

Glasgow Tribunals Centre

20 York Street

GLASGOW

G2 8GT

**NOTES ON COMPLETING FORM J**

www.housingandpropertychamber.scot

0141 302 5900

Before completing application form J, an applicant must first have carried out any prescribed actions under Section 48 of the Housing (Scotland) Act 2014 (“the 2014 Act”).

You should seek legal advice if you are unsure of this. Please note that the Tribunal is an impartial judicial body. We are therefore unable to provide legal advice to a party. The Tribunal administration will provide information only on the application procedure.

If you do not provide the information and documentation that is required by the 2014 Act or the First tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”), the application MAY NOT be accepted and may be returned to you.

1. **APPLICANT DETAILS**

In this part of the form, you should give your details as the applicant. The applicant can be a landlord, tenant or the Scottish Ministers. Please provide full contact details, including an email address and contact telephone number.

The 2014 Act makes provision about who is deemed to be a tenant and a landlord in terms of applications under Section 48.

Section 48(9) states:

*References in this section to—*

*(a) a tenant include—*

*(i)a person who has entered into an agreement to let a house, and*

*(ii)a former tenant,*

*(b) a landlord include a former landlord.*

If you are unsure whether you are entitled to make an application under Section 48, you should seek legal advice.

**2. APPLICANT REPRESENTATIVE DETAILS**

## Enter the details of any person or company who will be representing you in this section. If no details are entered here, the Tribunal will deal directly with you.

If details are entered in this section, the Tribunal will correspond **solely** with the listed representative. Any correspondence sent to the representative will be deemed to have been sent to the applicant. It is important that any changes to an applicant’s named representative are notified to the Tribunal.

**3. ADDRESS OF THE PROPERTY**

Where the breach of the code of practice relates to a specific individual property, you should supply the address of the property in this section, or indicate if it is the same as your address given at Section 1.

If the breach does not relate to an individual property, you should tick “Not applicable”.

# 4. Letting Agent Details

In this part of the form, you should give the details of the relevant letting agent about whom the application is being made.

Under Section 48(2) of the 2014 Act, a relevant letting agent is:

*(a) in relation to an application by a tenant, a letting agent appointed by the landlord to carry out letting agency work in relation to the house occupied (or to be occupied) by the tenant,*

*(b) in relation to an application by a landlord, a letting agent appointed by the landlord,*

*(c) in relation to an application by the Scottish Ministers, any letting agent.*

You should also provide details of the Letting Agent Registration Number, or write “not known if this is not available to you.

**5. Letting agent representative DETAILS**

## Enter the details of any person or company who represents the letting agent that you have corresponded with in relation to the failure to comply.

**6. Details of complaint.**

**a)** It is important that you identify the section of the code on which your complaint is based. You should further specify exactly what paragraph of the relevant section of the code the letting agent has failed to comply with.

For example, if you are a landlord and have a complaint about the letting agent not declaring a potential conflict of interest with you, you would select “Engaging Landlords (Section 3)” by putting a cross or check mark in the small box beside this entry in the list.

You must also write the appropriate paragraph reference(s) in the larger box directly below the relevant section. In this example, you would list paragraphs 29 (f) and 32(n) in the long box underneath the entry for “Engaging Landlords (Section 3)”.

**You cannot make an application to the tribunal if you have not notified the letting agent of your complaint**. The details you enter in this section should correspond with the details of the complaint you have sent to the letting agent.

**b)** It is important that you set out the reasons for considering that there has been a failure to comply with the code of practice. You may wish to continue on a separate sheet, and if you do it should be clearly marked with your name and address, and headed “Section 5(b) Details of Complaint”.

**c)** If the tribunal makes a Letting Agent Enforcement Order (LAEO), the tribunal can provide that the letting agent must pay compensation to the applicant for any loss suffered as a result of the failure to comply. If you have suffered a loss as a result of the failure to comply, please explain the nature of the loss here, and set out how the failure to comply directly resulted in this loss.

If you have suffered no loss as a result of the failure to comply, please **do not leave section 5(c) blank.** The administration may be required to carry out further checks before they can process the application if no information is provided in this section, since it is a requirement under the Rules that any loss suffered as a result of the alleged failure to comply must be stated in the application. If you have suffered no loss, please state this on the form.

**d)** If there are steps that you think the letting agent should take to rectify the failure to comply, please set out in this section what you think the letting agent should do. This could be an apology, a repayment or reduction of fees, compensation for any loss, or any other action that you think it would be reasonable to ask the letting agent to take.

**7. REQUIRED ATTACHMENTS**

Under the 2014 Act, there is a requirement to serve notice on the letting agent of any failure to comply with the code of conduct before an application can be made to the tribunal. For the tribunal to accept an application, the application must include:

* A copy of the notification to the letting agent of the failure to comply; **and**
* evidence of service of the notification on the letting agent

If it cannot be shown that any notification letter you provide has been served on the letting agent, then the application may not be accepted. Evidence of notification could be a recorded delivery track and trace confirmation, a formal written response to your letter from the letting agent, or an email with a delivery and read receipt. It is not required to send a full history of your correspondence with the letting agent; the only requirement is to provide evidence of notification of the issues that form your complaint.

# SIGNATURE

The form must be signed and dated by the appropriate person(s) or their representative.