

RUTHERGLEN & CAMBUSLANG HOUSING ASSOCIATION LTD

Policy Name	Succession
Policy Category :	Housing Management
Policy Number	HM4
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SUCCESSION

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 2014 Act changes some of the rules around when certain people can succeed to (take over) a Scottish secure tenancy on the death of the tenant. To ensure rights to succession are protected you must have told us in writing that the person wishing to succeed to a tenancy has moved in with you at the time they do so.

Unmarried Partners

Section 13(a) and 13(d) of the 2014 Act make changes to the rules on succession for unmarried partners:

- the house must have been the unmarried partner's only or principal home for 12 months before they qualify to succeed to the tenancy (previously this was 6 months); and
- the 12 month period cannot begin unless we have been told in writing that the individual is living in the property as their only or principal home. We must have been told in writing that by you, a joint tenant, or the person who wishes to succeed to the tenancy.

Family Members

Section 13(b) and 13(d) of the 2014 Act make changes to the rules on succession for family members:

- the house must have been the family member's only or principal home for 12 months before they qualify to succeed to the tenancy (previously there was no qualifying period, the person simply had to be living there at the time of the tenant's death); and
- the 12 month period cannot begin unless we have been told in writing that the family member is living in the property as their only or principal home. We must have been told in writing that by you, a joint tenant, or the person who wishes to succeed to the tenancy.

Carers

Section 13(c) and 13(d) of the 2014 Act make changes to the rules on succession for carers:

- the house must have been the carer's only or principal home for 12 months before they qualify to succeed to the tenancy (previously there was no qualifying period, the person simply had to be living there at the time of the tenant's death and have given up a previous home to provide the care); and
- the 12 month period cannot begin unless we have been told in writing that the carer is living in the property as their only or principal home. We must have been told in writing that by you, a joint tenant, or the carer.

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 12 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 successor was resident in the property 12 months prior to the date of death. The 12 month period takes effect from the date the Association was informed of the presence of the Successor.

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.

The Association will refuse permission if the successor has not been resident in the property for 12 months prior to the application. The 12 months residency period only takes effect from the date the Association was made aware of the individual joining the household.

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 Association will refuse permission if the successor has not been resident in the property for 12 months prior to the application. The 12 months residency period only takes effect from the date the Association was made aware of the individual joining the household.
- 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.

APPEAL PROCEDURE

Any applicant who wishes to have a decision reviewed has the right of appeal to a Senior Housing Officer, and thereafter 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. A further final right of appeal is also available via the Association's separate complaints Policy, if any applicant feels they have been treated unacceptably or inappropriately by staff – details of the complaints policy are available from the office on request.

REPORTING

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

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: