) Regulations 2(3), 3(2)(c) and 3(3) come into effect on 1 March 2019.

(3) Regulation 3(2)(b) comes into effect on 1 February 2021.

(4) Regulation 3(2)(a) and (d) comes into effect on 1 March 2024.

(5) Regulation 2(2) comes into effect on 28 March 2027.

(6) In these Regulations, “the 2006 Act” means the Housing (Scotland) Act 2006.

Modification of section 12 of the 2006 Act

2.—(1) Section 12(1) (tenancies excepted from the repairing standard duty) of the 2006 Act⁽²⁾ is modified in accordance with paragraphs (2) and (3).

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

(2) Section 12 was amended by paragraph 9(2)(a) and (b) of schedule 2(1) of the Land Reform (Scotland) Act 2016 (asp 18) which amendment has effect subject to transitional provisions in S.S.I. 2017/299.

- (2) Omit paragraphs (c) to (e).
- (3) At the end insert—
 - “(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.”.

Modification of section 13 of the 2006 Act

3.—(1) Section 13 (the repairing standard) of the 2006 Act⁽³⁾ is modified in accordance with paragraphs (2) and (3).

- (2) In subsection (1)—
 - (a) in paragraph (c)—
 - (i) for “and electricity” substitute “, electricity (including residual current devices) and any other type of fuel”,
 - (ii) after “space heating” insert “by a fixed heating system”,
 - (b) omit paragraphs (f) and (g),
 - (c) after paragraph (g) insert—
 - “(h) the house meets the tolerable standard.”, and
 - (d) after paragraph (h) insert—
 - “(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.”.
- (3) For subsections (4A), (5) and (6), substitute—
 - “(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.”.

(3) Section 13 was amended by sections 22 and 23(1) of the Housing (Scotland) Act 2014 (asp 14).

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify tenancies to which the repairing standard duty applies which are set out in section 12 of the Housing (Scotland) Act 2006 (“the 2006 Act”) as well as the repairing standard which is set out in section 13 of the 2006 Act.

Regulation 2(2), which comes into effect on 28 March 2027, amends section 12(1) of the 2006 Act with the effect that the repairing standard applies to tenancies under the Agricultural Holdings (Scotland) Act 2003, the Crofters (Scotland) Act 1993 and the Small Landholders (Scotland) Acts 1886 to 1931.

Regulation 2(3), which comes into effect on 1 March 2019, amends section 12(1) of the 2006 Act to disapply the repairing standard to a tenancy of a house let for a holiday which does not exceed 31 days.

Regulation 3(2)(a) and (d) which comes into effect on 1 March 2024, amends section 13 of the 2006 Act to provide that the repairing standard includes:

- residual current devices;
- fuels other than gas and electricity;
- fixed heating systems;
- safe access and use of common parts;
- provision for, and safe access to, a food storage space and a food preparation space; and
- satisfactory locks on common doors in tenements.

Regulation 3(2)(b), which comes into effect on 1 February 2021 amends section 13 to remove the requirements for a house to have satisfactory fire detection alarms and carbon monoxide alarms as these requirements are added to the tolerable standard set out in section 86(1) of the Housing (Scotland) Act 1987 from that date by the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Order 2019 which was laid before the Scottish Parliament in draft for approval on 23 November 2018.

Regulation 3(2)(c) and (3), which comes into effect on 1 March 2019, amends section 13 to extend the repairing standard with the effect that a house must meet the tolerable standard in order to meet the repairing standard and makes provision for guidance in relation to the criteria in the repairing standard (which includes the tolerable standard), respectively.