

# Assured and shorthold tenancy agreements (England & Wales)

## Which tenancy agreement do you have?

A tenancy agreement made between 15 January 1989 and 27 February 1997 is likely to be an assured tenancy. However, if a written notice was served on the tenants before the letting commenced stating that the tenancy agreement would be a shorthold tenancy agreement, and as long as the fixed period of the tenancy was for not less than six months, then you have a shorthold tenancy agreement with the tenants.

A tenancy agreement made on or after 28 February 1997 will automatically be a shorthold agreement unless the tenancy agreement specifically states that it is not an assured shorthold tenancy agreement, or you have served a notice on the tenant stating this, in which case, you will have an assured tenancy agreement.

## What is the difference between a shorthold and assured tenancy agreement?

The main difference is that a landlord who has let their property under a shorthold tenancy agreement has an automatic right to regain possession of it at any time after any fixed term of the tenancy agreement has expired or at any time during a periodic tenancy, whereas landlords who have let their property using an assured tenancy agreement do not have this right.

Landlords who have an assured tenancy agreement must instead wait until particular circumstances have occurred giving them grounds to seek a possession order against the tenants (such as the tenants being in rent arrears).

## Tenancies excluded from being assured and shorthold tenancy agreements.

Even if the tenancy agreement specifically states that it is an assured tenancy or shorthold tenancy, it will be excluded from being so if one or more of the following apply:

- It is dated prior to 15 January 1989
- It is for a rent of more than £25,000 a year
- It is rent free or at a low rent (£250 a year outside Greater London) or (£1000 a year within Greater London)
- The property is being let to a business or is agricultural land or agricultural holdings within the meaning of the Agricultural Holdings Act 1986
- It is a holiday lettings where the purpose of the tenancy is to give the tenant a right to occupy for a holiday only
- The landlord also lives in, and shares the property with, the tenant, or where the landlord lives in a building which has been converted into flats (as opposed to a purpose built block of flats) and lets another flat in the same building to the tenants

## **Tenancies which can be an assured tenancy but not a shorthold tenancy**

In the circumstances listed below the tenancy can only be an assured tenancy agreement:

- A tenancy replacing an earlier assured tenancy agreement which has come to an end
- An assured tenancy created where the tenant has 'inherited' possession of the property on the death of a previous 'Rent Act regulated tenant' (a tenant who has an agreement predating 15th January 1989)
- A tenancy that has been transferred from a public sector landlord to a private landlord
- A tenancy arising automatically when a long leasehold tenancy expires

If you have any doubts which type of tenancy you have, you should seek legal advice.