

LAWPACK



*Self-Help eKit*

# Tenant Eviction

Guidance Manual



## Important Facts about this Lawpack eKit

---

This Lawpack eKit contains the information, instructions and forms necessary to evict your tenant in England and Wales. It is important that you read and follow the instructions in 'How to use this eKit' on page 3.

The information this eKit contains has been carefully compiled from reliable sources, but its accuracy is not guaranteed, as laws and regulations may change or be subject to differing interpretations. The law is stated as at 1 February 2012.

Neither this nor any other publication can take the place of a solicitor on important legal matters. This Lawpack eKit is sold with the understanding that the publisher, authors and retailer are not engaged in rendering legal services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

As with any legal matter, common sense should determine whether you need the assistance of a solicitor rather than relying solely on the information and forms in this Lawpack eKit.

We strongly urge you to consult a solicitor if:

- substantial amounts of money or property are involved;
- you do not understand the instructions or are uncertain how to complete and use a form correctly;
- what you want to do is not precisely covered by the forms provided.

The contents of this eKit have been approved by David Smith of Anthony Gold Solicitors.

**Note:** throughout this Lawpack eKit, for 'he', 'his' and 'him' read 'he or she', 'his or her' and 'him or her'.

### EXCLUSION OF LIABILITY AND DISCLAIMER

Whilst every effort has been made to ensure that this Lawpack product provides accurate and expert guidance, it is impossible to predict all the circumstances in which it may be used. Accordingly, neither the publisher, authors, nor any barristers or solicitors who have assisted in the production of this Lawpack product and updated or refined it, or whose name is credited as having so assisted and updated or refined it, nor retailers, nor any other suppliers shall be liable to any person or entity with respect to any loss or damage caused or alleged to be caused as a result of the use of the information contained in or omitted from this Lawpack product.

This Lawpack eKit may not be reproduced in whole or in part in any form without written permission from the publisher, except that forms may be photocopied by the purchaser for his or her own use, but not for resale.

© 2012 Lawpack Publishing Limited

[www.lawpack.co.uk](http://www.lawpack.co.uk)

## How to use this eKit

---

This Lawpack eKit can help you achieve an important legal objective conveniently, efficiently and economically. Nevertheless, it is important for you to use this Lawpack eKit properly if you are to avoid later difficulties.

-  Read this Manual carefully. It contains the instructions you need to complete the documents in this Lawpack eKit. If after thorough examination you decide that your requirements are not met by this Lawpack eKit, or you do not feel confident about writing your own documents, then consult a solicitor.
-  This eKit is only designed to help you recover possession of a property let to an individual or a group of individuals on an Assured Shorthold Tenancy (AST) for rent arrears or under an expired Section 21 Notice. It should not be used for other types of tenancy or for terminating a tenancy for any reason other than rent arrears or an expired Section 21 Notice. You should not modify the forms provided, except as detailed in the notes. If you do not understand any aspect of this eKit or the forms provided, you should consult a solicitor.
-  There are two types of court track in possession proceedings. This eKit is designed to allow the use of a Section 21 Notice with the 'accelerated track' and a Section 8 Notice with the 'traditional track'.
-  You will find detailed instructions on how to fill in the individual forms on the forms themselves.
-  Always use a pen or type on legal documents; never use pencil.

This is an excerpt from Lawpack's *Tenant Eviction Kit*.

To get more expert advice on evicting tenants and to download the eviction notices you need, [click here](#).

# Contents

Important Facts about this Lawpack eKit	2
How to use this eKit	3
<b>Eviction using a Section 21 Notice</b>	5
The accelerated track	5
Starting your claim using an expired Section 21 Notice	6
Documents needed	6
What happens when the court receives the N5B Claim Form?	7
Will a court hearing be necessary?	7
Possession order	7
Warrant	8
<b>Eviction for rent arrears using a Section 8 Notice</b>	9
Traditional track	10
Starting your claim using a Section 8 Notice for rent arrears	10
Documents needed	10
What happens when the court receives the Claim Form?	11
Preparing for the court hearing	11
At the hearing	11
Possession order	12
Warrant	12
Evicting your Tenant Flowchart	13

## Forms

### For accelerated track (only with expired Section 21 Notice)

- Section 21 Notice
- N215 Certificate of Service
- N5B Claim Form for Possession of Property
- N325 Request for Warrant of Possession of land

### For traditional track (only with Section 8 Notice for rent arrears)

- Section 8 Notice
- N5 Claim Form for Possession of Property
- N119 Particulars of Claim for Possession
- N215 Certificate of Service
- Witness Statement
- N325 Request for Warrant of Possession of land
- Schedule of Rent Arrears

# Eviction using a Section 21 Notice

To start the procedure of gaining possession of a property that is let under an Assured Shorthold Tenancy (AST), you must send a notice to your tenant. A Section 21 Notice is used where the landlord simply wishes to gain possession of the property. With a Section 21 Notice you must give the tenant at least two months' notice, and the Section 21 Notice cannot expire before the end of the fixed term. The advantage of a Section 21 Notice is that it is almost impossible for the tenant to contest possession proceedings which are brought under this notice.

If you are giving the notice to the tenant during the fixed term of the tenancy (i.e. between the start and end dates), it cannot expire before the end of the fixed term of the tenancy and you will need to give the tenant at least two calendar months' notice. For example, if the fixed term is for six months from 1 January and the notice is served on 2 January, then it will expire on or after 30 June. **Do not forget to keep a copy of the Section 21 Notice as you will need it later.**

If you are serving the notice after the fixed term has finished, then it will be served in, what is known as, the 'statutory periodic tenancy'. You will need to give the tenant two calendar months' notice at least and the notice must expire at the end of the period of the tenancy. This will be the date before the rent is due to be paid by the tenant. For example, if the tenant pays you his rent on the 5th day of each month, the notice should expire on the 4th day of a month. Therefore, if the Section 21 Notice is served on 16 March, it should expire on 4 June, and not 16 May because it must end at the end of the period of the tenancy. Do not forget to keep a copy of the Section 21 Notice as you will need it later.

The notice should be served on the tenant by the means specified in the tenancy agreement. If you are using Lawpack's Tenancy Agreement, this means that you can give the notice to the tenant directly, or put it through the door of the property, or mail it by first-class post. More information on serving a Section 21 Notice and on Section 21 Notices themselves can be found in *The Complete Guide to Residential Letting* by Tessa Shepperson, published by Lawpack (available from [www.lawpack.co.uk](http://www.lawpack.co.uk)).

## The accelerated track

---

There are two types of court procedure for possession claims. If you are using an expired Section 21 Notice, then the system or 'track' you will use is the 'accelerated track'. The accelerated track is possibly a little misnamed, as it is not a lot faster than the other 'traditional track'. However, it does not normally require a court hearing, so it can be a little easier to use.