

Recovering Possession of Residential Premises



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Eviction ban: where are we?

- Public Health (Coronavirus) (Protection from Eviction) (England) Regulations 2021
 - Prevented any person attending at a dwelling house for executing a writ or warrant of possession or delivering a notice of eviction.
 - Expired on 21st February 2021.
- Public Health (Coronavirus) (Protection from Eviction) (England) (No. 2) Regulations
 - Expired on 31st March 2021.
- Public Health (Coronavirus) (Protection from Eviction) (England) (No. 2) (Amendment) Regulations
 - Amended expiry date to 31st May 2021.

Notice periods: where are we?

<https://www.gov.uk/government/publications/covid-19-and-renting-guidance-for-landlords-tenants-and-local-authorities/technical-guidance-on-eviction-notice>

- Ground 8 and 11 (since 29th August 2020):
 - 4 weeks where arrears are at least 6 months
 - 6 months where arrears are less than 6 months
- Ground 7a – serious antisocial behaviour:
 - 4 weeks for a periodic tenancy
 - 1 month for a fixed-term tenancy
- Section 21:
 - For notices between 26 March 2020 and 28 August 2020: at least 3 months
 - After 29 August 2020, at least 6 months

Where are we going?

→ [Coronavirus \(COVID-19\)](#) | Rules, guidance and support

[Home](#) > [Housing, local and community](#) > [Housing](#) > [Rented housing sector](#)

Press release

Support for renters continues with longer notice periods

Renters will continue to be supported as national COVID-19 restrictions ease.

From: [Ministry of Housing, Communities & Local Government](#) and [The Rt Hon Christopher Pincher MP](#)

Published 12 May 2021



In summary:

- Four-month notice periods for most tenants until at least the end of September.
- “Move will ensure renters are protected as we continue through the Roadmap.”
- “Subject to the public health advice and progress with the Roadmap, notice periods will return to pre-pandemic levels from 1 October.”
- NOTE: “Bailiffs have been asked not to carry out an eviction if anyone living in the property has Covid-19 symptoms or is self-isolating”.

New Regulations!

- Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) (No. 2) Regulations 2021 – from 31st May 2021
- Amends Schedule 29 to the Coronavirus Act 2020 to achieve 4-month notice period aim.
- Section 8(4BA)(a)(ii) of the Housing Act 1988 will be amended:
 - The six months' rent arrears threshold for giving only four weeks' notice will be lowered to a four months' rent arrears threshold.
 - From 21st August 2021, it will be lowered to two months.
- Section 8(4BA)(c) of the Housing Act 1988 will be unamended by the new regulations – therefore where there are more than four months' rent arrears, only four weeks' notice will be required.

More New Regulations!

- Assured Tenancies and Agricultural Occupancies (Forms) (England) (Amendment) and Suspension (Coronavirus) Regulations 2021
 - From 1st June 2021
- Insert new prescribed forms into the relevant prescribed forms regulations:
 - Form 3 (section 21)
 - Form 6A (section 8)
- Any section 21 notice or section 8 notice sent before 1st June that will be deemed served after 1st June should be in one of these forms.

Procedure: Practice Direction 55C

- Practice Direction 55C.
- After stay lifted, reactivation notice required.
- Where no reactivation notice filed by 4pm on 30th April 2021, claim automatically re-stayed
 - not a sanction, but application needed to lift the stay.
- For new claims brought after 3rd August 2020, Claimant must:
 - bring to the hearing two copies of a notice setting out what knowledge the party has as to the effect of the Coronavirus pandemic on the Defendant
 - serve that on the Defendant not less than 14 days before hearing.

Procedure: the Overall Arrangements

<https://www.judiciary.uk/wp-content/uploads/2020/09/Possession-Proceedings-Overall-Arrangements-Version-1.0-17.09.20.pdf>

- Review date
 - Claimant to provide court with electronic bundle
 - Defendant has chance to take free legal advice.
 - Short review appointment listed by the court – 5 minute document review by the judge.
 - If documents in order and no settlement, matter will proceed to substantive hearing.

Overall Arrangents

- Substantive hearing: parties to attend.
- Court decides the claim or gives direction.
- Key concepts:
 - (1) Prioritisation
 - (2) Covid-19 Case Marking

Prioritisation

- The following cases warrant listing with priority:
 - Antisocial behaviour
 - Extreme alleged rent arrears – 12 months' rent or 9 months' rent where it amounts to more than 25% of a private landlord's total annual income from any source.
 - Squatters
 - Domestic violence
 - Fraud or deception
 - Unlawful subletting
 - Abandonment
 - Claims issued before the stay.

Covid-19 Case Marking

- Draws attention to cases where claimant may be in a particular difficulty as a result of the pandemic, and assists with listing and case management.
- Any defendant or private claimant entitled to request the case be Covid-19 case marked at any stage and by any means.
- Must provide specified information and inform other parties.
- If no objection, the request will result in case marking.
- If a party objects, the court will decide on the documents.

Tips

- Check and double-check the notice period
- Make sure you are using the correct prescribed form for notices
- Check the level of the rent arrears to see if you can plead “extreme rent arrears” for prioritisation purposes
- Consider applying for Covid-19 Case Marking on basis of affect of pandemic on landlord

Thank you for listening

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