

APSE NATIONAL BUILDING AND HOUSING SEMINAR

5 MARCH 2026

Amy Anderson, Senior Associate
Brodies LLP

amy.anderson@brodies.com

0141 428 3308



ENLIGHTENED THINKING

AWAAB'S LAW: COMPLIANCE, RISK AND RESPONSIBILITY IN SOCIAL HOUSING

Differentiating risks

Triage, records and vulnerable tenants

Legal and compliance implications

AWAAB'S LAW THE BACKGROUND



AWAAB'S LAW

POSITION IN SCOTLAND

- Housing (Scotland) Act 2025
 - Received Royal Assent 6 November 2025
- Power to create Regulations in relation to investigation and repair of hazards that present a significant risk of harm to the occupier
- Anticipated implementation in 3 phases:
 - Phase One – damp and mould
 - Phase Two – unclear as of yet – excess heat and cold, falls, structural collapse, explosions, fire, electrical hazards
 - Phase Three – further expansion of hazards
- Timescales for implementation:
 - Phase One – 6 October 2026
 - Phases Two and Three – not yet fixed

AWAAB'S LAW

IMPLEMENTATION OF PHASE ONE

- *Investigation and Commencement of Repair (Scotland) Regulations 2026*
 - Currently still before Parliament – not yet approved
- Implementation from 6 October 2026
 - Delayed from March 2026
- Guidance to be published following consultation

AWAAB'S LAW

NEW DUTIES ON SOCIAL HOUSING PROVIDERS

- Regulation 4 alters the *Scottish Secure Tenants (Right to Repair) Regulations 2002* to create a dedicated procedure for addressing damp and mould in social housing.
- Where a social landlord is notified or otherwise becomes aware of damp and mould.
- **Investigation** to be conducted by a competent person **within 10 working days** beginning with the day after the date upon which they became aware of the damp and mould.
 - What is a “competent person”?
 - What is a “working day”?
- Provide the tenant with a **written summary** of the investigation **within 3 working days** beginning with the day after the date upon which the investigation was completed.
- **Begin any necessary *qualifying repair* within 5 working days**, beginning with the day after the date upon which the investigation is completed.

AWAAB'S LAW

SUSPENSION OF TIMESCALES

- Suspension of timescales where circumstances out with the landlord's control prevent compliance
 - For so long as there are circumstances, beyond the control of the landlord which prevent the investigation being completed/qualifying repair being commenced
- Landlord must:
 - Notify the tenant
 - Provide reasons
 - Set out a revised timescale
 - Take reasonable interim steps to minimise the damp and mould
- Accurate and detailed record keeping is essential!

AWAAB'S LAW

COMPENSATION PROVISIONS

- Where the landlord fails to meet the investigation or commencement deadlines.
- If the investigation is not completed within the required 10 day period, tenant is entitled to **£15 plus £3 for each working day until the investigation is completed.**
- If the landlord does not begin the qualifying repair within the 5 day period, tenant is entitled to **£15 plus £3 for each working day until the repair is started.**
- In both cases, compensation is **capped at £100 overall.**

AWAAB'S LAW

WHAT SHOULD LANDLORDS BE THINKING ABOUT?

ONE	Holistic approach to managing damp and mould
TWO	Ensure clear policies and procedures for dealing with damp and mould
THREE	Consider proactive steps to be taken
FOUR	Consider reactive steps to be taken