

# Repossession in Assured Shorthold Tenancies

## Introduction

This factsheet is designed for assured shorthold tenants facing eviction.

Advice for Landlords can be found online at:

[www.communities.gov.uk/publications/housing/assuredassuredlandlords](http://www.communities.gov.uk/publications/housing/assuredassuredlandlords).

Assured shorthold tenancies are usually with private landlords / tenants after 1997. They typically run for a 'fixed term', for example 6 or 12 months.

The landlord must have a 'ground' (a reason) for possession. The landlord must follow the correct procedure;

1. Give legal notice of his / her intention to seek possession *then*;
2. Apply to the County Court for a possession order *then*;
3. Apply for a warrant of execution to have bailiffs remove the tenant from the property

If the landlord tries to remove the tenant without following this procedure or harasses them, they will be breaking the law.

## Notice

If a landlord wishes to evict an assured shorthold tenant whilst they are in the fixed term, s/he must serve a 'notice seeking possession' on the tenant. The Landlord must have good reason to evict a tenant during a fixed term. These reasons are called grounds and are listed in Schedule 2 to the Housing Act 1988, (as amended by the Housing Act 1996). The grounds that can be used are:

Ground Number	Ground Reason
2*	The property is subject to a mortgage which was granted before the tenancy started and the lender wants to sell it to pay off mortgage arrears. * Prior Notice Ground – This means the tenant must have been told about this at the start of the tenancy.
8	The tenant owed at least 2 months rent if the tenancy is on a monthly basis or 8 weeks rent if it is on a weekly basis, both when the landlord gave notice seeking possession and at the date of the court hearing
10	The tenant was behind with the rent both when the landlord served notice seeking possession and when court proceedings began
11	Even if the tenant was not behind with the rent when the landlord started possession proceedings the tenant has been persistently late in paying the rent
12	The tenant has broken one or more of the terms of the tenancy agreement except the obligation to pay rent
13	The condition of the property has got worse because of the behaviour of the tenant or any other person living there
14	The tenant or someone living in or visiting the property has caused, or is likely to cause a nuisance or annoyance to someone living in or visiting the locality <i>or</i> Has been convicted of using the property or allowing it to be used for immoral or illegal purposes or an arrestable offence committed in the property or in the locality
15	The condition of the furniture in the property has got worse because it has been ill treated by the tenant or any other person living there
17	The landlord was persuaded to grant the tenancy on the basis of a false statement

knowingly or recklessly made by the tenant or a person acting at the tenants instigation
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Grounds 2 and 8 are 'mandatory grounds' this means as long as the landlord can prove the grounds the court will allow him / her to take possession of the property. Grounds 10-15 & 17 are 'discretionary grounds' which means the Court decides whether or not to grant possession.

The amount of time the tenant has to leave the property depend of the ground the landlord uses:

Ground Number	Notice Period
2	2 months
8	2 weeks
10	2 weeks
11	2 months
12	2 weeks
13	2 weeks
14	As soon as the notice is served
15	2 weeks
17	2 weeks

If the fixed term has expired, the tenant will now be a periodic tenant and the landlord can serve a notice seeking possession, without having to give a reason. In this case, the landlord must give the tenant 2 months notice to leave the property.

The notice seeking possession must be in a legal form and include:

1. the tenant's name.
2. the address of the property.
3. the ground(s) number and reason the landlord is using.
4. a reason why the ground is being used.
5. the date after which the tenant needs to leave (the notice period).
6. the landlords contact details.

An example of a 'notice' can be downloaded from the Communities website (Form No.3) at: [www.communities.gov.uk/publications/housing/assuredtenancyforms](http://www.communities.gov.uk/publications/housing/assuredtenancyforms).

## Does the tenant have to leave?

The notice is the first step to removing a tenant from a property. The tenant cannot be removed without a court order. The tenant does not have to leave but once the notice expires the landlord will apply to the court for possession. If the tenant wishes to leave, they should contact the landlord and say when they are able to leave. The tenant will receive a copy of the completed claim form (N5), and particulars of claim form (N119) along with Notes for the defendant (form N7A) and the defence form (N11R) from the County Court. The claim form will state the time, date, place of the hearing along with the landlord's grounds for possession.

The tenant has three options:

1. Talk to the landlord to resolve the problem (for example rent arrears) *or*;
2. Agree to the possession order *or*;
3. Defend the claim (the tenant must fill in the N11R form).

## Orders that the courts can make

If the court decides the landlord should be granted a possession order they will grant either;

1. An outright possession order – that the landlord has possession of the property
2. A suspended possession order – that the landlord will have possession of the property if the tenant does not follow the courts instructions.

If the tenant has received an order for outright possession the tenant can ask the court to make a suspended possession order by making an application on County Court form N245 (a fee is payable). If the tenant does not follow the court's instructions, the suspended possession order will be cancelled.

If the tenant does not leave the property after a possession order is granted, bailiffs will be instructed to evict the tenant. It is important that the tenant leaves the property before the bailiffs come as the tenant runs the risk of being homeless and not having access to their personal belongings left in the property.

## **The Mortgage Repossessions (Protection of Tenants etc) Act 2010**

This Act gives tenants new powers when their landlord is facing mortgage repossession. From the 1st October 2010, if the landlord is being taken to court, the tenant living in the property can fill out an N244 form to ask the court to make an order which allows the tenant time (up to two months) to find a new home.

## **Other sources of help and information**

### **Shelter**

Shelter is a charity that offers help with housing, mortgage debt or problems with welfare benefits.

Tel: 0808 800 4444

[england.shelter.org.uk](http://england.shelter.org.uk)

### **Citizens Advice Bureau**

Citizens Advice Bureau can offer free independent and confidential advice on a range of problems including housing.

Tel: 020 7833 2181

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

### **Direct Gov**

The Government's own website provides useful information on a whole range of issues.

[www.direct.gov.uk](http://www.direct.gov.uk)

THIS FACT SHEET IS INTENDED AS A GENERAL STATEMENT OF THE PROCEDURE AND DOES NOT PURPORT TO RENDER SPECIFIC ADVICE, LEGAL OR OTHERWISE. SPECIFIC ADVICE ON A PARTICULAR PROBLEM SHOULD ALWAYS BE SOUGHT.

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