



Scottish Secure Tenancy Rights Housing (Scotland) Act 2014 Changes

The tenancy agreement you have with Orkney Housing Association Limited is a Scottish Secure Tenancy (SST) agreement.

Scottish Secure Tenancy Rights will be changed by the Housing (Scotland) Act 2014.

This leaflet tells you about the changes to your rights under your tenancy agreement and what you need to do to protect your tenancy rights.

Keep this leaflet in a safe place in case you need to refer to it.

May 2019

Ending a Scottish Secure Tenancy by Court Order – Conviction of a Crime / Serious Antisocial Behaviour

Committing serious antisocial behaviour or certain crimes are a breach of your tenancy agreement and can lead to your eviction.

If you, or anyone living with you in the property or anyone visiting the property, are convicted of using the house or allowing it to be used for immoral or illegal purposes, or of an offence punishable by imprisonment committed in or in the locality of the property, we are entitled to seek a court order to evict you from your home.

Before we start the court action for eviction, we will serve a **Notice of Proceedings** on you. You have a right to challenge that decision.

From 1 May 2019, the Housing (Scotland) Act 2014 will make this process easier by removing the need for the Court to consider whether it is “reasonable” to make an order for eviction where we are using this ground for eviction.

The court will be required to grant the eviction order if we have served the Notice of Proceedings within twelve months of the date of the conviction (or within twelve months of the conclusion of an unsuccessful appeal against the conviction).

Adapted Properties

Some properties are designed or adapted to meet the particular needs of a tenant or a person living with the tenant. Sometimes that person moves to a different property or dies.

From 1 May 2019, we will be able to apply to the Court to recover the property if it is not being occupied by anyone who needs the adaptations. We would only do this if we need the property for someone who needs the adaptations. We would give you notice before applying to the court to do this and we would offer you suitable alternative accommodation. You would be able to ask the Court to consider whether our actions were reasonable and challenge the suitability of the alternative accommodation.

Conversion to a Short Scottish Secure Tenancy for Antisocial Behaviour

In certain circumstances, we can change your tenancy agreement to a different type of tenancy agreement called a Short Scottish Secure Tenancy (SSST) agreement, which gives you fewer rights and less protection from eviction than a Scottish Secure Tenancy (SST).

From 1 May 2019, these circumstances will now include any situation where a tenant or someone living with the tenant has acted in an antisocial manner in or around the property. If we choose to convert your tenancy we will serve a Notice on you which will detail the actions of the person who has behaved in an antisocial manner and our reasons for converting the tenancy.

You will have the right to appeal the conversion to the Sheriff Court.

November 2019

Changes to your household and tenancy rights

From 1 November 2019, new rules mean that there will be a **12-month qualifying period** before you can apply for permission to make any substantial changes to your tenancy, AND the 12-month qualifying period only begins on the day we receive **written notification from you of any changes**.

To protect your tenancy rights, it is important that you **let us know in writing**, by no later than 1 November 2018, of changes that have already happened. It is important that you tell us immediately of any change which occurs after 1 November 2018.

This is particularly important if someone has given up their own home to move in with you to care for you.

If you let us know after 1 November 2018, the 12-month qualifying period will begin on the day you let us know.

For example, if you notify us in writing on the 5 November 2018, the 12-month qualifying period will end on the 5 November 2019.

If you notify us in writing on 5 April 2020, the 12-month qualifying period will end on the 5 April 2021.

Applying to add a joint tenant to your tenancy agreement

You may have a new partner or family member who you wish to become a joint tenant with you.

You need consent from us if you wish to add a joint tenant to your tenancy agreement.

From 1 November 2019, proposed joint tenants will need to have lived at the property as their only or principal home for 12-months before you apply for them to become a joint tenant.

The 12-month period only starts when we receive **written notification from you** that the proposed joint tenant is living there, and you wish to apply to add them as a joint tenant.

Transferring your tenancy to someone else (Assignment)

You may wish to move out of your property and pass your tenancy to a member of your household who already lives with you.

From 1 November 2019, before you can do this, both you AND the person you wish to pass the tenancy to must have lived in the property as your only or principal home during the previous 12 months before you apply to assign your tenancy.

The 12-month period only starts when we receive **written notification from you** that the other person is living in the property as their only or principal home.

We can refuse permission to assign a tenancy if we have reasonable grounds to do so.

Subletting your property

You may wish to sublet all or part of your home. You need our consent to do this.

From 1 November 2019, before you apply for consent to sublet your property, you must have been the tenant of the house throughout the 12 months immediately before you apply to sublet.

We can refuse to give permission for you to sub-let your property if we have reasonable grounds to do so.

Taking over a tenancy after the tenant's death (Succession)

You may have people living with you who are not joint tenants, who you may wish to take over the tenancy after you die. This could be an unmarried partner, family member or carer.

To protect their right to 'succeed to your tenancy', you must **tell us in writing** that the person you wish to take over your tenancy has moved in with you at the time they do so. If someone has already moved in and you have not told us, it may affect their right to succeed to your tenancy.

To succeed to your tenancy if you die after 1 November 2019, any person who is not your lawful spouse or civil partner must have lived in the property as their only or principal home for at least 12 months immediately prior to the tenant's death.

The 12-month period only starts when we receive **written notification from you** that the other person is living in the property as their only or principal home. **This is very important if someone else has given up their own home to care for you.**

If you have any questions please contact your Housing Officer on 875253, or email allocations@ohal.org.uk.

Summary of Changes to your Rights under your Tenancy Agreement

Topic	When it comes into effect	Changes introduced	Current situation	Action required	What happens if you don't take action?
Conversion to SSST	1 May 2019	<p>Circumstances will include any situation where a tenant or someone living with the tenant has acted in an antisocial manner, or pursued a course of conduct amounting to harassment of another person. This conduct must have been in or around the house occupied by the tenant and it must also have happened in the 3 years before the notice is served.</p> <p>In cases where no antisocial behaviour order has been granted by the court, the landlord must include in the notice the actions of the person who has behaved in an antisocial manner, the landlord's reasons for converting the tenancy and details of the tenant's right of appeal to the court.</p>	N/A	None	N/A
Joint Tenancy	1 November 2019	The proposed joint tenant must have lived at the property as their only principal home for the 12 months before you apply for them to become a joint tenant. 12 months only start when we have received written notification from you that they live there.	No qualifying period	Notify us in writing of who lives in your house	We will not be able to offer a joint tenancy
Subletting	1 November 2019	You must have been the tenant of the house throughout the 12 months immediately before you apply for written permission to sublet your home.	No qualifying period	None	N/A
Assignment	1 November 2019	<p>The house must have been your only or principal home during the 12 months immediately before you apply for written permission to pass your tenancy to someone else.</p> <p>The person you wish to pass your tenancy to must have lived at the property as their only or principal home for the 12 months before you apply.</p> <p>The 12-month period only starts when we have received written notification that the person living in the property as their only or principle home. We must have been told that by you, a joint tenant, or the person you now wish to pass the tenancy to.</p>	<p>No qualifying period for existing tenant.</p> <p>Six-month qualification period required for assignee</p> <p>Written notification required</p>	Notify us in writing of who lives in your house	We will not be able to assign your tenancy

Topic	When it comes into effect	Changes introduced	Current situation	Action required	What happens if you don't take action?
Succession	1 November 2019	<p>The person who is not the lawful spouse or civil partner of the deceased tenant who wishes to succeed to the tenancy must have lived at the property as their only principal home for 12 months at the time of the tenant's death.</p> <p>The 12-month period does not begin until we have been notified in writing that the person living in the property as their only principal home. We must have been told that by you, a joint tenant, or the person you now wish to pass the tenancy to.</p>	<p>No qualifying period</p> <p>Written notification required</p>	<p>Notify us in writing of who lives in your house</p>	<p>The person will not be entitled to succeed to your tenancy. We will have no discretion to allow such succession.</p>
Ending SST by Court Order following a conviction for serious antisocial behaviour or criminal behaviour	1 May 2019	<p>Court does not have to consider whether it is reasonable to make an order for eviction where the landlord has grounds for recovery of possession under Schedule 2 paragraph 2 of the Housing (Scotland) Act 2001.</p>	<p>Courts need to consider if it is reasonable to evict after a conviction</p>	<p>N/A</p>	<p>N/A</p>
Recovering adapted properties	1 May 2019	<p>Court can be asked to end a tenancy of an adapted property that is not being occupied by anyone who needs the adaptations. This only applies where the landlord requires the property for someone who does need the adaptations. Notice would be required and suitable alternative accommodation would need to be offered.</p>	<p>Adapted properties cannot be recovered</p>	<p>N/A</p>	<p>N/A</p>