

GUIDANCE NOTES FOR TENANTS ON NOTIFICATION OF A TENANT'S INTENTION TO MAKE AN APPLICATION TO THE FIRST-TIER TRIBUNAL FOR SCOTLAND

(These notes are for guidance only)

You will use this notice if you have a private residential tenancy, as set out in the Private Housing (Tenancies) (Scotland) Act 2016¹ (the Act), and your Landlord has failed to give you certain information.

FURTHER GUIDANCE

1. If you have questions about this notice, contact one of the following:
 - your local council
 - Shelter Scotland
 - your local Citizen's Advice Bureau
 - a solicitor (you may be able to get legal aid depending on your income)
-

WHEN TO USE THIS NOTICE

2. You use this notice to tell your Landlord that you want to make an application to the First-tier Tribunal for Scotland Housing and Property Chamber (the Tribunal)² because your Landlord has failed to give you information the law says you must have. Where your Landlord uses a Letting Agent and the Agent is responsible for giving you this information, this notice may be given to the Agent instead of your Landlord.
3. Your Landlord must give you a copy of all the written terms of your tenancy agreement, if they are not already fully set out in writing (under section 10 of the Act).
4. Your Landlord's duty under section 10 is on-going, so if the terms of your tenancy change during the tenancy and the terms of the tenancy are no longer fully set out in writing, your Landlord must give you a new document explaining the new terms of your tenancy within 28 days of the change happening.
5. The Scottish Ministers also have a power to make regulations to state other information that your Landlord must give you and the timescales for doing this (section 11 of the Act). The Private Residential Tenancies (Information for Tenants) (Scotland) Regulations 2017 state that your Landlord must give you either the 'Easy Read Notes for the Scottish Government Model Tenancy Agreement'³, or the 'Private Residential Tenancy Statutory Terms Supporting Notes'⁴.
6. The 'Easy Read Notes for the Scottish Government Model Private Tenancy Agreement' set out the terms of the tenancy and must be issued where your Landlord uses the Scottish Government Model Private Residential Tenancy Agreement. The 'Private Residential Tenancy Statutory

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

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

³ <https://www.gov.scot/publications/easy-read-notes-scottish-government-model-private-residential-tenancy-agreement/>

⁴ <https://www.gov.scot/publications/private-residential-tenancy-statutory-terms-supporting-notes-essential-housing-information/>

Terms Supporting Notes' must be issued when another form of private residential tenancy agreement is used by your Landlord.

7. The written tenancy terms and correct set of notes must be given to you no later than the day the private residential tenancy starts (assuming the tenancy becomes a private residential tenancy immediately), or, if the tenancy only later becomes a private residential tenancy, within 28 days of it becoming one.
8. You must serve this notice on your Landlord before you can apply to the Tribunal because your Landlord has failed to provide you with:
 - a) all the written terms of the tenancy agreement (section 10 of the Act)
 - b) the correct set of notes - either the 'Easy Read Notes for the Scottish Government Model Tenancy Agreement' or the 'Private Residential Tenancy Statutory Terms Supporting Notes' (The Private Residential Tenancies (Information for Tenants) (Scotland) Regulations 2017).

GIVING THE RIGHT AMOUNT OF NOTICE

9. You must give your Landlord 28 days' notice if you want to apply to the Tribunal. You can't apply to the Tribunal until the notice period has passed.
10. The notice period starts on the later of:
 - the day your Landlord receives this notice from you; or
 - the day after any deadline on which your Landlord ought to have performed the relevant duty.

See the 'HOW TO GIVE THIS NOTICE' section which provides important information on delivery times.

HOW TO COMPLETE THIS NOTICE

11. As the Tenant you should complete Parts 1 and 2 of the notice. You can tick more than one box in Part 2, depending on whether your Landlord has failed to provide you with:
 - a) all the written terms of your tenancy agreement (section 10 of the Act)
 - b) the correct set of notes - either the 'Easy Read Notes for the Scottish Government Model Tenancy Agreement' or the 'Private Residential Tenancy Statutory Terms Supporting Notes' (The Private Residential Tenancies (Information for Tenants) (Scotland) Regulations 2017).
 - c) all the written terms **and** the correct set of notes
12. You can apply to the Tribunal for a 'payment order' because of the missing information (there is more information on payment orders in the 'WHAT HAPPENS NEXT' section). If you do not want to apply for a payment order, leave the third tick box in Part 2 blank.

HOW TO GIVE THIS NOTICE

13. After you sign and date this notice you must make sure your Landlord gets it as soon as possible. If your Landlord uses a Letting Agent, this notice may be given to the Letting Agent instead of the Landlord. A notice can only be given to a Landlord or Agent in the following ways:

- by handing it to them
 - by sending it to them by recorded delivery post to their address
 - by emailing it to them at their current email address (if they have previously agreed that email is their preferred contact method)
14. If you have joint Landlords, you can give this notice to any one of them.
 15. Section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010 applies, which means that unless delivered personally, you must allow your Landlord 48 hours to receive the notice. This delivery time should be added on to the amount of notice you give your Landlord. So, if you are sending this document by recorded delivery post or email, the date you insert into Part 2 must be a date which is at least 30 days after the date sent.
 16. For example, if you move into a Let Property on a private residential tenancy on 12 January and your Landlord has failed to give you a written document with all your tenancy terms by the end of that day. If you send this notice by recorded delivery post or email on 13 January, your Landlord would be expected to receive this notice on 15 January and the 28 days' notice period would run from 15 January until the end of the day on 11 February. That means the earliest date you could insert into Part 2, and make an application to the Tribunal, would be 12 February.
 17. Your Landlord can challenge the 48 hour delivery time, but they must give you evidence that shows the exact date they received this notice.

WHAT HAPPENS NEXT?

18. If your Landlord fails to give you the missing information before the date shown in Part 2 of this form, you can make an application to the Tribunal.
19. If the failure is about the written terms of your tenancy, the Tribunal can give you a document which explains all the terms of your tenancy, or, if there are already written terms of the tenancy, they can declare them as accurate.
20. Any document that the Tribunal creates or declares as accurate will constitute all the terms of your tenancy.
21. The Tribunal could give you a payment order up to a maximum of three months' rent if your Landlord has failed to give you one of the following:
 - a) all the written terms of your tenancy agreement (section 10 of the Act)
 - b) the correct set of notes - either the 'Easy Read Notes for the Scottish Government Model Tenancy Agreement' or the 'Private Residential Tenancy Statutory Terms Supporting Notes' (The Private Residential Tenancies (Information for Tenants) (Scotland) Regulations 2017).
22. If your Landlord fails to give you both the written terms of the tenancy **and** the notes, the Tribunal could award you up to a maximum of six months' rent.
23. If you are a joint Tenant and you each apply to the Tribunal, any payment order awarded to you by the Tribunal will be divided by the number of joint Tenants in the Let Property.
24. For example, if you live in the Let Property with two other Tenants and you each pay £200 per month rent (£600 in total per month), if you all apply to the Tribunal about the written terms of

your tenancy and it awards you a maximum payment order of three months' rent, each of you would receive £600 in total (£200 rent for each of the three months' rent in the order). You do not all have to apply to the Tribunal at the same time. The other joint Tenants can make separate applications later if they want to, but the total amount the Landlord needs to pay is the same as it would be if there was a sole Tenant.