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1. Introduction

- 1.1 This subfolder contains the "accelerated procedure" for obtaining possession of residential property on an assured shorthold tenancy (AST).
1.2 An assured shorthold tenancy (AST) ends after the end of the fixed term. If the landlord wishes to recover possession, they must follow the procedure set out in this guidance note.
1.3 The accelerated procedure can be used from the start of the fixed term, or after the end of the fixed term, the landlord must follow the procedure set out in Schedule 2 to the Housing Act 1988. This involves serving a notice on the tenant and, if necessary, making an application to court for an order for possession. A tenant cannot be evicted without a court order.
1.4 The accelerated procedure can be used where the landlord wishes to achieve anything other than possession. For example, it cannot be used to recover possession of the property.

ments relating to the "accelerated residential property that has been let in England.

remain in occupation of the property. The tenancy becomes a "periodic" tenancy. If the landlord seeks possession of the property, the landlord must follow the procedure set out in the Housing Act 1988. This involves serving a notice on the tenant and, if necessary, making an application to court for an order for possession. A tenant cannot lawfully be evicted without a court order.

ed to obtain possession at the end of the fixed term. Possession is required during the fixed term on the fault-based grounds set out in Schedule 2 to the Housing Act 1988. Claims are outside the scope of this guidance note.

used where the landlord wishes to recover possession. For example, it cannot be used to recover possession of the property.

2. Section 21 Notice

- 2.1 The first step is for the landlord to serve a Section 21 Notice. A Section 21 Notice gives the tenant a specified date by which they must vacate the property.
2.2 In the majority of cases, the tenant will vacate the property at the end of the notice period and the landlord will not need to apply to court for a possession order, provided a valid Section 21 Notice has been served.
2.3 Before serving a Section 21 Notice, the landlord should make sure that there are no factors preventing them from serving a valid Notice. See Guidance Notes: Obtaining Possession of Residential Property at End of Fixed Term - s21 Notice to Terminate an Assured Shorthold Tenancy (England) and Covering Letter for Section 21 Notice to Terminate an Assured Shorthold Tenancy (England).

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3. Proof of Service of Section 21 Notice

- 3.1 If an application to court for possession is made, it is vital that the landlord can prove that the Section 21 Notice has been served in accordance with the requirements of the Housing Act 1988. "Proof of service" will need to be provided to the court in the following ways:
3.1.1 The best form of proof is a copy of the Section 21 Notice which has been countersigned by the tenant or an acknowledgment receipt.

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3.1.2 If the notice is served by a process server, they should provide a certificate of service (sometimes called an affidavit of service) which must be filed with the court.

3.1.3 Alternatively, a copy of a certificate of service signed by the process server and the landlord, if the notice is personally delivered to the tenant or the landlord, may be provided. See: **N215 Certificate of Service of Section 21**

3.1.4 A certificate from the Post Office can be provided but is not accepted by the courts as it does not prove that the Section 21 Notice has been served.

3.1.5 A certificate of proof of delivery is acceptable but using recorded delivery for a certificate of service can be problematic. If the tenant is not present and a delivery attempt is attempted and does not collect the post from the post office, the post will be returned to the landlord.

4. **Application for Possession Order**

4.1 If the tenant is in possession of the property by the date specified in the Section 21 Notice, the landlord must apply to court for an order for possession. This application must be made within 4 weeks of the date of service of the Section 21 Notice. The application can be made either online or on paper.

4.2 Preparation of Application Online via gov.uk website

4.2.1 The landlord should visit <https://www.gov.uk/accelerated-possession-claim>.

4.2.2 Landlords who choose to use the online option should read the guidance on accelerated possession claim paper-based applications as it will help them complete the online form.

4.2.3 The landlord should complete a questionnaire to produce a claim form. The landlord can choose whether or not to pay the court fee and any legal fees.

4.2.4 The court fee payable can be found at <https://www.gov.uk/accelerated-possession-eviction>

4.2.5 The landlord's costs cannot exceed the amount specified in rule 45.3 of the Civil Procedure Rules: <https://www.gov.uk/courts/procedure-rules/civil/rules/part45-3>

4.3 Paper-based Application to Court

4.3.1 The application should be made to the County Court on form N5B. See: N5B Application for Possession of Property in England (Accelerated Possession Claim) <https://www.gov.uk/government/publications/form-n5b-application-of-a-property-located-wholly-in-england-2>

5. **Submitting the Application to Court**

Whether the application is prepared online or using the paper form, the application must be produced, signed, and sent to the county court in the area where the property is situated. See: **Letter to Court Enclosing Form N5B Claim**

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Landlords who are unclear can find the appropriate court here <https://www.gov.uk/find-co>

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6. **The Court Issues the Claim**

The next step is for the court to issue the claim form to the tenant(s). The court will also send a Notice of Issue with a copy of the claim form to the landlord.

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7. **Tenant's Options on Receipt of Claim**

7.1 The tenant may choose to:

- 7.1.1 defend the claim (by disputing possession). The procedure for defending a claim is set out in the court guide.
- 7.1.2 Seek a postponement of possession on the ground of exceptional hardship; or
- 7.1.3 Do nothing and accept the claim.

The tenant may choose to: (1) defend the claim (by disputing possession). The procedure for defending a claim is set out in the court guide. (2) Seek a postponement of possession on the ground of exceptional hardship; or (3) Do nothing and accept the claim.

7.2 Defending the claim

Defending the claim

7.2.1 If the tenant disputes possession, they must file a defence using Form N11A (England and Wales) or Form N11B (Scotland) (AST).

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7.2.2 The defence must state why the tenant believes that the landlord is not entitled to possession or will set out details of the exceptional circumstances.

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8. **Timescale for Serving a Defence**

**Order for Possession**

8.1 The tenant should serve their defence within 14 days of service of the notice of claim. If the tenant does not serve a defence, the claim will be referred to a judge.

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8.2 If no defence has been served, the landlord may file a request for an order for possession. The request must be filed with the court. The tenant may not now seek to defend the claim. See **Order for Possession**.

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8.3 If a defence is not served for possession within the 14-day period, the claim will be stayed.

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9. **Reference to a Judge**

If the claim is referred to a judge, the judge will decide whether:

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9.1 To make an order for possession requiring the parties to attend. The order will usually take effect within 28 days. A maximum of 42 days can be ordered if the judge is satisfied that a shorter period would cause them "exceptional hardship". Examples of exceptional hardship include illness, pregnancy, disability and no access to alternative accommodation.

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can have demonstrated that a shorter period would cause hardship". Examples of exceptional hardship include illness of a tenant, young children and no access to alternative accommodation.

9.3 To obtain a possession order for a possession hearing and give appropriate directions. This will be done if the judge is not satisfied that the landlord is not satisfied that the landlord is entitled to possession.

9.4 To suspend a possession order. This will be done if the claim form discloses no grounds for making the claim.

10. **Enforcement of a possession order**

Usually, the court will order possession of the property by the date stated in the possession order. It can also order the landlord to give the tenant reminding them of the terms of the possession order. **Letter to Tenant regarding Possession Order.**

11. **Application for a Warrant of Possession**

11.1 If the landlord wants a warrant for possession, the landlord will need to apply to the court for a warrant. This can be done in paper form or online. See: **Form N325 Warrant of Possession of Land or Premises** <https://www.gov.uk/pcol/>

11.2 The court will insert the words inserted in sections 1, 2 & 3.

11.3 Section 85(1) does not apply as there is no money to collect in an accelerated possession order.

11.4 In section 85(1) no court order for possession need to be given.

11.5 In the right-hand side, delete the wording in brackets in the whole of paragraph 2.

11.6 The court will issue the warrant with a covering letter. See: **Letter to Court for Warrant Request**

11.7 A check of the court fees should be enclosed with the letter. Details of court fees can be found at [www.gov.uk/evicting-tenants/eviction-notices-and-bailiffs](http://www.gov.uk/evicting-tenants/eviction-notices-and-bailiffs)

12. **Issue of Warrant**

12.1 Assume the court will make a Warrant for Possession of Land or Premises. The court will use a Form N49 Warrant for Possession of Land or Premises to give the court bailiffs to obtain possession of the property.

12.2 The court will give the bailiff notice of the eviction appointment when the bailiff is to execute the warrant (Form EX96). This may be done if the warrant has been issued depending on the court's order.

12.3 The court will confirm the appointment and provide a risk assessment to the bailiffs of any risks they may encounter when carrying out the eviction. The landlord or tenant should meet the bailiff at the property together with a key to change the locks. The bailiff will evict any people who are not required to remove any goods.

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