

Rights for council & housing association tenants



Age Scotland Information and Advice

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1 Introduction

This factsheet provides information about the rights of tenants of Councils and Housing Associations in Scotland, known as “Registered Social Landlords” (RSLs). Most tenants of RSLs will have a *Scottish Secure Tenancy Agreement* (SST) or a Short SST (SSST).

Housing law is complex. If you have any questions about your housing rights you should contact an independent advice agency such as Shelter or your local Citizens Advice Bureau.

2 What is a Scottish Secure Tenancy (SST) Agreement

Registered Social Landlords (RSLs) have a legal duty to provide tenants with a written tenancy agreement which sets out the rules that allow the tenant to occupy a home and describes the rights and responsibilities of both tenant and landlord.

2.1 Scottish Secure Tenancy

The “Scottish Secure Tenancy” (SST) was introduced in 2001; people with older types of Council or Housing Association tenancy should have been given the chance to sign a new tenancy agreement.

The SST includes information about issues such as Security of Tenure, Right to Buy, Succession to Tenancy (on the death of the tenant) and changes to the Tenancy.

You are not likely to have a SST if you are in accommodation such as temporary accommodation, sheltered or supported accommodation or live in tied housing.

2.2 Short Scottish Secure Tenancy (SSST)

A Short Scottish Secure Tenancy normally arises where there is a likelihood of anti-social behaviour or where the tenancy is intended to be temporary and will initially be for 6 months.

3 Succession Rights

When a tenant dies, the tenancy can sometimes be taken over by another member of the tenant's household, this is called 'succession'. There are three levels of priority for succession rights.

First Priority

- Surviving husband, wife, civil partner or joint tenant.
- A cohabitee (including same sex partners) providing the house has been their principal home for 6 months before the tenant's death.

Second Priority

The second priority is a member of the tenant's family – providing they are at least 16 years of age and the house was their only or principal home at the time of the tenant's death.

Third Priority

The third priority goes to carers (aged at least 16 years) where the house is their only or principal home at the time of the tenant's death and where they have given up their own home to care for the tenant or a member of the tenant's family.

If the house has been specially adapted and the successor to the tenancy does not need those adaptations, then the landlord may require that person to take the tenancy of another house.

4 Assignment

Assignment is where you officially sign over the tenancy to another person.

You have the right to assign your tenancy if your landlord agrees. You must have been the tenant for 6 months before you can apply, and the tenancy has to be assigned to someone who has been living with you as their principal home for 6 months or more. Your landlord must not refuse your request without a good reason.

You should not assign your tenancy to someone else unless you are sure you will no longer need the tenancy.

5 Sub-letting and taking in lodgers

If your landlord agrees, you can sub-let the whole or part of your home or take in lodgers. The landlord could withhold consent if overcrowding might occur or if you are proposing to charge the sub-tenant a high rent.

You need to ask permission from your landlord in writing and they should reply in one month.

If you are unhappy with the landlord's decision regarding a request to assign your tenancy or to sub-let you can appeal to the Sheriff Court.

6 Mutual Exchanges

You have the right to exchange your home with another tenant; you must both be Scottish Secure Tenants and both landlords must give consent in writing. A landlord can refuse in some situations if, for example, the house has been adapted for a person with "special needs" and the person exchanging into the accommodation wouldn't need the adaptations or if the house would be too big or too small for the incoming tenant.

If your landlord refuses and you are unhappy with the refusal you have the right to appeal to the Sheriff Court.

7 How the tenancy can be ended

7.1 Ending the Tenancy

As a Scottish secure tenant you have security of tenure, which means that you have legal rights to remain in your home. Your tenancy can be brought to an end if:

- You give 4 weeks' notice (if you just "hand in the keys", you will probably still have to pay 4 weeks rent)
- The tenancy is "assigned" (or transferred) to someone else
- The tenancy has been abandoned or
- The Sheriff Court grants the landlord an eviction order

7.2 Abandonment and Repossession

Your landlord could think you have “abandoned” your home if you are away from home for some time and the landlord did not know where you were, so it is a good idea to tell your landlord if you are going to be away for a while. Your tenancy may include details of when you would need to do this.

If you go into hospital or temporary care, you should get someone to let your landlord know. You should also make arrangements to get your mail picked up so that you can respond to any letters from your landlord.

If a landlord thinks a house has been abandoned, they will write to the tenant at their last known address to ask if they intend to live in the property and give them 4 weeks to reply. The landlord must also try to find out if the house has been abandoned by asking neighbours, the police or local hospitals. A final notice is then served on the tenant.

7.3 Eviction

As a Scottish secure tenant you can be evicted from your home if your landlord obtains a Court Order (sometimes called ‘Decree’).

The eviction process would start with your landlord sending you a “Notice of Proceedings for Recovery of Possession.” This must tell you that your landlord is considering court action and why the landlord is considering evicting you. If you have rent arrears, the Notice must explain what steps have been taken by the landlord to avoid eviction and what support and information they have offered you.

If you receive a Notice of Proceedings you should get advice quickly from an agency such as Shelter or your local Citizens Advice Bureau as you may be able to make an agreement with the Landlord and avoid the need to go to court.

Ultimately, it will be for the court to determine whether or not an eviction order should be granted. Even if your case goes to court this will not automatically mean you will be evicted. The court must be satisfied that it is reasonable that you are forced to leave your home.

7.4 Harassment and illegal eviction

Your landlord must not illegally evict you or harass you or to withdraw services from you with the intention of forcing you to leave your home. If you are being harassed or feel threatened with unlawful eviction you should immediately seek advice from an advice agency. Unlawful eviction and harassment of tenants is a criminal offence and is also a matter which may lead to a civil claim for damages.

8 Right to Buy

Some public sector tenants have the Right to Buy. There are different rules depending on how long you have lived in your home, and some properties are excluded from the scheme.

If you want to buy your house, you should approach your landlord. They will be able to advise if you qualify for the Right to Buy and what discount you may be entitled to.

As a homeowner you would need to budget for repairs, buildings insurance and common repairs.

You should get independent legal advice before deciding to buy your home. If you are buying your house with other people you should be clear about who legally own the property, who has the right to live there what would happen if one of the purchasers needed to move into a care home.

9 Rents and rent increases

The level of your rent and any service charges will be stated in your tenancy agreement. You must be given four written weeks' notice of any increase in these charges. If you are on a low income, you may be eligible for Housing Benefit to help with your rent. You could contact an independent advice agency such as your local Citizens Advice Bureau for a full check of your benefit entitlement.

Some benefits are changing from 2013, call the Age Scotland Helpline on 0845 125 9732 to see if these changes will affect you.

10 Repairs

You are responsible for taking reasonable care of the house. This can include some minor repairs and internal decoration. Your tenancy agreement (or a tenant handbook) will usually clearly specify this. In some areas a “Care and Repair” scheme operates, which can help to older and disabled people with minor repairs.

10.1 Reporting Repairs

A landlord is not responsible for repairs until they know there is a problem. Some landlords issue a receipt when a repair is reported but it is a good idea to put your request in writing, date it, and to keep a copy of the letter.

Your landlord’s general repair obligations include a duty to carry out repairs relating to water penetration, rising dampness and condensation dampness. They must also keep in proper working order any installations in the house provided by them for supply of water, gas, electricity, sanitation (sinks, basins, baths, showers, toilets) hot water heating and space heating.

10.2 Getting repairs done

Your landlord should have a policy which states how long you may have to wait for certain repairs to be done. As an example you may have to wait two or three weeks to have a minor joinery repair done to an internal door but perhaps only 24 hours to have a sink or toilet unblocked.

When you report a repair, your landlord will let you know whether it is their responsibility and whether it is a qualifying repair under the “Right to Repair” scheme. They may need to carry out an inspection. When you report a repair your landlord should:

- Tell you the maximum time allowed to carry out this type of repair;
- Tell you the last day of that period;
- Explain your rights under the Right to Repair scheme;
- Give you the name, address and phone number of their usual contractor and at least one other contractor from a list;
- Make arrangements with you for the contractor to get into your home to carry out the repair.

If your landlord does not carry out repairs within a reasonable time then there are different courses of action which you can take: contact Shelter or your local Citizens Advice Bureau for advice about your options.

10.3 Right to Repair Scheme

The “Right to Repair” scheme was established under the Scottish Housing (Scotland) Act 2001 and covers many small repairs valued at under £350. This includes, for example, unsafe power or lighting sockets or electrical fittings or external windows, doors or locks which are not secure.

For the full list of repairs which fall under this scheme, see the Scottish Government leaflet at:

<http://www.scotland.gov.uk/Resource/Doc/46737/0028749.pdf>

If the landlord fails to complete one of these repairs within the agreed time scale, the tenant is entitled to have the repair carried out by another named contractor. The cost can be no more than £350 and will be charged to the landlord.

You may also be entitled to small amounts of compensation if these repairs are delayed.

10.4 Problems with Repairs

If your landlord refuses to carry out a repair you need to get evidence of the repair that is outstanding. This can include photographs or an expert opinion. In all cases you should discuss the repair with your landlord in the first instance and if you are not satisfied follow your landlord's complaints procedure. Where repair work has been undertaken but has not been done properly or is delayed or other problem you should follow the landlord's complaints procedure.

11 Improvements and alterations

You must obtain your landlord's consent in writing before carrying out any improvements or alterations to the house, fixtures or fittings. This could include, kitchen or bathroom installations, central heating, double glazing or any kind of external fittings (e.g. aerial or satellite dish).

The landlord can only refuse permission on “reasonable” grounds. For example, the work might make the house less valuable or make it harder to let once you have left. When giving consent the landlord may include conditions about the standard of the work.

If your landlord refuses permission for alterations, they must tell you this in writing within a month of you applying. If you are unhappy with the refusal you should get advice as you may be able to appeal to the local Sheriff Court.

11.1 Compensation for improvements you have made

At the end of your tenancy, you may be entitled to claim compensation for improvements, alterations or adaptations you have carried out to your home.

To qualify for compensation, your landlord must have approved the improvement. You must have obtained written permission for the improvement at the time and it must be one of a list of specified qualifying improvements e.g. installation of a bath or shower, installation of kitchen units, window replacement or central heating.

You can claim for the cost of the work but not for your own labour so you should keep receipts for the work. There are limits on the amount of compensation which can be paid. The minimum amount is £100 and the upper limit is £4,000.

Landlords have powers to make a discretionary payment. Your landlord may increase or reduce your compensation depending on the condition of the improvement or alteration when your tenancy ends. Your landlord can also take any money you owe from the compensation you are entitled to (for example, for unpaid rent).

Further information on the right to compensation for improvements can be obtained from the advice agencies mentioned at the end of this factsheet.

12 Adaptations

If you think adaptations to your home would help you, you should contact your landlord to find out more about their adaptations policy. An occupational therapist will usually assess your needs and/or those of a family member. Generally, Social Work Departments are responsible for providing equipment and “temporary adaptations” to houses (e.g. bath aids, temporary ramps).

Landlords are generally responsible for “permanent adaptations” (these are fixed items, e.g. showers, permanent ramps and larger adaptations requiring major structural changes to the property).

There are different funding arrangements locally so it is best to contact either your occupational therapist or your landlord to find out more information.

13 Complaints

Your landlord should have a published complaints procedure which sets out what you and they should do if you have complaint about the level of service offered by your landlord or the way you have been treated.

If you have a complaint or grievance, you must first give the landlord a chance to put things right and follow the landlord’s complaints procedure.

If your complaint is not resolved you can contact the Scottish Public Services Ombudsman. (See section 15 for contact details) You can also apply to your local court to enforce your rights; if you are considering this you should seek legal advice from one of the agencies mentioned at the end of the factsheet.

14 Further Advice

Shelterline

Shelterline, 0808 800 4444 (free call) is a national helpline which provides telephone advice to people with housing problems. It is open 8am to 8pm and can give advice on a range of housing issues including homelessness, tenancy rights, repairs and housing benefit.

Housing advice centres

In some areas there may be a specific housing advice or housing aid centre. Your local Council or Citizens Advice Bureau will be able to tell you if there is a housing advice centre in your area. Shelter will also be able to advise you of advice centres in your area.

Citizens Advice Bureaux

An adviser at a Citizens Advice Bureau can provide information and advice. You can find out where your nearest Citizens Advice Bureau is from your local phone book.

You can find your local office via Citizen's Advice Scotland's web site:
www.cas.org.uk/WebOfficeFinder

Solicitors

Solicitors can advise you on the law and represent you in court if necessary. You should try to find a solicitor who is experienced in housing law.

Your local advice centre or Citizens Advice Bureau may be able to refer you to an experienced solicitor. If you are on a low income you can get Legal Aid in certain circumstances to pay for legal advice and/or representation. If so, you will need a solicitor who participates in the Legal Aid scheme.

In some areas there are also Law Centres where you can get free legal advice from solicitors. An advice agency will be able to tell you if there is a Law Centre in your area, or you can contact the Law Society of Scotland, 26 Drumsheugh Gardens, Edinburgh, EH3 7YR. Tel. 0131 226 7411

Scottish Public Services Ombudsman

The Scottish Public Services Ombudsman can be contacted at

SPSO, Freepost EH641 Edinburgh EH3 0BR

Tel 0800 377 7330 Text 0790 049 4372

Fax 0800 377 7331 Email ask@spsso.org.uk

www.spsso.org.uk

15 Useful contacts

Many organisations publish information about housing rights.

The Scottish Government produces a number of booklets about tenants' rights. These may be available in your local advice centre, reference library or from www.scotland.gov.uk

Shelter is a charity which campaigns for better housing. They produce publications on a variety of housing issues. For a list of booklets and other publications available from them contact them at Shelter, Fourth Floor, Scotia Bank House, 6 South Charlotte Street, Edinburgh, EH2 4AW.

Tel: 0808 800 4444 or see their website <http://scotland.shelter.org.uk/>

Legal Services Agency is a national law centre based in Glasgow. They produce leaflets on housing matters. Many of these leaflets are available free of charge and can be obtained from Legal Services Agency, Third Floor, Fleming House, 134 Renfrew Street, Cowcaddens, Glasgow, G3 6ST.

Tel: 0141 353 3354

www.lsa.org.uk

16 Further Information

These other Age Scotland factsheets may be of use:

Factsheet 13s Older homeowners: funding repairs etc

Factsheet 36s Private tenants' rights

You can call us on 0845 125 9732 for a copy of our publications list or download copies from our website at www.agescotland.org.uk.

Silver Line Scotland 0800 4 70 80 90

Silver Line Scotland provides information, friendship and advice to older people, their relatives and carers. The helpline is open 24 hours a day, every day of the year.

0800 4 70 80 90 (from a landline)

0300 4 70 80 90 (from a mobile)

You can also contact us by textphone on 0845 226 5851.

If you need an interpreter call **0800 4 70 80 90** and simply state the language you need e.g. Hindi. Stay on the line for a few minutes and the Silver Line Scotland staff will do the rest.

Support our work

Every year, thousands of older people across Scotland benefit from the vital information and advice Age Scotland provides. If you would like to support this work and help improve the lives of older people in Scotland you can donate by:

- Giving us a call on 0845 833 0200 and ask for the fundraising team.
- Visit our website at www.agescotland.org.uk/donate.

- Complete the donation page over the page and return in an envelope to Age Scotland, Causewayside House, 160 Causewayside, Edinburgh, EH9 1PR.

Across the UK

For information and advice in the rest of the UK:

In England contact Age UK Advice on **0800 169 65 65**
www.ageuk.org.uk

In Wales contact Age Cymru on **0800 169 65 65**
www.agecymru.org.uk

In Northern Ireland contact Age NI on **0808 808 7575**
www.ageni.org.uk

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Age Scotland
Freepost RSBS_KEHC-GBBC
160 Causewayside
Edinburgh
EH9 1PR

Alternatively, you can phone 0845 833 0200 or visit www.agescotland.org.uk.

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I wish to donate by (please tick) MasterCard Visa CAF Maestro

Card Number: /

Security Code: Issue Number: (Maestro Only)

Valid from: / Expiry Date: /

Please see overleaf for Gift Aid information.

Gift Aid Declaration

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Are you a UK Tax Payer?

If so, you can use Gift Aid to make your donations go further by ticking "Yes" below. If you Gift Aid your donation, the charity will continue to receive an additional 25p on every pound you give.

To qualify for Gift Aid, you must pay an amount of UK Income Tax and/or Capital Gains Tax for each tax year (6 April one year to 5 April the next) that is at least equal to the amount of tax that Age Scotland will reclaim on your gifts for that tax year.

- Yes**, I want Age Scotland to treat all donations I have made for the four years prior to this year, and all donations I make from the date of this declaration until I notify you otherwise, as Gift Aid donations. I confirm I pay an amount of UK income tax and/or capital gains tax to cover the amount that all charities and Community Amateur Sports Clubs will reclaim on my donations in the tax year.
- No**, I am not a UK taxpayer, and/or I do not wish to Gift Aid my donations.

Signature:

Date:

We may wish to contact you from time to time by either post or telephone, to provide you with information about our charity, services, or, to gather your opinion or views. On some occasions we may share your information with likeminded organisations. However, if you do not wish us to pass your details on, but are still happy to hear from us, please mark this box.

If you prefer not to hear from Age Scotland, please mark this

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No factsheet can ever be a complete guide to the law, which also changes from time to time. Legal advice should always be taken if you are in doubt.

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Notes

Notes



Age Scotland

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info@agescotland.org.uk

www.agescotland.org.uk

Silver Line Scotland

0800 4 70 80 90

Age Scotland Enterprises

0800 456 1137 (Edinburgh)

0800 500 3159 (Glasgow)



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