

## **Section 21 Notice Guidance Notes**

### **What is a Section 21 Notice?**

There are two types:

1. Notice Requiring Possession - Fixed Term Assured Shorthold Tenancy - Housing Act 1988 s.21(1)(b)
2. Notice Requiring Possession - Periodic Assured Shorthold Tenancy - Housing Act 1988 s.21(4)(a)

These are served by a landlord wishing to take possession of the property at the end of the initial fixed term of the tenancy or at any time after.

The first one should be served on a tenant during the initial fixed term of an AST (Assured Shorthold Tenancy) – which is usually (unless otherwise stated) six months. The second one should be served outside of this initial fixed term period.

The first thing you must do is to ensure that the correct notice is used.

If the landlord wants possession at the end of the fixed term then he/she must use the first notice which relates to Section 21(1)(b) of the Housing Act 1988.

If the landlord wants possession of the property after the fixed term has ended and when the tenancy becomes (automatically) a *periodic* tenancy, then the second notice should be served which relates to Section 21(4)(a) of the Housing Act 1988.

### **Important Considerations**

Dates and timings are very important if the notice is to successfully help you get a possession order from the courts.

Two months' notice must be given to the tenant and this notice must start on the monthly anniversary of the start date of the tenancy. So if the tenancy commenced on the 21st of the month then the notice period must start on the 21st of the month

*The notice has an expiry date after which time you can claim for possession*

The expiry date is the day after the last day of the tenancy so the date you must put in the box under where it says 'The Landlord requires possession of the property after this date:' is the 20<sup>th</sup> (which is the last day of the tenancy). Get this wrong and your claim will be thrown out by the judge which means you will have to start the whole two month notice procedure again.

## **Serving The Notice**

First make a copy or a scan of the actual signed notice you will be serving

You can serve the notice at the property or anywhere in person other than at the property or you can post it to the property's address. It will be deemed served by the court if it goes first class but ensure you allow plenty of time for it to reach the tenant before the notice expires. It is advisable to hand it in at the post office counter and to ask for a certificate of postage.

## **Does serving a Section 21 Notice guarantee that a possession order will be granted by the Court?**

Yes. As long as the paperwork is completed correctly then possession by the court is mandatory

## **How long does a notice last ?**

12 months from the date it is served. After this period you will have to serve a new one.

## **What Next?**

If the tenant doesn't move out on expiry of the notice you will have to get a possession order from the court.

Next time you are looking for a good tenant you can eliminate a substantial amount of risk by carrying out a thorough check on prospects. Go to <http://bit.ly/1qFyHuk> to download our tenant application form and then use the information you collect to complete a comprehensive tenant check from our Know Your Tenant service <https://rentcollection.co.uk/index.php?id=10>

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