

## FACT SHEET

# Accelerated or Standard Procedure Under S21 Housing Act

### KEY CONTACT



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The procedure for obtaining possession under section 21 of the Housing Act 1988 is the most common method of obtaining possession as it does not require the tenant to be at fault and in most cases does not require a court hearing.

Once a landlord has decided to obtain possession, there are two routes to consider - the accelerated route and the standard route. The route chosen by the landlord will depend on what the landlord wants to achieve and whether they have met certain criteria (see below).

### The Accelerated Procedure

The accelerated procedure is usually the quickest and most cost-effective method of obtaining possession of a rental property.

A landlord can use the accelerated route if they meet the following criteria:

- » The tenancy is an Assured Shorthold Tenancy ('AST')
- » The claim is only for possession and does not include a claim for anything else, such as payment of rent arrears
- » A valid section 21 notice has been served. For more information on serving a section 21 notice please see our note 'Section 21 Notice'.

### THE CLAIM FORM

The claim form for possession using the accelerated procedure is Form N5B. The Landlord must attach to the claim form:

- » A copy of the written tenancy agreement

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- » A copy of the section 21 notice and evidence that it was served upon the tenant
- » Evidence that the deposit has been protected
- » Evidence that the tenant has been served with the statutory information regarding the operation of the tenancy deposit
- » Evidence that the tenant was served with an Energy Performance Certificate for the property at the start of the tenancy
- » Evidence that the tenant has been served with the Gas Safety Certificate at the start of the tenancy and for each subsequent year.

## DEFENCE

The tenant has 14 days from the date the claim for possession was served to file a defence. If the landlord has complied with all their obligations, there is no valid defence to a section 21 claim for possession.

The tenant may request that the date for possession is postponed by up to six weeks, but this will only be granted if the tenant can demonstrate exceptional hardship.

## REQUESTING A POSSESSION ORDER

The landlord must make a written request to the court for a possession order.

The judge will normally grant a possession order without the need for a hearing but if there are doubts about the validity of the section 21 notice or the landlord's right to possession then the claim could be rejected, or a hearing could be listed.

## POSSESSION ORDER

A possession order will be made if the judge is satisfied that the AST has been terminated by a valid section 21 notice and the claim form has been served on the tenant.

The usual order will require the defendant to give up possession of the premises within 14 days of making the order. The maximum period before possession is to be given is six weeks. The court should only grant a period of more than 14 days in 'exceptional circumstances' and at the request of the defendant.

The landlord will be entitled to recover the £355 court fee for issuing the possession claim and fixed costs.

## The Standard Procedure

The standard procedure requires a court hearing and is, therefore, usually more time-consuming and costly than the accelerated route but can be used if the criteria for the accelerated procedure are not met and allows a landlord to obtain judgment for any rent arrears.

The procedure commences with the service of a notice under section 8 of the Housing Act 1988 setting out the grounds for possession that the landlord relies upon. The notice periods

to be specified in the section 8 notice have been changed to deal with the consequences of the pandemic and can be found here on the [GOV.UK website: Technical guidance on eviction notices](#)

If the landlord's claim is for rent arrears as well as possession, the particulars of claim should include a schedule of the arrears due at the time of commencing proceedings and a brief outline of the history of the claim, e.g. how the arrears have accrued, the date the rent is due and the daily rate of interest.

The tenant must usually be served with the claim form and particulars of claim within 21 days of the court hearing.

## **DEFENCE**

The tenant should serve a defence within 14 days of being served with the claim form. The defence should respond to the claim and set out the tenant's case.

## **EVIDENCE**

All evidence must be filed at court within two clear days of the court hearing. A landlord should file a witness statement setting out why they are entitled to possession and details of any additional claims.

## **COURT ORDER**

The usual order will require the defendant to give up possession of the premises within 14 days of the order being made. The maximum period before possession is to be given is six weeks and the court will again only grant an extension in cases where the tenant is able to demonstrate exceptional hardship.

The order is also likely to provide for the tenant to pay a reasonable proportion of the landlord's costs and will include a judgment for any rent arrears.

## **ENFORCING POSSESSION ORDERS**

Enforcing a possession order is the same procedure for both the accelerated and standard route. Please refer to our note on 'Warrant of Possession' for more information.

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This fact sheet has been provided for information purposes only and should not be construed as legal advice. Whilst every effort has been made to ensure that the information in this fact sheet is correct (as at October 2021), it is intended as a guide only and should not be relied upon. Specialist legal advice should be sought so that all the factors specific to your circumstances can be taken into account.