

Guidance on obtaining possession of assured or assured shorthold tenancies: Section 8 Notices

This Guidance is for England only. For Wales, see the [Obtaining Homes Wales group for the new possession procedure under the Housing Act 2016](#).

Different types of tenancy – how to obtain possession

Landlords cannot evict residential tenants without a court order for possession. Prior to applying to court, the Landlord must advise the Tenant that the Landlord is seeking possession and that the procedure is different according to the type of tenancy.

1. Assured shorthold tenancy (AST)

- 1.1 If the Tenant has a fixed term tenancy which has expired or will expire, the Landlord can use the “accelerated” procedure for possession. This is the simplest way of obtaining possession as the Landlord does not need to show any fault on the part of the Tenant or give any other reason for seeking possession. The procedure is discussed below.

2. Assured shorthold tenancy (AST) with a fixed term

- 2.1 If the Tenant has a fixed term tenancy which has not expired, the Landlord must apply to court under Schedule 2 to the Housing Act 1988. The grounds for possession are set out in Schedule 2 to the Housing Act 1988 under the heading “The grounds for possession”.
- 2.2 The Landlord’s ability to obtain possession during the fixed term is limited because the Landlord must rely on grounds 2, 7, 7A, 7B, 8, 10 to 15 (inclusive) and 17 of Schedule 2 to the Housing Act 1988. The Landlord must have reserved a right in the tenancy agreement to rely on that particular ground. Certain grounds require prior notice to be served on the Tenant before the Landlord can apply to court for possession. The procedure is discussed below.
- 2.3 Before the Landlord can apply to court for possession under section 8 of the Housing Act 1988, the Landlord must serve notice on the Tenant. Section 8 Notices are discussed below.

3. Assured tenancy (non-shorthold)

- 3.1 The accelerated procedure for possession is not available to Landlords of assured tenancies. Once an assured tenancy has become periodic the Landlord can use the accelerated procedure for possession if the grounds set out in Schedule 2 to the Housing Act 1988 are otherwise as set out above in relation to the fixed term.

4. Assured tenancy (non-shorthold) with a fixed term

- 4.1 During the fixed term, the Landlord must apply to court for possession under Schedule 2 to the Housing Act 1988. The grounds for possession are set out in Schedule 2 to the Housing Act 1988 under the heading “The grounds for possession”.

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Section 21 Notices

A Landlord wishing to use the accelerated procedure should serve a **Section 21 Notice Seeking Possession** on the Tenant.

The court will make a possession order if the Landlord has given the Tenant two months' written notice that they must leave the property by the end of the notice period.)

A Section 21 Notice must be in writing and served on the Tenant under cover of the **Section 21 Notice**.

Landlords should note that a Section 21 Notice is only valid if:

- a) the Landlord has provided the Tenant's tenancy deposit in an authorised tenancy deposit scheme within 30 days of receipt; and the prescribed information has been provided to the tenant within 30 days of receipt of the deposit; and the Tenant has not been able to serve a Section 21 Notice until the deposit has been served;
- b) the Landlord should have a valid energy performance certificate (EPC) for the property (house in multiple occupation) before the date of the Notice;
- c) the tenancy began on or after 1 October 2015;
- d) the Landlord failed to provide a valid energy performance certificate before the date of the Notice;
- e) the Landlord has failed to provide a copy of the most recent gas safety certificate to the Tenant;
- f) the Landlord has failed to provide a copy of the publication "How to rent: the checklist for tenants" published by the Ministry of Housing, Communities and Local Government. This must be the up to date version as at the date of the Notice (or became periodic);
- g) the local authority has issued a remedial action notice under the Housing Health and Safety Rating System (HHSRS) in relation to the property within the last 6 months;
- h) the Landlord has not lawfully charged fees or returned an advance payment of rent in accordance with the Tenant Fees Act 2019.

Section 8 Notices

A Landlord should use the **Section 8 Notice** to inform the Tenant that it intends to seek a court order for possession.

The Notice must inform the Tenant of the grounds on which the Landlord can begin possession proceedings. The table of grounds below includes details of the grounds on which the Landlord can begin possession proceedings.

The Notice can be handed to the Tenant by recorded delivery. Remember that the notice period given in paragraph 1 of the Notice begins from the time the Tenant receives the Letter, not when the Letter is posted. The table of grounds below includes details of the grounds on which the Landlord can begin possession proceedings.

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Landlords should be aware that the **and Mental Health** may prevent a landlord from obtaining possession whilst the Tenant is in receipt of a 'breathing space'.

The grounds in Section 8 Act 1988

The grounds are broken down into 11 categories. If they are shown to be satisfied, the court must make an order for possession. The order is mandatory, meaning that the court will only make a possession order if it is unable to do so.

Landlords should select the grounds carefully before citing any of them in a Section 8 Notice. You can find the full text of the grounds at <http://www.legislation.gov.uk/ukpga/1988/14/schedule/2>.

Respite Scheme (Breathing Space Moratorium England and Wales) Regulations 2020, which requires a landlord to provide a 'breathing space'.

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 order is mandatory, meaning that the court will only make a possession order if it is unable to do so.

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Ground number	Description	Earliest date for beginning proceedings
1	Recovery of possession by owner or person entitled to possession.	At least 2 months
2	A mortgagee in possession.	At least 2 months
3	The property has been let for a holiday let and the tenant is an assured tenant.	At least 2 weeks
4	The property has been let as a student let and the tenant is a shorthold tenant.	At least 2 weeks
5	The property is used for religious purposes 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 form of the property is such that there is a person entitled to possession.	At least 2 months
7A	Criminal activity on the property.	At least 1 month
7B	Immigration activity on the property.	At least 2 weeks
8	Serious possession of the property.	At least 2 weeks
9	Suitable alternative accommodation is available.	At least 2 months
10	Rent arrears when the Section 8 Notice is issued.	At least 2 weeks
11	Persistent possession of the property.	At least 2 weeks

12	Breach of tenancy agreement.	At least 2 weeks
13	The common parts have been damaged by the behaviour of the Tenant.	At least 2 weeks
14	Nuisance or annoyance caused by the Tenant's activity.	Immediately after serving Section 8 Notice
14ZA	Criminal damage.	At least 2 weeks
14A	Domestic violence.	At least 2 weeks
15	The condition of the property has deteriorated because of the Tenant or anyone living there.	At least 2 weeks
16	Recovery of possession of the property.	At least 2 months
17	The Landlord has been misled by a false statement made by the Tenant.	At least 2 weeks

Possession procedure

If the Tenant has not remedied the breach by the date specified in the notice, the Landlord has the option but to start court proceedings under the Accelerated Possession Procedure (for Section 8 cases) to obtain Possession.

If the Tenant has paid the rent arrears or remedied the relevant breach by the date specified in the notice, or Section 8 Notice, the Landlord may have no right to start court proceedings. Please refer to the guidance on using the Accelerated Possession Procedure (for Section 8 cases) and the Standard Procedure (for Section 8 cases).