



# Assured Shorthold Tenancy Agreement Guide

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## What is this document for?

- ▶ This document will help ensure that all parties understand the terms within the Tenancy Agreement.
- ▶ The landlord should provide a copy of these guidance notes to the tenant along with the Tenancy Agreement.
- ▶ Whilst we attempt to explain the important points within the Tenancy Agreement you should seek independent legal advice for further guidance.
- ▶ The Tenancy Agreement is tailored for longer tenancies, providing stability for both parties.
- ▶ We recommend a tenancy length of 12 months. However, for longer tenancies, there are break clauses allowing either party to end the agreement early under certain conditions.
- ▶ The Tenancy Agreement is specifically designed for use when a private landlord and tenant are entering into a fixed term Assured Shorthold Tenancy for a privately rented property in England.

- ▶ Assured Shorthold Tenancies are currently the standard type of Tenancy Agreement in England for a privately rented property.
- ▶ The Tenancy Agreement template should not be used for:
  - Company lets, where the tenant is a business.
  - Properties let for holidays.
  - Social housing.
  - Where the property is not the tenant's main and principal home in England or Wales.
  - Where the rent exceeds £100,000 pa.
  - Commercial properties.
  - Lodgers living with the landlord.
  - Rooms in shared houses.

## Before signing the Tenancy Agreement

- ▶ Complete references on the tenant to include:
  - Identity verification
  - Credit check
  - Financial/employment
  - Landlord reference or homeowner status.
- ▶ It's important to confirm that all individuals aged 18 and above who will be residing in the property, regardless of whether they are named in the tenancy agreement, are using it as their only or primary residence.
- ▶ Landlords are required to ensure that all adult occupants have the legal right to rent property in the UK by carrying out Right to Rent checks. See Ello's Right to Rent Guide.
- ▶ Carefully read through the Tenancy Agreement to ensure that you fully understand and agree with its terms.
- ▶ If you are unsure then we recommend seeking independent legal advice.
- ▶ There are clauses in this Tenancy Agreement which need to be agreed specifically between the parties.

## Section A: Definitions and Interpretation

- ▶ This section of the agreement establishes specific terms that are applicable throughout the document. The definition of 'Landlord' clarifies that if, for instance, the landlord(s) named in section B1.1 of this agreement sells the Property while the tenancy is active, all the obligations and rights outlined in this agreement are transferred to the new landlord. By law, the new landlord is obligated to inform the tenant of their contact details.
- ▶ This provision ensures continuity of the tenancy agreement in the event of a change in ownership of the property. It also provides transparency to the tenant regarding who they should contact and interact with regarding the tenancy.

## Section B: Main Terms of the Agreement

- ▶ This section of the agreement outlines the specific terms that are unique to this particular agreement.
- ▶ This section contains the specific details and conditions that will directly impact the landlord and tenant throughout the tenancy.

## Mortgages Properties

- ▶ Clause B3.4 of the agreement requires the landlord to disclose whether the property is subject to a mortgage. Landlords are obligated to obtain consent from their mortgage provider before renting out the property. If the landlord has mortgaged the property and fails to comply with the mortgage conditions (such as missing mortgage payments), the mortgage provider may have the right to receive rent directly from the tenant. This can be done through the appointment of a receiver of rents or by repossessing the property from the landlord.
- ▶ In cases where the mortgage provider exercises this right, they may prefer to have the property vacant for sale. Therefore, the receiver or mortgage provider may, under certain circumstances, request the tenant to vacate the property before the end of the fixed term. This is outlined in ground 2 of schedule 2 to the Housing Act 1988 (referred to in clause E1), as well as in clause F4 which describes a break clause in situations where the landlord is in mortgage arrears and a receiver has been appointed.

## The Term

- ▶ Clause B4.1 of the agreement specifies the start and end dates of the tenancy. This period is referred to as 'the term' of the tenancy. This clause also explains that the landlord has the right to end the tenancy early if one of the statutory grounds (reasons) applies, as outlined in section E of the agreement. Additionally, for tenancies lasting two years or more, section F of the agreement includes break clauses. These clauses allow the tenant, and the landlord, to terminate the tenancy early under certain circumstances.
- ▶ It's important to note that landlords and tenants can also mutually agree to end the tenancy early. This is known as 'surrendering the tenancy'. Surrendering the tenancy involves both parties consenting to terminate the tenancy before the agreed end date. This provision offers flexibility in case circumstances change for either party during the tenancy.



## Expiry of Fixed Term

- ▶ Clause B4.2 states that if the landlord and tenant do not enter into a new tenancy at the end of the fixed term, a statutory periodic tenancy will automatically come into effect. This clause simply reflects what the law stipulates when the fixed term of a tenancy ends, but the tenant continues to occupy the property without signing a new agreement with the landlord.
- ▶ A statutory periodic tenancy operates on a month-to-month or week-to-week basis, depending on the frequency of rent payments. Most clauses outlined in this agreement, such as the tenant's and landlord's obligations, will generally remain the same under the statutory periodic tenancy. However, the landlord has the ability to increase the rent and potentially change other terms in the agreement by following the appropriate legal procedures.

## Termination by the Landlord at the end of the Fixed Term

- ▶ Landlords and tenants should discuss plans well before the fixed term ends.
- ▶ Landlords must give proper notice under section 21 of the Housing Act 1988 if they want the tenant to leave.
- ▶ Landlords must use Form 6a for section 21 notices (except for certain cases)
- ▶ Clause B5.2 reminds landlords who previously lived in the property to give tenants notice before the agreement. This is necessary for possession at the end of the fixed term (ground 1 of Schedule 2 to the Housing Act 1988).
- ▶ If the tenant doesn't leave after the notice period, landlords must apply to court for a possession order.
- ▶ Only a court-appointed bailiff can legally evict a tenant.
- ▶ These steps ensure a fair process for both parties when ending a tenancy. Understanding these procedures is crucial for landlords and tenants alike.

## The Rent

- ▶ Tenancies of less than two years: If the landlord and tenant have agreed a fixed term of less than two years then it is recommended that you fix the rent for the whole of the term. You should fill in option 1 only.
- ▶ Tenancies of two or more years: If the landlord and tenant have agreed a tenancy of two or more years then you need to agree whether the rent will stay the same for the whole term or whether the landlord can choose to increase it each year.
- ▶ If you agree that the rent should stay the same for the whole term then you need to use option 1. If you agree that the landlord should be able to increase the rent each year then you need to agree whether this should be by way of a fixed percentage increase each year - option 2 - or by the annual change in the consumer price index (“CPI”) - option 3. **You should only fill in the option that you have chosen.**
- ▶ The Tenant Fees Act 2019 prohibits landlords from changing the rent on a month-to-month basis, except for permanent changes such as agreed rent increases in line with contractual provisions.
- ▶ Any adjustments to rent must be agreed upon by both parties and follow the relevant legal and contractual procedures.

## Occupiers

- ▶ B2.1 Permits tenants to live in the property with children or dependents who are under 18 at the start of the tenancy.
- ▶ If there are other adults (such as adult children or other adult dependents) living in the property (but not named as tenants), Right to Rent checks must be conducted before the tenancy starts. Their names should also be included in the agreement.
- ▶ B2.2 states that the tenant must seek the landlord's permission if they want additional people to move in, such as a lodger.
- ▶ A lodger is someone who doesn't have exclusive possession of any part of the property and therefore has a license to occupy, not a tenancy.
- ▶ If the tenant grants exclusive possession of part of the property to another person for any duration during the tenancy, this is considered subletting, requiring the landlord's consent (see clause C7).
- ▶ If the tenant plans to share the property with a lodger who will use it as their only or main home, a Right to Rent check must be conducted.
- ▶ In such cases, the tenant and landlord should agree in writing who will be responsible for carrying out the Right to Rent check.

## Tenant Deposit Protection

- ▶ According to the Housing Act 2004, landlords must protect the deposit with a Government-approved scheme and provide certain information to the tenant within 30 calendar days of receiving the deposit. Failure to comply with this requirement can result in penalties.
- ▶ The Tenant Fees Act 2019 sets limits on refundable tenancy deposits charged by landlords. The deposit cannot exceed 5 weeks' rent if the total annual rent is less than £50,000, or 6 weeks' rent if the total annual rent is £50,000 or more
- ▶ These regulations are designed to protect tenants and ensure fair practices in the rental sector. It's important for landlords to comply with these requirements to avoid penalties and maintain a transparent and lawful tenancy agreement.

## Business Use

- ▶ Clause C3.2 permits tenants to conduct a home business from the property with the landlord's written consent. It's important to note that this doesn't apply to everyday home-working.
- ▶ Sections 35 and 36 of the Small Business, Enterprise, and Employment Act 2015, effective from October 1, 2015, introduce the concept of a 'home business tenancy.' This allows landlords to permit residential tenants to run a home business without the tenancy falling under the protection of Part 2 of the Landlord and Tenant Act 1954, as long as no other business is conducted from home.
- ▶ A home business is one that can reasonably be carried out at home. Examples include an internet business, financial consultancy, advertising copywriting, or translation service.
- ▶ If the tenant wishes to run a business from home and the landlord denies consent, written reasons must be provided. These reasons must be reasonable. The main reasons a landlord may withhold consent include:
  - The business use would cause a nuisance to neighbours.
  - It might result in significantly more wear and tear on the property.
  - The proposed business use might lead to a business tenancy.

## Pets

- ▶ Landlords are prohibited from imposing a blanket ban on pets. Responsible pet owners understand their obligations to ensure their pet does not create a nuisance for neighbours or cause undue damage to the property.
- ▶ Landlords should consider written requests from responsible tenants with pets. A request can only be declined in writing within 28 days if there are valid reasons, such as large pets in small properties or flats where having a pet might be impractical.
- ▶ Landlord consent for pets is the default position unless specified otherwise in writing by the landlord.
- ▶ If consent is given on the condition of an additional deposit, the total deposit must not exceed the cap set by the Tenant Fees Act 2019. This additional deposit must also be protected in an authorized tenancy deposit scheme.
- ▶ This clause ensures a balanced approach, where responsible pet owners have the opportunity to keep pets with proper consideration for the property and neighbours. It also establishes clear guidelines for landlords on handling pet requests and associated deposits within legal limits.

## Tenant's obligation to take reasonable care of the property

- ▶ Tenants have a legal duty to avoid or repair wilful or negligent damage caused by themselves, their family members, or guests. They are also responsible for minor tasks necessary to keep the property in a reasonable state. This includes tasks like changing light bulbs, unblocking sinks (if caused by tenant's waste), and other minor maintenance jobs that a reasonable tenant would typically do. This duty is known as behaving in a "tenant-like manner."
- ▶ Clause C4.1 outlines specific tasks that are particularly important for tenants to perform in order to prevent property damage:
  - Keeping the property clean and in a good state of repair.
  - Ensuring proper ventilation to prevent condensation and mould.
  - Taking care of the garden (if applicable) and keeping it tidy.
  - Promptly reporting any maintenance issues or potential hazards to the landlord.
- ▶ These responsibilities help maintain the property's condition and ensure a safe and habitable environment for both tenants and landlords. It's important for tenants to fulfil these duties to uphold their obligations under the tenancy agreement.



## Alterations to the property and redecoration

- ▶ Tenants are prohibited from making alterations or carrying out redecorations in the property without the landlord's permission. This permission cannot be unreasonably withheld.
- ▶ The landlord can grant permission with reasonable conditions. For instance, for minor alterations like putting up a shelf, a refusal would generally be considered unreasonable.
- ▶ If the tenant fails to comply with the agreed conditions, the landlord may have the right to withhold funds from the deposit to cover the cost of restoration.
- ▶ Examples of Conditions:
  - The tenant must restore the property to its original condition (e.g., removing the shelf and filling holes) before the end of the tenancy.
  - Requiring the original decoration scheme to be reinstated.

## Tenant's liability for cost of repairs

- ▶ Clause C4.4 permits the landlord to recover reasonable costs incurred for repairs that result from the misuse of the property. This includes deliberate or negligent damage caused by the tenant, their household members, or visitors.
- ▶ If damage to the property occurs due to misuse, such as intentional or careless actions by the tenant or their guests, the landlord may charge the tenant for the repair costs.
- ▶ The Tenant Fees Act 2019 does not prevent tenants from being held liable for damages they cause.
- ▶ This clause ensures that tenants are responsible for maintaining the property in a reasonable condition and are liable for any damages resulting from misuse or negligence.

## Emergency access by the Landlord

- ▶ An emergency would include something which, if not dealt with by the landlord immediately, would put at imminent risk the health and safety of the tenant or members of his household or other persons residing in the vicinity. It does not apply to carrying out routine repairs.

## Subletting

- ▶ Clause C7 prohibits the tenant from subletting the entire property for the entire duration of the tenancy.
- ▶ If the tenant wishes to sublet the entire property for shorter periods or part of the property, they must obtain the landlord's written consent.
- ▶ If consent for subletting is given with the condition of an additional deposit, the landlord must protect this additional deposit in an authorized tenancy deposit scheme.
- ▶ Before agreeing to sublet, the tenant should verify the prospective sub-tenant's identity, credit history, and possibly employment status. If the property is to be used as the sub-tenant's primary residence, the tenant must also ensure that all individuals aged 18 and over living in the property have the right to rent in the UK (unless agreed in writing that the superior landlord will handle this responsibility).
- ▶ This clause ensures that subletting is done with proper consideration and permission, protecting both the property and the tenant's rights under the tenancy agreement. It outlines the landlord's considerations for granting consent and the tenant's responsibilities when seeking to sublet the property.

## Landlord's repairing obligations

- ▶ The landlord's repairing obligations are outlined in section 11 of the Landlord and Tenant Act 1985.
- ▶ Section 11 makes the landlord responsible for repairing (not improving) the structure and exterior of the property, including walls, roof, steps, and windows.
- ▶ Repairs must be carried out within a reasonable time after the landlord is notified or becomes aware of the need for repair.
- ▶ The landlord is not obligated to rebuild the property if it is destroyed, nor to make repairs for damages caused by the tenant's failure to take reasonable care of the property (see clause C4.1).
- ▶ When determining the required standard of repair, factors such as the age, character, prospective life of the property, and its location must be considered as per section 11.
- ▶ These obligations ensure that the property remains in a safe and habitable condition for the tenant's occupancy. It is important for landlords to promptly address repair issues and maintain the property according to legal standards.

## Landlord's repairing obligations continued

- ▶ If the property forms part of a building and the landlord retains control of other parts of the building, the landlord is under a legal obligation to take reasonable care to keep the parts retained in repair so as to prevent injury to the tenant or damage to the property.
- ▶ Under this agreement (see clause D3.3 below), the landlord is also responsible for keeping in repair any appliances which are supplied by the landlord and listed on the inventory.
- ▶ In addition to these contractual obligations, if the property contains hazards or is otherwise unsafe or unhealthy the landlord may also be required to carry out works to the property under other legislation; for instance, the housing health and safety rating system in Part 1 of the Housing Act 2004.

## Tenant's right to quiet enjoyment

- ▶ The right to 'quiet enjoyment' ensures that the tenant has the right to live in the property without interference from the landlord or anyone else. This means the tenant can consider the property their home.
- ▶ The landlord cannot make unannounced visits to the property and must adhere to the terms of this agreement and the law when interacting with the tenant.
- ▶ Even when the landlord or their agents provide notice of visits to the property, frequent visits or visits without good reason could be seen as a breach of the tenant's right to quiet enjoyment. This behaviour could potentially be considered harassment.
- ▶ This clause protects the tenant's right to privacy and peaceful enjoyment of the property as their home. It sets expectations for the landlord's conduct regarding property visits and interactions with the tenant.

## Rent suspension

- ▶ Clause D4.3 provides that if the tenant cannot live in the property because it is uninhabitable due to damage from an insured risk, then unless the tenant is responsible for that damage, no rent is payable until the property is fit to be lived in. For example, if the property is damaged by flooding and the tenant has to move out while the damage is repaired, then the tenant does not have to pay rent during this period.

## Landlord's grounds for possession during the fixed term

- ▶ **Mandatory Grounds (Grounds 2 and 8):**  
These are grounds on which the court must order possession if proven. They are mandatory in nature.
- ▶ **Discretionary Grounds:** The other grounds listed are discretionary, meaning the court may order possession based on these grounds, but it is not mandatory.
- ▶ For a full list of grounds, refer to Schedule 2 of the Housing Act 1988 at [legislation.gov.uk](https://legislation.gov.uk).
- ▶ This section clarifies the types of grounds under which a landlord can seek possession of the property. Mandatory grounds require the court to order possession if proven, while discretionary grounds give the court the option to order possession based on the circumstances.

## Landlord's grounds for possession if the tenancy ceases to be an assured shorthold tenancy

- ▶ There are specific situations where a tenancy can cease to be an assured shorthold tenancy. For example, if all tenants no longer occupy the property as their principal or only home.
- ▶ In such cases, Clause E2 provides the Landlord with the right to end the tenancy based on additional grounds specified in the clause.

## Tenant's break clause

- ▶ Clause F2 allows the tenant to give the landlord 3 months' written notice to end the tenancy early.
- ▶ The tenant cannot give notice during the first 3 months of the tenancy, meaning the earliest termination possible is after the first 6 months.
- ▶ This break clause acknowledges that a tenant's circumstances may change unexpectedly, such as needing to relocate for employment. It would be unreasonable to require them to stay for the full term.
- ▶ The three months' notice period provides the tenant with flexibility, allowing them to end the tenancy if needed.
- ▶ This clause also gives the landlord sufficient time to find a replacement tenant, ensuring continued rental income.
- ▶ This clause allows for early termination by the tenant, providing flexibility for both parties in case of unforeseen changes in circumstances. It balances the tenant's need for flexibility with the landlord's need to manage the property and rental income.



## Landlord's one off break clause

- ▶ Clause F3 grants the landlord a one-time opportunity to end the fixed-term tenancy at 6 months by providing the correct notice as per section 21 of the Housing Act 1988.
- ▶ If the landlord wishes to exercise this break clause, they must give the tenant the correct notice.
- ▶ The tenant's right not to be evicted without a court order remains unaffected by the landlord's use of the break clause.
- ▶ The break notice served under this clause must also comply with the requirements of section 21 of the Housing Act 1988, or a separate section 21 notice must also be given to the tenant.
- ▶ If a break clause is activated, notice for the termination of the fixed term will stand, and the tenancy will become statutory periodic after the agreed notice period. However, landlords cannot make a claim for possession via section 21 in court before the expiry of the minimum notice period for section 21.

## Break clause where the property is mortgaged and the lender has appointed a receiver

- ▶ In the event of a mortgaged property and the landlord falling into mortgage arrears, the lender can appoint a receiver without a court order.
- ▶ Clause F4 allows either the landlord or the tenant to end the tenancy early when a receiver is appointed for the property and has notified the tenant of their appointment.
- ▶ In practice, the receiver (acting as the landlord) would use this break clause, not the landlord named in the agreement.
- ▶ A break notice under this clause can only be served after at least 4 months of the fixed term have passed and the receiver has provided the tenant with a letter confirming the appointment. A minimum notice period of two months must be given.
- ▶ To regain possession of the property through the courts after the specified break notice date, the notice served under this clause must comply with section 21 of the Housing Act 1988, or a separate section 21 notice must also be given to the tenant.
- ▶ If a break clause is activated, notice for termination will stand, and the tenancy will become statutory periodic after the agreed notice period. However, landlords cannot make a claim for possession via section 21 in court before the expiry of the minimum notice period for section 21.

## Landlord's break clause for the purpose of selling the property

- ▶ Clause F5 allows the landlord to serve notice on the tenant when they are selling the property.
- ▶ Unforeseen circumstances may arise where landlords need to sell the property with vacant possession during the fixed term. This clause provides a process for the landlord to do so, ensuring compliance with the specified break clause.
- ▶ A break notice under this clause must also comply with the requirements of section 21 of the Housing Act 1988, enabling the landlord or receiver to seek possession through the courts if the tenant does not vacate the property by the notice deadline.
- ▶ If a break clause is activated, notice for termination will stand, and the tenancy will become statutory periodic after the agreed notice period. However, landlords cannot make a claim for possession via section 21 in court before the expiry of the minimum notice period for section 21.

## Additional terms

- ▶ This space within the Tenancy Agreement should be used to record any additional terms which have been expressly agreed between the parties to this agreement.
- ▶ Examples include:
  - Upkeep of Garden: The tenant agrees to maintain the garden in a tidy and presentable condition throughout the tenancy term. This includes regular mowing of the lawn, trimming hedges, and weeding flower beds.
  - Keeping of Pets: The tenant is allowed to keep one small pet (cat or dog under 20 pounds) with prior written consent from the landlord. Any damage caused by the pet will be the responsibility of the tenant to repair or cover the costs.
  - Retention of Keys: The landlord will retain a set of keys to the property for emergency access only. The tenant will be informed if access is required, except in cases of emergency.
  - Utilities and Bills: The tenant is responsible for paying all utility bills, including gas, electricity, water, and council tax, throughout the tenancy.
- ▶ These additional terms are agreed upon and form part of the tenancy agreement. Any conflicting terms will be resolved in accordance with the relevant laws and regulations.

## Written notices

- ▶ It is important that prior to signing the agreement the parties agree how notices are to be given and provide each other with the correct contact details.
- ▶ Landlords are required by law (section 48 of the Landlord and Tenant Act 1987) to give an address for these purposes (which can be their agent's address if the property is being managed by an agent).
- ▶ Notices given under or in connection with the agreement may be sent via email, except a notice given by the landlord under section 8 (notice of proceedings for possession) or section 21 (recovery of possession on expiry or termination of assured shorthold tenancy) of the Housing Act 1988 which should always be given to the tenant in hard copy at the property.

## Signature by the parties

- ▶ Tenancies for terms exceeding 3 years must be executed as deeds.
- ▶ Tenancies for terms of 3 years or less may be executed as deeds, but it is not mandatory.
- ▶ If executing as a deed, the agreement must contain wording specifying it is a deed.
- ▶ If executing as a deed, an adult witness (not a party to the agreement) must witness each party's signature.
- ▶ If the agreement is not executed as a deed (for terms of 3 years or less) there is no need for a witness.

## Prior notice of landlord's grounds for possession

- ▶ Some of the grounds outlined in Schedule 2 to the Housing Act 1988, which allow landlords to regain possession of the property, necessitate providing notice to the tenant before entering into the tenancy agreement.
- ▶ Ground 1, for example, permits landlords to seek possession at the end of the fixed term if they previously resided in the property as their only or primary residence or require it for themselves or their spouse.
- ▶ In cases where notice has been given and the landlord later defaults on the mortgage, lenders who repossess the property may also utilise ground 2 (specified in the notice below) to reclaim possession from the tenant during the fixed term.