

Private tenants' rights



Age Scotland Information and Advice

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1 Tenancy agreements

As a private tenant, you have a right to a written tenancy agreement which should include information about:

- the name of your landlord and details of any agent who is acting on your landlord's behalf
- the address of the property you are renting
- the amount of rent and how often this should be paid
- the length of the tenancy agreement
- the tenant and landlord's responsibilities for repairs and maintenance
- who is responsible for building and contents insurance
- whether you are allowed to have sub-tenants or lodgers
- when and how much notice you need to be given to end the agreement

If you don't have a written agreement, or if you are in any doubt about what type of tenancy you have, you should seek advice from one of the specialist agencies mentioned at the end of the factsheet.

The most common types of private tenancy are:

- Short assured tenancies
- Assured tenancies
- Regulated tenancies
- Tenancy with a resident landlord
- Tied or service tenancies
- Common law tenancies
- Occupancy agreements

1.1 Short Assured Tenancy

Most new private tenancies are short assured tenancies. Before the tenancy agreement is signed the landlord must have given you a form called an AT5 which states that the tenancy is a short assured tenancy, otherwise the tenancy will be an assured tenancy instead.

Short assured tenancies must be for a fixed period of time, and the initial period must not be less than six months. The landlord may then renew the tenancy; this is often done on a month to month basis. If no new tenancy is arranged and no-one ends the original tenancy, then the initial contract continues as before.

A short assured tenancy can be ended at its stated end date if the landlords or tenant follows the correct procedures. Short Assured tenants should be aware of this before taking action against a landlord (such as action to enforce repairs) as this may cause the landlord to terminate the tenancy in response.

1.2 Assured Tenancy

Assured tenancies are less common than short assured tenancies. The main difference between them and a short assured tenancy is that there is no fixed period for the lease and there is no minimum period of six months.

1.3 Regulated Tenancy

If you have lived in a private tenancy since before 2 January 1989 you will probably have a regulated tenancy. Generally, those on a regulated tenancy enjoy more rights from their landlord than other types of tenants in the private sector.

1.4 Tenancy with a resident landlord

If you have a resident landlord you may have a common law tenancy and no right to stay in your accommodation beyond what is specified in your agreement. Get advice if you want to know the legal definition of a resident landlord or if your landlord is trying to get you to leave the accommodation.

1.5 Common law tenancies

A common law tenancy may be created by an informal agreement between landlord and tenant. Get advice if you are not clear about the type of tenancy you have, or if your landlord wants you to leave or is refusing to do repairs.

1.6 Tied or service tenancy

Some employees will have accommodation provided as part of their terms and conditions of employment.

If you are asked to leave your job or your accommodation, you should seek advice about your housing and employment rights.

You should consider placing your name on a housing list if you think you will need to leave tied accommodation. (see Age Scotland Factsheet 8s, *Looking for rented housing*).

1.7 Occupancy agreement

You may have an occupancy agreement if you share your home with people who are not part of your family or household, for example, if you live in a hostel or if you have moved into your accommodation specifically in order to receive personal care or services as in a care home or some supported accommodation.

2 Ending a Tenancy

If you think your landlord wants to end your tenancy, get advice from a local advice agency such as a Citizens Advice Bureau as soon as possible, and remember to take all your paperwork with you when you go to see them.

An advice agency may be able to help you to negotiate with your landlord, will be able to check whether your landlord has followed the correct procedures and may be able to help you to get legal advice.

If the landlord wants you to leave, they usually have to:

- Issue a Notice to quit which must be in writing and state the length of notice you have been given. The notice should be at least four weeks and could be as much as 40 days if you have a tenancy longer than four months;
- The landlord then needs to issue a Notice of Proceedings. This is to inform you of his/her intent to seek court action.
- If you do not leave by the date stated in the Notice to Quit, the landlord will arrange for the Sheriff Court to send you a summons telling you when to appear in court. You should have at least three weeks' notice of the court date.
- A court hearing takes place at which the Sheriff considers the grounds for eviction (why the landlord wants to evict you). It is a good idea to be represented in court so the Sheriff understands your side of the case.
- If the Sheriff agrees, an eviction order will be made. You would then be given a date to leave the house or be evicted.

2.1 Grounds for eviction

There are mandatory and discretionary grounds (reasons) for eviction for assured and short assured tenancies.

With **mandatory** grounds for eviction, the Sheriff has no option but to grant eviction if the landlord has followed the correct procedures.

With **discretionary** grounds for eviction, the Sheriff has to consider if it is reasonable to use these grounds to evict you.

Contact Shelter or your local Citizens Advice Bureau if you want to know more about grounds for possession. Some of the grounds are complicated and very specific to certain circumstances.

Where a short assured tenancy is ended by giving proper notice, the landlord does not have to give grounds or reasons for eviction.

If you do not have an assured or short assured tenancy, get advice about the rules which apply to ending your type of tenancy agreement.

2.2 Illegal eviction and harassment

Your landlord should not try to evict you without following proper processes and should not harass you or withdraw services to try to force you to leave your home. Harassment might include threats or physical violence, disconnecting the electricity supply or refusing to carry out vital repairs. If you feel you are being harassed by your landlord tell your local council; they can take legal action against a landlord who is breaking the law. In an emergency, if you are being harassed by your landlord you should call the police.

2.3 Leaving a tenancy early

If you want to end the tenancy early you should check what it says as it may say how much notice you must give or, in the case of a short assured tenancy, you may need to stay for the whole of the initial minimum six month period. If you do need to leave a tenancy early, you are likely to be liable to pay the full rent until the end of the agreement.

3 Independent Tenancy Deposit Schemes

A landlord normally wants a deposit from a tenant in case of unpaid rent, damages or breakages. Independent Tenancy Deposit Schemes have now been established in Scotland and any new or existing deposit should be placed in a scheme and kept there until it needs to be returned.

The landlord should put a new deposit with an official scheme within 30 days of receiving it. A landlord has until 15 May 2013 to put existing deposits into a scheme.

If the landlord and tenant disagree about how much deposit should be returned at the end of the tenancy, the scheme can arbitrate to try to get agreement about how much deposit should be returned.

Your landlord should give you information about the Scheme they use, for example, how much is to be paid in, the date of the payment and any other conditions and terms.

If you need any further information see the Scottish Government's website at:

<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/government/SGTD1/FAQtenants>

4 Landlord Registration Scheme

Almost all private landlords must register with the local Council for the area where the property is located. The aim of the register is to keep track of landlords and make sure they operate to professional standards.

You can check to see if your landlord is registered by visiting the Scottish Government website which holds the national database of registered landlords at: www.landlordregistrationscotland.gov.uk or by contacting your local authority.

5 The Landlord Accreditation Scheme (LAS)

The LAS is a voluntary scheme by which landlords and letting agents agree to work to the high standards outlined in the Scottish Core Standards for Accredited Landlords. Such landlords should provide good quality accommodation, undertake repairs within agreed timescales, operate to high management standards and have a complaints procedure should things go wrong.

6 Rents

The level of your rent should be clearly stated in your tenancy agreement. The agreement may also state when and how the level of rent will be increased. If you think you may have difficulty paying your rent you may be able to claim Local Housing Allowance (Housing Benefit) from your local council. If you are having problems meeting your rent and other costs you could contact your local Citizens Advice Bureau, or contact the Money Advice Service on 0300 500 5000.

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

6.1 The Private Rented Housing Panel (PHRP)

The Private Rented Housing Panel can help Scottish tenants and landlords resolve their differences.

They produce a range of information for tenants about rents and housing repairs. You can get their leaflets from by calling 0141 242 0142 or from

<http://www.prhpscotland.gov.uk/prhp/138.26.31.html>

7 Rights to repairs

7.1 Repairing Standards

All private housing should comply with the *Repairing Standard*. This includes:

- the property must be wind and watertight
- the property must be fit to live in

- the structure and of the property must be in a reasonable condition
- the installations for the supply of water, gas, electricity, and for sanitation, space heating and heating water must be in a reasonable state of repair and in proper working order
- any fixtures, fittings or appliances provided by the landlord (such as light fittings, white goods and household equipment) must be in a reasonable state of repair and in proper working order;
- any furnishings provided by the landlord must be safe
- the property must have suitable smoke detectors - at least one on each floor of the property, and if the alarms are installed after September 2007, they should be mains powered rather than battery powered

7.2 Getting repairs done

You should notify your landlord that a repair is needed as soon as you can. It is a good idea to let your landlord know in writing and to keep a copy of the letter.

Your landlord is entitled to enter the property to inspect any repairs required or to carry out repairs, you should give the landlord reasonable access to do this.

If your landlord does not carry out repairs within a reasonable time and after reminders, then you could consider approaching the Private Rented Housing Panel (PRHP). Before you take any action you should consider what type of tenancy you have and whether the landlord might choose to end your tenancy to try to avoid doing repairs.

The PRHP will first try to mediate with the landlord but, if this fails, they can reduce your rent and / or arrange for the local council to do the repair work and recover the costs from the landlord.

If you want to carry out or pay for repairs yourself you should ask your landlord to agree to this in writing and get advice if your landlord does not agree.

7.3 Gas Safety Checks

Your landlord must arrange for a Landlord's Gas Safety Check. This annual check must be carried out by a Gas Safe registered engineer. Your landlord should give you a copy of the safety check certificate. If a landlord does not comply they could face a fine of up to £5000.

7.4 Electrical Safety

Your landlord should have up to date electrical safety certificates for the property. You should report any problems such as:

- Unprotected cables attached to the surface of walls and/or ceilings.
- Taped joints, exposed or loose wiring.
- Charring of power sockets or sparking from light switches.
- Frequent fusing of a power or lighting circuit.
- Additional sockets running off existing sockets or light fittings.
- Electric shocks when using appliances.

7.5 Energy Performance Certificate (EPC)

If you are interested in renting a self-contained property an Energy Performance Certificate (EPC) must be made available to you free of charge. The EPC provides information about how energy efficient the property is and it is valid for ten years. The EPC makes recommendations to improve the energy rating of the property but there is no legal obligation for the landlord to make any improvements.

8 Other rights for tenants

8.1 Right to pass on your tenancy to someone else

Your tenancy may allow you to “assign” it to someone else. Your tenancy agreement should explain if this is possible. Your landlord would need to agree to the tenancy being assigned to someone else.

8.2 Succession to a tenancy

In some tenancies, a husband, wife or civil partner can take over a tenancy if the tenant dies. The bereaved spouse or civil partner should discuss the situation with the landlord and take advice if the landlord does not want them to take on the tenancy.

9 Assistance with repairs and adaptations for tenants

9.1 Right to Adapt

All tenants have a right to adapt their home in specific circumstances:

- Where the tenant wants to adapt the house to make it suitable for a disabled person, either the tenant or someone who lives with them or intends to live with them when the work is done.
- When the tenant is eligible for a government scheme to install central heating or energy efficiency measures.

The tenant must ask for the landlord's consent. Landlords cannot refuse unreasonably or attach unreasonable conditions for an adaptation made by a disabled occupant, although the landlord has no responsibility to pay for it. Private landlords have a duty to take reasonable steps to help disabled tenants. They have a duty to make reasonable adjustments such as taps, door handles, furniture (like ramps, a higher chair) under the Equality Act 2010. There is an overlap between these duties and those of social work services.

9.2 Care and Repair

In some areas a "Care and Repair" scheme operates, providing services to older and disabled people.

Care & Repair services offer personal, financial and technical support to people who need to repair, improve or adapt a home which is no longer suitable. Staff visit people at home and assist them through the process of deciding what work is to be done, arranging the finance and organising the building work. Contact details are at the end of this factsheet.

9.3 Energy Efficiency Measures – The Energy Assistance Package

Supported by the Scottish Government, grants can be available for energy efficiency measures such as the installation or renewal of a central heating system, the replacement of a boiler and insulation.

This *Energy Assistance Package* includes a free advice and home energy check, benefit and tax credit check and energy efficiency measures. Whilst this grant is available to tenants you can only apply for the grant if your landlord agrees to the work.

Call 0800 512 012 for more information.

For further information please refer to Age UK's Factsheet *Help with Heating*.

10 Further information and help

The law relating to rights for tenants is complicated and in many cases you may want to get more detailed advice from a specialist adviser.

10.1 Shelterline

This national helpline provides telephone advice to people with housing problems and can give advice on a range of housing issues including homelessness, tenancy rights, repairs and housing benefit. It is open 9am to 5pm, telephone: 0808 800 4444 (free call).

Shelter also produce publications on a variety of housing issues and have a lot of useful advice on their website. For a list of booklets and other publications available from them contact them at Shelter, Fourth Floor, Scotiabank House, 6 South Charlotte Street, Edinburgh EH2 4AW, or telephone: 0844 515 2000 (Mon - Fri, 9am-5.30pm) or see scotland.shelter.org.uk

10.2 Housing advice centres

Your local council or Citizens Advice Bureau (CAB) will be able to tell you if there is a housing advice centre in your area. The Shelter website has an Advice Services Directory which lists all the agencies who can give advice by council area. See the Shelter website for details: scotland.shelter.org.uk

10.3 Citizens Advice Bureau

An adviser at a Citizens Advice Bureau (CAB) will be able to give you information and advice. You can find your nearest Citizens Advice Bureau (CAB) in your local phone book or from www.cas.org.uk

10.4 Your local council

If you are having problems with your landlord, your local council may be able to help you, including giving advice if you have been asked to leave your home.

If you have difficulties finding the right person ask to speak to the person who manages the private landlord registration scheme – they should be able to take action themselves or pass you on to someone else.

10.5 Legal advice

Solicitors can advise you on the law and represent you in court if necessary. A housing advice centre or Citizens Advice Bureau (CAB) may be able to refer you to a solicitor who is experienced in housing law. 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 telephone: 0131 226 7411.

10.6 Energy Advice

A source of free advice and information for people across the UK looking to save energy, conserve water and reduce waste.

Telephone free on 0800 512 012.

www.energyassistancepackage.com

www.energysavingtrust.org.uk/scotland

The Scottish Government

The Scottish Government produces a number of booklets about tenants' rights. These may be available from your local library or advice centre. The leaflets are also available online at www.scotland.gov.uk/Publications

Your local library may be able to help you access the leaflets over the internet.

They are also available free from the Scottish Government, Housing and Regeneration Directorate, Victoria Quay, Edinburgh EH6 6QQ, telephone: 0131 556 8400.

Legal Services Agency

Legal Services Agency is a national law centre based in Glasgow. They produce free leaflets on housing matters.

Legal Services Agency, Third Floor, Fleming House, 134 Renfrew Street, Cowcaddens, Glasgow G3 6ST, or telephone: 0141 353 3354 or see their website at www.lsa.org.uk

Care and Repair

Care and Repair services offer independent advice and assistance to help homeowners repair, improve or adapt their homes.

You can find information about local Care and Repair services at www.careandrepairsotland.co.uk or by contacting your local authority or by contacting Care and Repair Forum Scotland, 135 Buchanan Street, Suite 2.5, Glasgow, G1 2JA. Tel: 0141 221 9879. Fax: 0141 221 9885.

www.careandrepairsotland.co.uk

Private Rented Housing Panel (PRHP)

The Private Rented Housing Panel (PRHP) can help Scottish tenants and landlords resolve their differences. 3rd Floor, 140 West Campbell Street, Glasgow, G2 4TZ. Tel: 0141 572 1170 Fax: 0141 572 1171. Email: admin@prhpsotland.gov.uk. www.prhpsotland.gov.uk

Landlord Accreditation Scotland Ltd

22 Forth Street, Edinburgh, EH1 3LH. Phone: 0131 553 2211 Fax: 0131 240 4473 Email: info@landlordaccreditationsotland.com
www.landlordaccreditationsotland.com

11 Further Information

These other Age Scotland factsheets may be of use:

Factsheet 1s Help with heating

Factsheet 8s Looking for rented housing

Factsheet 43s Obtaining & paying for legal advice

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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Support Age Scotland with a gift to enable us to continue producing fact sheets like this and all our other vital work to help improve lives of older people in Scotland. Please complete the donation form below and return to:

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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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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Age Scotland Enterprises

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