

**SAL Factsheet: The Repairing Standard and
the First-tier Tribunal for Scotland (Housing and Property Chamber)**

The Repairing Standard

The Housing (Scotland) Act 2006 introduced the Repairing Standard to almost all private sector tenancies in Scotland. From 3rd September 2007 onwards landlords have had a duty to ensure that their property to be rented meets this standard. The standard is fairly basic and in order to meet the repairing standard:

- the property must be wind and watertight
- the property must be fit to live in
- the structure and exterior of the property (for example, the walls and roof) must be in a reasonable condition
- the installations for the supply of water, gas, electricity, and for sanitation, space heating and heating water must be in a reasonable state of repair and in proper working order
- any fixtures, fittings or appliances provided by the landlord (such as carpets, light fittings, white goods and household equipment) must be in a reasonable state of repair and in proper working order
- any furnishings provided by the landlord must be capable of being used safely for the purpose for which they are designed
- the property must have adequate provision for detecting and warning in the event of fire or suspected fire
- the property must have adequate provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health

Electrical Safety

The Housing (Scotland) Act 2014 made changes to the Repairing Standard in respect of electrical safety. It requires landlords have to have fixed wiring (Electrical Installation Condition Report or EICR) checks carried out at least every five years.

Statutory guidance on the requirement can be read on the [First-tier Tribunal for Scotland \(Housing and Property Chamber\) website here](#).

The EICR report must include an appliance check report (a Portable Appliance Test or PAT). PAT checks are required on appliances provided by the landlord, but not those belonging to the tenant.

EICR checks carried out between 1st January 2012 and 30th November 2015 by a competent electrician are acceptable, even if they do not include an appliance check. For example, an EICR carried out on 30th November 2015 without PAT checks would still be valid for up to 5 years, to end November 2020.

Anything that is movable and fitted with a plug should be on the PAT report. Everything in the property which uses the electrical supply must be on either EICR or PAT, unless it belongs to the tenant.

It is advisable to have the checks carried out more frequently than five yearly if recommended by an electrician.

It is a requirement that landlords ensure that the electricians they use are competent. Electricians should be a member of [SELECT](#), [NAPIT](#) or [NICEIC](#) or be able to complete the checklist in Annex A of the guidance.

The PAT test can be carried out by a landlord/letting agent provided they have undergone relevant training, such as that provided by Landlord Accreditation Scotland (see Annex C of the guidance for details). The PAT check can also be carried out at a different time to the EICR check, provided both are carried out at least every 5 years.

EICRs and PATs carried out from 1st December 2015 must be documented on the forms specified on pages 14 and 21 of the guidance in order to be acceptable under the regulations. In addition, all appliances checked must have test labels placed on them.

For more information on required forms and competency see the SAL factsheet entitled Electrical Safety Check Forms & Competency.

New build/newly rewired properties meet the standard provided an in-date Electrical Installation Certificate (EIC) is in place. An appliance that was purchased new less than one year before the date of the PAT check does not require to be tested, but it should be listed on the PAT report and the date that its first test is due clearly recorded.

All landlords and letting agents are advised to read the guidance in full to familiarise themselves with the detail of the requirements.

Smoke Detectors

In order to comply with the Repairing Standard, landlords should either install smoke and fire detectors that meet the standard set by current building regulations, or be able to justify why a lesser level of protection is appropriate in a particular home. Reasons why a lesser level of protection might be appropriate could include:

- where the proximity of an open fireplace would make a detector impracticable
- where the cost of installing detectors would be prohibitive (this is more likely to be due to the cost of structural alterations necessary to install detectors rather than the cost of the detectors themselves)
- where the landlord intends to install detectors within a reasonable timescale as part of a programme of upgrading property

Landlords are entitled to rely on professional advice from qualified electricians on their compliance with the standards in building regulations.

Current building regulations require there to be at least:

- one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes
- one functioning smoke alarm in every circulation space, such as hallways and landings
- one heat alarm in every kitchen
- all alarms should be interlinked and mains powered with a standby power supply (radio interlinking rather than hard wired interlinking can be used in most cases).

Alarms should be installed in accordance with the recommendations contained in the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) in conjunction with the Domestic Technical Handbook guidance under Standard 2.11 Communication. The fitting of a hardwired smoke/heat alarm system may require a building warrant and landlords should consult the Building Standards department of the local authority.

Landlords should ensure that smoke and heat alarms are regularly maintained in accordance with the manufacturer's recommendations.

It is recommended as good practice that landlords advise tenants to test alarms on a weekly basis. It is also recommended that landlords should advise tenants not to tamper with alarms.

Note that the manufacturer's recommended life span of a fire alarm is usually 5-10 years and all alarms should be replaced on/before their expiry date.

If there is a requirement for the house to meet a more stringent standard of provision for detecting and giving warning of fire (for example, in a house in multiple occupation (HMO) requiring to be licensed, or under building regulations), then the Repairing Standard criterion is only to be regarded as met if that requirement is met.

Statutory guidance on the requirement can be read on the [First-tier Tribunal for Scotland \(Housing and Property Chamber\) website here](#).

Carbon Monoxide detectors

Under requirements introduced by the Housing (Scotland) Act 2014, landlords must have carbon monoxide (CO) detectors fitted in their properties by 1st December 2015 in order to comply with the Repairing Standard. From this date landlords must have a long life battery **OR** mains powered detector in any space which contains a carbon based fuel appliance (excluding cooking appliances) e.g. a gas/oil boiler, gas/oil fire, wood burning stove or open coal fire. There should also be one in any bedroom or living room which is bypassed by a flue.

Detectors must comply with BS EN 50291-1:2010+A1:2012 and, where hard-wired or wireless installations are adopted, applicable European directives. There are rules on the positioning of detectors including that they should in most cases be 1-3 metres from the appliance, 30cm from any walls (if ceiling mounted) and 15cm below ceilings (if wall mounted). CO detectors have expiry dates printed on them and must be replaced before that date is reached.

Statutory guidance with full details of the requirement can be found on the [First-tier Tribunal for Scotland \(Housing and Property Chamber\) website here](#).

First-tier Tribunal for Scotland (Housing and Property Chamber)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (HPC) is an independent and impartial judicial body separate from the Scottish Government and local authorities.

If your tenant or local authority thinks that the property does not meet the Repairing Standard, they have advised you of the problem and you have refused to carry out the necessary repairs, then they may apply to the HPC to intervene.

After notifying you of the repair, the tenant/local authority must give you a reasonable time to complete the work. What is considered a reasonable time is not specified and will depend upon the nature of the repair. For example, a leaking roof should be dealt with very quickly, an external drain which chokes occasionally would be less urgent.

In addition, the HPC will not deal with the case if:

- the repair work needing done falls out-with the scope of the repairing standard (see list above)
- the tenancy was originally for a period of 3 years or more and your tenant is responsible for repairs
- the repair work needing done results from damage by your tenant, their family or visitors
- the house has to be rebuilt due to a fire, flood or other major event
- the repairs relate to something the tenant is entitled to remove from the house.

If you do not carry out work for which you are responsible then an application can be made to the HPC by your tenant/local authority for a committee to make a decision. The HPC has 14 days from receiving an application to decide if there is a case or whether to reject the application, for example if a similar or identical application has already been dealt with or the dispute has already been resolved.

A Notice of Referral is sent to you and a date for a hearing is then set. You can either attend in person or give written representations, or do both if you prefer. You are asked this in the Notice of Referral and you must respond by the date given in the notice. It is always best to attend the hearing if at all possible as you can then respond to questions that arise or you can ask questions yourself on the day. If you are served a Citation, then you are obliged by law to attend.

Before the hearing a site inspection will be carried out at your property, usually on the same day as the hearing. They will only be looking at the issues raised by your tenant but if they notice something else they consider relevant to the complaint then they are entitled to enquire further.

Hearings will normally be held in a public venue within reasonable travelling distance for both you and your tenant/local authority. Hearings are conducted as informally as possible so do not be put off attending. A decision is not normally given at the hearing, but a written decision giving reasons will be issued soon after.

If the HPC committee decides you have failed to comply with a repair duty, then it must issue a Repairing Standard Enforcement Order (RSEO) specifying what needs to be done and a date by which you must have completed the work, but you will be given at least 21 days. It is a criminal offence not to comply with the RSEO and the property must not be let to new tenants while a RSEO is in place.

After the period within which you must complete the work expires a further site visit will be made and another hearing scheduled if necessary. If the committee decide you have failed to comply, it will serve a Notice of Failure on the local authority and decide whether to make a Rent Relief Order. This could mean that the rent payable to you can be reduced by up to 90%. All other conditions of the tenancy remain the same.

Appeals for all First-tier tribunal HPC cases are made to the Upper Tribunal for Scotland. Before an appeal can be submitted to the Upper Tribunal, permission to appeal must be sought from the First-tier Tribunal. More information on appeals can be found at <https://housingandpropertychamber.scot/who-we-are/appeals-and-reviews>.

If you require more detailed information you can contact the HPC directly:

First-tier Tribunal Housing and Property Chamber

4th Floor, 1 Atlantic Quay, 45 Robertson Street. GLASGOW G2 8JB

Tel: 0141 302 5900

More information can be found on the website www.housingandpropertychamber.scot.

**SAL members receive free advice from the SAL helpline
via 0131 564 0100 or by email advice@scottishlandlords.com**

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