

GUIDANCE NOTES FOR TENANTS ON THE NOTICE TO LEAVE

(These notes are for guidance only)

Your Landlord will use this notice to leave if you have a private residential tenancy, as set out in the Private Housing (Tenancies) (Scotland) Act 2016¹ (the Act), and your landlord wants you to leave the Let Property.

DELIVERY OF THIS NOTICE

1. Your Landlord must take steps to ensure that you receive this notice as soon as possible. A notice is only valid if it is given to you by your landlord in one of the following ways:
 - by handing it to you
 - by sending it to you by recorded delivery post at the address of the Let Property
 - by emailing it to your current email address (if you have previously agreed that email is your preferred contact method)
 2. If your Landlord sends this notice to you 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 must give you. You can challenge the 48 hours' delivery time, but you must give your Landlord evidence which shows the exact date you received this notice.
 3. For example, if your Landlord sends this notice to you by recorded delivery post on 13 January, you would be expected to receive this notice on 15 January and the notice period will not start until 15 January.
 4. If you have a joint tenancy, all the joint tenants must be named in Part 1 of this document or each Tenant must receive an individual copy of this notice.
 5. Your landlord can also ask a Sheriff Officer to serve this notice on you 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.
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EVICTON GROUND(S) BEING USED

REQUIRED NOTICE PERIOD

6. Your Landlord must give you the proper amount of notice to leave the Let Property. You can leave the property once the notice period has ended if you want. If you do not leave the property the Landlord can make an application to the First-tier Tribunal for Scotland Housing and Property Chamber for an eviction order which would allow you to be removed from the property.

If you have lived in the property for 6 months or less

7. If you have lived in the Let Property for six months or less on the day you receive this notice, you must receive 28 days' notice regardless of what eviction ground your Landlord is using to evict you.

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

If your landlord is evicting you because of your behaviour

8. Regardless of how long you have lived in the property, you must receive 28 days' notice if the only eviction ground(s) mentioned in this notice is one (or more) of the following. You:
- are no longer occupying the Let Property
 - have breached a term(s) of your tenancy agreement
 - are in rent arrears over 3 consecutive months on the date when the Landlord applies to the Tribunal to have you evicted
 - have a relevant criminal conviction
 - have engaged in relevant antisocial behaviour
 - associate in the Let Property with someone who has a relevant criminal conviction or has engaged in relevant antisocial behaviour

If you have lived in the property for more than 6 months and your Landlord is NOT evicting you because of your behaviour

9. You must receive 84 days' notice if you have lived in the property for more than six months and ANY of the following eviction grounds are mentioned:
- Landlord intends to sell the Let Property
 - Let Property to be sold by the mortgage lender
 - Landlord intends to refurbish the Let Property
 - Landlord intends to live in the Let Property
 - Landlord's family member intends to live in the Let Property
 - Landlord intends to use the Let Property for a non-residential purpose
 - Let Property required for a religious purpose
 - You cease to be – or fail to become – an employee of the Landlord
 - You no longer need supported accommodation
 - Landlord has had their registration refused or revoked
 - Landlord's HMO licence has been revoked or renewal has been refused
 - An Overcrowding Statutory Notice has been served on your Landlord

EVICITION GROUNDS

10. If your Landlord is using the eviction ground:
- Landlord intends to sell the Let Property
 - Let Property to be sold by the mortgage lender
 - Landlord intends to refurbish the Let Property
 - Landlord intends to live in the Let Property

- Landlord intends to use the Let Property for a non-residential purpose
- Let Property required for a religious purpose
- You are no longer occupying the Let Property
- You have a relevant criminal conviction

the ground is mandatory which means that if the Tribunal decides that the eviction ground is established, the Tribunal must grant an eviction order. If an eviction order is granted, the Landlord will be able to evict you.

11. If your Landlord is using eviction ground:

- Landlord's family member intends to live in the Let Property
- You no longer need supported accommodation
- You have breached a term(s) of your tenancy agreement
- You have engaged in relevant antisocial behaviour
- You associate in the Let Property with someone who has a relevant criminal conviction or has engaged in relevant antisocial behaviour
- Landlord has had their registration refused or revoked
- Landlord's HMO licence has been revoked or renewal has been refused
- An Overcrowding Statutory Notice has been served on your Landlord

the ground is discretionary which means that even if the Tribunal is content that the eviction ground is established, it will still have to decide whether it is reasonable to evict you. In deciding whether it is reasonable, the Tribunal must consider all the circumstances of the case. The Tribunal may decide not to grant an eviction order or may delay its decision.

12. If your Landlord is using eviction ground: 'you cease to be – or fail to become – an employee of the Landlord', the Tribunal **must** grant an eviction order if the application for eviction was made within 12 months of you ceasing to be – or failing to become – an employee. The Tribunal **may** issue an eviction order if the eviction application is made after the 12-month period has elapsed.

13. If your Landlord is using the eviction ground: 'you are in rent arrears over 3 consecutive months', the Tribunal **must** grant an eviction order if both the following apply:

- the Tribunal establishes that for three or more months you have been continuously in arrears of rent; and
- on the day the Tribunal considers the case, the arrears were at least one month's rent and were not due to a delay or failure in the payment of a relevant benefit

14. The Tribunal **may** grant an eviction order if you have been in arrears of rent for three or more months, and on the day the Tribunal considers the case, the arrears are less than one month's rent.

DETAILS AND EVIDENCE FOR EVICTION GROUND(S)

15. Your Landlord should provide you with evidence to support the eviction action, particularly if they are using one of the following eviction grounds:

- Landlord intends to sell the Let Property
 - Landlord intends to refurbish the Let Property
 - Landlord intends to live in the Let Property
 - Landlord's family member intends to live in the Let Property
 - Landlord intends to use the Let Property for a non-residential purpose.
16. If your Landlord applies to the Tribunal for an eviction order, the Tribunal will ask for this evidence when considering the application for an eviction order. The Tribunal must be satisfied that the eviction ground is established.
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MONEY ADVICE

17. If you have fallen behind in your rent payments and would like money advice, you can contact your local council, Shelter Scotland or your local Citizen's Advice Bureau.
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THE END OF THE NOTICE PERIOD

WHAT HAPPENS AT THE END OF THE NOTICE PERIOD?

18. The date given in Part 4 of this notice is the earliest date that your Landlord can start eviction action at the Tribunal. From that date, your Landlord can start Tribunal action at any time during the following six months. If your Landlord does not start Tribunal action in that six-month period they would have to serve another notice to leave on you before they could start eviction action at the Tribunal.
19. If you wish to leave the Let Property without requiring your Landlord(s) to obtain an eviction order from the Tribunal, your tenancy will come to an end on the later of either the date shown in Part 4 above, or the day you cease to occupy the property.
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IF YOU CHOOSE NOT TO LEAVE AT THE END OF THE NOTICE PERIOD

20. If you choose not to leave the Let Property at the end of your notice period then, before you must leave your home, your Landlord must have done 2 things:
- Served on you a notice to leave (this notice) with the relevant notice period, and
 - Obtained an eviction order from the Tribunal.
21. If the Tribunal grants an eviction order to your Landlord, and you choose not to leave the Let Property by the date specified in that eviction order, your Landlord can instruct Sheriff Officers to serve a document called a "Charge for Removing" on you, which sets a date by which you must leave the Let Property. You will usually get 14 days' notice. If you do not leave by this date, the Sheriff Officers will remove you after giving you a further 2 days' notice.
22. Remember that you are liable to pay rent for the Let Property until the notice period expires or you cease to occupy the property, whichever is later. If your Landlord has given you notice to leave, and you wish to end your tenancy before the notice period expires, you may be able to end your tenancy early, but this can only be done with your Landlord's written agreement. If the

Landlord does not agree, you will still have to pay rent for the Let Property until the end of the notice period, even if you have moved out. You should discuss this option with your Landlord if this is something you would like to do. If you decide to stay on after the expiry of the notice period, you are liable to pay rent until the date set in the eviction order.

WRONGFUL TERMINATION OF TENANCY

23. If you leave your home once the notice period has ended, or through an eviction order issued by the Tribunal, and you are not satisfied that your Landlord genuinely wanted their property back under the eviction ground(s) outlined in Part 2, you can apply to the Tribunal for a wrongful termination order against your Landlord for a compensation amount not exceeding 6 months' rent. More information about this, including how to apply to the Tribunal, is available on the Tribunal's website².

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