

## Gaining possession of a privately rented property let on an assured shorthold tenancy

### You are likely to be letting on an assured shorthold tenancy if:

- you are a private landlord
- the tenancy began on or after 28 February 1997
- the house or flat is let as separate accommodation and is the tenant's main home.

If you are not letting on an assured shorthold tenancy, see the further information section at the bottom of this leaflet.

### How do I get my property back?

There are two main routes private landlords can take to regain possession of their property under the Housing Act 1988:

- **Section 21** gives a landlord an automatic right of possession without having to give any grounds (reasons) once the fixed-term has expired.
- **Section 8** allows a landlord to seek possession using grounds 2, 8, 10 to 15 or 17 listed in Schedule 2 to the Act. These include rent arrears and anti-social behaviour:

[Hwww.legislation.gov.uk/ukpga/1988/50/schedule/2](http://www.legislation.gov.uk/ukpga/1988/50/schedule/2)

In all cases you must give your tenant written notice, usually at least two months, of your intention to regain possession.

### Which route should I use?

You cannot use Section 21 to gain possession of your property during the fixed-term. You can serve a Section 21 notice on your tenant during that time, providing the date you state you require possession is not before the end of the fixed-term.

If your tenant paid a deposit, you cannot use Section 21 unless the deposit has been protected in accordance with the tenancy deposit schemes. See tenancy deposit protection on Directgov:

[www.direct.gov.uk/en/HomeAndCommunity/PrivateRenting/Tenancies/DG\\_189120](http://www.direct.gov.uk/en/HomeAndCommunity/PrivateRenting/Tenancies/DG_189120)

You can seek possession at any time under Section 8 but if you are seeking possession during the fixed-term, you can only use Section 8 if the tenancy makes provision for the tenancy to be ended on the ground for which you are seeking possession.

## Seeking possession under section 8

### How much notice must I give my tenant?

The notice you must give if you are using Section 8 varies from two weeks to two months depending on the ground you are using.

### Do I need to use a special form to give notice to my tenant?

Yes, if you are using Section 8 the notice you give must be on a special form entitled 'Notice seeking possession of a property let on an Assured Tenancy or an Assured Agricultural Occupancy'. A copy of this form is available on our website at:

<http://communities.gov.uk/documents/housing/doc/tenancyform3.doc>

### What do I do if my tenant refuses to leave on the date specified in the notice?

You will need to apply to the courts for a 'possession order'.

### How can I speed up the process?

You can use the **Possession Claim On-Line service** (PCOL) if you are seeking possession of the property together with any rent arrears.

PCOL allows you to access court forms online to make, issue, view and progress a possession claim electronically. For further information see:

[www.hmcourts-service.gov.uk/onlineservices/pcol/about\\_pcol.htm](http://www.hmcourts-service.gov.uk/onlineservices/pcol/about_pcol.htm)

## What do I do if my tenant refuses to leave by the date given in the court order?

You must apply to the courts for a warrant of possession and the court will arrange for a bailiff to evict the tenant.

You will need to use the 'Request for Warrant of possession of Land' Form N325, which can be found at:

[www.hmcourts-service.gov.uk/courtfinder/forms/n325\\_1010.pdf](http://www.hmcourts-service.gov.uk/courtfinder/forms/n325_1010.pdf)

## Seeking possession under Section 21

### How much notice must I give my tenant?

You must give at least two months' notice in writing if you are using Section 21.

### Do I need to use a special form to give notice to my tenant?

No, if you are using Section 21 you do not need to use a special form but you must give at least two months' notice in writing. If the fixed-term has expired the notice must end on the last day of the rental period and you must explain that you are giving notice by virtue of Section 21 of the Housing Act 1988. You will need to give more than two months' notice if the fixed term has expired and the gap between the dates that the rent falls due is more than two months (eg a quarterly rent).

### What do I do if my tenant refuses to leave on the date specified in the notice?

You will need to apply to the courts for a 'possession order'.

### How can I speed up the process?

Where possession is sought under Section 21, an **accelerated procedure** can be used which is a straightforward and inexpensive procedure for getting possession of your property without a court hearing.

In most cases using this procedure the court will make its decision on the papers, and can order possession to be given up within 14 days unless exceptional hardship would be caused, in which case the maximum time that can be allowed is 42 days.

You can only use this procedure if you have a written tenancy agreement and you have given the tenant the required notice in writing that you are seeking possession.

You cannot use this procedure if you are also claiming rent arrears.

You will need to use the 'Claim for possession (accelerated possession procedure)' Form N5B, which can be found at:

[http://www.hmcourts-service.gov.uk/courtfinder/forms/n5b\\_web\\_0410.pdf](http://www.hmcourts-service.gov.uk/courtfinder/forms/n5b_web_0410.pdf)

Further information on the accelerated possession procedure can be found on Her Majesty's Courts and Tribunals Service website:

<http://www.hmcourts-service.gov.uk>

### Can I use the Possession Claim On-Line service?

You cannot use the **Possession Claims On-line** (PCOL) service if you are seeking possession under Section 21 or if you are using the accelerated possession procedure.

### What do I do if my tenant refuses to leave by the date given in the court order?

You must apply to the courts for a warrant of possession and the court will arrange for a bailiff to evict the tenant.

You will need to use the 'Request for Warrant of possession of Land' Form N325, which can be found at:

[www.hmcourts-service.gov.uk/courtfinder/forms/n325\\_1010.pdf](http://www.hmcourts-service.gov.uk/courtfinder/forms/n325_1010.pdf)

## Further information

**Directgov** - the Government's website provides further information on private renting at:

[www.direct.gov.uk/en/HomeAndCommunity/PrivateRenting/index.htm](http://www.direct.gov.uk/en/HomeAndCommunity/PrivateRenting/index.htm)

**Business Link** – the Government's website for businesses provides further information on private renting under the residential property section at:

[www.businesslink.gov.uk/bdotg/action/layer?r.l1=1086951342&r.s=tl&topicId=1084073743](http://www.businesslink.gov.uk/bdotg/action/layer?r.l1=1086951342&r.s=tl&topicId=1084073743)

**Landlord bodies**, such as the National Landlords Association or the Residential Landlords' Association provide support and advice to their members on a whole range of issues.

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ISBN: 978-1-4098- 3102 - 0