

Introduction:

Assignation is the term used when a tenancy passes in its entirety from one tenant to another. This applies to both Scottish Secure Tenancy (SST) and Short SST Agreements under The Housing (Scotland) Act 2001 (the Act) and amended by the Housing (Scotland) Act 2014 (the 2014 Act).

Process:

If a tenant wants to assign their tenancy (pass the tenancy to someone else), this needs ACHA's consent as the landlord. Therefore, before a tenant can assign (pass) their home to someone else they must apply to ACHA for permission. Section 12(2) of the 2014 Act makes the following changes to the Act, from 1 November 2019:

- the house must have been the tenants only or principal home during the 12 months immediately before they apply for written permission to assign / pass their tenancy to someone else; **and**
- the person they wish to assign to / pass their tenancy to (the proposed assignee) must have lived at the property as their only or principal home for the 12 months before the tenant applies; **and**
- the 12 month period cannot begin unless ACHA has been told that the proposed assignee is living in the property as their only or principal home. ACHA must have been told this by the tenant, a joint tenant, or the proposed assignee. If ACHA has already been told that they are living in the property we do not have to be notified again.

Grounds for refusal:

ACHA can refuse permission to assign a tenancy if it is reasonable to do so. Some examples of reasonable grounds to refuse are:

- The tenant has not lived at the property as their only or principal home for the 12 months before the application is received;
- The proposed assignee has not lived at the property as their only or principal home for the 12 months before the application is received;
- ACHA was not advised that the proposed assignee was living in the property at least 12 months prior to the application;
- The change would lead to overcrowding;
- A Notice of Proceedings has been served on the tenant in relation to one of the conduct grounds;
- An order for recovery of possession (a Decree) has been granted against the tenant;
- Work is scheduled to be carried out on the property which will affect the accommodation to be used by the proposed assignee;
- Where ACHA would not give the person the tenant wishes to pass the tenancy priority under the HOME Argyll Allocations policy;
- Where, in ACHA's opinion, the assignation would result in the home being under occupied;
- If the proposed assignee is the tenant of one of ACHA's properties (and therefore not occupying it as their only or principal home);
- There are outstanding charges (whether for rent or other charges relative to the tenancy) which remain outstanding in respect of the tenancy.