

LANDLORD LAW:

THE EVICTION PROCESS

HOW TO KEEP TO THE RULES

Unfortunately, there may come a time when you will have to serve an eviction notice on your tenant(s). The reasons could be varied, such as rent arrears or damage to your property, but sometimes you will be left with little choice but to start the eviction process.

As a landlord, it is imperative that you are fully aware of your legal obligations surrounding evictions, so that you follow the correct procedures and get a satisfactory outcome.

When preparing to evict a tenant from your rental property, it is important to get yourself organised. Firstly, make sure all paperwork is up to date and well maintained. You must ensure that you approach the eviction process with care. There are a number of important documentations that you must have to hand:

- **The tenancy agreement**
- **A signed and dated inventory**
- **The Prescribed Information regarding which deposit protection scheme you have registered the tenant's deposit with (if one was taken)**
- **Details of your landlord insurance**
- **Any notes made from periodic inspections**

EVICTION NOTICES

The amount of notice you are required to give your tenant will depend on the type of tenancy agreement you have.

Most landlords will be dealing with private renters on Assured Shorthold Tenancies (ASTs). Landlords can inform their tenant that they are to be evicted by serving a Section 21 notice.



SECTION 21 NOTICES

If your tenancy agreement started before 1st October 2015, you are legally permitted to serve a Section 21 at any time during the tenancy. However, the notice must expire on or after the end of the fixed term.

For tenancies starting after 1st October 2015, you must wait four months until a Section 21 notice can be served. If a new contract is signed in order to renew the tenancy, you can serve a Section 21 at any time.

If your tenant does not leave after the two-month notice period, you will have to apply to the court for a possession order. Usually, if you have followed the correct process, this will take between four to six months.

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When a court rules that a landlord has grounds for possession, it will set a date for the tenant to leave. Should the tenant remain, you can ask the court for a bailiff to evict them.

However, you must also be aware that you are unable to serve a Section 21 notice if your tenant has previously complained in writing about the condition of the property and you have not dealt with their complaint within good time. This is due to a crackdown on so-called revenge evictions.

SECTION 8 NOTICES

Fixed-term tenancies can be trickier when seeking to obtain an eviction. More commonly, a Section 8 notice will be served. You can serve a Section 8 notice at any time during a tenancy agreement, including during fixed terms. However, you must establish a ground for possession, such as rent arrears or criminal behaviour.

If you decide to serve a Section 8, it is permitted that you prove to the court that you have reasons for possession. A written notice must be provided, outlining the reasons that you are seeking eviction. This is valid for one year after it was served.

A Section 8 can be split into two sections - mandatory and discretionary.

Mandatory grounds, if proven, will see the court order your tenants to leave your property, usually within 14 days. The most common mandatory ground is ground 8, for rent arrears. To use this order, your tenants must be in at least two months' rent arrears if they pay monthly, or eight weeks' if they pay weekly. In addition, the tenant must be in rent arrears when you give them notice and when the case is eventually heard in court, in order to be legally valid.

Discretionary grounds see courts decide if your tenants should leave. Common grounds include: tenants regularly missing payments, breaking the terms of the agreement or damage to the property.

THE ACCELERATED POSSESSION PROCEDURE

Private landlords can also apply to evict their assured shorthold tenant without a court hearing using the accelerated possession procedure.

This can only be used if your tenants are on an AST and have been given a written tenancy agreement when moving in. In addition, the accelerated possession procedure can only be used after serving a Section 21 notice.

To use this procedure, you must apply to the court by completing possession claim form N5B and send it with the following information:

- **The original tenancy agreement**
- **The latest tenancy agreement (if different to the original)**
- **The Section 21 served**

