

BACKGROUND TO TENANCY

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- Tenancy introduced under the Housing (Scotland) Act 2001 ‘to create a fair balance of rights and responsibilities between landlords and tenants taking account of past experiences with the secure and assured tenancies’. (SE, August 2001)
- Gave all social housing tenants (with some exceptions, set out in Schedule 1 of the act) a universal tenancy. On 30th September 2002, all secure and assured tenancies for social housing tenants in Scotland automatically became Scottish Secure Tenancies.
- The tenancy:
 - Gives tenants of LAs and RSLs across Scotland the same fundamental rights
 - Extends tenants’ rights and makes them easier to understand and access
- When the new tenancy was commenced last September, all tenants who were entitled to a Scottish Secure Tenancy were legally entitled by virtue of the act, and were not required to sign new tenancy agreements.

What are the key differences between the new tenancy and what went before?

Increased eligibility for tenants:

- All tenants must use the house as their only or principal home
- Tenants have the right to appeal if they consider themselves eligible for a SSST and have not been given one.
- Joint tenancies cannot be unreasonably refused.

Changed security of tenure rules:

- Grounds for recovery are based on the grounds under the old secure tenancy.
- All action for recovery on conduct grounds are subject to a test of reasonableness by the court (Speak a bit on the reasonableness test.)

More extensive rights of succession:

- Creates a 'second round' of succession
- Gives succession rights to carer and same sex couples

Changes abandonment rules:

- Where a joint tenant has abandoned a property, their interest in the tenancy can be terminated

Landlords must consult tenants if they intend to increase rent, and tenants' views must be taken account of.

Changes to repair rules:

- All tenants have the right to repair
- Landlords must inspect the property before the tenant moves in, and inform the tenant of repairs that are required

- Landlords must be given 24 hours notice to gain access to property to inspect or carry out repairs
- Repairs must be carried out by landlord within a reasonable time

Tenants to become better informed:

- All prospective tenants must be given information on the right to buy
- Tenants must be notified if their entitlement to right to buy is changed.
- Landlords must provide information on their complaints procedures.

Tenants to become better involved: (new tenant participation rules under Section 23 of the Housing Act)

- All landlords to prepare a strategy to promote tenant participation; the strategy must include proposals for taking into account the views of tenants.

THE SHORT TENANCY

The short tenancy is a fixed term equivalent of the full tenancy, with far less security of tenure, and no right to buy or succession rights.

The circumstances in which a short tenancy can be used.

(Grounds for granting a Short Scottish Secure Tenancy are set out in Schedule 6 of the Housing (Scotland Act 2001)

- Lets to persons evicted for anti-social behaviour from a tenancy within a period of 3 years prior to the service of a notice that a short SST will be offered;
- Lets to persons where they or other members of their household are the subject of ASBO granted on or after 30 September 2002 under s 19 of the Crime and Disorder Act 1998;
- Temporary lets to persons moving into the area in order to take up employment;
- Temporary lets pending development affecting the house;
- Temporary lets to homeless persons for tenancies of 6 months or over (lets to homeless persons of under 6 months are covered by Schedule 1 to the Act, tenancies which are not SSTs);
- Temporary lets to persons requiring or receiving housing support services as defined in section 91(8) of the Act (N.B. permanent lets to persons requiring or receiving housing support services should be Scottish secure tenancies)
- Lets in houses leased by the landlord from another body where the terms of the lease preclude the landlord subletting under an SST.

POLICY INTENTIONS BEHIND THE SHORT TENANCY

- intended for use by landlords for tenants with a history of anti-social behaviour.
- the tenancy was linked to the provision of housing support services. The support is provided with a view to enabling the tenant to convert to a full tenancy at the end of the ish.
- tenancy could be used for a small number of tenants, who, if allocated a full tenancy, would be unable to sustain it. Tenants requiring or in receipt of housing support services.

HOMELESSNESS ETC. (SCOTLAND) ACT 2003

- Every intentionally homeless person (with some exceptions) to receive a short tenancy. Tenancy allocated with a view to moving the applicant up to a full tenancy at the end of twelve months, i.e. automatic conversion to full tenancy at end of twelve months if repossession has not taken place. Schedule 5 of Housing Act amended to include new short tenancy (5A).
- Support to be given with the tenancy. ‘the local authority must provide, or ensure the provision of, such housing support services at it considers appropriate with a view to enabling the conversion of the tenancy to a Scottish secure tenancy’.
- Right and obligations of the tenant regarding support to be included in the tenancy agreement
- The landlord and the tenant must jointly review the extent to which the tenancy is complying with their support obligations, and the tenants other obligations under the tenancy agreement.
- If the tenant fails the short tenancy, there is an unending duty to accommodate.