

RUTHERGLEN & CAMBUSLANG HOUSING ASSOCIATION LTD

Policy Name	Succession
Policy Category :	Housing Management
Policy Number	HM4
Date approved/amended	March 2009
Next Review Date	March 2011

SUCCESSION

1. POLICY ON SUCCESSION OF TENANCY

The right of Succession to Scottish Secure tenancies is contained within Section 7 of the tenancy agreement, as provided for by the Housing (Scotland) Act 2001, section 22 and schedule 3.

In all claims for succession, a request must be received within 28 days of the death of the tenant. The Association will aim to respond to any Succession application in writing within 10 working days and we will endeavour to make our decision regarding an application within 28 days of receipt of the application. If an application is refused, the Association will advise the applicant of the reasons for refusal and the applicants rights to appeal.

If the person applying is not included in the Association's household records, detailed documentation will be required to verify residence before an application is accepted. If underoccupation will result after award of a succession then the Association will offer rehousing advice if required.

The act defines 3 levels of priority for succession:-

Level 1 - On the death of a tenant the tenancy shall pass to the tenant's husband or wife or co-habitee if the house was their only or principal home on the tenants death, with the knowledge and consent of the Association.

In the case of a co-habitee, he or she must also have occupied the house as his/her only or principal home for at least 6 months immediately before your death. If more than one person qualifies for the tenancy under Level One, they must decide among themselves who should get the tenancy. If agreement over Succession cannot be reached between family members then the Association will decide who succeeds to the tenancy.

In the event of a joint tenancy the tenancy shall pass to the surviving tenant, again providing they are occupying the property as their principal home at the time, with the knowledge and consent of the Association.

Level 2 - In a situation where no-one qualifies at Level One, or a qualified person does not want the tenancy, it may be inherited by a member of your family as long as:

- he or she is aged at least 16 at the date of death;
- the house was his or her only or principal home at the date of death.

If more than one person qualifies for the tenancy under Level Two, they must decide among themselves who should get the tenancy. If agreement over Succession cannot be reached between family members then the Association will decide who succeeds to the tenancy.

Level 3 - If no-one qualifies at Level One or Level Two, or a qualified person does not want the tenancy, it will be inherited by a carer as long as:

- he or she is aged at least 16 at the date of death;
- the house was his or her only or principal home at the date of death;
- he or she gave up another only or principal home before the death of the tenant.

- he or she is providing, or has provided, care for the tenant or a member of the tenant's family.

If more than one person qualifies for the tenancy under Level Three, they must decide among themselves who should get the tenancy. If agreement over Succession cannot be reached between family members then the Association will decide who succeeds to the tenancy.

The provisions noted below are contained within the tenancy agreement and are a summary of the law which is contained within Section 22 of the Housing (Scotland) Act 2001. This summary does not alter that law.

Where the house has been designed or substantially adapted for a person with special needs then paragraph 5 of Schedule 3 of the Housing Act specifies that only spouses, co-habitees, joint tenants or persons with special needs can succeed to that tenancy. If at the first succession someone qualifies for the tenancy at Level Two or Level Three and does not have special needs requiring accommodation of that kind, we have the right to terminate the tenancy and offer that person suitable alternative accommodation. Where in the case of such a property, at the point of a second succession someone qualifies at Level One, Level Two or Level Three and does not have special needs requiring accommodation of that kind, we have the right to terminate the tenancy and offer that person suitable alternative accommodation.

In the event of the death of the tenant, where there is no eligible successor, the Association will allow a reasonable period of time for any member of the household remaining to obtain alternative accommodation.

- ◆ If someone qualifies for the tenancy but does not want it, they should tell us in writing within four weeks of the death and leave the house within three months. Rent will be charged only for the actual period of occupation.

- ◆ The tenancy can only be inherited twice under the provisions noted above. If the tenancy has already been inherited twice, the third death will normally end the tenancy. This will not happen if there is a surviving joint tenant whose Scottish Secure Tenancy will continue. However, if there is still a person in the house who would otherwise qualify to inherit the tenancy under the above paragraphs, the tenancy will continue for up to 6 months after the last death. The tenancy will not be a Scottish Secure Tenancy for that period.

- ◆ Where the landlord is a registered social landlord which is a co-operative housing association the qualifying person must also apply for membership and be accepted as a member of the association within a four week period of the tenant's death or notification of right to succeed. If the qualifying person fails to do so or the association refuses the application for membership, the person will be treated as having declined the tenancy at the time of the tenant's death.

2. APPEAL PROCEDURE

The Housing Act does not allow a right of appeal against succession decisions. However, any applicant who feels aggrieved by their treatment under the Succession policy has the right of appeal to a Senior housing Officer, and if not satisfied, to the Association's Housing Management Sub-Committee.

Appeals should be made in writing within 10 working days of the notification, and should be responded to within a further 10 working days.

3. REPORTING

Detailed reporting on Succession applications will be made to the Housing Management Sub Committee monthly.

RUTHERGLEN & CAMBUSLANG HOUSING ASSOCIATION

SUCCESSION OF TENANCY

THIS FORM WHEN COMPLETED, TO BE RETURNED TO THE HOUSING ASSOCIATION OFFICE.

THE ISSUE OF THIS FORM DOES NOT NECESSARILY MEAN THAT THE APPLICANT QUALIFIES FOR SUCCESSION TO TENANCY.

ANSWERS MUST BE GIVEN TO ALL QUESTIONS

1. ADDRESS OF HOUSE :
.....
2. NUMBER OF APARTMENTS :
3. FULL NAME OF PRESENT TENANT :
4. DATE OF PRESENT TENANTS DEATH
.....
5. NAME OF APPLICANT APPLYING FOR SUCCESSION AND RELATIONSHIP TO TENANT
NAME RELATIONSHIP D.O.B
6. STATE WHETHER MARRIED, SINGLE, WIDOW, WIDOWER ETC
7. IF SUCCESSION IS GRANTED, HOW MANY PEOPLE WILL LIVE IN THE HOUSE (INCLUDING APPLICANT)
8. RELATIONSHIP WITH AND DATES OF D.O.B RELATIONSHIP
BIRTH OF SUCH PERSONS
.....
.....
9. STATE HOW LONG YOU HAVE BEEN RESIDENT IN HOUSE FROM:
To :
10. IF NOT ALWAYS RESIDENT IN HOUSE GIVE DATE OF LETTER GIVING PERMISSION TO RESIDE(IF ANY)....., OR TWO PIECES OF DOCUMENTARY EVIDENCE SHOWING PROOF OF RESIDENCE SUCH AS A BANK STATEMENT, WAGESLIP ETC.

SIGNATURE OF APPLICANT : **DATE :**

RUTHERGLEN & CAMBUSLANG HOUSING ASSOCIATION

SUCCESSION OF TENANCY MANDATE

I Hereby acknowledge
that I have succeeded to the tenancy of the dwelling house at :-

.....
.....

following the death ofondate.

I acknowledge that the date of succession will be.....

I acknowledge that the succession is defined as a Level 1/ Level 2 / Level 3 (* **Delete as necessary**) succession within the terms of the tenancy agreement. I acknowledge that this succession is the first / second (* **Delete as necessary**) in terms of this tenancy and therefore:-

*** Delete as necessary**

- ◆ I also acknowledge that I have inherited the “modernised” Right to Buy following this succession and that I have been issued with a separate letter, detailing the terms of the modernised Right to Buy.
- ◆ I also acknowledge that I have inherited the preserved Right to Buy following this succession and that I have been issued with a separate letter, detailing the terms of these rights.
- ◆ that there will be no further right of succession
- ◆ that there will be one further right of succession
- ◆ there will be no further preserved Right to Purchase with this tenancy.

Signature of Successor:

Date:

Signed on behalf of RCHA.

Date.

Signature of Witness:

Date: