

# Succeeding to a Scottish secure tenancy



the **MORAY** council

[www.moray.gov.uk](http://www.moray.gov.uk)

# **Succeeding to a Scottish secure tenancy**

What is succession?	3
How do I take over a tenancy through succession?	3
The three levels of priority	4
What is a main home?	6
What if I am already a joint tenant?	6
What if there has already been one succession?	7
Are there any other restrictions to taking over a tenancy?	8
Can my partner take over the tenancy if I die and if we are not married?	8
Can I put down in my will who I want to take over the tenancy when I die?	8

What happens if there is more than one person who qualifies to take over the tenancy?	9
What if someone living in my home does not want to take over the tenancy after I die?	9
What if someone living in my home does not qualify? What rights do they have to take over my tenancy?	9
When the tenancy is handed over, does the right to buy pass on as well?	10
How do I apply to succeed to the tenancy?	11
What if I am not satisfied with your decision?	11
Access points	13

This leaflet gives you information about:

- who can succeed to a tenancy with us; and
- what the procedure is.

## **What is succession?**

Succession is a right to pass on your tenancy to another member of your household. This right only applies to people in Scotland who have a secure tenancy. (A secure tenancy is when you can stay in your home for as long as you want, as long as you keep to the conditions of your tenancy agreement.) The person taking over the tenancy 'succeeds' to the tenancy.

## **How do I take over a tenancy through succession?**

Succession normally happens when the secure tenant dies. Only certain people can take over a tenancy when a tenant dies. These people are grouped into three levels of priority. If more than one person could qualify to take over the tenancy, we use the levels of priority to help us decide who should take it over.

## The three levels of priority

<b>First priority</b>	<p>You have first priority if you are:</p> <ul style="list-style-type: none"><li>• a joint tenant;</li><li>• the wife, husband or civil partner of the tenant who died, and you were living in their home as your only or main home when they died (a civil partner is somebody who has entered into a formal arrangement (known as a civil partnership) which gives same-sex couples similar rights to married couples); or</li><li>• a partner (of the opposite or same sex) of the tenant who died, if you had been living in their home as your only or main home for at least six months before the tenant died.</li></ul>
---------------------------	---

<p><b>Second priority</b></p>	<p>You have second priority if you are a member of the tenant’s family and you:</p> <ul style="list-style-type: none"> <li>• are 16 or over; and</li> <li>• were living in the home as your only or main home when the tenant died.</li> </ul>
<p><b>Third priority</b></p>	<p>You have third priority if you are a carer who is providing, or has provided, care for the tenant or a member of the tenant’s family.</p> <p>You must:</p> <ul style="list-style-type: none"> <li>• be 16 or over;</li> <li>• have been living in the home as your only or main home when the tenant died; and</li> <li>• have given up your only or main home to live with the tenant.</li> </ul>

You can pick up a ‘Succession’ application form from your local access point or print one from our website, [www.moray.gov.uk](http://www.moray.gov.uk).

## **What is a main home?**

Your main home is somewhere you have a major connection with. It does not mean you must live there all of the time. If you spend periods of time away from the home, it may still be your only or main home. For example, if you are a student living in halls of residence, your parent's home may still be seen as your main home even if you are temporarily away from it, as long as you plan to return there.

## **What if I am already a joint tenant?**

If you are a joint tenant, the tenancy does not end when one joint tenant dies if you or any other tenant continues to live in the home. You will have to continue paying rent and any missed rent payments or other debt relating to housing, such as the cost of repairs.

## **What if there has already been one succession?**

Under the Housing (Scotland) Act 2001, a tenancy can only be handed on twice through the right of succession.

### **Example**

Mr Brown and his wife moved into a house 10 years ago. Mr Brown had a sole Scottish secure tenancy. Sadly, he was taken ill and died a few years later. The tenancy passed to his wife (this was the first succession). Mrs Brown's daughter and grandson moved in with her and had been living with her for several years when she died. The tenancy passed to her daughter (this was second succession). Mrs Brown's daughter can now live in the house for as long as she wants, but she will not be able to hand on the tenancy if she dies.

If you would have been able to take over the tenancy but you can't because there have already been two successions, you will be allowed to stay in the property for up to six months after the date the tenant dies. This is to allow you time to find somewhere else to live. We will also help you find somewhere to live. While you continue living in the home, you will have to pay rent.

## **Are there any other restrictions to taking over a tenancy?**

If a house or flat has been designed or adapted for someone with special needs to use, it can only be handed on to a husband, wife, civil partner, joint tenant or partner. It cannot be passed to members of their family or carers unless they have special needs. If they do not, they have the right to be offered another suitable home.

## **Can my partner take over the tenancy if I die and if we are not married?**

If you and your partner have lived together in your home for at least six months, they will be able to take over your tenancy. Your home must be your partner's only or main home.

## **Can I put down in my will who I want to take over the tenancy when I die?**

No. The law says who has the right to take over your tenancy if you die.

## **What happens if there is more than one person who qualifies to take over the tenancy?**

By law, if more than one person qualifies for the tenancy, they have four weeks from the date you die (or the date we tell them they may qualify, if this is later) to decide between themselves who will take over. If they do not reach a decision within this timescale, we will decide for them. Our decision will be final.

## **What if someone living in my home does not want to take over the tenancy after I die?**

If someone living in your home qualifies to take over your tenancy but chooses not to, they must give us four weeks' notice in writing and leave the home within three months.

## **What if someone living in my home does not qualify? What rights do they have to take over my tenancy?**

If someone living in your home does not qualify to take over your tenancy (for example, a lodger or subtenant), they will have to leave your home if you die.

## **When the tenancy is handed over, does the right to buy pass on as well?**

Yes, but some of the conditions of sale may be different.

- If you qualify to take over the tenancy under the first priority, you will inherit the tenant's right to buy their home. This means that if you apply to buy your home, this will be on the same terms that the tenant who died had. Please contact us for more information.
- If you qualify under the second or third priority, your right to buy will be based on the 'modernised' right to buy. This means that you will have to live in the home for five years before you can apply to buy it, and you will qualify for a discount of up to £15,000 (or 35% of the price you would have to pay for it on the open market), whichever is lowest.
- If you qualify under the second or third priority and the tenancy you are taking over is in an area which has 'pressured area status', you will temporarily lose the right to buy your home. The Scottish Government gives 'pressured area status' to areas where there are not enough affordable homes and the problem would be made worse by allowing people to use their right to buy. Please contact us for more information.

## **How do I apply to succeed to the tenancy?**

If you want to apply to take over a tenancy, you should get a form from your area access point, fill it in and send it back to us. We will ask you to give us other information for example, proof that the house or flat was your main home at the time the tenant died. We will write back to you within one month, telling you whether you can take over the tenancy.

## **What if I am not satisfied with your decision?**

Unlike other tenants' rights, the Housing (Scotland) Act 2001 does not give you the right to appeal to the sheriff court if we refuse your application for succession. However, we have our own appeals system.

If we refuse your application to succeed, you can ask for the Housing Services Manager to review our decision.

Please write to:

Housing Services Manager

The Moray Council

Council Offices

High Street

Elgin

IV30 1BX.

He will respond to you within 28 days of receiving your request.

If you do not agree with our decision, you can have the decision reviewed by a panel of people who were not involved with the original decision. For more information, please contact your local access point.

## Moray Council Access Points

<p>Buckie Access Point Environmental Services 13 Cluny Square Buckie</p> <p> <a href="mailto:housing@moray.gov.uk">housing@moray.gov.uk</a></p> <p> Phone: 0300 123 4566</p>	<p>Elgin Access Point Environmental Services Council Office High Street Elgin</p> <p> <a href="mailto:housing@moray.gov.uk">housing@moray.gov.uk</a></p> <p> Phone: 0300 123 4566</p>
<p>Forres Access Point Environmental Services Auchernack High Street Forres</p> <p> <a href="mailto:housing@moray.gov.uk">housing@moray.gov.uk</a></p> <p> Phone: 0300 123 4566</p>	<p>Keith Access Point Environmental Services The Institute Mid Street Keith</p> <p> <a href="mailto:housing@moray.gov.uk">housing@moray.gov.uk</a></p> <p> Phone: 0300 123 4566</p>

Please tell us if you need us to translate this document into your language, or if you would like a copy in **large print**, Braille or on audio tape.

# Notes

For alternative formats, languages or further information, please ask an English speaking friend or relative to:

Phone: 01343 563319  
Email: [equalopportunities@moray.gov.uk](mailto:equalopportunities@moray.gov.uk)  
Write to: Project Officer (Equal Opportunities)  
Chief Executive's Office  
High Street  
Elgin  
IV30 1BX

如要索取其他的版式、各種語文的翻譯本，或需要更詳細的資訊，請叫一位會說英語的朋友或親屬與我們聯繫：

電話： 01343 563319  
電郵： [equalopportunities@moray.gov.uk](mailto:equalopportunities@moray.gov.uk)  
信件郵寄地址： 計劃主任(平等機會)  
Project Officer (Equal Opportunities)  
Chief Executive's Office  
High Street  
Elgin  
IV30 1BX

Jeżeli chcieliby Państwo otrzymać informacje w innym formacie, języku lub dodatkowe informacje, mówiący po angielsku znajomy lub członek rodziny może do nas:

Zadzwoń na numer: 01343 563319  
Wysłać mail: [equalopportunities@moray.gov.uk](mailto:equalopportunities@moray.gov.uk)  
Adres korespondencyjny: Project Officer (Equal Opportunities)  
(Urzędnik ds. Jednakowego Traktowania  
Mniejszości Narodowych)  
Chief Executive's Office  
High Street  
Elgin  
IV30 1BX

Para outros formatos, idiomas ou para obter mais informações, peça para um amigo ou parente que fale a língua inglesa entrar em contato conosco:

Telefone: 01343 563319  
Email: [equalopportunities@moray.gov.uk](mailto:equalopportunities@moray.gov.uk)  
Endereço: Project Officer (Equal Opportunities)  
Chief Executive's Office  
High Street  
Elgin  
IV30 1BX

# Notes

Crystal  
Mark  
15721



Clarity approved by  
Plain English Campaign