

Glasgow Tribunals Centre

20 York Street

GLASGOW

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[www.housingandpropertychamber.scot](http://www.housingandpropertychamber.scot/)

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**NOTES ON COMPLETING FORM E**

* **APPLICATION TYPE**

**Before completing application form E, a landlord must first have carried out the prescribed actions under the relevant legislation for the type of possession or eviction application they wish to make to the Tribunal.** You should seek legal advice if you are unsure of this, since the actions that must be taken before possession is sought will depend on the type of tenancy involved. Please note that the Tribunal is an impartial judicial body. We are therefore unable to provide legal advice to a party on (1) the type of tenancy which is in place and (2) the notification procedure which must be followed prior to lodging an application with the Tribunal. The Tribunal administration will provide information only on the application procedure. Failure to carry out the required actions prior to submitting the application to the Tribunal could lead to the application being rejected or dismissed.

PLEASE NOTE: In terms of the legislation that governs the application process we will send copies of any application, attached documents, correspondence and representations to all other parties associated with the case and their representatives, copies will also be provided to the Tribunal. This will include documents submitted in support of your application such as bank statements. **The Housing and Property Chamber cannot redact any documentation submitted by any party**. If you wish certain information redacted from a document please do this before sending to the Housing and Property Chamber, this may include bank details.

A tenancy which began on or after 2 January 1989, and prior to 1 December 2017, is likely to be an Assured Tenancy or a Short Assured Tenancy under the Housing (Scotland) Act 1988. This type of tenancy is subject to Rule 65 or Rule 66. For cases under Rule 65 and 66, this will usually require a Notice to Quit to be sent to the tenant, along with a form AT6 (also known as a Section 19 Notice) or a Section 33 Notice. The Notice to Quit must contain certain information which is set out in legislation to be valid.

A tenancy which began prior to 2 January 1989 is likely to be a regulated tenancy under the Rent (Scotland) Act 1984. This type of tenancy is subject to Rule 77 and 79. For cases under Rule 77 and 79, a Notice to Quit must have been sent to the tenant, as well as a notice of proceedings. The Notice to Quit and notice of proceedings must contain certain information which is set out in legislation to be a valid application.

Any new tenancy created from 1 December 2017 is a Private Residential Tenancy, under the Private Housing (Tenancies) (Scotland) Act 2016 and is subject to Rule 109. For cases under Rule 109, a Notice to Leave must be issued to the tenant, and this Notice must set out the grounds on which possession will then be sought, as well as containing other specified information.

* **APPLICANT DETAILS**

The details of the applicant should be entered in Section 2. For applications under Rule **65, 66, 77** & **109,** the applicant should be the landlord at the date of the application. This will usually be the landlord named in the lease/occupancy agreement under which possession or eviction is sought.

For applications under **Rule 79** the applicant should be the property owner.

Failure to correctly identify the landlord/owner in this section can result in a delay in processing the application. The landlord’s representative should not enter their details in Section 2. There is an opportunity to enter representative details in Section 3.

If there is more than one landlord, please give details of all other landlords on a separate sheet clearly marked “Section 2: Applicant Details continued”, and write the address of the property to clearly indicate that it relates to this application.

**3. APPLICANT REPRESENTATIVE DETAILS**

Enter the details of any person or company who will be representing the applicant in this section. The Tribunal will require a mandate from the Applicant appointing the representative to act for the Applicant. If no details are entered here, the Tribunal will deal directly with the applicant.

If details are entered in this section, the Tribunal will correspond **solely** with the listed representative. Any correspondence sent to the representative will be deemed to have been sent to the applicant. It is important that any changes to an applicant’s named representative are notified to the Tribunal.

**4. TENANT/OCCUPIER DETAILS**

In this section, you should give the details of the tenant/occupier who is the subject of the application for possession/ eviction.

Please give as much detail as possible, and ensure the property address is listed at part (e). If the tenant/occupier has a correspondence address that differs from the property address, please list this at part (f).

If there are multiple tenants/occupiers who are all to be subject to the possession /eviction proceedings, please list these on a separate sheet clearly marked “Section 4: Tenant/Occupier Details” , and write the address of the property to clearly indicate that it relates to this application.

Failure to provide the details of all tenants who are to be party to the proceedings could result in delays to the progress of the application.

**5. POSSESSION/EVICTION GROUNDS**

There are multiple grounds (or ‘cases’ for regulated tenancies under the 1984 Act) for possession/eviction for each of the different types of tenancy. These are set out below. The grounds should usually already have been notified to the tenant prior to making the application to the Tribunal for possession/eviction. The grounds applied for here should be the same as those previously notified unless the Tribunal agrees at the Applicant’s request to dispense with that requirement. You should seek legal advice if you are unsure of this.

You should set out in section 5 of the application form each ground/case that applies, and give a brief description for each of these of the circumstances that led to the application for possession being made.

If there are multiple grounds/cases, please continue on a separate sheet clearly marked: “Section 5: Possession/Eviction Grounds” and write the address of the property to clearly indicate that it relates to this application

**RULE 65: Section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”)**

The grounds for possession under the 1988 Act are all discretionary and are listed below.

**Ground I**: either the house was the landlord's only or principal home at any time before the tenancy was granted; or the landlord needs the property for them or their spouse for use as the principal home of one or both of them and did not become the landlord through buying the house or otherwise acquiring it for value.

**Ground 1A**: Landlord intends to live in property to alleviate financial hardship.

**Ground 2**: There is a mortgage over the house and the lender, for example a bank or building society, is entitled to sell the house because the landlords have not abided by conditions of the mortgage.

**Ground 3**: The house or room was let for a specified period of 8 months or less and was occupied as a holiday let during the previous 12 months.

**Ground 4**: The house or room was let for a specified period of 12 months or less and was let to a student by a university, central institution, or other specified educational institution during the previous 12 months.

**Ground 5**: The house or room is normally held for use by a minister or full-time lay missionary in connection with his work and the First-tier Tribunal of the Housing and Property Chamber is satisfied that the house or room is again required for this purpose.

**Ground 6**: The landlord needs to have possession in order to carry out demolition or reconstruction or substantial works on the house, and the work can be carried out only if the tenant gives up possession, or (if the work could have been carried out if the tenant agreed either to a change in the terms of their tenancy or to accept a tenancy of only part of the house) the tenant has refused the alternative

**Ground 7**: The tenancy has been succeeded to by the new tenant under the will or intestacy (disposal of property where no valid will was left) of the original tenant

**Ground 8**: At least 3 months’ rent is in arrears both on the date on which the notice of proceedings was served and at the date of the hearing.

**Ground 8A**: At least 6 months’ rent is in arrears on the date on which the notice of proceedings was served, or if the notice is dispensed with by the Tribunal on the date when proceedings are raised for an order for possession on this ground.

**Ground 9**: Suitable alternative accommodation is available or will be available for the tenant when repossession takes place.

**Ground 10**: The tenant has given a notice to quit which has expired and yet has stayed on in the house.

**Ground 11**: The tenant has persistently delayed paying rent.

**Ground 12**: Some rent is unpaid at the start of court proceedings and at the time of serving of the notice of proceedings.

**Ground 13**: Any obligation of the tenancy other than the obligation to pay rent has been broken by the tenant.

**Ground 14**: The tenant has allowed or caused damage to the house or common parts of the building in which the house is situated.

**Ground 15**: The tenant or anyone living with them has caused a nuisance or annoyance to neighbours or has been convicted by a court of immoral or illegal use of the premises.

**Ground 16**: The tenant has damaged the furniture or allowed it to become damaged.

**Ground 17**: The house was let to the tenant because they were employed by the landlord and the tenant is no longer employed by the landlord.

**RULE 66: Section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”)**

Applications under Rule 66 are where a landlord wishes to recover possession on the grounds of the termination of the short assured tenancy under Section 33 of the Housing (Scotland) Act 1988. This is a specific discretionary ground which applies to short assured tenancies and would not require the tribunal to consider any of the discretionary grounds listed above.

If a landlord wishes to terminate a short assured tenancy before the end of the original term of the tenancy or before the renewed term of the tenancy, then this would need to be an application under Section 65, and the appropriate discretionary grounds listed would apply.

**RULE 77 & RULE 79: Rent (Scotland) Act 1984 (“the 1984 Act”)**

Most grounds for possession under the Rent (Scotland) Act 1984 are known as cases. There are 21 in all and they are "discretionary cases" which means that if the case applies, the Tribunal does not *have* to grant an order but *may* doso if it thinks it reasonable.

There are two other grounds for possession which are not "cases" as such. First, possession can be granted if the Tribunal thinks that reasonable and suitable alternative accommodation is or will be made available for the tenant. The second ground for possession is where the house is overcrowded in terms of the Housing (Scotland) Act 1987.

**Case 1** The tenant has not paid the rent, or has broken some other term of the tenancy.

**Case 1A**: At least 6 months’ rent is in arrears on the date when proceedings are raised for an order for possession on this ground.

**Case 2** The tenant or anyone living with them has caused a nuisance or annoyance to neighbours or has been convicted of immoral or illegal use of the premises.

**Case 3** The tenant has damaged the property or allowed it to become damaged or someone living with them has done so and the tenant has not taken steps to have the person removed.

**Case 4** The tenant has damaged the furniture or allowed it to become damaged or someone living with them has done so and the tenant has not taken steps to have the person removed.

**Case 5** The landlord has arranged to sell or let the property or has taken other steps because the tenant gave notice that they were giving up the tenancy.

**Case 6** The tenant has after a certain date assigned or sub-let the whole of the property without the landlord's consent.

**Case 7** The tenant was an employee of the landlord and the landlord requires the property for a new employee.

**Case 8** The landlord needs the property for them or certain members of their family to live in.

**Case 8A**: Landlord intends to live in property to alleviate financial hardship.

**Case 9** The tenant has charged a sub-tenant more than the Rent Act permits.

**Case 10** The house is so overcrowded as to be dangerous or injurious to the health of the occupants and the tenant has not taken reasonable steps to remove any lodger or sub-tenant to improve the situation.

**Case 11** The house was let by an owner-occupier who gave notice that possession might at some time be recovered under this case so that the landlord, a member of their family who was residing with them or someone inheriting the house can live there again. Repossession will also be granted if the house is unsuitable and the landlord wants to dispose of it or if it is required for disposal by a creditor of the landlord.

**Case 12** The landlord let accommodation which he acquired for occupation on his retirement.

**Case 13** The accommodation was let for a specified period not exceeding 8 months, having been occupied as a holiday let during the previous 12 months.

**Case 14** The accommodation was let for a specified period not exceeding 12 months, having been let by an educational institution specified by the Scottish Ministers to a student during the previous 12 months.

**Case 15** The property was let on a short tenancy, which has terminated (see Question 4).

**Case 16** The accommodation was intended, and is now required, for a Minister or full-time lay missionary.

**Case 17** The accommodation was occupied by, and is now required again for, a farm worker.

**Case 18** Following the amalgamation of agricultural holdings, accommodation previously occupied by a farm manager has been let temporarily to an ordinary tenant.

**Case 19** The accommodation was previously occupied by a farm manager or their widow(er) and has been let temporarily to an ordinary tenant.

**Case 20** The house has been built for persons with special needs, it is not occupied by such a person, and it is required by someone who has such special needs.

**Case 21** The landlord was a member of the regular armed forces at the time the letting was made and Intended to live in the house at some future date.

**RULE 109: Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) eviction grounds**

The eviction grounds under Private Residential Tenancies created in the 2016 Act are listed in Schedule 3 of that Act.

They are listed in parts 1 - 4 which share a common broad reason that eviction can be sought. The 2016 Act then narrates for each ground what the Tribunal would expect to see to show the ground has been met, and where the ground has been met, whether the Tribunal *may (discretionary)* order eviction. For further information you should consult the 2016 Act.

**PART 1: LET PROPERTY REQUIRED FOR ANOTHER PURPOSE**

**Ground 1**: The Landlord intends to sell the Let Property

**Ground 1A:** The Landlord intends to sell the Let Property to alleviate financial hardship

**Ground 2**: The Let Property is to be sold by the mortgage lender

**Ground 3**: The Landlord intends to refurbish the Let Property

**Ground 4**: The Landlord intends to live in the Let Property

**Ground 4A:** The Landlord intends to live in the Let Property to alleviate financial hardship

**Ground 5**: The Landlord’s family member intends to live in the Let Property

**Ground 6**: The Landlord intends to use the Let Property for a non-residential purpose

**Ground 7**: The Let Property is required for a religious purpose

**PART 2: TENANT’S STATUS**

**Ground 8**: The tenant ceases to be - or fails to become - an employee of the Landlord

**Ground 9**: Tenant no longer needs supported accommodation

**PART 3: TENANT’S CONDUCT**

**Ground 10**: Tenant is no longer occupying the Let Property

**Ground 11**: Tenant has breached a term(s) of the tenancy agreement

**Ground 12**: Tenant is in rent arrears over three consecutive months

**Ground 12A**: Substantial rent arrears (at least 6 months’ rent is in arrears on the

date on which the notice to leave was served

**Ground 13**: Tenant has a relevant criminal conviction

**Ground 14**: Tenant has engaged in relevant antisocial behavior

**Ground 15**: Tenant has associated in the Let Property with someone who has a relevant criminal conviction or has engaged in relevant antisocial behavior

**PART 4: LEGAL IMPEDIMENT TO LET CONTINUING**

**Ground 16**: The Landlord has had their registration refused or revoked

**Ground 17**: The Landlord’s HMO licence has been revoked or renewal has been refused

**Ground 18**: An Overcrowding Statutory Notice has been served on the Landlord

**6. REQUIRED ATTACHMENTS**

There is a requirement under each Rule for further specific information to be included with the application. There are also requirement within the primary legislation for each type of application. Failure to provide the required attachments can result in the application being rejected or not accepted. To complete this section of the form, you should list the documents that you are supplying in the space provided. Listed below are the required attachments for each type of possession/eviction case.

**RULE 65**(Assured Tenancy possession**:**

* a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give
* a copy of the notice by landlord of intention to raise proceedings for possession of a house let on an assured tenancy (“AT6”)
* evidence of the notice by landlord of intention to raise proceedings for possession of a house let on an assured tenancy (“AT6”) being served by the landlord on the tenant
* a copy of the notice to quit served by the landlord on the tenant (if applicable)
* evidence of the notice to quit being served by the landlord on the tenant (if applicable)
* evidence tending to show that the possession ground or grounds has been met
* a copy of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable)
* evidence of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable) being provided to the local authority
* a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable)

**RULE 66**(Possession on Termination of Short Assured Tenancy)**:**

* the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give
* the notice by landlord that the tenancy is a short assured tenancy (“AT5”)
* the notice given to the tenant under section 33(1)(d) of the 1988 Act
* evidence of the notice given to the tenant under section 33(1)(d) of the 1988 Act being served by the landlord on the tenant
* the Notice to Quit
* evidence of the notice to quit being served by the landlord on the tenant
* a copy of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable)
* evidence of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable) being provided to the local authority
* a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable)

**RULE 77**(Regulated Tenancy possession)

* a copy of the notice to quit to the tenant;
* evidence of the notice to quit being served by the landlord on the tenant
* a copy of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable)
* evidence of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable) being provided to the local authority
* evidence that suitable alternative accommodation is available (if applicable)
* a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable)

**RULE 79**(Application to evict an occupier upon termination of a tenancy)**:**

* a copy of the tenancy agreement or, if this is not available, as much information about the tenancy as the owner can give
* evidence that the tenancy has ended or the tenant has died

**RULE 109**(Private Residential Tenancy Eviction Order)**:**

* evidence showing that the eviction ground or grounds has been met;
* a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act;
* evidence of the notice to leave given to the tenancy as required under section 52 (3) of the 2016 Act being served by the landlord on the tenant
* a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act
* evidence of the notice given to the local authority as required under section 56 (1) of the 2016 Act being provided to the local authority
* a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable)
* **SIGNATURE**

The form must be signed and dated by the appropriate person(s) or their representative. Below are listed for each rule who the appropriate person is:

**RULES 65, 66, 77 & 109:** the landlord

**RULE 79:** the owner

As well as the requirement under the Rules, the definition of the different parties must be taken from the primary legislation that contains the mechanism for the type of application being made. For example, this may mean that where there are multiple joint landlords in a tenancy that one of the application types might require the application be made by all joint landlords, while another could allow that the application be made by any one landlord. You should seek legal advice if you are unsure of this, since if the application does not meet the required standard it may not be accepted by the Tribunal.

Where the application is being signed by a representative, the representative must provide a written authorisation from the landlord/owner. As noted above, this may mean the authorisation should be from all the landlords/owners, if this is required by the relevant primary legislation.