**SUB-TENANCY NOTICE TO LEAVE**

**HEAD LANDLORD’S NOTICE TO A SUB-TENANT TO LEAVE UNDER SECTION 61(1) OF THE PRIVATE HOUSING (TENANCIES) (SCOTLAND) ACT 2016**

**This version of the form is in place for the duration of the emergency COVID-19 procedures (until October 2020 unless extended)**

**Important information for Sub-Tenant(s) - Please read this notice carefully.**

**Advice -** If you have questions about this notice, speak to your landlord or 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).

**Homelessness -** Speak to your local council if you're worried about having somewhere to live. They can advise you on your options.

This notice informs you, the Sub-Tenant, that the Head Landlord (likely to be your Landlord’s landlord) is giving you notice to leave the Let Property. If you do not leave the Let Property once the relevant notice period has expired, your Head Landlord can apply to the First-tier Tribunal for Scotland (the Tribunal) for an eviction order.

The amount of notice your Head Landlord must give you will depend on the eviction ground used. The notice period will either be 6 months or 3 months and is indicated next to the ground used in Part 2 of this form.

The Let Property you live in is sub-let, so in addition to giving a notice to leave on their tenant, the Head Landlord must also give notice to any Sub-Tenant(s) if they wish to evict the Sub-Tenant(s) on particular grounds. A copy of the notice to leave given to your landlord by the Head Landlord is attached to this notice to leave. Both notices will be given on the same day.

If you become the Tenant of the Let Property because of the Sub-Tenant protection, the sub-tenancy notice to leave can be treated as a notice to leave. This means that if you choose not to leave the Let Property as soon as your notice period ends, your Head Landlord can proceed straight to the Tribunal for eviction proceedings without having to give you another notice to leave.

**Part 1 – SUB-TENANT**

To:

«tenantNames»

Of:  
«address»

The Sub-Tenant(s) has lived in the property since: «entryDate»

**Part 2 – EVICTION GROUND(S) BEING USED**

«iOrWe» your «landlordsOrAgentDescrption»:

«landlordsOrAgentNamesAndAddresses»

Inform you that if you choose not to leave the Let Property on the date shown in Part 4 of this notice, «iOrWeInline» intend to apply to the Tribunal for an eviction order in respect of the Let Property on the following ground(s) which is a ground(s) for eviction as set out in schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

«LANDLORD\_TO\_SELL» Landlord intends to sell the Let Property (6 months)

«LENDER\_TO\_SELL» The Let Property is to be sold by the mortgage lender (6 months)

«LANDLORD\_TO\_REFURBISH» Landlord intends to refurbish the Let Property (6 months)

«LANDLORD\_TO\_LIVE» Landlord intends to live in the Let Property (3 months)

«LANDLORD\_FAMILY\_MEMBER\_TO\_LIVE» Landlord’s family member intends to live in the Let Property (3 months)

«LANDLORD\_NON\_RESIDENTIAL\_PURPOSE» Landlord intends to use the Let Property for a non-residential purpose (6 months)

«RELIGIOUS» The Let Property is required for a religious purpose (6 months)

«YOU\_CEASE\_TO\_BE\_EMPLOYEE» Tenant ceases to be - or fails to become - an employee (6 months)

«YOU\_NO\_LONGER\_NEED\_SUPPORTED\_ACC» Tenant no longer needs supported accommodation (6 months)

«LANDLORD\_REGISTRATION\_REVOKED» Landlord has had their registration refused or revoked (3 months)

«LANDLORD\_HMO\_REFUSED» Landlord’s HMO licence has been revoked or renewal has been refused (3 months)

«LANDLORD\_OVERCROWDING\_NOTICE» An Overcrowding statutory notice has been served on the Landlord (6 months)

**Part 3 – DETAILS AND EVIDENCE OF EVICTION GROUND(S)**

«iOrWe» also inform you that «iOrWeInline» «areOrAm» seeking eviction under the above ground(s) for the following reasons. (State particulars of how you believe the ground(s) have arisen – continue on additional sheets of paper if required. Please give as much detail as possible including whether the eviction ground stated relates directly to the Sub-Tenant or the Sub-Tenant’s landlord and any relevant dates.)

«reasonDetails»

*It is important that the Sub-Tenant fully understands why you are seeking to evict them and that the action you are taking is justified. The provision of supporting evidence with this notice will help do that and broaden their understanding on precisely why you are seeking to evict them.*

«iOrWe» attach the following evidence to support the eviction action:

«supportingEvidence»

**Part 4 – THE END OF THE NOTICE PERIOD**

An application will not be submitted to the Tribunal for an eviction order before «earliestTribunualDate». This is the earliest date that Tribunal proceedings can start and will be at least the day after the end date of the relevant notice period (28 days or 84 days depending on how long you have occupied the property).

Signed(«landlordsOrAgentDescrption»):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**THIS IS AN IMPORTANT DOCUMENT AND YOU SHOULD KEEP IT IN A SAFE PLACE.**

**GUIDANCE NOTES FOR SUB-TENANTS ON THE NOTICE TO LEAVE**

(These notes are for guidance only)

Your Head Landlord will use this notice to leave if you have a private residential tenancy, as set out in the Private Housing (Tenancies) (Scotland) Act 2016[[1]](#footnote-1) (the Act), and they want to evict you and your Landlord from the Let Property.

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**DELIVERY OF THIS NOTICE**

1. Your Head Landlord must take steps to ensure that you receive this notice as soon as possible. A notice is only valid if it is served on you by your Head Landlord in one of the following ways:

* by handing it to you
* by sending it to you recorded delivery post at the address of the Let Property
* by emailing it to your current email address (if you have previously agreed that email is your preferred contact method)

1. If your Head Landlord sends this notice to you by post or email, they must allow you 48 hours to receive it. This delivery time should be added on to the amount of notice your Head Landlord must give you. You can challenge the 48 hours’ delivery time, but you must give your Head Landlord evidence which shows the exact date you received this notice.
2. For example, if your Head Landlord sends this notice to you by recorded delivery post on 13 January, you would be expected to receive this notice on 15 January and the notice period will not start until 15 January.
3. If you have a joint sub-tenancy, all the joint Sub-Tenants must be named in Part 1 of this document or each Sub-Tenant must receive an individual copy of this notice.
4. Your Head Landlord can also ask a Sheriff Officer to serve this notice on you either personally or by putting it through the letterbox of the let property and providing either witness or photographic evidence of when this was done.

**SITUATIONS WHERE SUB-TENANT PROTECTION DOES NOT APPLY**

1. Section 46 of the Private Housing (Tenancies) (Scotland) Act 2016 says that, subject to section 47 of that Act, a lawful Sub-Tenant with a private residential tenancy will be protected from eviction when their Landlord’s tenancy has been brought to an end. The Sub-Tenant then becomes the Tenant under a new tenancy which has the same terms as the sub-tenancy.
2. Section 47 says that the Sub-Tenant protection provided by section 46 does not apply if the First-tier Tribunal for Scotland Housing and Property Chamber decides it should not apply for any reason, or if the tenancy of the person who was the Sub-Tenant’s Landlord was brought to an end by an eviction order issued on the basis of one of the following eviction grounds:

* landlord intends to sell the Let Property
* the Let Property is to be sold by the mortgage lender
* landlord intends to refurbish the Let Property
* landlord intends to live in the Let Property
* landlord’s family member intends to live in the Let Property
* landlord intends to use the Let Property for a non-residential purpose
* the Let Property is required for a religious purpose
* tenant ceases to be - or fails to become - an employee
* tenant no longer needs supported accommodation
* landlord has had their registration refused or revoked
* landlord’s HMO licence has been revoked or renewal has been refused
* An Overcrowding Statutory Notice has been served on the landlord.

1. You have received this Sub-Tenant’s notice to leave because the Head Landlord is using one of the eviction grounds listed above to evict your Landlord and wishes to evict you at the same time.
2. If you have become the Tenant of the Let Property (rather than the Sub-Tenant) because your Landlord has already left the Let Property following receipt of their notice to leave (a copy of that notice can be found in Annex 1), this notice will be treated as your notice to leave. This means that if you choose not to leave the Let Property as soon as your notice period ends, your Head Landlord can make an application to the Tribunal for an eviction order without having to serve you with any other notices.

**REQUIRED NOTICE PERIOD**

1. The amount of notice your Landlord must give you will depend on the eviction ground used. The notice period will either be 6 months or 3 months and is indicated next to the ground used in Part 2 of this form. Details of the amount of notice that your landlord must give you for each ground are detailed below:

Grounds that require 6 months’ notice

* Landlord intends to sell the Let Property
* The Let Property is to be sold by the mortgage lender
* Landlord intends to refurbish the Let Property
* Landlord intends to use the Let Property for a non-residential purpose
* The Let Property is required for a religious purpose
* Tenant ceases to be - or fails to become - an employee
* Tenant no longer needs supported accommodation
* An Overcrowding statutory notice has been served on the Landlord

Grounds that require 3 months’ notice

* + Landlord intends to live in the Let Property
  + Landlord’s family member intends to live in the Let Property
  + Landlord has had their registration refused or revoked
  + Landlord’s HMO licence has been revoked or renewal has been refused

**DETAILS AND EVIDENCE FOR EVICTION GROUND(S)**

1. Your Head Landlord should give you evidence to support the eviction, particularly if they are using one of the following eviction grounds:

* they intend to sell the Let Property
* they intend to refurbish the Let Property
* they intend to live in the Let Property
* their family member intends to live in the Let Property
* they intend to use the Let Property for a non-residential purpose.

1. If your Head Landlord applies to a Tribunal for an eviction order, the Tribunal will ask for this evidence when considering the application for an eviction order. The Tribunal must be satisfied that the eviction ground is established.

**THE END OF THE NOTICE PERIOD**

**WHAT HAPPENS AT THE END OF THE NOTICE PERIOD?**

1. The date given in Part 4 of this notice is the earliest date on which the Head Landlord can start eviction action at the Tribunal. From that date your Head Landlord is allowed to start Tribunal action at any time during the following six months. If your Head Landlord does not start Tribunal action in that six-month period they would have to serve another notice on you before they could start eviction action at the Tribunal.
2. If you wish to leave the Let Property without requiring your Head Landlord(s) to obtain an eviction order from the Tribunal, your tenancy will come to an end on the later of either the date shown in Part 4 above, or the day you cease to occupy the property.

**IF YOU CHOOSE NOT TO LEAVE AT THE END OF THE NOTICE PERIOD**

1. If you choose not to leave the Let Property at the end of your notice period then, before you must leave your home, your Head Landlord must have done 2 things:
   * Served on you a Sub-Tenant’s notice to leave (this notice) with the relevant notice period accompanied by a copy of the notice to leave served on your Landlord; and
   * Obtained an eviction order from the Tribunal.
2. If the Tribunal grants an eviction order to your Head Landlord, and you choose not to leave the Let Property by the date specified in that eviction order, your Head Landlord can instruct Sheriff Officers to serve a document called a “Charge for Removing” on you, which sets a date by which you must leave the Let Property. You will usually get 14 days’ notice. If you do not leave by this date, the Sheriff Officers will remove you after giving you a further 2 days’ notice.
3. Remember that you are liable to pay rent for the Let Property until the notice period expires or you cease to occupy the property, whichever is later. If your Head Landlord has given you notice to leave, and you wish to end your tenancy before the notice period expires, you may be able to end your tenancy early, but remember that this can only be done with your Head Landlord’s written agreement. If the Landlord does not agree, you will still have to pay rent for the Let Property until the end of the notice period, even if you have moved out. You should discuss this option with your landlord if this is something you would like to do. If you decide to stay on after the expiry of the notice period, you are liable to pay rent until the date set in the eviction order.

**WRONGFUL TERMINATION OF TENANCY**

1. If you leave your home once the notice period has ended, or through an eviction order issued by the Tribunal, and you are not satisfied that your Head Landlord genuinely wanted their property back under the eviction ground(s) outlined in Part 2, you can apply to the Tribunal for a wrongful termination order against your Head Landlord for a compensation amount not exceeding 6 months’ rent. More information about this, including how to apply to the Tribunal, is available on the Tribunal’s [website](https://www.housingandpropertychamber.scot/).

**GUIDANCE NOTES FOR HEAD LANDLORDS ON THE SUB-TENANT’S NOTICE TO LEAVE**

(These notes are for guidance only)

You will use this notice if your Sub-Tenant has a private residential tenancy, as set out in the Private Housing (Tenancies) (Scotland) Act 2016[[2]](#footnote-2) (the Act), and you want to evict them from the Let Property.

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**WHEN TO USE THIS NOTICE**

1. You may serve this notice on your Sub-Tenant only in the following circumstances:
2. Your Sub-Tenant has a private residential tenancy; and
3. You are seeking to secure repossession using one or more of the following eviction grounds (listed in schedule 3 of the Act):

* You intend to sell the Let Property
* Let Property to be sold by the mortgage lender
* You intend to refurbish the Let Property
* You intend to live in Let Property
* A family member intends to live in Let Property
* You intend to use the Let Property for non-residential purpose
* Let Property required for religious purpose
* Tenant not an employee
* Tenant no longer in need of supported accommodation
* You have been refused landlord registration or had your registration revoked
* Your HMO licence has been revoked or renewal has been refused
* An Overcrowding Statutory Notice has been served on you

**GIVING THE RIGHT AMOUNT OF NOTICE**

1. You must give your Sub-Tenant the relevant amount of notice. The notice periods are:
2. 28 days’ notice if the Sub-Tenant has been entitled to occupy the property for six months or less.
3. 84 days’ notice is required if the Sub-Tenant has been entitled to occupy the property for over six months
4. The notice period is calculated from the date the Sub-Tenant(s) receives this notice (See ‘HOW TO GIVE THIS NOTICE’ section which provides important information on delivery times)

**HOW TO COMPLETE THIS NOTICE**

1. As Head Landlord you should complete Parts 1 to 4 of this notice and attach a copy of the Notice to Leave served on your Tenant, i.e. the Sub-Tenant’s Landlord.
2. If your Sub-Tenant does not leave the Let Property by the date shown in Part 4, you will need to apply to the First-tier Tribunal for Scotland Housing and Property Chamber[[3]](#footnote-3) to obtain an eviction order for their removal. The Tribunal will ask you to provide evidence to support the eviction ground(s) you are using to evict your tenant. It is advisable to include copies of any evidence along with this notice, to satisfy your Sub-Tenant that the eviction ground you are using is valid. This may encourage them to move out at the end of the notice period without you having to refer the case to the Tribunal.
3. If you end a tenancy or evict a Sub-Tenant wrongfully, by using an eviction ground which does not apply to the Let Property or the Tenant and/or Sub-Tenant in question, the Sub-Tenant(s) can refer the case to the Tribunal and you may be required to pay a compensation amount up to the amount of 6 months’ rent.

See ‘HOW TO GIVE THIS NOTICE’ section which provides important information on delivery times.

**HOW TO GIVE THIS NOTICE**

1. After you sign and date the notice to leave form you must take steps to ensure your Sub-Tenant receives it as soon as possible. This notice must be served by you on the Sub-Tenant in one (or more) of the following ways:
   * 1. by handing it to them
     2. by sending it to them recorded delivery post at the address of the Let Property
     3. by emailing it to them at their current email address (if they have previously agreed with their Landlord that email is their preferred contact method).
2. Section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010 applies, which means that unless delivered personally, you must allow your Sub-Tenant 48 hours to receive this notice. This delivery time should be added in to the amount of notice you give your Sub-Tenant. Your Sub-Tenant can challenge the 48 hour delivery time, but they must give evidence which shows the exact date they received this notice
3. For example, if you are required to give your Sub-Tenant 28 days’ notice and you send the notice to leave by recorded delivery post on 23 January, your Sub-Tenant will be expected to receive the notice on 25 January. The 28 days' notice period will start on 25 January and end on 21 February. If your Sub-Tenant chooses not to leave the Let Property following the expiry of the notice period, the earliest date that you can submit an application to the Tribunal for an eviction order is 22 February.
4. If you have joint Sub-Tenants, all the Sub-Tenants must be named in Part 1 of this document or each Sub-Tenant must receive an individual copy of this notice.
5. You can also ask a Sheriff Officer to serve this notice on your Sub-tenant(s) either personally or by putting it through the letterbox of the let property and providing either witness or photographic evidence of when this was done.

**THE END OF THE NOTICE PERIOD**

**WHAT HAPPENS AT THE END OF THE NOTICE PERIOD?**

12. If the Sub-Tenant chooses to leave the Let Property without requiring you to obtain an eviction order from the Tribunal, their tenancy will come to an end on the later of either the date shown in Part 4 of the notice, or the day they cease to occupy the property.

13. If the Sub-Tenant wishes to end their tenancy before the notice period expires, this can only be done with your written agreement.

14. If the Sub-Tenant chooses not to leave the Let Property at the end of their notice period then, before they have to leave, you must have done two things:

* Served on them a Sub-Tenant’s notice to leave (the notice which these notes refer to) with the relevant notice period accompanied by a copy of the notice to leave served on your Tenant (i.e. the Sub-Tenant’s Landlord); and
* Obtained an eviction order from the Tribunal

**IF THE SUB-TENANT CHOOSES NOT TO LEAVE AT THE END OF THE NOTICE PERIOD**

15. The date given in Part 4 of the notice is the earliest date that you can start eviction action at the Tribunal. From that date, you can start Tribunal action at any time during the following six months. If you do not start Tribunal action in that six-month period, you would have to serve another notice to leave on your Sub-Tenant before you could start eviction action at the Tribunal.

16. If the Tribunal grants an eviction order, and the Sub-Tenant chooses not to leave the Let Property by the date specified in that eviction order, a Head Landlord can instruct Sheriff Officers to serve a “Charge for Removing” on their Sub-Tenant, which sets a date by which the Sub-Tenant must leave the Let Property. If the Sub-Tenant does not leave by this date, the Sheriff Officers will remove them after giving them a further two days’ notice.

**FURTHER GUIDANCE**

1. **Advice** - 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
* the Scottish Association of Landlords (a membership organisation)

1. <http://www.legislation.gov.uk/asp/2016/19/contents/enacted> [↑](#footnote-ref-1)
2. <http://www.legislation.gov.uk/asp/2016/19/contents/enacted> [↑](#footnote-ref-2)
3. <https://www.housingandpropertychamber.scot/> [↑](#footnote-ref-3)