



A New Deal for Renting: A Consultation

Frequently Asked Questions

General questions and answers

Q What is an assured shorthold tenancy?

A: An assured shorthold tenancy is a type of fixed term tenancy under the 1988 Housing Act. Any assured shorthold tenancy can be ended by the landlord by the correct service of a section 21 notice.

Q: What is an assured tenancy?

A: An assured tenancy, sometimes known as a periodic tenancy, is a type of open-ended tenancy under the 1988 Housing Act. It can only be ended by a landlord if they gain possession through the courts.

Q: What is an assured fixed term tenancy?

A: An assured fixed term tenancy is one where the terms and conditions are fixed for a period agreed between the landlord and tenant. At the end of the fixed term the tenancy becomes an assured periodic tenancy (as above) and can only be ended by a landlord if they gain possession through the courts.

Q: What would happen to the protections attached to assured shorthold tenancies if the Government removed the assured shorthold regime?

A: There are a number of important protections attached to assured shorthold tenancies, for example the right to have a deposit protected, safety rights under the Deregulation Act 2015 and protections under the Tenant Fees Act 2018. Any change in legislation would seek to protect these rights and ensure they are attached to any future tenancy regime.

Q: What new grounds for possession is the Government proposing?

The consultation paper sets out three new grounds:

- 1. For landlords to seek possession of their property where they need it for occupation by a family member (extending the existing ground from where they need it for occupation by themselves). This would be a mandatory ground where the landlord had served prior notice that they may use this ground and where the tenancy had been in place for two or more years.*
- 2. For landlords to seek possession of their property where they needed to sell it. This would be a mandatory ground where the landlord had served prior notice that they may use this ground and where the tenancy had been in place for two or more years.*

3. *Amending ground 13 to allow a landlord to gain possession of their property where a tenant prevents them from maintaining legal safety standards. This would be a discretionary ground.*

Q: What other amendments to grounds for possession is the government proposing?

A: The consultation paper sets out proposals to review the following grounds for possession:

1. *Rent arrears*
2. *Antisocial behaviour*
3. *Domestic abuse*

The consultation also seeks views on whether or not the accelerated procedure ought to be available for the mandatory grounds for possession.

Q: Would proposed legislation come into force immediately, or be retrospective?

A: No, the Government is consulting on a transition period. In a transition period, landlords and tenants could still agree to enter into assured shorthold tenancies. The Government is not proposing that the reforms are retrospective. This means that landlords could continue to use section 21 notices to end assured shorthold tenancies created before the change of proposed legislation or during the transition period.

During the transition period (or at any point before then) landlords and tenants would not have to enter into assured shorthold tenancies. They could move straight onto assured periodic or assured fixed term tenancies, as these already exist in the 1988 Housing Act.

Question and Answers for Landlords:

The end of section 21 evictions

Q: When will I lose the right to use section 21?

A: Any legislation would set out when changes come into force. The consultation asks for views on for how long after proposed legislation comes into force landlords and tenants would be able to continue to enter into assured shorthold tenancies – this is the ‘transition period’ and is to help both landlords and tenants prepare for any changes. Any tenancy that was an assured shorthold tenancy before the proposed legislation comes into force would still be one until that tenancy had ended. This means a landlord would be able to use a section 21 notice to end the tenancy at any point in the future. However, once a section 21 notice had been used, no subsequent tenancy could be an assured shorthold.

Q: I currently grant assured shorthold tenancies. Will I still be able to grant these?

A: With section 21 abolished, all future tenancies will be ‘assured’. This would mean that landlords and tenants could agree a tenancy agreement to suit them – either covering a fixed-term and / or a periodic contract that rolls over on a cycle of time, usually monthly.

Ending a tenancy

Q: I’m a landlord with an existing tenant. Can I still use section 21 to end the tenancy?

A: Yes. As the Government would need to introduce new legislation to remove section 21, you would still be able to use section 21 to end an existing assured shorthold tenancy.

Q: I’m about to grant a new assured shorthold tenancy to a new tenant. Can I end this new tenancy using section 21?

A: Yes. You would still be able to grant assured shorthold tenancies (and therefore use section 21 to end them) until the date that would be specified in the proposed new legislation.

Q: Once this transition period is over, would I still be able to use section 21 to end a tenancy?

A: Yes, but only for an assured shorthold tenancy issued before the proposed legislation to remove section 21 is passed and the proposed transition period has ended. You would not be able to use section 21 to end a tenancy issued after the transition period.

Q: Would I still have the right to evict a tenant if they are in rent arrears?

A: Yes, the Government's proposals do not change this. The court has to provide you with a possession order if you can prove the tenant has built up sufficient rent arrears in line with the Housing Act 1988. The consultation looks at ways to further strengthen this ground.

Q: I currently use section 21 to end a tenancy, because the grounds under Schedule 2 of the Housing Act 1988 are not suitable for my individual circumstances.

A: The Government want to make sure that legitimate reasons for ending a tenancy are included as grounds for possession. Through the consultation, we are asking for views on all the existing grounds for eviction, to ensure that landlords can share their views on how to improve the framework for regaining possession of their property so that it works for them.

We know that there are some circumstances that could make it difficult for certain groups of tenants and landlords – such as those who rent to students or those who grant an agricultural tenancy – to operate within the new framework as proposed. It may be necessary for these groups to be placed outside the scope of our new tenancy framework or be provided with specialist provisions. One option could be, for example, providing these groups with specialist new grounds for possession under Schedule 2 of the Housing Act 1988.

We will therefore give consideration as to which groups might require specialist provision, and the form that such provision might take.

Taking possession of a property

Q: Will I still be able to get my property back when I need to?

A: You would still be able to end a tenancy when it is reasonable to do so, using the grounds listed under Section 8 of the 1988 Housing Act. This could be, for example, where your tenant had breached the terms of the tenancy agreement or was in rent arrears.

We are also proposing to strengthen the law to allow you to swiftly take possession if you needed to sell your property, move into it or need it for occupation by a family member.

If your tenant signed an assured shorthold tenancy before the proposed legislation to remove section 21 is passed and the proposed transition period has ended, you would still be able to use section 21 to end the tenancy.

Q: Would landlords be able to sell or move into their property at some point in the future? When, and how, would this be done?

A: This is one of the issues the Government is consulting on. We know many landlords use section 21 if they need to sell or move into their property, so we want to make sure landlords continue to have this flexibility. That is why we have proposed introducing new grounds to be used so landlords can take possession to sell or move into their property.

It is important, however, that tenants do not worry about the property being repossessed shortly after moving in. One option could be to give landlords the ability to seek possession under a new ground after a period of time has passed. We are seeking views from both landlords and tenants about how this would work.

Q: I have bought a property for a family member, but want to rent it out until they are ready to move in. Will I be able to still do this?

A: Yes. We want the new grounds to be as flexible as possible. We propose to widen their scope to allow a tenancy to be ended so a family member can move in.

Q: What level of evidence will I have to provide to prove I intend to sell or move in?

A: For a relationship between a landlord and a tenant to truly work, there must be as much clarity, transparency and honesty as possible. We hope that conversations between landlords and tenants are cordial and productive, so tenancies end without the need to go to court.

If a landlord needs to go to court to regain possession of their property, they would be asked to provide evidence to a court to prove they had met the conditions of this ground. The Government will work with landlords' and tenants' groups, and the judiciary, during the consultation period to determine what evidence it would be reasonable to provide.

Question and Answers for Tenants

Q: Would removing section 21 from legislation mean my landlord could no longer evict me?

A: No. You would still need to comply with the terms of the tenancy agreement you signed. If you had an assured shorthold tenancy at the time any new legislation comes into force, your landlord could still use section 21 to end the tenancy.

However, once the proposed legislation has passed and any transition period has ended, future tenancies you sign will be 'assured tenancies'. This means you could only be evicted if your landlord proves one of the reasons ('grounds') under Section 8 of the Housing Act 1988. These grounds cover a number of different circumstances, including breaches of the tenancy agreement, such as you falling behind with your rent or otherwise acting inappropriately.

You could also be asked to leave if your landlord needs to sell the property, move in themselves or if they need the property for a family member. The consultation is proposing that these new grounds could only be used after you had lived in the property for two years.

Q: What would it mean if I was served with a section 8 eviction notice?

A: A section 8 notice is issued to a tenant when the landlord wants to take possession of their property. The length of the notice period under section 8 depends on the ground (listed in schedule 2 of the 1988 Housing Act) being used and varies from two weeks to two months. The new grounds that we are proposing for moving into or selling the property would have notice periods of two months.

If a tenant does not leave by the end of the notice period, a landlord needs to apply to the court for a possession order.

Q: Can my landlords evict me without providing a reason?

A: Once the landlord loses the ability to issue a section 21 notice they would need to provide a reason to end a tenancy. These are listed in the consultation and form schedule 2 of the 1988 Housing Act. Once the proposed legislation came into force any new tenancy would be either an assured periodic or an assured fixed term tenancy, and these could only be ended if the landlord had a valid reason.

If you have a current assured shorthold tenancy, you may still be issued with a section 21 notice, where no reason for ending a tenancy needs to be given.

Q: How will you stop landlords from exploiting new section 8 grounds?

A: The Government's consultation asks for views on how the new grounds would work and we are seeking views from landlords and tenants to make sure that any new grounds are fair and transparent.