

Eviction (Rent Arrears)

Rent arrears are debts that could happen when you do not pay rent.

Rent arrears may result in a landlord starting a process to take back their property – this may lead to ‘**eviction**’.

To start the process, when there are rent arrears, landlords will send a document known as a **section 8 notice**. The notice will inform you that the landlord wishes to evict you.



Please note that this type of eviction only applies to:

Assured shorthold tenancies (your tenancy is a **fixed term** or **periodic**) and **shorthold tenancies**. This means that section 8 notices do not apply to the eviction of lodgers.

Landlords will give reasons and explain that they are evicting you for rent arrears in the Section 8 notice. The reasons they can use are known as ‘**grounds**’.

The most used grounds for rent arrears are **grounds 8, 10 and 11**. Landlords can use one ground or a combination of different grounds:

Legal Ground	What the landlord must prove
Ground 8	<p>Your rent arrears must be over:</p> <ul style="list-style-type: none"> • 8 weeks = if you pay rent weekly or fortnightly • 2 months = if you pay rent monthly • 1 quarter = if you pay rent quarterly • 3 months = if you pay rent yearly <p>Your rent arrears must be over the above periods both: when landlord gives the notice AND at time of the hearing too</p> <p>Note: please check the new guidance below due to COVID</p>
Ground 10	Your rent has been in arrears for any duration of time- this can be for a shorter duration than required for Ground 8
Ground 11	You are repeatedly paying rent late or repeatedly fail to pay rent

Landlords can also send a valid **Section 21 notice** for eviction.

In this notice, landlords do not need to give any explanation or reason to take the property back. The Section 21 notice can be given together with a Section 8 notice.

If you have received a Section 8 notice, you may find the below checklist helpful.

This checklist has been created to help you understand what you can do if you are facing eviction due to rent arrears.

- boxes refer to things you should make sure are done (can be ticked as you go)
- stars ★ refer to actions you can take

1) Check if your eviction notice is correct and valid

If your landlord does not provide a valid notice, they may be guilty of illegal eviction

- ★ Seek legal advice if you are in this situation
- ★ See our video on illegal evictions

Steps the landlord must take	Steps you can take to check the notice is valid
Landlord must give notice in writing	<ul style="list-style-type: none"> • Check that Form 3 is used (this is what it looks like) • Check that the form states your correct name and address of the property • Check that the form states what date you need to pay rent or leave the property by • Check that the form includes the date after which court proceedings will start <p>Contact your landlord if your notice is not given in the correct format with specified detail.</p> <p>In this case: the notice is not valid the landlord will have to give you a new notice</p>
2) Notice must explain what ground the landlord is relying on to evict you	<ul style="list-style-type: none"> • Check the landlord has stated the ground (8, 10, 11 or a combination) • Check the landlord has given an explanation for why they are using this ground • Check the ground is correct and applies to your situation (refer to the ground explanations above) <p>Contact your landlord if they do not provide a ground AND explanation OR the ground provided is not correct.</p> <p>In this case:</p> <ul style="list-style-type: none"> • the notice is not valid • the landlord will have to give you a new notice
3) Notice periods must follow new guidance given	<ul style="list-style-type: none"> • Check if your landlord provided the correct notice period – this is the period between when you are given the Section 8 notice to when court proceedings begin

<p>during COVID outbreak</p>	<p>If your notice is given:</p> <ul style="list-style-type: none"> • Before 26 March 2020 = minimum notice period should be 2 weeks • Between 26 March and 28 August 2020 = minimum notice period should be 3 months • On or after 29 August 2020 = minimum notice period should be: <ul style="list-style-type: none"> - 6 months – if less than 6 months arrears - 4 weeks – if 6 months arrears or more <p>Note: new guidance due to COVID</p> <p>Contact your landlord if the notice period is wrong</p> <ul style="list-style-type: none"> • the notice is not valid • they will have to give a new notice
<p>IF YOUR NOTICE IS VALID/CORRECT</p> <p>Your landlord cannot make you leave after the notice period ends. They need to apply to court for a <u>possession order</u> first</p> <p>Seek legal advice to help you check the Section 8 notice received is valid</p>	

The court **MUST order eviction** if landlord can show:

AT LEAST 2 months' rent arrears at two different stages:

When the landlord gives the notice **AND** at time of the hearing too.

The court cannot take into consideration unemployment due to COVID

★ **Try to reduce rent arrears below 2 months**

2) Challenging the eviction

Once the landlord begins the possession claim, you will start receiving different documents from court such as the following:

Documents you may receive	Steps you can take
<p>N5B Claim Form explains why the landlord wants to evict you</p>	<ul style="list-style-type: none"> • Check if the details provided and reasonings are correct and if you agree with them <p>Make a note of which claims you want to challenge</p>



<p>N11R Defence Form gives you the opportunity to explain why you should not be evicted</p>	<ul style="list-style-type: none"> • Give an explanation for why you disagree with your • landlord's claims or why they are not correct • Tell the court if you have been struggling due to • coronavirus – if you lost your job, had to self-isolate or • someone you live with had/has coronavirus • Keep a copy of the form and explanations you provide • Return the form to court within 14 days <p style="color: red; text-align: center;">Seek legal advice before completing the form If the defence form is difficult to use, you can write out your reasons on paper and include the casenumber (available on the N5 Claim Form)</p>
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If you need free one-off legal advice, you can fill in this form by the Free Legal Advice Centre (FLAC) of Toynbee Hall:
<https://www.toynbeehall.org.uk/free-advice/legal-advice/#online-flac-ia-form>
 or you can email FLAC here: flac@toynbeehall.org.uk

Please know that we do not offer representation or do case work. We provide advice on housing, employment, immigration, consumer, civil matters and more.

If you want to find other free legal clinics or you need representation, please look at LawWorks here: <https://www.lawworks.org.uk/legal-advice-individuals>

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