

Glasgow Tribunals Centre

20 York Street

GLASGOW

**NOTES ON COMPLETING FORM D**

G2 8GT

www.housingandpropertychamber.scot

0141 302 5900

Before completing application form D, an applicant must first have carried out any prescribed actions under the Private Housing (Tenancies) (Scotland) Act 2016 Act for the type of application they wish to make to the Tribunal. This can involve notifying the other party of your intention to raise the application.

You should seek legal advice if you are unsure of this. Please note that the Tribunal is an impartial judicial body. We are therefore unable to provide legal advice to a party. The Tribunal administration will provide information only on the application procedure. If you do not provide the required information, the application WILL NOT be accepted and will be returned to you.

Within certain parts of these notes reference is made to the Sections of the 2016 Act which can be found at <http://www.legislation.gov.uk/asp/2016/19/contents>

Reference to “Rules” refers to the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 which can be found at: <http://www.legislation.gov.uk/ssi/2017/328/contents/made>

1. **APPLICATION TYPE**

Please select whether you are applying as a tenant or a landlord, and then select the appropriate option for the type of application you are making.

**Only one type of application can be selected on a single form**. In some circumstances, you may have more than one application that you wish to submit to the Tribunal. You can submit separate applications to the Tribunal at the same time, however you must ensure that for each application you wish to make you supply all the evidence required, even if this means you may be providing the same document twice. We cannot copy items from one application to another, and we cannot make a decision on what document should go with what application. Therefore, if you are making more than one application, you should ensure there is proper separation of the documents for each application.

The types of application are explained in more detail below. In bold below we have highlighted the valid applicant(s) for each type of application.

**(a)** **the tenant** can make an application to the Tribunal:

**(i)** under Section 14(1) of the 2016 Act, to draw up the terms of the tenancy where all the tenancy terms have not been provided by the landlord (Rule 105)

**(ii)** under Section 14(1) as above, with an additional application under 16(1) of the 2016 Act to have the landlord sanctioned for this failure (Rules 105 & 107). This sanction application can only be made as part of the corresponding application to draw up terms and may only be made during the tenancy. There is a pre-application requirement

1. **APPLICATION TYPE (continued)**

before an application to draw up terms and before an application for sanction can be made. Details can be found in Sections 14(3), 16(3)(c) and Section 17 of the 2016 Act

**(b)** **either the tenant or the landlord** may apply under Section 14(2) of the 2016 Act to the Tribunal where they believe a statutory term of the tenancy has been unlawfully displaced. This could mean either that a statutory term is not included in the written tenancy terms, or that a statutory term as expressed in the written terms appears to have been modified. (Rule 106)

**(c)** **the tenant** may apply under Section 16(1) of the 2016 Act, to have the landlord sanctioned for failing to provide the specified information as prescribed by the Scottish Ministers. Details of the prescribed information can be found at <http://www.legislation.gov.uk/ssi/2017/407/contents/made>. An application may only be made during the tenancy. There is a pre-application requirement before an application for sanction can be made. Details can be found in Section 16(3) (c) and Section 17 of the 2016 Act (Rule 107)

# 2. LANDLORD DETAILS

In this part of the form, you should give the details of the landlord.

In an application under Section 14(1) or 14(2), where two or more persons jointly are the landlord, references to the landlord are to any one of those persons, as determined by Section 14(6).

In an application under Section 16(1), where two or more persons jointly are the landlord, references to the landlord are to all of those persons, as determined by Section 78(2). However, an order by the First-tier Tribunal may be made against all, some or only one of the joint landlords.

Please give as much detail as possible.

**3. TENANT DETAILS**

In this part of the form, you should give the details of the tenant.

For all application types, where two or more persons jointly are the tenant under a tenancy, references to the tenant are to any one of those persons (Section 14(5) and 16(6) provides).

For the purposes of a payment to the person who makes the application under Section 16, where two or more persons jointly are the tenant, rent means the rent provided for under the tenancy divided by the number of persons who are jointly the tenant (Section 16(7) provides).

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

**4. APPLICANT REPRESENTATIVE DETAILS**

## Enter the details of any person or company who will be representing you in this section. If no details are entered here, the Tribunal will deal directly with you.

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.

**5. APPLICATION DETAILS**

In this section, please provide any additional information to support your application that you feel is relevant. The Rules require some information to be provided here depending on the application type, some of which is in addition to the standard contact details you are asked to provide earlier in the form. Where extra information is required in this section this is listed below.

**(a)** The landlord has not provided a document setting out all the terms of tenancy:

(i)Application to draw up Terms only (Rule 105)

No further written details required

(ii)Application to draw up Terms and make payment order (Rule 105 & Rule 107)

* The application must state that the landlord has failed to provide the tenant with a document setting out all the terms of the tenancy required under section 10([**1**](http://www.legislation.gov.uk/ssi/2017/328/schedule/paragraph/107/made#f00030));

**(b)** A statutory term has been unlawfully displaced (Rule 106)

The application must state:

* which of the statutory terms the person considers has been displaced; and
* the reasons why the person considers the statutory term has been displaced;

**(c)** The landlord has not provided the prescribed information under Section 11 (Rule 107)

* The application must state that the landlord has failed to provide the tenant with information required under section 11

**6. REQUIRED ATTACHMENTS**

There is a requirement under each Rule for further specific information to be included with the application. Failure to provide the required attachments will result in the application not being 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 application:

**6. REQUIRED ATTACHMENTS (continued)**

(a) The landlord has not provided a document setting out all the terms of tenancy:

(i) Application to draw up Terms only (Rule 105)

The application must be accompanied by:

* a copy of the notification to the landlord as required under section 14(3) of the 2016 Act;
* (ii)a statement of the terms of the tenancy agreed between the landlord and tenant, whether verbally or in writing

(ii) Application to draw up Terms and make payment order (Rule 105 & Rule 107)

The application must be accompanied by:

* a copy of the notification to the landlord as required under section 14(3) of the 2016 Act;
* (ii)a statement of the terms of the tenancy agreed between the landlord and tenant, whether verbally or in writing
* a copy of the notice given to the landlord under section 16(3)(c) of the 2016 Act

(b) A statutory term has been unlawfully displaced (Rule 106)

The application must be accompanied by:

* a copy of the written terms of tenancy or, if this is not available, as much information about the tenancy as the person can give; and
* evidence to support that a statutory term has been unlawfully displaced

(c) The landlord has not provided the prescribed information under Section 11 (Rule 107)

The application must be accompanied by:

* a copy of the notice given to the landlord under section 16(3)(c) of the 2016 Act

Where notification to the landlord is required, this must be done in the prescribed form, in terms of the [**The Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017**](http://www.legislation.gov.uk/ssi/2017/297/contents/made)

# SIGNATURE

The form must be signed and dated by the appropriate person(s) or their representative.

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.