



## Department for Levelling Up, Housing & Communities

These notes are in relation to the form prescribed by SI 2021/994 which came into force on 1 October 2021.

### Guidance notes for landlords and tenants

This guidance note is advisory and is designed to help landlord and tenants understand their rights and responsibilities in relation to notices of intention to begin proceedings for possession of a property in England let on an Assured Tenancy or an Assured Agricultural Occupancy where possession is sought under Section 8 of the Housing Act 1988 (Form 3).

### Notice of intention to begin proceedings for possession of a property in England let on an Assured Tenancy or an Assured Agricultural Occupancy (Form 3)

#### Guidance for landlords

**This form of notice should be used where possession of accommodation let under an assured tenancy, an assured agricultural occupancy or an assured shorthold tenancy is sought on one of the grounds in Schedule 2 to the Housing Act 1988.**

Do not use this form if:

- Your tenant is an assured shorthold tenant and you wish to obtain possession on the basis of Section 21 of the Housing Act 1988 - Form 6A 'Notice requiring possession of a property in England let on an Assured Shorthold Tenancy' is prescribed for these cases. Or,
- You wish to obtain possession on grounds of rent arrears against a tenant who is a debtor and whose arrears are subject to a 'breathing space', unless a court has granted you permission to do so – see "breathing space' below.

## Breathing space

The Debt Respite Scheme (Breathing Space) gives someone in problem debt the right to legal protections from their creditors. If rent arrears are included, enforcement action cannot generally be taken in respect of those arrears during the breathing space. If rent arrears owed to you are part of a breathing space, the Insolvency Service will notify you. Once you receive a notification:

- You must not contact the tenant directly about the rent arrears – the tenant will have a debt advice provider, named in the notification, who will be the point of contact.
- You must not serve a notice on the tenant which relies on or includes any of the rent arrears grounds – grounds 8, 10 or 11.
- If you have already served a notice on rent arrears grounds, you must not commence a claim for possession.
- If you have already served a notice on rent arrears grounds, and the tenant has then left the property, you must not enter into possession.

The breathing space will usually last for 60 days. You will receive notification from the Insolvency Service once the breathing space has ended.

If a notice on rent arrears grounds, which you had served before the breathing space commenced, becomes more than 12 months old by the time the breathing space ends, the lifespan of that notice will be extended so that it will not lapse until 8 weeks after the end of the breathing space.

A creditor can ask a debt adviser to review the breathing space, or specific debts being included in it, on certain grounds. If a debt adviser does not cancel a breathing space in

respect of all or some of the debt when a creditor has requested this, the creditor also has the option to apply to a court to cancel breathing space. Creditors can also apply to a relevant court or tribunal for permission to take enforcement action against a breathing space debt in certain circumstances.

The above outlines the effect of the breathing space regulations in relation to Form 3. Guidance on the breathing space is available at: <https://www.gov.uk/government/publications/debt-respite-scheme-breathing-space-guidance>. Further guidance on creditors' responsibilities to the court during a breathing space is available at: <https://www.gov.uk/guidance/debt-respite-breathing-space-scheme-creditors-responsibilities-to-the-court>.

## Guidance on specific sections of Form 3

### Sections 3 and 4– grounds for possession

#### *Nature of the grounds*

Grounds 1 to 8 are [mandatory grounds](#), which means that if one of these grounds is established, the court must make an order for possession. The order will be an 'outright order' that will require the tenant to leave either immediately or after a specified period. The maximum period that can be specified is 6 weeks. (This 'rule' is subject to human rights considerations which the court must take into account if raised and which may, in exceptional cases, lead to a different outcome). More information on mandatory grounds, in particular a description of each of the grounds, can be found here: [https://england.shelter.org.uk/professional\\_resources/legal/possession\\_and\\_eviction/grounds\\_for\\_possession/assured\\_tenancy\\_mandatory\\_grounds\\_for\\_possession](https://england.shelter.org.uk/professional_resources/legal/possession_and_eviction/grounds_for_possession/assured_tenancy_mandatory_grounds_for_possession).

Grounds 9 to 17 are [discretionary grounds](#) which means that the court may make an order for possession if the ground is established and the court considers it reasonable. If a possession order is made, it can be an 'outright order' which requires the tenant to leave, or it can be a 'suspended order' which allows the tenant to stay, usually subject to abiding by specified conditions, depending on what the court considers to be reasonable in all the circumstances of the case. More information on discretionary grounds, in particular a description of each of the grounds, can be found here: [https://england.shelter.org.uk/professional\\_resources/legal/possession\\_and\\_eviction/grounds\\_for\\_possession/discretionary\\_grounds\\_for\\_possession\\_of\\_assured\\_tenancies](https://england.shelter.org.uk/professional_resources/legal/possession_and_eviction/grounds_for_possession/discretionary_grounds_for_possession_of_assured_tenancies).

You must pay the tenant's reasonable removal expenses if a possession order is made on ground 6 (redevelopment) or ground 9 (suitable alternative accommodation).

### *Fixed term tenancies*

If you have granted a fixed term tenancy, and you want a possession order to take effect before the fixed term expires, there are restrictions on which grounds can be relied on:

- You can rely on the mandatory ground 7B (no right to rent).
- You can rely on the mandatory grounds 2 (repossession by mortgage lender), 7A (anti-social behaviour) or 8 (rent arrears), if the terms of the tenancy agreement make provision for you to do so.
- You can rely on any of the discretionary grounds, with the exception of ground 9 (suitable alternative accommodation) and ground 16 (employee of landlord), if the terms of the tenancy agreement make provision for you to do so.

### **Section 5**

In section 5 you must insert a date on or after which you may commence a claim for possession in the county court. The date must take into account the period of notice that you are required to give the tenant under the ground(s) for possession that you are relying upon. It must also take account of when and how the notice will be given to the tenant.

See the table below for the notice periods associated with each ground.

Note that:

- The table sets out the minimum period which must be allowed to elapse between the notice being given to the tenant and the commencement of court proceedings in relation to each specified ground
- If more than one ground is being relied upon, the required notice period will depend upon whether an anti-social behaviour ground(ground 14 or ground 7A) is included. If it is, the anti-social behaviour notice provisions will apply. If it is not, then the longest notice period for the grounds cited will be applicable.
- If both anti-social behaviour grounds are being relied upon, then the notice period provided for under ground 7A will apply
- If you are seeking possession of a property let on a periodic tenancy on grounds 1, 2, 5, 6, 7, 7A, 9 or 16 (without ground 14) court proceedings also cannot begin before the date on which the tenancy (had it not been assured) could have been brought to an end by a notice to quit served at the same time as the notice.

Ground(s):	Minimum Notice Period
1, 2, 5,6, 7, 9 or 16	<ul style="list-style-type: none"> <li>• 2 months</li> <li>• <i>If the tenancy is a periodic tenancy:</i> the earliest date on which the tenancy (had it not been assured) could have been brought to an end by a notice to quit served at the same time as this notice, if longer than 2 months</li> </ul>
3, 4, 7B, 8, 10, 11, 12,13, 14ZA, 14A,15, 16 or 17	<ul style="list-style-type: none"> <li>• 2 weeks</li> </ul>
7A	<ul style="list-style-type: none"> <li>• <i>If the tenancy is a fixed term tenancy:</i> 1 month from the date this notice is served on you, and</li> <li>• <i>If the tenancy is a periodic tenancy:</i> the earliest date on which the tenancy (had it not been assured) could have been brought to an end by a notice to quit served at the same time as this notice.</li> </ul>
14	<ul style="list-style-type: none"> <li>• <a href="#">Immediately</a></li> </ul>

## Section 6

You may begin possession proceedings based on the notice on or after the date you stated in section 5 of the notice. You may do so up until such time as the notice lapses. The notice will lapse 12 months after it is given to the tenant, unless its lifespan is extended as a result of the tenant having been given a breathing space – see ‘Moratorium Debts’ above.

## More information

Further information about this notice and the possession process can be found at: <https://www.gov.uk/government/publications/understanding-the-possession-action-process-guidance-for-landlords-and-tenants>.

## Guidance for tenants

- This notice is your landlord's first step towards seeking possession of your home. You should read it very carefully.
- Your landlord cannot make you leave your home without an order for possession issued by a court. By serving this notice your landlord is informing you that your landlord intends to seek such an order.
- You should make contact with your landlord, as soon as possible, to see if the issues can be resolved by agreement instead of court proceedings being issued.
- The grounds on which your landlord intends to seek possession are set out in section 3 of the notice and your landlord's reasons for relying on those grounds are set out in section 4.
- Whichever grounds are set out in section 3, the court may allow other grounds to be added at a later date.
- If possession proceedings are issued you will be notified and you will have the opportunity to defend the claim.
- If the grounds your landlord is relying upon are mandatory grounds, that is any of grounds 1 to 8, and the court finds those grounds to be made out, the court must make an order for possession (subject to any valid human rights considerations that you may raise).
- If the grounds your landlord is relying upon are discretionary grounds, that is any of grounds 9 to 16, the court will not make a possession order unless it is satisfied that it is reasonable to do so.
- A landlord who relies on ground 6 or ground 9 to obtain possession must cover your reasonable removal costs.

## What to do if this notice is served on you

- If you are in danger of becoming homeless, you should contact your local authority for support. You can find your local authority at: <https://www.gov.uk/find-local-council>
- Free, independent expert advice is available to anyone facing the loss of their home through the **Housing Loss Prevention Advice Service (HLPAS)**.
- A HLPAS housing law expert will help you to plan out your next steps and options after being given this notice. They can also provide legal advice on connected issues such as housing disrepair, rent arrears, welfare benefits payments and debt. They will be able to represent you in court if there is a hearing.
- For further information on HLPAS, please visit: <https://www.gov.uk/guidance/legal-aid-for-possession-proceedings>
- You can also contact Civil Legal Advice (CLA), who may be able to direct you to legal advice on housing and other matters:
- **Website** <https://www.gov.uk/civil-legal-advice>
- **Phone** 0345 345 4345 - Monday to Friday, from 9am to 8pm and Saturday from 9am to 12:30pm;
- **Text** 'legalaids' and your name to 80010 to ask CLA to call you back. It costs the same as a normal text message.

Alternatively, you can contact a housing expert directly. You can find a list of housing solicitors by typing in your postcode and ticking the box 'Housing' at: [find-legal-advice.justice.gov.uk](https://www.find-legal-advice.justice.gov.uk).

- You can also get free, independent, expert advice by contacting:
- the housing charity Shelter on Shelterline on 0808 800 4444, or use their webchat service at [https://england.shelter.org.uk/get\\_help/webchat](https://england.shelter.org.uk/get_help/webchat)
- Citizens Advice, by contacting their Adviceline on 03444 111 444 or chatting with an Adviser online at: <https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/web-chat-service/>
- If you require advice on rent arrears, or any other problem debt, you can contact a professional debt advice provider such as Citizens Advice. Your local authority should be able to provide details of where you may find assistance, or Money Helper (formerly the Money Advice Service) provides guidance on finding a debt advisor on its website: <https://www.moneyhelper.org.uk/>.
- If you are a debtor who is in a 'breathing space', you should inform your debt advice provider. If the notice is on grounds of rent arrears (grounds 8, 10 or 11), your landlord may not be entitled to rely upon it, and your debt advice provider will be able to take any appropriate action. You must inform your debt advice provider even if the notice is not due to rent arrears, as it involves a material change in your circumstances.