

## **Assured Tenancy Agreements**

Assured tenancies were created by the Housing Act 1988 and are the most secure form of tenancy available to tenants of private landlords. They provide long-term security of tenure whereby the landlord can only regain possession on limited/specified grounds (see below).

Prior to 28 February 1997 all residential tenancies under the Housing Act 1988 were automatically assured tenancies unless the landlord served notice on the tenant prior to the start of the tenancy informing them that the tenancy was to be an assured shorthold tenancy. From 28 February 1997 the situation was reversed, with the tenancy automatically being an assured shorthold tenancy unless it continued an earlier assured tenancy, was one of a small number of exceptions or the landlord served notice that it was to be an assured tenancy.

The tenancy must grant exclusive occupation of the dwelling as a separate dwelling (i.e. possession cannot be shared with the landlord), any tenant must be an individual/s (so company lettings are excluded) and the property must be occupied as the tenant's principal home.

Certain tenancies are excluded from the definition of an assured tenancy, including:

- Premises with a high rateable value or high rent;
- Tenancies at a low rent;
- Tenancies of business premises;
- Tenancies of licensed premises;
- Tenancies of agricultural land or holdings;
- Student lettings by educational institutions;
- Holiday lettings;
- Crown tenancies; and
- Local authority tenancies.

Residential tenants and most residential licencees are covered by the Protection from Eviction Act 1977. This makes it an offence to unlawfully evict a tenant. The tenant would also be entitled to sue for unlawful eviction. Lodgers who share the property with the landlord are excluded from the Act. This means it's vital for a landlord to follow the law in order to recover possession of the property.

## **Recovering Possession**

Possession on an assured tenancy can only be sought if the tenant has breached the tenancy agreement and/or the landlord served notice on the tenant before the tenancy began. A Section 8 notice will need to be served on the tenant in order to gain possession. This relies on a ground or grounds for possession being given by the landlord. There are 17 grounds in total. Grounds 1-8 are mandatory grounds in

other words the court must give possession to a landlord if they are met and grounds 9-17 are down to the discretion of the court. The most common ground used in Court is rent arrears (Ground 8), others include damage to the property, anti-social behaviour and using the property for illegal purposes.

The landlord must serve notice seeking possession of the property on the tenant before starting court proceedings. A landlord must give the tenant the following amount of notice:

- Grounds 1,2,5,6,7,9 and 16 - 2 months notice
- Grounds 3,4,8,10,11,12,13,15 & 17 - 2 weeks notice
- Ground 14 –On service

## **Mandatory Grounds**

### **Ground 1 - the Landlord Residence Ground**

If the property was the landlord's only or principal home before the tenancy began or it is needed to live in as their or their spouse's only or principal home. A new landlord who bought the property during the tenancy cannot rely on this ground.

### **Ground 2 - the Mortgage Ground**

Where the rental property is subject to a mortgage, which was granted before the tenancy started and the mortgage lender wants to sell it in vacant possession, normally to pay off mortgage arrears.

### **Ground 3 - the Holiday Let Ground**

The tenancy is for a fixed term of not more than 8 months and at some time during the 12 months before the tenancy started, the property was let for a holiday.

### **Ground 4 - the Student Letting Ground**

Allows a landlord, which is an educational institution, such as a university or college, to recover possession where the tenancy is a fixed term tenancy of not more than twelve months and during the twelve months prior to the tenancy the property was let to a student.

### **Ground 5 - the Religious Use Ground**

The property is held for use by a minister of religion and he/she now requires the property to live in as a residence from which to perform their duties.

### **Ground 6 - the Redevelopment/Renovation Ground**

When a landlord intends to demolish or redevelop the whole or a substantial part of the property and cannot do so with the tenant living there. This ground cannot be used when the landlord (or someone before them) bought the property with an existing tenant, or where the work does not require the tenant to move out. If a possession Order is made the landlord must pay the tenant's reasonable moving expenses.

### **Ground 7 – the Inheritance Ground**

The former tenant, who must have had a contractual periodic tenancy or statutory periodic tenancy, has died in the 12 months before possession proceedings started and there is no one living there who has a right to succeed to the tenancy.

### **Ground 8 – the Arrears Ground**

The tenant must owe at least 2 months rent if the tenancy is on a monthly basis, 8 weeks rent if it's on a weekly basis, or 3 months rent more than 3 months in arrears if on a quarterly basis, both when the landlord gave notice seeking possession and at

the date of the court hearing.

## **Discretionary grounds**

### **Ground 9 – the Alternative Accommodation Ground**

There is suitable alternative accommodation available for the tenant, or will be when the court order takes effect. When considering if the accommodation is suitable, the Court would need to be satisfied the new property is of a similar type and price, give the same type of tenancy and would be equally convenient to the tenant's place of work. Where possession is ordered the landlord also has to pay the tenant's moving costs.

### **Ground 10 – the Poor Payer Ground**

The tenant is behind with their rent, both when the landlord serves notice seeking possession and when court proceedings begin.

### **Ground 11 – the Late Payer Ground**

The tenant is persistently late in paying the rent. This is usually relied on as a back up to grounds 8 and 10. There do not have to be arrears at the time of service of any notice, commencement of proceedings or the possession hearing as long as it can be established that the tenant has either failed to pay rent for an extended period or has been persistently late in paying rent.

### **Ground 12 – the General Breach Ground**

The tenant has breached any of the terms of the tenancy agreement except the obligation to pay rent. As long as the agreement has been breached the Court can Order possession even if it has been rectified by the time of the possession hearing.

### **Ground 13 - the Tenant Damage Ground**

The tenant has failed to look after, or has damaged the property or any common parts. This includes damage caused by anyone staying with tenant and would include damage caused in shared external hallways etc.

### **Ground 14 - the Bad Behaviour Ground**

The tenant or a person staying with or visiting them, causes or is likely to cause a nuisance to someone either living in or visiting the locality. Or they have been convicted of using the property for illegal or immoral purposes or have committed an arrestable offence in or near the property.

### **Ground 14A - the Domestic Violence Ground**

When tenants are a married couple, civil partners or co-habitees and one of them leaves permanently because of domestic violence or the threat of domestic violence by the other towards them or any of their family living with them. This ground can only be used by landlords who are non-profit registered providers of social housing, registered social landlords or charitable housing trusts. Other landlords should use ground 12 or ground 14.

### **Ground 15 - the Furniture Damage Ground**

Furniture in the property provided by the landlord as part of the tenancy, has been damaged by the tenant or any person staying with them.

### **Ground 16 - the Former Employee Ground**

The property was let to an employee of the landlord, or a former landlord, and then ceases to be an employee of the landlord.

### **Ground 17 - the Lying Tenant Ground**

The tenant gives a false statement to induce the landlord to enter into the tenancy or encourages someone else to do so. It is necessary to prove inducement, so the most obvious example would be where the tenant encouraged someone to give a false reference for them.

### **Which Grounds should be listed?**

It would be wise for a landlord to list all the grounds applicable, as the situation could change by the time the case is heard in Court and having more evidence will make the case stronger. However, if landlords refuse to take payments from tenants or accept any other positive changes to the situation, the court will take that into consideration.

If a possession order is granted, the tenant must leave the property on the date given, which in some circumstances can be immediately. If they fail to do so the landlord can send in bailiffs to evict the tenants.