

GUIDANCE NOTES FOR LANDLORDS ON THE NOTICE TO LEAVE

(These notes are for guidance only)

You will use this notice to leave if your Tenant(s) has a private residential tenancy, as set out in the Private Housing (Tenancies) (Scotland) Act 2016¹ (the Act), and you want them to leave the Let Property.

This version of the Guidance Notes are in place while section 2 and schedule 2 to the Cost of Living (Tenant Protection) (Scotland) Act 2022 are in force.

Further information on the emergency measures introduced by the Cost of Living (Tenant Protection) (Scotland) Act 2022, including on the moratorium on the enforcement of eviction orders, is available on the Scottish Government website.

WHEN TO USE THIS NOTICE

1. You may serve this notice on your Tenant only in the following circumstances:
 - a) Your Tenant has a private residential tenancy; and
 - b) You are seeking to secure repossession using one or more of the 18 eviction grounds listed in schedule 3 of the Act or one of the 3 additional temporary grounds for eviction under the Cost of Living (Tenant Protection) (Scotland) Act 2022.
-

GIVING THE RIGHT AMOUNT OF NOTICE

2. You must give your Tenant the relevant amount of notice. The notice periods are:
 - a) 28 days' notice if the Tenant has been entitled to occupy the Let Property for six months or less (regardless of what eviction ground you are using), or
 - b) 28 days' notice if you are only using one (or more) of the following eviction grounds, which are to do with the Tenant's behaviour (regardless of how long the Tenant has been entitled to occupy the Let Property):
 - Tenant is no longer occupying the Let Property
 - Tenant has breached a term(s) of their tenancy agreement
 - Tenant is in rent arrears over three consecutive months on the date you apply to the Tribunal for an eviction order
 - Tenant is in substantial rent arrears
 - Tenant has a relevant criminal conviction
 - Tenant has engaged in relevant anti-social behaviour

¹ <http://www.legislation.gov.uk/asp/2016/19/contents/enacted>

- Tenant associates with a person who has a relevant conviction or has engaged in relevant anti-social behaviour, or
 - c) 84 days' notice if the Tenant has been entitled to occupy the Let Property for over six months and this notice does not rely exclusively on one or more of the eviction grounds outlined above in paragraph (b) – i.e. if you want to evict your tenant using any of the other twelve eviction grounds, which are not to do with the Tenant's behaviour.
3. The notice period is calculated from the date the Tenant receives this notice (see 'HOW TO GIVE THIS NOTICE' section)._
-

HOW TO COMPLETE THIS NOTICE

4. As Landlord you should complete Parts 1 to 4 of this notice.
5. If your Tenant does not leave the Let Property on the date shown in Part 4 of this notice, you will need to apply to the First-tier Tribunal for Scotland Housing and Property Chamber² to obtain an eviction order for their removal. The Tribunal will ask you to provide evidence to support the eviction ground(s) you are using to evict your Tenant. It is advisable to include copies of any evidence along with this notice, in order to satisfy your Tenant that the eviction ground you are using is valid. This may encourage them to move out at the end of the notice period without you having to refer the case to the Tribunal.
6. If you end a tenancy or evict a Tenant wrongfully, by using an eviction ground which does not apply to the Let Property or the Tenant in question, they can refer the case to the Tribunal and you may be required to pay a compensation amount not exceeding 6 months' rent.

See 'HOW TO GIVE THIS NOTICE' section which provides important information on delivery times.

HOW TO GIVE THIS NOTICE

7. After you sign and date this notice to leave form you must take steps to ensure your Tenant receives it as soon as possible. This notice must be given by you to the Tenant in one of the following ways:
- a) by handing it to them
 - b) by sending it to them by recorded delivery post at the address of the Let Property
 - c) by emailing it to them at their current email address (if you have previously agreed that email is their preferred contact method).
8. Section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010 applies, which means that unless a Sheriff Officer delivers it by hand, you must allow your Tenant 48 hours to receive this notice. This delivery time should be added on to the amount of notice you give your Tenant. Your Tenant can challenge this, but they must provide you with evidence which shows the exact date they received this notice.
9. For example, if you are required to give your Tenant 28 days' notice and you send the notice to leave by recorded delivery post on 23 January, your Tenant will be expected to receive the notice on 25 January. The 28 days' notice period will start on 25 January and end on 22 February. If your Tenant chooses not to leave the Let Property following the expiry of the notice period, the

² <https://www.housingandpropertychamber.scot/>

earliest date that you can submit an application to the Tribunal for an eviction order is 23 February.

10. If you have joint Tenants, all the Tenants must be named in Part 1 of this document or each Tenant must receive an individual copy of this notice.
 11. You can also ask a Sheriff Officer to serve this notice on your Tenant(s) either personally or by putting it through the letterbox of the let property and providing either witness or photographic evidence of when this was done.
-

THE END OF THE NOTICE PERIOD

WHAT HAPPENS AT THE END OF THE NOTICE PERIOD?

12. If the Tenant chooses to leave the Let Property without requiring you to obtain an eviction order from the Tribunal, their tenancy will come to an end on the later of either the date shown in Part 4 of the notice, or the day they cease to occupy the property.
 13. If your Tenant wishes to end their tenancy before the notice period expires, this can only be done with your written agreement.
 14. If the Tenant chooses not to leave the Let Property at the end of their notice period then, before they have to leave, you must have done two things:
 - Served on them a notice to leave (the notice which these notes refer to) with the relevant notice period; and
 - Obtained an eviction order from the Tribunal
-

IF THE TENANT CHOOSES NOT TO LEAVE AT THE END OF THE NOTICE PERIOD

15. The date given in Part 4 of the notice is the earliest date that you can start eviction action at the Tribunal. From that date, you can start Tribunal action at any time during the following six months. If you do not start Tribunal action in that six-month period, you would have to serve another notice to leave on your Tenant before you could start eviction action at the Tribunal.
 16. If the Tribunal grants an eviction order, and the Tenant chooses not to leave the Let Property by the date specified in that eviction order, a landlord can instruct Sheriff Officers to serve a “Charge for Removing” on their Tenant, which sets a date by which the Tenant must leave the Let Property. If the Tenant does not leave by this date, the Sheriff Officers will remove them after giving them a further two days’ notice.
-

FURTHER GUIDANCE

17. Advice - If you have questions about this notice, contact one of the following:
 - your local council
 - Shelter Scotland
 - your local Citizen’s Advice Bureau
 - a solicitor

- the Scottish Association of Landlords (a membership organisation)