Form 38

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | | | NOTICE OF INTENTION TO ASSIGN TENANCY  **Magistrates Court of South Australia**  [www.courts.sa.gov.au](http://www.courts.sa.gov.au)  *Intervention Orders (Prevention of Abuse) Act 2009*  Section 25 | | | | | | | | | | | |
| Registry | |  | | | | | | | | | File No | |  | |
| Address | |  | | | | | | |  | | | | |  |
|  | | *Street* | | | | | | | *Telephone* | | | | | *Facsimile* |
|  | |  | | |  | |  | | | |  | | | |
|  | | *City/Town/Suburb* | | | *State* | | *Postcode* | | | | *Email Address* | | | |
| **Defendant** | | | | | | | | | | | | | | |
| Name | |  | | | |  | | | | | | | | DOB |
|  | | *Surname* | | | | *Given name/s* | | | | | | | | *dd/mm/yyyy* |
| Address | |  | | | | | | |  | | | | |  |
|  | | *Street* | | | | | | | *Telephone* | | | | | *Facsimile* |
|  | |  | | |  | |  | | | |  | | | |
|  | | *City/Town/Suburb* | | | *State* | | *Postcode* | | | | *Email Address* | | | |
| **Applicant** | | | | | | | | | | | | | | |
| Name | |  | | | |  | | | | | | | | |
|  | | *Surname* | | | | *Given name/s* | | | | | | | | |
| Address | |  | | | | | |  | | | | | |  |
|  | | *Street* | | | | | | *Telephone* | | | | | | *Facsimile* |
|  | |  | | |  | |  | | | |  | | | |
|  | | *City/Town/Suburb* | | | *State* | | *Postcode* | | | | *Email Address* | | | |
| **Landlord to whom this order is directed** | | | | | | | | | | | | | | |
| Name | |  | | | | |  | | | | | | | |
|  | | *Surname* | | | | | *Given name/s* | | | | | | | |
| Address | |  | | | | | | | | | | | | |
|  | | *Street* | | | | | | | | | | | | |
|  | |  | | | | | | | | |  | | |  |
|  | | *City/Town/Suburb* | | | | | | | | | *State* | | | *Postcode* |
| **Premises** | | | | | | | | | | | | | | |
| Address of Premises | |  | | | | | | | | | | | | |
|  | | *Street* | | | | | | | | | | | | |
|  | |  | | | | | | | | |  | | |  |
|  | | *City/Town/Suburb* | | | | | | | | | *State* | | | *Postcode* |
| Tenant | |  | | | | |  | | | | | | | |
|  | | *Surname* | | | | | *Given name/s* | | | | | | | |
| Proposed Tenant | |  | | | | |  | | | | | | | |
|  | | *Surname* | | | | | *Given name/s* | | | | | | | |
| Rent: | |  | | | | | Bond: | | | |  | | | |
| An Intervention Order has been made against the defendant who has been prohibited from being at the premises and the court has been asked to make an order assigning the defendant’s tenancy to *(name of protected person)*       in accordance with section 25 of the Act which is attached. You can attend the hearing notified below and be heard as to whether the order should be made. If you do not attend the order may be made in your absence. | | | | | | | | | | | | | | |
| **Hearing details** | | | Registry | | | | | | | | | Date | | |
|  | | | Address | | | | | | | | | Time       am/pm | | |
|  | | | Telephone | Facsimile | | | | | | Email Address | | | | |
| Date MAGISTRATES COURT | | | | | | | | | | | | | | |
| **Proof of Service** | | | | | | | | | | | | | |
| Name of person serving: | | | | | | | | | | | | | |
| Address of person serving: | | | | | | | | | | | | | |
| Name of person served: | | | | | | | | | | | | | |
| Address at which service effected: | | | | | | | | | | | | | |
| Date service effected: | | | | | | | | | | | | | |
| Time of day: Between       am/pm and       am/pm | | | | | | | | | | | | | |
| Method of service (tick box)  personally;  by post;  any other method permitted by the Rules – specify:  I certify that I served the attached document on the landlord in the manner described. | | | | | | | | | | | | | |
| Certified this       day of       20 | | | | | | | | | | | | | |

***INTERVENTION ORDERS (PREVENTION OF ABUSE) ACT 2009***

25—Tenancy order

(1) If—

(a) the Court confirms an interim intervention order as a final intervention order against a defendant or issues a final intervention order against a defendant in substitution for an interim intervention order; and

(b) the final intervention order prohibits the defendant from being on premises at which a protected person resides; and

(c) the defendant and protected person previously resided together on the premises; and

(d) the premises are subject to a tenancy agreement to which the defendant is a party,

the Court may make an order (a ***tenancy order***) that the defendant will be taken to have assigned the defendant's interest in the tenancy agreement to a specified person or persons with the landlord's consent.

(2) However, a tenancy order may only be made if the Court is satisfied that the assignee consents to the assignment and—

(a) in a case where—

(i) the landlord is a community housing provider registered under the *Community Housing Providers National Law*; and

(ii) the premises constitute community housing within the meaning of that Law,

the assignee meets the eligibility requirements for such community housing and any membership or other requirements of the landlord associated with occupation of those premises; and

(b) in a case where the landlord is the South Australian Housing Trust or a subsidiary of the South Australian Housing Trust—the assignee meets the eligibility requirements of the Trust; and

(c) in any case—the assignee could reasonably be expected to comply with the obligations under the tenancy agreement,

(so that it would be unreasonable for the landlord to withhold consent to the assignment).

(3) A tenancy order takes effect on the day on which it is made or on such later day as is specified in the order.

(4) If a tenancy order is made—

(a) the effect of the assignment is that the assignee is substituted for the assignor as tenant under the tenancy agreement (but the assignor remains responsible for liabilities that accrued before the date of the assignment); and

(b) the assignee is liable to indemnify the assignor for liabilities incurred by the assignor to the landlord because of a breach of the tenancy agreement by the assignee; and

(c) an amount paid by the assignor and held by way of security for the performance of obligations under the tenancy agreement will (unless the parties agree to the contrary) continue to be held as security for the proper performance by the assignee of obligations under the tenancy agreement.

(5) The Registrar must give a copy of a tenancy order to—

(a) the protected person; and

(b) the defendant; and

(c) the landlord; and

(d) if the assignee is not the protected person—the assignee; and

(e) the Registrar of the South Australian Civil and Administrative Tribunal.