

# Succession to tenancy



## What is succession?

Succession is a right to pass on your tenancy to another member of your household. This right only applies to people in Scotland who have a secure tenancy. (A secure tenancy is when you can stay in your home for as long as you want, as long as you keep to the conditions of your tenancy agreement.) The person taking over the tenancy 'succeeds' to the tenancy.

## How do I take over a tenancy through succession?

Succession happens when the secure tenant dies. Only certain people can take over a tenancy when a tenant dies. These people are grouped into three levels of priority. If more than one person could qualify to take over the tenancy, we use the levels of priority to help us decide who should take it over.

The three levels of priority

### First priority

You have first priority if you are:

- a joint tenant;
- the wife, husband or civil partner of the tenant who died, and you were living in their home as your only or main home when they died (a civil partner is somebody who has entered into a formal arrangement (known as a civil partnership) which gives same-sex couples similar rights to married couples); or
- a partner (of the opposite or same sex) of the tenant who died, if you had been living in their home as your only or main home for at least six months before the tenant died.

### Second priority

You have second priority if you are a member of the tenant's family and you:

- are 16 or over; and
- were living in the home as your only or main home when the tenant died.

### Third priority

You have third priority if you are a carer who is providing, or has provided, care for the tenant or a member of the tenant's family. You must:

- be 16 or over;
- have been living in the home as your only or main home when the tenant died; and
- have given up your only or main home to live with the tenant.

### What is a main home?

Your main home is somewhere you have a major connection with. It does not mean you must live there all of the time. If you spend periods of time away from the home, it may still be your only or main home. For example, if you are a student living in halls of residence, your parent's home may still be seen as your main home even if you are temporarily away from it, as long as you plan to return there.

### What if I am already a joint tenant?

If you are a joint tenant, the tenancy does not end when one joint tenant dies if you or any other tenant continues to live in the home. You will have to continue paying rent and any missed rent payments or other debt relating to housing, such as the cost of repairs.

### What if there has already been one succession?

Under the Housing (Scotland) Act 2001, a tenancy can only be handed on twice through the right of succession.

#### *Example*

*Mr Brown and his wife moved into a house 10 years ago. Mr Brown had a sole Scottish secure tenancy. Sadly, he was taken ill and died a few years later. The tenancy passed to his wife (this was the first succession). Mrs Brown's daughter and grandson moved in with her and had been living with her for several years when she died. The tenancy passed to her daughter (this was second succession). Mrs Brown's daughter can now live in the house for as long as she wants, but she will not be able to hand on the tenancy if she dies.*

*If you would have been able to take over the tenancy but you can't because there have already been two successions, you will be allowed to stay in the property for up to six months after the date the tenant dies. This is to allow you time to find somewhere else to live. We will also help you find somewhere to live. While you continue living in the home, you will have to pay rent.*

## Are there any other restrictions to taking over a tenancy?

If a house or flat has been designed or adapted for someone with special needs to use, it can only be handed on to a husband, wife, civil partner, joint tenant or partner. It cannot be passed to members of their family or carers unless they have special needs. If they do not, they have the right to be offered another suitable home.

## Can my partner take over the tenancy if I die and if we are not married?

If you and your partner have lived together in your home for at least six months, they will be able to take over your tenancy. Your home must be your partner's only or main home.

## What happens if there is more than one person who qualifies to take over the tenancy?

By law, if more than one person qualifies for the tenancy, they have four weeks from the date you die (or the date we tell them they may qualify, if this is later) to decide between themselves who will take over. If they do not reach a decision within this timescale, we will decide for them. Our decision will be final.

## What if someone living in my home does not want to take over the tenancy after I die?

If someone living in your home qualifies to take over your tenancy but chooses not to, they must give us four weeks' notice in writing and leave the home within three months.

## Can I put down in my will who I want to take over the tenancy when I die?

No. The law says who has the right to take over your tenancy if you die.

## What if someone living in my home does not qualify? What rights do they have to take over my tenancy?

If someone living in your home does not qualify to take over your tenancy (for example, a lodger or subtenant), they will have to leave your home if you die.

## How do I apply to succeed to a tenancy?

If you want to apply to take over a tenancy, you should complete the attached application form and send it back to us. We will ask you to give us other information for example, proof that the house or flat was your main home at the time the tenant died. We will write back to you within one month, telling you whether you can take over the tenancy.

## What if I am not satisfied with your decision?

If we refuse your application to succeed, you can ask for the Director to review our decision. He/she will respond to you within 28 days of receiving your request..

# Application for Succession

<b>Name of deceased tenant</b>	
<b>Date of death</b>	<i>ⓘ Please provide a copy of the death certificate</i>
<b>Address</b> <i>Please include postcode</i>	

## Qualifying Person Details

(must have been resident in property before tenant's death)

<b>Name</b>											
<b>Home tel no</b>											
<b>Mobile tel no</b>											
<b>Email address</b>											
<b>Relationship to tenant</b>											
<b>Date of birth</b>											
<b>National insurance number</b>	<table border="1"><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>										
<b>Gender</b>	<input type="checkbox"/> male <input type="checkbox"/> female										
<b>Is this your current home?</b>	<input type="checkbox"/> yes <input type="checkbox"/> no										
<b>Date you moved in?</b>											
<b>If you were a carer, please give details of the caring arrangements</b>											

*ⓘ You need to provide proof of this when you return this form (i.e council tax/ utility bill)*

**Please provide details of all addresses the proposed successor has lived in for the past five years**

<b>Address</b>		
<b>Landlord</b>		
<b>Time in residence</b>	Years:	Months:
<b>Address</b>		
<b>Landlord</b>		
<b>Time in residence</b>	Years:	Months:

**Please provide details of all other people currently living in the house and any who would join your household as a result of this application being approved**

<b>Name</b>	<b>Relationship to you</b>	<b>Date of birth</b>	<b>Gender (M/F)</b>	<b>Live with you now (yes/no)</b>

**Please advise the following about the qualifying person and anyone listed above:**

1. Has action ever been taken against anyone for antisocial behaviour?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Does everyone have a legal right to stay in the UK?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Is anyone registered under the Sex Offenders Act 1997 as amended by the sexual Offences Act 2003?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Has anyone been or ever been employed by ANCHO or is or has been a member of ANCHO's Management Board?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Is anyone related to an employee of ANCHO or a member of ANCHO's Management Board?	<input type="checkbox"/> Yes <input type="checkbox"/> No

## Declaration

I hereby declare that to the best of my knowledge the information I have given on this form is correct. I hereby authorise ANCHO to make any enquiries that are deemed necessary in connection with any information given by me, including any personal data protected by the Data Protection Act 1988.

Signature

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Date

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Please return this form to our office. A written reply will be received within one calendar month of receiving all the necessary information in writing.

**ANCHO will not have consented to the succession unless you receive written consent.**

## FOR OFFICIAL USE ONLY

Date received

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Approved/Declined

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Signature (TO)

	Date:
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Signature (HC)

	Date:
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## Questions

We're happy to help if you're unsure about what to do. Just call our Freephone number **03030 300 999**



Telephone: **01294 313121**



Email: [mail@ancho.co.uk](mailto:mail@ancho.co.uk)



Web: [www.ancho.co.uk](http://www.ancho.co.uk)

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