



Joint Tenancies

This leaflet explains your right to have a joint tenancy. It also sets out the main advantages and disadvantages of having a joint tenancy.

At the start of your tenancy you may choose to be the sole tenant or a joint tenant with another member of your household. If you are offered a house and have not already requested a joint tenancy, this matter will be raised with you if relevant. Your rights will be explained to you before you sign the tenancy agreement and you may be encouraged to take a joint tenancy.

We cannot force you to take a joint tenancy, we can only advise you of your rights and let you make the decision.

If you are already a sole tenant, you can apply to us in writing to become a joint tenant with another person (or people) living with you or planning to live with you.

The person who is to become your joint tenant must have lived at the property as their only or principal home for 12 months prior to us receiving a request for them to become a joint tenant. We must have been advised that they were resident either by you, any joint tenant, or the person who is now to become the joint tenant, that they were occupying the property as their only or principal home at least 12 months prior to the request being submitted.

We can only refuse your request for a joint tenancy if it is reasonable to do so.

Examples of situations when we may refuse applications are:

- Where the house would be overcrowded in law.
- Where another's person's rights may be affected if the joint tenancy is agreed.
- Where we have started eviction action because of your conduct.
- Where we have obtained an eviction order.
- Where we were unaware of the occupation of the proposed joint tenant at least 12 months in advance of the application.

Joint and several liability

If you become a joint tenant you will normally be joint and severally liable for the tenancy with any other joint tenant. This means that all tenants are responsible for meeting the conditions of the tenancy, including paying the rent.

We describe below some of the advantages and disadvantages of having a joint tenancy. More detailed information is provided to applicants or tenants applying to have a joint tenancy.

Advantages

Being a joint tenant means that you have equal rights with the other tenant and allows security of tenure. By becoming a joint tenant you receive a written tenancy agreement and information on your legal rights.

Having a joint tenancy may help meet the costs of the tenancy such as the rent.

Having a joint tenancy may enable existing debt such as rent arrears to be cleared more effectively.

You may find it easier to access credit by being a tenant.

Disadvantages

All joint tenants are responsible for debt associated with the tenancy such as rent arrears. This can be a problem if you are a joint tenant on a low income and the other joint tenant does not help with making payments for instance.

If you become a joint tenant with an existing tenant owing rent arrears, then you will also be responsible for any rent arrears accruing after that date.

Having a joint tenancy may not be suitable if you are not sure that living with the other person will work out. This is important as all joint tenants have equal rights to the tenancy.

It is emphasised that the wife or husband of a sole tenant has a right in law to live in the family home (matrimonial home). These are known as occupancy rights. A person does not need to be a joint tenant to have these rights. If the marriage breaks down and the tenant's wife/husband refuses to leave, then they can only be made to leave if there is a court order. The same rights do not apply in the case of an unmarried couple.

Summary

The law allows Scottish secure tenants to have either a sole or a joint tenancy. As this leaflet explains, it is important to seek good advice before deciding to have a joint tenancy. Further information on advantages and disadvantages of having a joint tenancy are available by contacting the Housing Management Section, Housing Services.

Last updated: March 2021.

