

Changes to your Short Scottish Secure Tenancy Rights – Oct 18

Subletting, Assignment and Joint Tenancy

There are changes if you want to sublet all or part of your house to someone else. There are also changes if you want to assign your tenancy (pass on the tenancy to someone else) or want another person to be included with you as a joint tenant.

Subletting

If you want to sublet all or part of your tenancy, this needs our consent as your landlord. Section 12(2) of the 2014 Act makes the following changes:

- you must have been the tenant of the house throughout the 12 months immediately before you apply for written permission to sublet your home (previously there was no qualifying period), or
- if you were not the tenant throughout the whole of that period, the house must have been your only or principal home during those 12 months; and the tenant must have told us that you were living there prior to the start of those 12 months.

This change will come into effect from 1 November 2019. As is already the case, before you can sublet your home you must ensure that you apply to us for permission.

Assignment (passing your tenancy to someone else)

If you want to assign your tenancy (pass the tenancy to someone else), this needs our consent as your landlord. Section 12(2) of the 2014 Act makes the following changes:

- the house must have been your only or principal home for the 12 months immediately before you apply for written permission to pass your tenancy to someone else (previously there was no qualifying period); and
- the person you wish to pass your tenancy to must have lived at the property as their only or principal home for the 12 months before you apply (previously the qualifying period was 6 months); and
- the 12 month period cannot begin unless we have been told that the person is living in the property as their only or principal home. We must have been told that by you, a joint tenant, or the person you now wish to pass the tenancy to. If we have already been told that the person is living in the property we do not have to be notified again.

We can refuse permission to assign a tenancy if it is reasonable for us to do that. Two new reasons when we can refuse an application for assignation have been added to the existing list of reasons at section 32 of the Housing (Scotland) Act 2001. These new reasons are:

- where we would not give the person you wish to pass the tenancy to priority under our allocations policy;
- where, in our opinion, the assignation would result in the home being under occupied.

This change will come into effect from 1 November 2019. As is already the case, before you can assign (pass) your home to someone else you must ensure that you apply to us for permission.

Joint Tenancy

If you want to add a joint tenant to your tenancy agreement, this needs our consent as your landlord. Section 12(1) of the 2014 Act makes the following changes:

- the proposed joint tenant must have lived at the property as their only or principal home for the 12 months before you apply for them to become a joint tenant (previously there was no qualifying period); and
- the 12 month period cannot begin unless we have been told that the person is living in the property as their only or principal home. We must have been told that by you, a joint tenant, or the person you now wish to become a joint tenant. If we have already been told that the person is living in the property we do not have to be notified again.

This change will come into effect from 1 November 2019. As is already the case, before you can add a joint tenant to your tenancy agreement you must ensure that you apply to us for permission. The person you wish to add as a joint tenant, and any existing joint tenants, must apply along with you.

Adapted Properties

Section 15 of the 2014 Act allows any social landlord to ask a sheriff to grant an order to end the tenancy of an adapted property that is not being occupied by anyone who needs the adaptations. This only applies where the landlord requires the property for someone who does need the adaptations. If this situation happens we would give you notice before applying to the sheriff. We would offer you suitable alternative accommodation. You would be able to ask the sheriff to consider whether our actions were reasonable and to challenge the suitability of the alternative accommodation.

This change will come into effect from 1 May 2019.

Ending a Short Scottish Secure Tenancy Agreement

By Court Order

The Act changes the way a short Scottish secure tenancy can be ended following a conviction for serious antisocial or criminal behaviour. Section 14(2) of the 2014 Act means that a court does not have to consider whether it is reasonable to make an order for eviction where the landlord has grounds for recovery of possession under Schedule 2 paragraph 2 of the Housing (Scotland) Act 2001.

These grounds are:

That the tenant (or any one of joint tenants), a person residing or lodging in the house with, or subtenant of, the tenant, or a person visiting the house has been convicted of:

- (a) using the house or allowing it to be used for immoral or illegal purposes, or
- (b) an offence punishable by imprisonment which was committed in, or in the locality of, the house.

This means that we can end a short Scottish secure tenancy if someone living in or visiting the home is convicted of a serious offence in the area of the house. It allows us to end the tenancy where behaviour has had a serious impact on neighbours or others in the community.

A serious offence is one that the offender could have been imprisoned for, whether or not they actually were sentenced to imprisonment.

If we are intending to end a short Scottish secure tenancy in this way, we would serve a notice on you advising that we intend to seek recovery of possession of the property. That would be done within 12 months of the conviction (or, if it was appealed unsuccessfully, of when the appeal ended).

A tenant has a right to challenge a landlord's decision to take court action to end the tenancy on these grounds.

This change will come into effect from 1 May 2019. This change does not apply if we served the notice on you before that date and the notice is still in force at the date when court proceedings are raised.