Protected Tenancy

Protected Tenancies or Regulated Tenancies were the most commonly used tenancies for people renting privately before 1989. There are very few people who have regulated tenancies now.

A tenancy can only be regulated if:

* it began before 2 January 1989;
* there is an agreement between the tenant and the landlord about how much rent will be paid;
* there is an agreement between the tenant and the landlord about the length of time the tenancy is for (there may be the option to extend this);
* the property includes somewhere for the tenant to live - it may also have a business use;
* the tenant lives in the property;
* the landlord does not give the tenant meals or provide services such as laundry or cleaning; and
* the tenant does not share the accommodation with the landlord.

If the tenant moved into the property before 1989 and have since moved but maintained the same landlord, the tenant should still have a regulated tenancy.

Assured Tenancy

You will have an assured tenancy if:

* the tenancy started after 2 January 1989
* before the tenancy started you were not given an AT5 notice stating that your tenancy is a short assured tenancy
* the tenant is renting the property as a home
* it's the tenant’s only or main home

There is no requirement for the landlord to rent the whole property. They may just be renting a room or part of the property. However, if the tenant is [sharing the property with the landlord](https://scotland.shelter.org.uk/housing_advice/renting_rights/resident_landlords), this will not be considered as a assured tenancy.

Short Assured Tenancy

Most tenancies that started before 1 December 2017 are 'short assured' – this means:

* the tenancy started after 2 January 1989
* the place where you live is rented as a home
* it's your only or main home
* the tenant received a special notice (an AT5 form) before the tenancy started telling you that it's a short assured tenancy
* the tenancy is for at least six months

There is not requirement for the landlord to rent the whole property; They may just rent a room or part of the property. However, if the tenant is sharing the accommodation with the landlord, this will not be considered as a short assured tenancy.

Tenancy of a Croft

You will have a crofting tenancy if:

* the tenant rents land in the Highlands and Islands in the former counties of Argyll, Inverness, Ross and Cromarty, Sutherland, Caithness, Orkney and Shetland, and
* the landlord’s holding is registered with the [Crofters Commission](https://www.crofting.scotland.gov.uk/).

As of 4 February 2010 Arran, Bute, Greater and Little Cumbrae, Moray and those parts of the Highland Council Region that are not already included were also added to the designated crofting areas by the Scottish Government.

Further information about crofters' rights can be found at the [Crofters Commission website](https://www.crofting.scotland.gov.uk/)

Tenancy of a Holding

Small Landholdings and Statutory Small Tenancies (SST) are tenanted holdings, subject to the Small Landholders (Scotland) Acts 1886 to 1931 (“the Landholders Act”), that only exist in Scotland outwith the Crofting Counties.

To qualify as either a Small Landholdings or a Statutory Small Tenancy, the tenant had to be a crofter under the 1886 Act, or a tenant from year to year living within 2 miles of the holding and who cultivated the holding or who qualified when a lease for a longer term than a year started to run on the same conditions.

Further information regarding Small Landholding Legislation can be found here: <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2018/09/small-landholdings-legislation-guide-law-scotland/documents/00540732-pdf/00540732-pdf/govscot%3Adocument/00540732.pdf>

Scottish Secure Tenancy

From 30 September 2002, the Scottish secure tenancy replaced the previous system of secure and assured tenancies for tenants whose landlord is a local authority or registered social landlord.

A Scottish Secure Tenancy meets the following requirements:

* A Scottish secure tenancy can only be granted where a house is let as a separate dwelling. To constitute a separate dwelling, it is necessary that the accommodation being let can be used for the major activities of residential life. This includes, for example, cooking, eating, and sleeping. If any of these activities are carried out in a part of the property which the tenant has the right to share with others, but which does not form part of the subjects of the lease, it is unlikely that it will be considered as a separate dwelling;
* The landlord is a local authority, registered social landlord or a water or sewerage authority;
* The tenant is an individual;
* The property is the tenants only or principal home; and
* The tenant must be a member of the co-operative housing association before he/she accepts the tenancy;

Short Scottish Secured Tenancy

The short Scottish secure tenancy was introduced by the Housing (Scotland) Act 2001, under Section 34. A tenant can be offered a short Scottish secure tenancy by a local authority or registered social landlord in defined circumstances, for example where there has been a previous eviction for anti-social behaviour.

1991 Act Tenancy

You are likely to have a 1991 Act agricultural tenancy if:

* the rented land that is used for commercial farming which included growing fruit, seeds, and other crops, raising livestock, dairy farming and market gardening;
* the lease began before 2003, **or** the lease began after 2003 but the terms and conditions specifically state that your tenancy is regulated by the Agricultural Holdings (Scotland) Act 1991, and
* you don't have a short let for grazing or mowing (a lease of less than 364 days, held during a specified period of the year), and
* the tenant is not employed by the landlord.

The tenant does not have to live on the holding itself to be an agricultural tenant.

Limited Duration Tenancy

You will probably have a limited duration tenancy if:

* you rent agricultural land,
* the tenancy began after 2003,
* the lease lasts 10 years or more, and
* the tenant hasn’t been employed by your landlord.

Limited duration tenancies have to last at least 10 years. If the lease states that the tenancy lasts more than five years but less than 10 years, it will by default be a limited duration tenancy and will last for 10 years.

Modern Limited Duration Tenancy

Agricultural land which is let under a lease on or after 30 November 2017 for a term of not less than 10 years will be known as an MLDT.

This will be the case as long as the land under the lease is not

* let to the tenant during the tenant’s continuance in any office, appointment or employment held under the landlord; and
* provided the lease does not constitute a 1991 Act tenancy or a repairing tenancy.

Short Limited Duration Tenancy

A short limited duration tenancy was introduced by the Agricultural Holdings Scotland Act 2003. You will probably have a short limited duration tenancy if:

* you rent agricultural land or have a farm business tenancy and
* your tenancy began after 2003, and
* your lease lasts no longer than five years, and
* you don't have a short let for grazing or mowing (a lease of less than 364 days, held during a specified period of the year), and
* you aren't employed by your landlord.

If the land is being rented for longer than five years (either under a succession of SLDTs or because your landlord has allowed you to remain on the land for more than five years) the tenancy will automatically be converted to a limited duration tenancy.

A tenancy where agricultural land is let for grazing or mowing during some specified period of the year

These types of tenancies are more commonly known as grazing lets. This type of tenancies involves the landowner granting the right of grazing livestock or mowing hay or silage to a tenant for a period of no more than 364 days.

Private Residential Tenancy

A private residential tenancy are tenancies that were formed from 1 December 2017 and where:

* the tenant lives in the property as their only or main home
* the tenancy is not any of the following:
  + let to you under a different type of tenancy from before 1 December 2017
  + [social housing](https://www.citizensadvice.org.uk/scotland/housing/renting-a-home-s/types-of-public-tenancies-s/) - let at any time under a Scottish secure tenancy
  + shared with your landlord
  + a holiday let
  + [a student let](https://www.citizensadvice.org.uk/scotland/housing/renting-a-home-s/student-housing-s/) - whether university or college-owned accommodation or in a private hall of residence
  + arranged by the local authority - because you are homeless, on probation, or seeking asylum
  + business premises
  + police or military housing
  + let at a low rent - less than £6 per week
  + arranged by a charity supporting veterans - from 1 July 2019
  + temporary accommodation arranged by a charity supporting care leavers - from 1 July 2019; and
* the property is let to you as a separate dwelling

A property can still be considered a separate dwelling even if some of its facilities are shared with other tenants. For example, if you only rent a bedroom in a flat but you can use a shared bathroom and kitchen, the property will be treated as a separate dwelling because you have access to the facilities you need for it to be considered a separate dwelling.

**PLEASE NOTE THAT THE INFORMATION PROVIDED IS FOR GENERAL GUIDANCE ON THE LAW AS IT RELATES TO SCOTLAND. IT SHOULD NOT BE REGARDED OR RELIED UPON AS A COMPLETE AND AUTHORATIVE STATEMENT OF THE LAW. IF YOU ARE UNSURE ABOUT WHETHER YOUR TENANCY IS AN EXCLUDED TENANCY, PLEASE SEEK INDEPENDENT LEGAL ADVICE.**