

Factheet – SJ2

Landlord's Fact Sheet

The purpose of this fact sheet is to offer information relevant both to current landlords and those considering entering the private letting sector. Please note that this information may not apply to leaseholds, holiday lets or resident landlords who take in lodgers.

How to Serve a Section 8 Eviction Notice

A Section 8 eviction notice is used to regain possession from a tenant who has breached the terms of their tenancy at an address in England or Wales. The permissible grounds for seeking a Section 8 order are set out in Schedule 2 of the Housing Act 1988, but the most common are:

- rent arrears
- damage or neglect to the property
- causing a nuisance

The procedure for seeking a Section 8 eviction order is:

- Fill in a “Notice seeking possession of a property let on an assured tenancy or an assured agricultural occupancy”.
- Specify which terms of the tenancy have been breached.
- Give between 2 weeks and 2 months’ notice, depending on which terms you specify.
- Apply to the court for a possession order if the tenants fail to leave by the date specified.



Things you need to remember about serving a Section 8 notice include:

- Try to come to an arrangement with the tenant, and only use the notice as a last resort.
- It may be easier to issue a Section 21 notice instead of a Section 8, especially if the agreed tenancy is coming to an end.
- If you go to court, there’s no guarantee the judge will find in your favour, especially if the tenant has put right the breach (e.g. paid off the rent arrears). A Section 8 notice doesn’t guarantee an eviction.

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How to Make a Possession Order

If you've served an eviction notice on a tenant, whether it's a Section 21 or a Section 8 notice, they may comply with the order and leave the property. However, they may refuse to do so, and there are two actions you can take to compel them to do so, if they haven't left by the date specified:

Accelerated Possession Order

An accelerated possession order can be used if you issued a Section 21 notice, and if there's a written tenancy agreement and you aren't claiming any outstanding rent.

This doesn't normally require a court hearing, but you will need to pay a court fee in advance to the County Court for the area where the property is located. You fill in a Form N5B claim for possession (accelerated procedure), available online, which the court will send to the tenant, who will have 14 days to lodge an objection.

If there is no problem, the court will give you an order for possession, usually enforceable 14 days later) without a hearing, and the tenant will have to pay the court fee. This process will normally take between 6 and 10 weeks.

However, if you've made an error in your paperwork or the tenant raises a significant objection, there may be a court hearing, which will take substantially longer.

Standard Possession Claim

A standard possession claim can be used if you've issued either a Section 21 or Section 8 notice, and if you're claiming rent arrears from the tenant.

Again, you'll need to make the claim to the County Court for the area where the property is located. You fill in a Form N5 claim for possession and N119 particulars of claim for possession. These are normally available online, but in some cases, you can't use the online service — e.g. for making a claim against a squatter or trespasser.

These forms should be submitted to the court, which will then set a date for a hearing, not less than 28 days after receipt of the forms.

Whether you're using an accelerated possession order or a standard possession claim, if the tenant still fails to vacate after the order for possession has expired, you may instruct the County Court Bailiff to carry out the eviction. This is likely to take at least a further 4-6 weeks.

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Changes in the Licencing Rules

Landlords should note that there have been changes this year in the rules governing which rented properties require a licence from the local authority.

If you let a property, regardless of size, to 5 or more tenants comprising 2 or more households, you must apply for a separate licence for each HMO property you own, which will be valid for up to 5 years.

If you have such a property that doesn't yet have a licence, you must apply before 1st October 2019, or you could face a fine, prosecution and a rent repayment order. No period of grace is being offered, so you'll be at risk of action on the 1st.

So, contact your local authority now. Each authority will have a slightly different system, but you will need to follow whatever procedure the relevant authority requires in order to avoid a fine.

If you have any concerns about anything contained within this Factsheet, please contact us for advice on how to proceed.



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