

## **IMPORTANT INFORMATION THAT COULD AFFECT YOUR TENANCY**

### **CHANGES TO YOUR SCOTTISH SECURE TENANCY RIGHTS INTRODUCED BY THE HOUSING (SCOTLAND) ACT 2014**

The leaflet provides a summary of the changes to your rights under your tenancy agreement.

If you need more information on how these changes affect you, please contact us.

The tenancy agreement you have with us is a **Scottish Secure Tenancy** agreement. This leaflet explains the changes to Scottish secure tenancy rights made by the Housing (Scotland) Act 2014.

**This could affect your rights under the tenancy agreement you signed when you took up your tenancy. You should keep it in a safe place along with your tenancy agreement in case you need to refer to it in future.**

#### **Telling us about changes to your household**

To ensure that your tenancy rights are protected it is very important to ensure that you advise us of any changes to your household.

This includes telling us about anyone who has previously moved in with you who you haven't already told us about, and when anyone moves into or out of your home in the future at the time they do so.

**If you are unsure about whether you have told us about anyone who has moved into your home let us know now.**

You can do this at:

[www.westlothian.gov.uk/contactus](http://www.westlothian.gov.uk/contactus) : Housing and Repairs–Tenancy Related Enquiry

**Writing to us at:** Housing Customer & Building Services, Howden South Road,  
Livingston, West Lothian, EH54 6FF

**Calling us on :** 01506 280000

**Visiting:** your local Council Information Service or Partnership Centre to speak to your Housing Officer.

We will acknowledge receipt of your notification

## **Subletting, Assignment and Joint Tenancy**

There are changes if you want to sublet all or part of your house to someone else, if you want to assign your tenancy (pass on the tenancy to someone else) or want another person to be included with you as a joint tenant.

### **Subletting**

If you want to sublet all or part of your tenancy, this needs our consent as your landlord. Section 12(2) of the 2014 Act makes the following changes:

- you must have been the tenant of the house throughout the 12 months immediately before you apply for written permission to sublet your home (previously there was no qualifying period), or
- if you were not the tenant throughout the whole of that period, the house must have been your only or principal home during those 12 months; and the tenant must have told us that you were living there prior to the start of those 12 months.

**This change will come into effect from 1 November 2019. If the tenant has already told us that you are living there then no further notification is needed. As is already the case, before you can sublet your home you must ensure that you apply to us for permission.**

### **Assignment** (passing your tenancy to someone else)

If you want to assign your tenancy (pass the tenancy to someone else), this needs our consent as your landlord. Section 12(2) of the 2014 Act makes the following changes:

- 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 (previously there was no qualifying period); and
- 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 (previously the qualifying period was 6 months); and
- the 12 month period cannot begin unless we have been told that the person is living in the property as their only or principal home. We must have been told that by you, a joint tenant, or the person you now wish to pass the tenancy to. If we have already been told that the person is living in the property we do not have to be notified again.

We can refuse permission to assign a tenancy if it is reasonable for us to do that. Two new reasons when we can refuse an application for assignment have been added to the existing list of reasons at section 32 of the Housing (Scotland) Act 2001. These new reasons are:

- where we would not give the person you wish to pass the tenancy to priority under our allocations policy;
- where, in our opinion, the assignment would result in the home being under occupied.

**This change will come into effect from 1 November 2019. As is already the case, before you can assign (pass) your home to someone else you must ensure that you apply to us for permission.**

### **Joint Tenancy**

If you want to add a joint tenant to your tenancy agreement, this needs our consent as your landlord. Section 12(1) of the 2014 Act makes the following changes:

- the proposed joint tenant must have lived at the property as their only or principal home for the 12 months before you apply for them to become a joint tenant (previously there was no qualifying period); and
- the 12 month period cannot begin unless we have been told that the person is living in the property as their only or principal home. We must have been told that by you, a joint tenant, or the person you now wish to become a joint tenant. If we have already been told that the person is living in the property we do not have to be notified again.

**This change will come into effect from 1st November 2019. Before you can add a joint tenant to your tenancy agreement, as is already the case you must ensure that you apply to us for permission. The person you wish to add as joint tenant, and any existing joint tenants, must apply along with you.**

### **Ending a Scottish Secure Tenancy Agreement**

#### **By Court Order**

The Act changes the way in which a Scottish secure tenancy can be ended following a conviction for serious antisocial or criminal behaviour. Section 14(2) of the 2014 Act means that a 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.

These grounds are:

That the tenant (or any one of joint tenants), a person residing or lodging in the house with, or subtenant of, the tenant, or a person visiting the house has been convicted of:

- (a) using the house or allowing it to be used for immoral or illegal purposes, or
- (b) an offence punishable by imprisonment which was committed in, or in the locality of, the house.

This means that we can end a Scottish secure tenancy if someone living in or visiting the home is convicted of a serious offence in the area of the house. It allows us to end the tenancy where behaviour has had a serious impact on neighbours or others in the community.

A serious offence is one that the offender could have been imprisoned for, whether or not they actually were sentenced to imprisonment.

If we are intending to end a Scottish secure tenancy in this way, we would serve a notice on you advising that we intend to seek recovery of possession of the property. That would be done within 12 months of the conviction (or, if it was appealed unsuccessfully, of when the appeal ended).

A tenant has a right to challenge a landlord's decision to take court action to end the tenancy on these grounds.

**This change will come into effect from 1 May 2019. This change does not apply if we served the notice on you before that date and the notice is still in force at the date when court proceedings are raised.**

### **Adapted Properties**

Section 15 of the 2014 Act allows any social landlord to ask a sheriff to grant an order to end the 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. If this situation happens we would give you notice before applying to the sheriff. We would offer you suitable alternative accommodation. You would be able to ask the sheriff to consider whether our actions were reasonable and to challenge the suitability of the alternative accommodation.

**This change will come into effect from 1 May 2019.**

### **Conversion to a Short Scottish Secure Tenancy for Antisocial Behaviour**

Section 7(2) of the 2014 Act extends the circumstances when we could serve you with a notice converting your Scottish secure tenancy to a short Scottish secure tenancy. This means that in certain circumstances we can change your tenancy agreement to a different type of tenancy agreement called a short Scottish secure tenancy which gives you fewer rights and less protection from eviction than a Scottish secure tenancy. A short Scottish secure tenancy has a fixed duration, unless we agree to extend it or convert it back to a Scottish secure tenancy.

The circumstances now 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.

Section 7(2) of the 2014 Act also places new requirements on social landlords when issuing a notice to a tenant converting a tenancy to a short Scottish secure tenancy as a result of antisocial behaviour. 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 sheriff.

**This new ground to convert a tenancy will come into effect from 1 May 2019**

## **Taking Over a Tenancy after the Tenant's Death (known as Succession)**

The 2014 Act changes some of the rules around when certain people can succeed to (take over) a Scottish secure tenancy on the death of the tenant. To ensure rights to succession are protected you must have told us that the person wishing to succeed to a tenancy has moved in with you at the time they do so.

### **Unmarried Partners**

Section 13(a) and 13(d) of the 2014 Act make changes to the rules on succession for unmarried partners:

- the house must have been the unmarried partner's only or principal home for 12 months before they qualify to succeed to the tenancy (previously this was 6 months); and
- the 12 month period cannot begin unless we have been told that the individual is living in the property as their only or principal home. We must have been told that by you, a joint tenant, or the person who wishes to succeed to the tenancy.

### **Family Members**

Section 13(b) and 13(d) of the 2014 Act make changes to the rules on succession for family members:

- the house must have been the family member's only or principal home for 12 months before they qualify to succeed to the tenancy (previously there was no qualifying period, the person simply had to be living there at the time of the tenant's death); and
- the 12 month period cannot begin unless we have been told that the family member is living in the property as their only or principal home. We must have been told that by you, a joint tenant, or the person who wishes to succeed to the tenancy.

### **Carers**

Section 13(c) and 13(d) of the 2014 Act make changes to the rules on succession for carers:

- the house must have been the carer's only or principal home for 12 months before they qualify to succeed to the tenancy (previously there was no qualifying period, the person simply had to be living there at the time of the tenant's death and have given up a previous home to provide the care); and
- the 12 month period cannot begin unless we have been told that the carer is living in the property as their only or principal home. We must have been told that by you, a joint tenant, or the carer.

**These changes will come into effect from 1 November 2019. If we have already been told by the appropriate person then we do not have to be notified again.**

## **Right to Buy**

Right to buy ended for all tenants of social housing in Scotland who had a right to buy on 1 August 2016.