

1. Introduction:

This procedure applies from 1 November 2019. Succession is the term used when a qualifying person takes over the tenancy following the death of the tenant. This applies to a Scottish Secure Tenancy (SST) Agreement under The Housing (Scotland) Act 2001 (the Act) and amended by the Housing (Scotland) Act 2014 (the 2014 Act). There is no right to succession in a Short SST, so this does NOT apply to Short SSTs.

2. Process:

If a person wants to succeed to a tenancy (take over the tenancy following the death of the tenant), this only happens if the succession is permitted under the Act (as amended) or with ACHA's consent as the landlord. Section 13 of the 2014 Act makes the following changes, from 1 November 2019, to the conditions set out in the Act for persons who qualify to succeed to an SST:

Co-habitee

- *The house must have been the co-habitee's only or principal home for the 12 months before the death of the tenant; **and***
- *The 12 month period cannot begin unless we have been told that the co-habitee is living in the property as their only or principal home. We must have been told that by the tenant, a joint tenant, or the co-habitee who wishes to succeed to the tenancy.*

Family Member aged 16 or over

- *The house must have been the family member's only or principal home for the 12 months before the death of the tenant; **and***
- *The 12 month period cannot begin unless we have been told that the family member is living in the property as their only or principal home. We must have been told that by the tenant, a joint tenant, or the family member who wishes to succeed to the tenancy.*

Carer aged 16 or over, who provided care and gave up a previous only or principal home

- *The house must have been the carer's only or principal home for the 12 months before the death of the tenant; **and***
- *The 12 month period cannot begin unless we have been told that the carer is living in the property as their only or principal home. We must have been told that by the tenant, a joint tenant, or the carer who wishes to succeed to the tenancy.*

3. How many times a Succession can take place:

Whilst the legislation only allows for a succession to qualified persons to happen twice for one tenancy, ACHA allows for unlimited successions to take place to qualifying persons.

4. Levels of Priority for Succeeding to a Tenancy:

On the death of a tenant there are 3 levels of priority that determine who will qualify to succeed the tenancy. In order of priority:

- The **first priority** goes to:
 - *A tenant's surviving spouse or civil partner (regardless of their length of residence in the property) or*
 - *A joint tenant or*

- *A co-habitee (providing the house has been their only or principal home for the 12 months before the tenant's death),*
- *The 12 month period (for co-habitees) cannot begin unless ACHA have been told that the co-habitee has been living in the property as their only or principal home. ACHA must have been told that by the tenant, a joint tenant, or the person who wishes to succeed to the tenancy.*
- The **second priority**, if no one in the above category qualifies or chooses to succeed, goes to:
 - *A member of the tenants family aged 16 or over, provided that the home was their only or principal home for the 12 months before the tenant's death,*
 - *The 12 month period cannot begin unless ACHA have been told that the family member has been living in the property as their only or principal home. ACHA must have been told that by the tenant, a joint tenant, or the person who wishes to succeed to the tenancy.*
- The **third priority**, if no one in either of the above categories qualifies or chooses to succeed, goes to:
 - *A carer providing, or who has provided, care for the tenant or a member of the tenant's family where the carer is 16 or older and gave up a previous only or principal home,*
 - *The house must have been the carer's only or principal home for 12 months before the death of the tenant, and*
 - *The 12 month period cannot begin unless ACHA have been told that the carer has been living in the property as their only or principal home. ACHA must have been told that by the tenant, a joint tenant, or the carer.*

5. Specially Adapted Properties

If a property had been designed or substantially adapted for the use of persons with special needs, then the rules are different.

On a first succession to a tenancy, qualifying persons with a first priority (as above) will be able to succeed to the tenancy in the normal way. Otherwise, only a qualifying person with special needs, who requires these adaptations, can succeed to that tenancy.

ACHA will make an alternative offer of suitable accommodation to people who would otherwise be qualified (if not for the adaptations) to succeed to the property.

On a second (or later) succession to a tenancy, only a qualifying person with special needs, who requires these adaptations, can succeed to the tenancy.

ACHA will make an alternative offer of suitable accommodation to people who would otherwise be qualified (if not for the adaptations) to succeed to the property.

6. Appeals

Although there is no statutory right of appeal, any person can appeal the application of this procedure regarding who can succeed to the tenancy.

Before someone can succeed they must ensure that they have responded to ACHA regarding their status as a qualified person.