

## FACT SHEET

# Obtaining Possession - Section 8 Notices

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## Introduction

If a landlord wants to terminate a fixed term tenancy before its contractual expiry date and wants to obtain a judgment for rent arrears, it can only use the procedure set out in section 8 of the Housing Act 1988 (the '1988 Act').

## Notice

The s.8 notice must be in a prescribed form and must set out the grounds which the landlord intends to rely upon. The 1988 Act sets out certain grounds upon which the landlord is able to apply for possession and these are considered further below.

The notice informs the tenant that the landlord intends to bring proceedings for possession on the grounds specified in the notice and that proceedings will not begin before the date specified in the notice.

The notice period depends on the ground that the landlord is seeking to rely on. The Housing Act 1988 sets out the minimum notice periods that the landlord must give.

## The Grounds for Possession

The full list of the possible grounds for obtaining possession on an assured shorthold tenancy (AST) are set out in Schedule 2 to the 1988 Act.

Some of the grounds are mandatory, meaning that the court must make an order for possession and some of the grounds are discretionary, which means that the court may make an order for possession if it considers it reasonable for it to do so.

Below is a link to a table published by the government which sets out all of the grounds relied upon by landlords and the relevant notice periods for serving a s.8 notice.

GOV.UK: [Technical guidance on eviction notices](#)

## Tenancy Deposit Scheme

Unlike the section 21 procedure, failure by the landlord to properly register a deposit or provide the necessary prescribed information about the deposit scheme does not prevent the landlord from serving a notice under section 8.

## Time Limits

The section 8 procedure can be used whether the fixed term of an AST has ended or not.

Proceedings must be commenced no more than 12 months after the notice is served.

## Claim Form

The correct claim form is form N5. Within the claim form and particulars of claim the landlord must provide evidence of the grounds relied upon in the section 8 notice.

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 and particulars of claim. The defence should respond to the claim form and set out the tenant's case.

## Evidence

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

## Possession Order

If the landlord's claim is based on a mandatory ground (see above for more information) and is successful, the court must make an order for possession. The court will usually make an order for possession in 14 days from the date of the order but if the tenant can demonstrate exceptional hardship, the court may extend this period up to a maximum of six weeks.

If the landlord's claim is based on a discretionary ground, the court may make a possession order but may also suspend or stay an order for possession or postpone the date for possession.

## Enforcing Possession Orders

At the possession hearing it is possible to ask for permission to transfer the case to the High Court for the purposes of enforcement. This allows the landlord to instruct High Court enforcement officers who can typically attend the property more quickly than County Court bailiffs.

If the judge refuses permission to transfer the claim to the High Court, then the procedure for obtaining possession will be the same as that which is used in connection with Accelerated Possession Proceedings.

For more information see the note on 'Warrant for Possession'.

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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.