

Section 21 (Form 6A) – see Appendix A

- a prescribed form, i.e. must use the format prescribed by Parliament – available on the iHowz web site;
- it is also a prescribed format – where it gives a date format, use that; where it says upper case, that's what it must be;
- cannot be issued in the first 4 months of an AST;
- must be used within 10 months of issue (**normally 6 months – extended because of Covid**);
- tenants have statutory right to claim back any overpayment of rent;
- must have valid:-
 - EPC (if required);
 - gas safety inspection report (CP12) (if required);
- } you must be able to prove it if an EPC and/or CP12 are not required
- Cannot be used:-
 - If deposit not protected (if taken);
 - Property not licensed where one was required.
- must issue CLG booklet '*How to Rent*' (advised start of tenancy). Go to Gov.uk and type How to Rent in the search line to get the latest copy. Note it is '*How to Rent*' not '*Right to Rent*' – the Immigration checklist.

Note that this is currently (Aug 2020) a 6 month notice, not 2 months as previous.

We strongly recommend 3 things are served the day before the Section 21, to ensure the tenant(s) have them prior to the S21:-

1. valid EPC;
2. valid CP12;
3. the correct *How to Rent* booklet

Potential problem with Gas Certificate (CP12)

Whilst we have all thought that it was satisfactory to issue the CP12 with 28 days, there was an appeal case * which stated that the CP12 for a new tenancy must be issued before the tenant(s) occupy the property.

If tenant doesn't vacate as requested.

ACCELERATED POSSESSION PROCEDURE (APP) - UPON EXPIRY OF A SECTION 21 NOTICE

Often referred to as the 'Fast track' procedure.

CRITERIA

Can only be used with AST's (Assured Shorthold Tenancies) where the following conditions apply:-

- Tenancy created after 15 January 1989 (introduction of Housing Act 1988)
- The tenant is the original tenant
- A relevant Section 21 notice has been served and expired
- The landlord is not claiming for rent arrears (they can be claimed under a separate Small Claim if under £5K) or in County Court if above £5K
- The landlord is not claiming for rent The APP is a document based process and is conducted entirely by post as long as the tenant does not contest the proceedings. If the tenant contests/defend the procedure or if the court is not satisfied that all necessary requirements have been met, the judge may order a court hearing for both parties to present their case.

The idea is that the process should only take 28 days from start to finish if not contested. However, in practice the actual timescale is usually between 6-8 weeks, so the agent needs to be careful in the advice they give to landlords in this respect.

- If the tenant still refuses to vacate upon the expiry of the Repossession Order (usually 14 days but can be up to 28 days) then the landlord will need to make an application to the court for a Bailiff's appointment. a £121 Bailiff fee.
- This can take a further 4-6 weeks. If the tenant is still in residence on the day of the Bailiff appointment, the agent will need to arrange to meet a locksmith at the property and if they feel there is a possibility of violence or intimidation, they should also arrange for the Police to be present.

Procedure for APP

1. Complete a court form N5B
2. At least 5 days before court date send to court:-
 - a. Copy of AST (also take original to court)
 - b. Copy of the Section 21
 - c. N215 – Certificate of Service – see Appendix B

NB – no need to attend court
3. If granted, but tenant still hasn't left apply to the court to have a bailiff evict – N325 – see Appendix C

* *Caridon Property Ltd v Monty Shooltz*.

Note that iHowz offer a discounted eviction service. Email notices@iHowz.uk



Appendix A
Example of a Section 21 (form 6a)

FORM 6A
**Notice seeking possession of a property
let on an Assured Shorthold Tenancy**

Housing Act 1988 section 21(1) and (4) as amended by section 194 and paragraph 103 of Schedule 11 to the Local Government and Housing Act 1989 and section 98(2) and (3) of the Housing Act 1996

Please write clearly in black ink. Please tick boxes where appropriate.

This form should be used where a no fault possession of accommodation let under an assured shorthold tenancy (AST) is sought under section 21(1) or (4) of the Housing Act 1988.

There are certain circumstances in which the law says that you cannot seek possession against your tenant using section 21 of the Housing Act 1988, in which case you should not use this form. These are:

- (a) during the first four months of the tenancy (but where the tenancy is a replacement tenancy, the four month period is calculated by reference to the start of the original tenancy and not the start of the replacement tenancy – see section 21(4B) of the Housing Act 1988);
- (b) where the landlord is prevented from retaliatory eviction under section 33 of the Deregulation Act 2015;
- (c) where the landlord has not provided the tenant with an energy performance certificate, gas safety certificate or the Ministry of Housing, Communities and Local Government's publication "How to rent: the checklist for renting in England" (see the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015);
- (d) where the landlord has not complied with the tenancy deposit protection legislation;
- (e) where a property requires a licence but is unlicensed (NB see section 75 of the Housing Act 2004 which relates to Houses in Multiple Occupation ("HMO")); or
- (f) where the landlord is prevented under section 17 of the Tenant Fees Act 2019. (NB No section 21 notice may be given in relation to a tenancy where a landlord has breached section 1(1) or Schedule 2 of that Act so long as all or part of the prohibited payment or holding deposit has not been repaid to the relevant person or applied to the rent or deposit with the consent of the relevant person.)

Landlords who are unsure about whether they are affected by these provisions should seek specialist advice.

This form must be used for all ASTs created on or after 1 October 2015 except for statutory periodic tenancies which have come into being on or after 1 October 2015 at the end of fixed terms ASTs created before 1 October 2015. There is no obligation to use this form in relation to ASTs created prior to 1 October 2015, however it may nevertheless be used for all ASTs.

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Form 6A

What to do if this notice is served on you

You should read this notice very carefully. It explains that your landlord has started the process to regain possession of the property referred to in section 2 below.

You are entitled to at least six months' notice before being required to give up possession of the property. The date you are required to leave should be shown in section 2 below. After this date the landlord can apply to court for a possession order against you.

Where your tenancy is terminated before the end of a period of your tenancy (e.g. where you pay rent in advance on the first of each month and you are required to give up possession in the middle of the month), you may be entitled to repayment of rent from the landlord under section 21C of the Housing Act 1988.

If you need advice about this notice, and what you should do about it, take it immediately to a Citizens' Advice Bureau, a housing advice centre, a law centre or a solicitor.

Information for tenants who have received this notice and are concerned they may be at risk of homelessness

If you are a tenant and you believe you are at risk of homelessness as a result of receiving an eviction notice, then you should consider contacting your local authority for support. Local authorities have a legal duty to provide homeless people or people who are at risk of becoming homeless within 56 days with advice and support to find a new home. More information on the process that must be followed by landlords when seeking to evict a tenant is available at <https://www.gov.uk/private-renting-evictions>.

You can also get advice and support from your local Citizens' Advice Bureau, a housing advice centre, a law centre or a solicitor. Free independent advice is also available from Shelterline on 0808 800 4444 or via the Shelter website at: <https://www.shelter.org.uk/>.

1. To:

Name(s) of tenant(s) (Block Capitals)

2. You are required to leave the below address after []¹. If you do not leave, your landlord may apply to the court for an order under Section 21(1) or (4) of the Housing Act 1988 requiring you to give up possession.

Address of premises

3. This notice is valid for ten months only from the date of issue unless you have a periodic tenancy under which more than six months' notice is required in which case this notice is valid for four months only from the date specified in section 2 above.

¹ Landlords should insert a calendar date here. The date should allow sufficient time to ensure that the notice is properly served on the tenant(s). This will depend on the method of service being used and landlords should check whether the tenancy agreement makes specific provision about service.

Appendix B Example of a form N215 – Certificate of Service

<input type="button" value="Click here to reset form"/> <input type="button" value="Click here to print form"/>															
<table border="1"> <tr> <td>Name of court</td> <td>Claim No.</td> </tr> <tr> <td colspan="2">Name of Claimant</td> </tr> <tr> <td colspan="2">Name of Defendant</td> </tr> </table>		Name of court	Claim No.	Name of Claimant		Name of Defendant									
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Name of Claimant															
Name of Defendant															
<p>Certificate of service</p> <p>On what day did you serve? <input type="text"/> / <input type="text"/> / <input type="text"/></p> <p>The date of service is <input type="text"/> / <input type="text"/> / <input type="text"/></p> <p>What documents did you serve? Please attach copies of the documents you have not already filed with the court.</p> <p>On whom did you serve? (If appropriate indicate their position e.g. partner, director)</p> <p>How did you serve the documents? (please tick the appropriate box)</p> <p><input type="checkbox"/> by first class post or other service which provides for delivery on the next business day</p> <p><input type="checkbox"/> by delivering to or leaving at a permitted place</p> <p><input type="checkbox"/> by personally handing it to or leaving it with (_____) time left, where document is other than a claim form) (please specify)</p> <p><input type="checkbox"/> by other means permitted by the court (please specify)</p> <p><input type="checkbox"/> by Document Exchange</p> <p><input type="checkbox"/> by fax machine (_____) time sent, where document is other than a claim form) (you may want to enclose a copy of the transmission sheet)</p> <p><input type="checkbox"/> by other electronic means (_____) time sent, where document is other than a claim form) (please specify)</p> <p>Give the address where service effected, include fax or DX number, e-mail address or other electronic identification</p> <p>Being the <input type="checkbox"/> claimant's <input type="checkbox"/> defendant's <input type="checkbox"/> solicitor's <input type="checkbox"/> litigation friend</p> <p><input type="checkbox"/> usual residence <input type="checkbox"/> last known residence <input type="checkbox"/> place of business <input type="checkbox"/> principal place of business <input type="checkbox"/> last known place of business <input type="checkbox"/> principal office of the partnership <input type="checkbox"/> principal office of the corporation <input type="checkbox"/> principal office of the company <input type="checkbox"/> place of business of the partnership/company/corporation within the jurisdiction with a connection to claim <input type="checkbox"/> other (please specify)</p> <p>I believe that the facts stated in this certificate are true.</p> <p>Full name <input type="text"/></p> <p>Signed <input type="text"/> Position or office held <input type="text"/> (Claimant) (Defendant) (s solicitor) (s litigation friend)</p> <p>Date <input type="text"/> / <input type="text"/> / <input type="text"/></p>															
<p>Rules relating to the service of documents are contained in Part 6 of the Civil Procedure Rules (www.justice.gov.uk) and you should refer to the rules for information.</p> <p>Calculation of deemed day of service of a claim A claim form served within the UK in accordance with Part 6 of the Civil Procedure Rules is deemed to be served on the second business day after the claimant has completed the steps required by CPR 7.5(1).</p> <p>Calculation of the deemed day of service of documents other than the claim form (CPR 6.26)</p> <table border="1"> <thead> <tr> <th>Method of service</th> <th>Deemed day of service</th> </tr> </thead> <tbody> <tr> <td>First class post or other service which provides for delivery on the next business day</td> <td>The second day after it was posted, left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day</td> </tr> <tr> <td>Document exchange</td> <td>The second day after it was left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day</td> </tr> <tr> <td>Delivering the document to or leaving it at a permitted address</td> <td>If it is delivered to or left at the permitted address on a business day before 4.30pm, on that day; or in any other case, on the next business day after that day</td> </tr> <tr> <td>Fax</td> <td>If the transmission of the fax is completed on a business day before 4.30pm, on that day; or in any other case, on the next business day after the day on which it was transmitted</td> </tr> <tr> <td>Other electronic method</td> <td>If the email or other electronic transmission is sent on a business day before 4.30pm, on that day; or in any other case, on the next business day after the day on which it was sent</td> </tr> <tr> <td>Personal service</td> <td>If the document is served personally before 4.30pm on a business day, it is served on that day; or in any other case, on the next business day after that day</td> </tr> </tbody> </table> <p>In this context 'business day' means any day except Saturday, Sunday or a bank holiday; (under the Banking and Financial Dealings Act 1971 in the part of the UK where service is to take place) includes Good Friday and Christmas Day.</p>		Method of service	Deemed day of service	First class post or other service which provides for delivery on the next business day	The second day after it was posted, left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day	Document exchange	The second day after it was left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day	Delivering the document to or leaving it at a permitted address	If it is delivered to or left at the permitted address on a business day before 4.30pm, on that day; or in any other case, on the next business day after that day	Fax	If the transmission of the fax is completed on a business day before 4.30pm, on that day; or in any other case, on the next business day after the day on which it was transmitted	Other electronic method	If the email or other electronic transmission is sent on a business day before 4.30pm, on that day; or in any other case, on the next business day after the day on which it was sent	Personal service	If the document is served personally before 4.30pm on a business day, it is served on that day; or in any other case, on the next business day after that day
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Appendix C Example of a form N225 – Bailiff application

<p>Request for Warrant of Possession of Land</p> <p>To be completed and signed by the claimant or their legal representative and sent to the court with the appropriate fee.</p> <p>1. Claimant's name and address</p> <p>2. Name and address for service and payment (if different from above) Ref/Tel No.</p> <p>3. Defendant's name and address</p> <p>4. Warrant details</p> <p>(A) Balance due at the date of this request (B) Amount for which warrant to issue Issue fee Legal representative's costs Land Registry fee TOTAL</p> <p>If the amount of the warrant at (A) is less than the balance at (B), the sum due after the warrant is paid will be</p> <p>5. Property/land details</p> <p>Date of judgment/order Date of possession Describe the land (as set out in the particulars of claim)</p> <p>You should provide a contact number so that the bailiff can speak to you if he/she needs to: Daytime phone number: _____ Evening phone number (if possible): _____ Contact name (where appropriate): _____ Defendant's phone number (if known): _____ If you have any other information which may help the bailiff or if you have reason to believe that the bailiff may encounter any difficulties you should write it below.</p>		<p>In the _____ Claim no. _____ Fee Account no. _____ For court use only _____ Warrant no. _____ Issue date: _____ Warrant applied for at _____ o'clock Foreign court code/name (execution only): _____</p> <p>I certify that (1) the defendant has not vacated the land as ordered (and that the whole or part of any instalments due under the judgment or order have been paid and the balance now due is as shown) (2) notice has been given in accordance with The Dwelling Houses (Execution of Possession Orders by Mortgagors) Regulations 2010.</p> <p>Signed _____ Claimant (Claimant's legal representative) Dated _____ IMPORTANT You must inform the court IMMEDIATELY of any payments you receive after you have sent this request to the court. If there is more than one defendant and you are proceeding against all of them, enter here the name(s) of the defendant(s) you wish to proceed against</p>
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N225 – Request for warrant for possession of land (0514)

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