

This Guidance is for England only. For the new possession procedure under the Housing Act 2016 (England and Wales) Act 2016.

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1. Different types of tenancy

Landlords cannot evict residential tenants without obtaining a court order for possession. Prior to applying to court, the landlord must serve a notice on a tenant advising the tenant that the landlord wishes to evict them. The procedure is different according to the type of tenancy that the tenant has.

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Assured shorthold tenancy – fixed term

Expired

- 1.1 If the tenant has a fixed term tenancy which has expired or will expire on or after the date of the application for possession under section 8 of the Housing Act 1988, the landlord may use the “accelerated” procedure for possession under section 8 of the Housing Act 1988. This is the simplest way of obtaining possession of the property if the tenant is in breach of the tenancy agreement or has committed a fault on the part of the tenant. For more information see: **Guidance Notes: Obtaining Possession of Residential Property on Fixed Term - S21 Notices**

If the tenant has a fixed term tenancy, the fixed term of which has expired or will expire on or after the date of the application for possession under section 8 of the Housing Act 1988, the landlord may use the “accelerated” procedure for possession under section 8 of the Housing Act 1988. This is the simplest way of obtaining possession of the property if the tenant is in breach of the tenancy agreement or has committed a fault on the part of the tenant. For more information see: **Guidance Notes: Obtaining Possession of Residential Property on Fixed Term - S21 Notices**

2. Assured shorthold tenancy – rolling contract

- 2.1 If the tenant has an assured shorthold tenancy whose fixed term still has some time to run, the accelerated procedure cannot be used. Instead, the landlord must apply for a possession order under section 8 of the Housing Act 1988. The grounds set out in Schedule 2 to the Housing Act 1988 are discussed under the heading “The grounds” below.
- 2.2 The landlord’s ability to evict a tenant during the fixed term is limited because the landlord must rely on grounds 2, 7, 7A, 7B, 8, 10 to 15 of the Housing Act 1988. If the landlord has reserved a right in the tenancy agreement to use any of the grounds on that particular ground. Certain grounds require prior notice to be served on the tenant before the tenancy agreement can be terminated.
- 2.3 Before the landlord can apply for a possession order under section 8 of the Housing Act 1988, the landlord must serve notice on the tenant under section 21 of the Housing Act 1988. Notices are discussed below.

If the tenant has an assured shorthold tenancy whose fixed term still has some time to run, the accelerated procedure cannot be used. Instead, the landlord must apply for a possession order under section 8 of the Housing Act 1988. The grounds set out in Schedule 2 to the Housing Act 1988 are discussed under the heading “The grounds” below.

3. Assured tenancy (non-shorthold)

- 3.1 The accelerated possession procedure is not available to landlords of assured tenancies which are periodic. If the tenancy has become periodic the landlord must apply for a possession order under section 8 of the Housing Act 1988. The grounds set out below are discussed under the heading “The grounds” below.

Term

The accelerated possession procedure is not available to landlords of assured tenancies which are periodic. If the tenancy has become periodic the landlord must apply for a possession order under section 8 of the Housing Act 1988. The grounds set out below are discussed under the heading “The grounds” below.

4. Assured tenancy (non-shorthold)

- 4.1 During the fixed term of an assured tenancy, the landlord must apply for a possession order under section 8 of the Housing Act 1988. The grounds set out below are discussed under the heading “The grounds” below.

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The same as set out above in relation to assured tenancies during the fixed term, i.e., a possession order under section 8 of the Housing Act 1988. The same limitation applies as to the grounds on which the landlord can apply for a possession order.

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Section 8 Notices

A landlord should use a Section 8 Notice if they intend to seek a court order for possession of the property.

The Notice must include the grounds for possession. The grounds below include the most common grounds for possession.

The Notice can be served by hand or sent by recorded delivery. Remember that the notice period begins from the time the tenant receives the letter, not the date it is posted. Always allow a few extra days when calculating the date of possession. It is at least 2 months or (as the case may be) 2 weeks from the date of the Notice.

Landlords should be aware that the Renters' Reform Bill and Mental Health Act 2003 may prevent a landlord from seeking possession if the tenant has debt problems.

The Grounds in Section 8

The grounds are broken down into mandatory and discretionary. If they are shown to be satisfied, the court must make an order for possession. The other grounds are discretionary, meaning that the court will only make a possession order if it is satisfied that it is reasonable to do so.

Landlords should seek legal advice before serving a Section 8 Notice. Visit <http://www.legislation.gov.uk> for more information.

Ground number	Description
1	Recovery of possession by the owner or a person entitled to possession.
2	A mortgage or other charge.
3	The property is let as a holiday let on an assured tenancy.
4	The property is let as a student let on an assured shorthold tenancy.
5	The property is let by a minister of religion.
6	The landlord is entitled to possession of the property.

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Seeking Possession

The earliest date upon which the landlord can begin proceedings for possession depends on the grounds relied on. The table of grounds below shows the earliest date.

The Notice can be served by hand or sent by recorded delivery. Remember that the notice period begins from the time the tenant receives the letter, not the date it is posted. Always allow a few extra days when calculating the date of possession. It is at least 2 months or (as the case may be) 2 weeks from the date of the Notice.

Landlords should be aware that the Renters' Reform Bill and Mental Health Act 2003 may prevent a landlord from seeking possession if the tenant has debt problems.

Section 8 Act 1988

Grounds 1-8 are "mandatory", which means that if they are shown to be satisfied, the court must make an order for possession. The other grounds are discretionary, meaning that the court will only make a possession order if it is satisfied that it is reasonable to do so.

Landlords should seek legal advice before serving a Section 8 Notice. Visit <http://www.legislation.gov.uk> for more information.

Ground number	Description	Earliest date for beginning proceedings
1	Recovery of possession by the owner or a person entitled to possession.	At least 2 months
2	A mortgage or other charge.	At least 2 months
3	The property is let as a holiday let on an assured tenancy.	At least 2 weeks
4	The property is let as a student let on an assured shorthold tenancy.	At least 2 weeks
5	The property is let by a minister of religion.	At least 2 months
6	The landlord is entitled to possession of the property.	At least 2 months

7	The former tenant has a right to occupy the property with a right to possession.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 months
7A	Criminal offence relating to the property.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 1 month
7B	Immigration or nationality issues.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 weeks
8	Serious rent arrears or possession of the property.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 weeks
9	Suitable alternative accommodation is available.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 months
10	Rent arrears or possession of the property.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 weeks
11	Persistent breach of the tenancy agreement.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 weeks
12	Breach of a licence agreement.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 weeks
13	The condition of the common parts has deteriorated because of the behaviour of the tenant or anyone living there.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 weeks
14	Nuisance, annoyance or interference.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	Immediately after serving Section 8 Notice
14ZA	Criminal offence (England only).	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 weeks
14A	Domestic violence.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 weeks
15	The condition of the common parts has deteriorated because of the behaviour of the tenant or anyone living there.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 weeks
16	Recovery of possession of the property.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 months
17	The landlord has served a false statement on the tenant.	There is a person occupying the property who is not the tenant or affecting the tenant's right to possession.	At least 2 weeks

Breathing Space Moratorium

Tenants who are in rent arrears may qualify for a breathing space moratorium. This provides a temporary protection from enforcement known as "the breathing space moratorium". This is managed by the Insolvency Service.

During the breathing space moratorium, landlords cannot:

- take enforcement action on the grounds of rent arrears;
- contact the tenant about the arrears;

Landlords who have difficulty may qualify for a breathing space moratorium. This provides a temporary protection from enforcement for someone in debt for up to 60 days. This is managed by the Insolvency Service. If the moratorium is applicable, will be notified to a landlord by the Insolvency Service.

cannot:

- take enforcement action on the grounds of rent arrears by serving a S8 notice on the tenant;
- contact the tenant about the arrears; or
- go through the tenant's debt adviser;

- issue proceedings (the breathing space).

The Insolvency Service comes to an end.

Possession procedure

If the Tenant has breached by the date court proceedings **Procedure (for Section 8)**

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where a s8 notice has already been served before the tenant has vacated the property during the breathing

by the landlord when the breathing space period

paid the rent arrears or remedied the relevant breach, the landlord may have no option but to start court proceedings. Refer to the guidance on using **the Standard Possession**.