

## [Private residential tenancy: information for tenants](#)

**Guidance for private sector tenants on the Private Housing (Tenancies) (Scotland) Act 2016. This information is about the private residential tenancy, which must be used for all new tenancies that started on or after 1 December 2017.**

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### Overview

The [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) commenced on 1 December 2017 and introduced the new 'private residential tenancy'.

Its purpose is to improve security, stability and predictability for you as a tenant and provide safeguards for landlords, lenders and investors.

The tenancy is open-ended and will last until you wish to leave the let property or your landlord uses one (or more) of 18 grounds for eviction.

Improvements for tenants include:

- more security – it's an open-ended tenancy so your landlord can't just ask you to leave because you've been in the property for a set length of time
- protection from frequent rent increases – your rent can't go up more than once a year and you must get at least three months' notice of any increase
- any rent increase can be referred to a [rent officer](#), who can decide if they're fair
- if you've lived in a property for more than six months, landlords have to give 84 days' notice to leave (unless it's because you've done something wrong)
- if you think you were misled into moving out, you can now apply to the [First-tier Tribunal](#) for a 'wrongful termination order'. If the Tribunal gives the order it can award up to six months' rent in compensation
- local authorities can apply to Scottish Ministers to cap the levels of rent increases in areas where rents are rising too much

This guide is for tenants. If you are a landlord, read '[Private residential tenancies: information for landlords](#)' instead.

## **Private residential tenancies**

Any new tenancy you enter into on or after 1 December 2017 will be a private residential tenancy as long as:

- the property is let to you as a separate dwelling. A property can still be considered a separate dwelling even if some of the core facilities are shared with other tenants. For example, if a tenant rents only a bedroom in a flat, but has a right to use a shared bathroom and kitchen, the property will be treated as a separate dwelling because the tenant has access to the range of facilities required for it to be regarded as a separate dwelling
- you live in it as your only or main home
- the tenancy isn't excluded under [schedule 1 of the 2016 Act](#)

Even if your tenancy agreement is called something different, you will have all the protections of a private residential tenancy listed in this guide.

### **Your landlord must provide you with the written terms of your tenancy and the relevant set of notes**

Your landlord must give you a written copy of all of the terms of your tenancy along with either the 'Easy-read notes for the Scottish Government model tenancy agreement' or the 'Private Residential Tenancy Statutory Terms Supporting Notes'. These can be electronic documents instead of being printed on paper.

If you're a new tenant, your landlord has to give you these documents before the end of the day on which the tenancy starts.

If you already live in the property under a different type of agreement, your landlord has to give you the document within 28 days of the tenancy becoming a private residential tenancy. For example, if you're initially using the let property as your second home during the week while working away from your main home, you're likely to have a common law tenancy as the let property is not your only or principal home. If the let property later becomes your only or principal home, you will have all the protections of a private residential tenancy from the day your circumstances changed and your landlord must give you the written terms of your private residential tenancy and the notes within 28 days of that change.

If the terms of the tenancy change after it's started, your landlord must give you a document explaining the updated terms of the tenancy within 28 days of the change

coming into effect. For example, if the written terms of your tenancy state that pets are not permitted in the let property and your landlord subsequently agrees that you can keep a dog, this would be a change to a term of your tenancy and your landlord would be required to provide you with a document outlining this change.

You and your landlord can agree to 'sign' the tenancy agreement by typing your names in the electronic document and sending it by email if you want to. If you and your landlord don't want to do this, you can agree to sign a paper copy of the tenancy agreement instead.

Your landlord can't charge you for providing written tenancy terms or the notes which they legally have to provide.

### **Your landlord must provide you with the relevant set of notes which help explain your tenancy terms and your rights and responsibilities**

By law, your landlord must provide you with either the 'Easy read notes for the Scottish Government model tenancy agreement' or the 'Private Residential Tenancy Statutory Terms Supporting Notes'. These notes will help you to understand the terms of your tenancy and your rights and responsibilities during your tenancy.

The notes you will be given will depend on your tenancy agreement. The Scottish Government has created a [Model Private Residential Tenancy Agreement](#) which landlords can use for private residential tenancies. If your landlord uses this model to create your tenancy, they must give you the '[Easy Read Notes for the Scottish Government Model Private Residential Tenancy Agreement](#)'. These notes explain in plain language all of the standard tenancy terms in your tenancy agreement.

Your landlord does not have to use the model agreement to create your tenancy, they can use a different tenancy agreement as long as it complies with the law. If your landlord has used a different tenancy agreement, the notes they must give you are the '[Private Residential Tenancy Statutory Terms Supporting Notes](#)'. These notes tell you about the nine tenancy terms your landlord has to include in your tenancy agreement by law and other important housing information that you should know about your tenancy.

If you need information about any terms in your tenancy agreement, you may want to discuss them with your landlord, or contact the advice organisations in the section below on Sources of advice and support.

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

You can make an application to the [First-tier Tribunal](#) if your landlord does not give you:

- a written copy of all the terms of your tenancy
- the correct set of notes to accompany your written tenancy terms
- a document explaining any updated terms of your tenancy within 28 days of the change

Before you can apply to the Tribunal, you have to give your landlord 28 days' notice of your intention to make an application to the Tribunal. You must use the correct form to give your landlord notice – it's called a ['Tenant's notification to a landlord of a referral to the First-tier Tribunal for failure to supply in writing all tenancy terms and/or any other specified information'](#).

You can use the Scottish Government's ['Tell your landlord you want to go to the Tribunal' tool](#) to create this notice, which you can then download and give to your landlord.

The notice period begins on the later of:

- the day your landlord receives the notice from you
- the day after the deadline by which your landlord should have given you the information

If the First-tier Tribunal agrees with you, it may order your landlord to pay you up to:

- three months' rent if they haven't provided tenancy terms or haven't provided the correct set of notes relating to your tenancy
- six months' rent if they haven't provided you with both of these things.

### **If your landlord isn't registered**

If the First-tier Tribunal discovers that your landlord is unregistered, they have to report it to the local council for the area the property is located in. Your landlord is registered if they are entered in the [Scottish Landlord Register](#) prepared and maintained by the local council for the purposes of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004.

The Tribunal has to pass your landlord's name, their address and the address of the let property to the local council so they can investigate it.

Renting out property without being registered with the council is a criminal offence and your landlord can be served with a Rent Penalty Notice (which prevents them from charging you rent) or fined up to £50,000 if found guilty.

You can check whether your landlord or a property is registered using the [Public Search facility](#) on the Scottish Landlord Register. If your search is unsuccessful, please contact the [relevant local council](#) for more information.

## **Communication**

If you want to, you and your landlord can agree to contact each other by email about anything to do with your tenancy. If you agree to this, your landlord can send you important notices by email, as well as sending you emails about everyday things. This means that your landlord can tell you by email if your rent is going up, or if your tenancy is being brought to an end.

It is important to think carefully about whether you want to communicate with your landlord by email. If you agree to this, make sure that your landlord always has the email address you are currently using. This will help to make sure you don't miss important notices from your landlord.

If you don't want your landlord to contact you by email, you do not have to agree to this.

## **Your responsibilities**

Under a private residential tenancy you also have new responsibilities relating to:

- letting your landlord repair the property
- people living with you

## **Access for repairs**

If your landlord needs access to the property you have to give them reasonable access. This includes letting them:

- carry out work when they need to or are allowed to
- inspect the property to see if any work is needed
- carry out a valuation of the property

If your landlord needs to access the property they should always give you at least 48 hours' notice, unless they need access urgently to carry out work or assess what work they are obliged or entitled to do. Your landlord should not enter the property without your consent, except in an emergency.

## **Residents living in the property**

Unless your landlord agrees in writing, you must not:

- sublet the property (rent it out to someone else)
- take in a lodger
- give up your tenancy to someone else

If you have other people living with you in the property — like a partner, family member or carer — you must let your landlord know.

You have to tell them in writing about any person who is:

- aged 16 or over
- not a joint tenant
- living with you in the property as their only or main home

You must tell your landlord the person's name and their relationship to you. You also have to let them know if that person moves out.

## **Rent and other charges**

The 2016 Act tells your landlord how they can increase the rent and what other charges they can make.

If you make any rent payments in cash, your landlord has to give you a written receipt saying how much was paid, the date you paid and how much you still owe them.

### **Increasing your rent**

If your landlord wants to increase the amount of rent you pay, they have to give at least three months' written notice before they can do it. They must use the correct form to let you know that they intend to do this – it's called a '[landlord's rent-increase notice to tenant\(s\)](#)'.

The notice period begins on the date you get the notice, and ends three months after that date on the same day of the month (see example 1) or, if there is no such date, the last day of the month (see example 2). So if your landlord sends you the rent increase notice by post or email, they must allow you 48 hours to receive it. This delivery time should be factored into the amount of notice they give you.

### *Example 1*

If your landlord sends you a rent increase notice by recorded delivery post on 23 January, you will be expected to receive the notice on 25 January; the three month notice period will start on 25 January and end on 25 April, so the earliest date a rent increase could take effect would be 26 April.

### *Example 2*

If the three month notice period starts on 30 November, the end date of the notice period would be 28 or 29 February (depending on whether it was a leap year), and the earliest date a rent increase could take effect would be 1 March.

Your landlord can only increase the rent once in a year (they have to wait 12 months before it can be increased again).

## **If you disagree**

If you think the rent increase is too high, you can contact a [rent officer](#). They have the power to decide what the rent for the property should be. A rent officer will aim to send you a copy of their decision within 40 days of receiving your fully completed application. Remember that a rent officer can put the rent up for the property if they decide it should be higher, as well as putting it down if they think it is too high.

If you decide to do this, you must contact a rent officer within 21 days of your landlord giving you notice of the rent increase.

You must also tell the landlord you're contacting a rent officer. You do this by completing Part 3 of the 'landlord's rent-increase notice to tenant(s)' and returning it to your landlord.

If you or your landlord disagrees with the rent officer's decision you can ask them to reconsider it, or appeal to the [First-tier Tribunal](#), who will make a final decision, which may agree with the amount set by the rent officer or be higher or lower. If you want to appeal to the Tribunal, you must do this within 14 days of the rent officer's decision.

If the rent officer or First-tier Tribunal decides that your rent should be increased, you will have to pay the increased amount from the date in the original rent increase notice from your landlord.

## **Illegal charges**

Other than the rent, your landlord can ask you to pay a refundable [deposit](#).

This deposit can be no more than two months' rent.

It's an offence for your landlord to make you pay any other:

- administration fees
- premiums
- further deposits
- additional charges, whether they're refundable or not

If you think you have been charged an illegal fee you may be able to claim this back and the landlord may be guilty of an offence.

### **Rent pressure zones**

If a local council thinks rents are rising too much in a certain area, they can apply to Scottish Ministers to have that area designated as a 'rent pressure zone'.

This means a cap (a maximum limit) is set on how much rents are allowed to increase each year in that area for existing tenants who have a private residential tenancy.

Scottish Ministers must consult landlords' and tenants' representatives before they make any area a rent pressure zone.

Local councils can apply to have an area turned into a rent pressure zone if they can prove that:

- rents in the area are rising too much
- the rent rises are causing problems for the tenants
- the local council is coming under pressure to provide housing or subsidise the cost of housing as a result

### **What the rent cap might look like**

Any cap set by Scottish Ministers will be at least [consumer price index \(CPI\)](#) plus 1%, for example if CPI is 1.6%, the minimum cap set by Ministers would be 2.6%.

The cap can last for up to five years and will apply to existing tenants who have a private residential tenancy only.

The [Rent Pressure Zone Requirements for Local Authorities document](#) guides local authorities on the requirements of an application to Ministers and provides details of the robust evidence required.

## **Increasing your rent to reflect improvements**

If your property is in a rent pressure zone, your landlord can apply to a [rent officer](#) for an additional amount of rent to reflect any improvements they have made to the let property.

These improvements don't include:

- any repairs or maintenance
- decorative work
- any work done which was entirely or partly paid for by you

[Find out if your property is in a rent pressure zone.](#)

After your landlord applies to the rent officer, the rent officer will send you a copy of the application. You will have 14 days to respond if you want to 'submit a representation' (give your side of the story).

Before the rent officer decides on the amount your landlord can increase the rent by, they will send you and your landlord a draft of the proposed decision. They will aim to send you this draft decision within 35 days of receiving your landlord's fully completed application form.

If your landlord wants to respond to this, they have 14 days. You will then get a copy of their response, and will have 14 days to reply.

The rent officer has to take all responses into account when coming up with a decision. The rent officer's decision is final and can't be appealed.

## **Ending the tenancy: notice to leave**

This section contains information on what to do if you or your landlord wants to end the tenancy.

### **If you want to end the tenancy**

You have to give your landlord at least 28 days' notice in writing if you want to end the tenancy (unless you ask for shorter notice and they agree in writing).

The notice period will begin on the day your landlord gets your notice, and ends 28 days after that date.

So if you send the notice to your landlord by post or email, you must allow your landlord 48 hours to receive it. This delivery time should be added onto the amount of notice you give your landlord.

If you send your landlord a notice to leave by recorded delivery post on 23 January, they will be expected to receive the notice on 25 January; the 28 days' notice period will start on 25 January and end on 21 February, so the earliest date you could leave the let property would be 22 February.

You cannot give notice before you move into the let property. Your notice has to be given 'freely and without coercion'. This means your landlord must not have pressured you into leaving. If your landlord tries to persuade or force you to leave without following the correct legal process then they could be carrying out an illegal eviction. This is a criminal offence in Scotland. An example of an illegal eviction by coercion could be carrying out work that makes it impossible for you to continue to stay in the property, e.g. removing the toilet or stopping the drinking water supply.

You and your landlord can agree a different notice period. But this must be in writing and can only be done once you have started to live in the let property. Your agreement to change the notice period must be given 'freely and without coercion'. If your landlord has inserted a longer notice period into your tenancy agreement before you started living in the let property, the notice period will be invalid and the 28 day notice period will apply.

If you give your landlord notice but then change your mind before it ends, you can ask them to continue the tenancy instead. It's up to your landlord to decide whether to agree.

To end a joint tenancy, all the joint tenants must agree to end the tenancy and sign the notice to leave. One joint tenant cannot terminate a joint tenancy on behalf of all the joint tenants.

### **If your landlord wants to end the tenancy**

Your landlord can only end your tenancy by using one of the [grounds for eviction](#). When your landlord gives you notice to leave, they must tell you what eviction ground(s) they are using and may provide evidence to support this. They must use a specific notice called a '[Notice to Leave](#)' to do this.

### **Notice needed**

The amount of notice your landlord has to give you will depend on how long you've lived in the property and the grounds your landlord is using to evict you.

Your landlord must give you 28 days' notice if you have lived in the let property for six months or less, regardless of what eviction ground they are using.

Regardless of how long you have lived in the let property, your landlord must give 28 days' notice if they are using one or more of the following eviction grounds, which are to do with a tenant's behaviour:

- tenant is no longer occupying the let property
- tenant has breached a term(s) of tenancy agreement
- tenant is in rent arrears over three consecutive months on the date the landlord applies to the Tribunal for an eviction order
- tenant has a relevant criminal conviction
- tenant has engaged in relevant anti-social behaviour
- tenant associates with a person who has a relevant conviction or has engaged in relevant anti-social behaviour.

Your landlord must give you 84 days' notice if you have lived in the let property for more than six months and they aren't only relying on one of the six grounds above (so if they want to evict you using any of the other twelve eviction grounds, which are not to do with the tenant's behaviour).

The notice period will begin 48 hours after the notice was sent. So if your landlord sends you the notice to leave by post or email, they must allow you 48 hours to receive it. This delivery time should be added on to the amount of notice your landlord gives you.

### **Eviction orders**

If your landlord gives you a notice to leave and you don't move out as soon as the notice period ends, they can apply to the First-tier Tribunal for an eviction order.

When your landlord applies for an eviction order they must give the [First-tier Tribunal](#) a copy of the 'notice to leave' they gave you, stating which of the grounds for eviction they gave you.

Your landlord can only make an application for an eviction order if it's been less than six months since the notice they gave you expired.

### **Sub-tenants**

If you are a sub-tenant, you will be protected from eviction unless your landlord is being evicted using certain grounds.

A sub-tenant is someone who is legally renting the property from a landlord/head tenant. The landlord must have permission from their landlord (the 'head landlord') to sub-let the property to you.

If the Head Landlord wants to bring a sub-tenancy to an end, they have to give you a ['sub-tenancy notice to leave'](#), which includes a copy of the notice they gave your landlord/head tenant.

The Head Landlord must give you 28 days' notice if you've lived in the property for six months or less, or 84 days' notice if you've lived there for more than six months.

### **Grounds for eviction**

There are 18 different grounds (reasons) for eviction. If your landlord wants you to leave the property at least one of these grounds must apply.

If you refuse to leave your landlord can apply to the [First-tier Tribunal](#) for an eviction order under these grounds.

### **Mandatory grounds**

The first eight grounds for eviction are 'mandatory'.

This means that if the Tribunal agrees that the ground exists, you must leave the property.

#### **1. Landlord intends to sell the let property**

This ground applies if your landlord plans on putting the property up for sale within three months of you moving out.

They'll need evidence to prove it – this could include a letter from a solicitor or an estate agent, or a recent home report for the property.

#### **2. Let property to be sold by lender**

This ground applies if your landlord's mortgage lender wants to repossess the property and sell it.

#### **3. Landlord intends to refurbish the let property**

This ground applies if your landlord wants to carry out major works to the let property that are so disruptive you wouldn't be able to live there at the same time.

Example of evidence could include planning permission, or a contract between your landlord and an architect or a builder for the work to be carried out.

#### **4. Landlord intends to live in the let property**

This ground applies if your landlord wants you to move out of the property so they can move in.

Evidence could include an affidavit (a written statement, signed under oath in the presence of a Notary Public or a Justice of the Peace, that can be used as evidence at the Tribunal) saying this is what they are going to do.

#### **5. Landlord intends to use the let property for non-residential purpose**

This ground applies if your landlord wants you to move out so they can use the property for something other than a home.

Evidence could include planning permission that will let them use the property for a different purpose.

#### **6. Let property required for religious worker**

This ground applies if the property is held to be available for someone who has a religious job (like a priest, nun, monk, imam, lay missionary, minister, rabbi or something similar).

The ground only works if the property has been used for this purpose before.

#### **7. Tenant has a relevant criminal conviction**

This ground applies if you're convicted of an offence punishable by imprisonment that involved you either:

- using the property for illegal reasons
- letting someone use the property for illegal reasons
- committing a crime within or near the property

Your landlord has to apply to the Tribunal within a year of you being convicted, unless they have a reasonable excuse for not applying before then.

#### **8. Tenant is no longer occupying the let property**

This ground applies if the property isn't being used as your main or only home.

This doesn't count if your landlord failed their duty to keep the property in good repair and you had to move out for your own safety.

### **Discretionary grounds**

The next eight grounds for eviction are 'discretionary'.

This means that even if the Tribunal agrees that the ground exists, it still has to decide whether it is reasonable to issue an eviction order.

### **9. Landlord's family member intends to live in the let property**

This ground applies if a member of your landlord's family plans to move into the property as their only or main home for at least three months.

Members of your landlord's family who qualify for this are:

- their spouse
- their civil partner
- someone living with them as though they were married to them
- a parent or grandparent
- a child or grandchild
- a brother or sister
- step or half relatives (like a stepson or half-sister)
- a person being treated as someone's child even if they aren't related biologically or legally
- any family member (as listed above) of your landlord's spouse, civil partner or person living with them as though they were married
- the spouse or civil partner of any family members listed above, or someone living with them as though they were married

Your landlord will need evidence for this ground. This could include an affidavit stating that this is what their family member intends to do.

### **10. Tenant no longer needs supported accommodation**

This ground applies if you moved into the property because you had a need for community care and you've since been assessed as no longer having that need.

### **11. Tenant has breached a term of the tenancy agreement**

This ground applies if you haven't complied with one of the terms of tenancy.

This doesn't apply to cases where you haven't paid your rent (known as 'rent arrears') – there's a separate ground for this.

### **12. Tenant has engaged in relevant antisocial behaviour**

This ground applies if you've behaved in an antisocial way to another person, by doing something which either:

- causes them alarm or distress
- is a nuisance or annoyance
- is considered harassment

The First-tier Tribunal will consider the behaviour, who it involved and where it occurred to decide whether to issue an eviction order.

To use this ground, your landlord has to apply to the Tribunal within a year of the behaviour taking place, unless they have a reasonable excuse.

### **13. Tenant has associated in the let property with someone who has a criminal conviction or is antisocial**

This ground applies if you allow someone into the property and they behave in an antisocial way that would have them evicted if they were the tenant.

This person could be:

- a sub-tenant
- your lodger
- someone you let into the property on more than one occasion

To use this ground, your landlord has to apply to the Tribunal within a year of the conviction or behaviour taking place, unless they have a reasonable excuse.

### **14. Landlord has had their registration refused or revoked**

This ground applies if your landlord isn't registered as a landlord in the local council area where the property is located.

This could be because the local council has either:

- refused to enter them in the register
- removed them from the register

### **15. Landlord's HMO licence has been revoked**

This ground applies if the HMO (House of Multiple Occupancy) licence for the property has been removed and keeping all the tenants in the property would no longer be legal.

### **16. An overcrowding statutory notice has been served on the landlord**

This ground applies if an 'overcrowding statutory notice' has been served on your landlord because the property is overcrowded to the extent that it may affect the health of the people living there.

## **Grounds which could be mandatory or discretionary**

The final two grounds can be either mandatory or discretionary, depending on the circumstances of the case.

### **17. Tenant is in rent arrears over three consecutive months**

This ground applies if you've been in 'rent arrears' (owed rent payments) for three or more months in a row.

If you still owe at least a month's rent by the first day of the Tribunal hearing, the ground is mandatory and the Tribunal must issue an eviction order. The Tribunal must also be satisfied that the arrears were not due to a delay or failure in the payment of a relevant benefit.

If you owe less than a month's rent (or are no longer in arrears) by the first day of the Tribunal hearing, the ground is discretionary and the Tribunal will decide whether it is reasonable to issue an eviction order. In deciding whether it is reasonable to evict, the Tribunal will consider whether you being in arrears is due to a delay or failure in the payment of a relevant benefit.

### **18. Tenant has stopped being — or has failed to become — an employee**

This ground applies if your landlord let you move in because you were their employee (or were going to be one), and now you aren't.

The First-tier Tribunal will have to give an eviction order if either:

- your landlord applies within 12 months of you no longer being an employee
- you never became an employee and your landlord applies within 12 months of the tenancy starting

The Tribunal will be able to decide whether to give an eviction order if:

- your landlord applies on or after the date 12 months after you stopped being an employee
- you never became an employee but your landlord applies on or after the date 12 months after the tenancy started

### **Protection from wrongful termination**

If your tenancy has ended and you think you were misled into leaving, you can apply to the First-tier Tribunal for a 'wrongful termination order'.

The Tribunal may make a wrongful termination order if it decides that your landlord:

- misled the Tribunal into issuing an eviction order it shouldn't have

- wrongly made you leave the property

If your landlord gets a wrongful termination order, they'll be told to pay you compensation of up to six months' rent.

## Existing tenancies

Any short assured or assured tenancy which existed before 1 December 2017 will continue until either you or your landlord bring it to an end. If your short assured tenancy is renewing on a contractual basis, this can continue to renew under the Housing (Scotland) Act 1988 until either you or your landlord bring it to an end. For information about other types of tenancy, see ['Renting a Property'](#).

## Sources of advice and support

- A [short video](#) on the new private residential tenancy
- The Scottish Government has worked with Young Scot, a youth information and citizenship charity, to produce the ['New Digs' microsite](#), with information for young people aged 11 – 26 on private renting in Scotland and the PRT.
- [Free training courses](#) for tenants and practitioners:
  - [Private Residential Tenancy](#)
  - [Private Residential Tenancy for Housing Support Practitioners](#)

If you are unsure of your rights and responsibilities as a tenant you should get advice as quickly as possible. You may be able to get this from an organisation which gives advice on housing matters such as your local council, [Shelter Scotland](#), your local Citizens Advice Bureau, or from a solicitor (you may get legal aid depending on your income).