

Section 21 Notice v Section 8 Notices

There are two ways to get possession, Section 21 and Section 8, but which one is the best?

Unfortunately this is not an easy answer and often needs to be considered on a case to case basis. However, this leaflet will give you some details on both types of Notice to assist you in making this decision. In considering this I will assume that the only reasons you are using Section 8 is because of rent arrears.

If you require possession under Section 8 for anything other than rent arrears you should seek legal advice.

Length of Notice	
Section 21	Section 8
This must be at least 2 months and can not expire before the end of the fixed period of the tenancy	The length of the Notice is 2 weeks
Time for possession order	
If the Notice has expired but the tenant is still in the property you will need to issue Court proceedings and ask a Court for a possession order	
Section 21	Section 8
You do not need a Court hearing and it normally takes 6 weeks to receive your Possession Order.	You will need a Court hearing, this is usually 8 weeks after the Court have received the claim.
Getting the Possession Order	
Section 21	Section 8
If you have given the correct notice, your tenant deposit is protected in a tenancy deposit scheme and your Section 21 Notice expires on the correct day you will get a possession order	If your tenant owed 2 months rent the date you issued your Section 8 Notice and the date you go to Court you will get a possession order, if your tenant owes less than 2 months at any of these points you will only get a suspended possession order.

To Summarise	
Section 21 Advantages	Section 21 Disadvantages
No fault notice, if the paperwork is correct it can not be defended and possession will be granted. You do not need to attend a Court hearing.	You have to wait at least 2 months for the notice to expire, the notice can not expire during the fixed period. If you have not protected the tenancy deposit you can not use this Notice
Section 8 Advantages	Section 8 Disadvantages
The notice period is only 2 weeks, you also get a County Court Judgment for the arrears	If the tenant pays rent arrears leaving less than 2 months owing you cannot get a possession order, this could even be the day before a Court hearing. You have to go to Court and the Court process takes a couple of weeks longer The tenant can defend the claim on the grounds of disrepair of the property

The purpose of this article is to give a brief summary of the differences of the two notices so you can see at a glance the differences. It may be that your individual circumstances may dictate which Notice you use.

If you would like any advice on which Notice is more appropriate for you can contact Rebecca Brough at Fidler & Pepper Solicitors: rbrough@fidler.co.uk