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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 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 procedure" for obtaining possession of residential property that has been let on an assured shorthold tenancy (AST) in England.

remain in occupation of the property after the end of the fixed term. The tenancy becomes a "periodic" tenancy. If the landlord wishes to recover possession of the property, the landlord must follow the procedure set out in the Housing Act 1988. This involves serving a notice of possession. If necessary, making an application to court for an order for possession. A residential 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 outside the scope of this guidance note.

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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.

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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 covering letter for the Section 21 Notice which has been countersigned by the tenant.

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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 An alternative way of a certificate of service signed by the process server and duly delivered the notice to the tenant or the landlord is the **N215 Certificate of Service of Section 21** Notice.

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 given a certificate of proof of delivery is attempted and does not collect the post from the post office, it will be returned to the landlord.

4. **Application for Possession Order**

4.1 If the tenant does not vacate 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 6 months 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-notice>.

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

4.2.3 The landlord should complete the 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 Schedule 1 of the Civil Procedure Rules: <https://www.gov.uk/courts/procedure-rules/civil/rules/part45-claim-form>

4.3 Paper Application to Court

4.3.1 The claim form should be made to the County Court on form N5B. See: N5B Application for Possession of Property in England (Accelerated Possession) <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 claim form 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>

can find the appropriate court here

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 send a copy of the claim form to the tenant(s) and the landlord will also receive a Notice of Issue with a copy of the claim form about the next steps.

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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 (to prevent possession).

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7.1.2 Seek a postponement of possession on the ground of exceptional hardship; or

on the ground of exceptional

7.1.3 Do nothing and allow the claim to proceed to an order for possession.

an order for possession.

7.2 Defending the claim

Defence of possession

7.2.1 If the tenant wishes to defend the claim for possession, they must file a defence using Form N11B. See: **N11B (AST)**.

claim or seek a postponement of possession using Form N11B. See: **N11B (AST)**.

7.2.2 The defence must state why the tenant believes that the landlord is wrong 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.

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.

8.2 If no defence has been served within the 14-day period, the landlord may file a request for an order for possession with the court. The request must be made using Form N11B. 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 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 demonstrate 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 satisfy the court that the claim form discloses no reasonable grounds for making the claim.

10. **Enforcement of 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 will need to apply to the court for a warrant of possession. 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 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

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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