

**General Guidance**

1. Use the correct form “Section 21 (Form 6a)” and ensure it is filled out correctly
2. Ensure 2 months notice is given and that notice period has expired before applying for a Possession Order.
3. You will need to give more than 2 months notice if the tenancy is on a contractual periodic tenancy and the AST requires rent to be paid in intervals of more than 2 months. The notice would then need to be at least as long as the rental period.
4. All Tenants must have been served with the requisite documents outlined in the checklist.
5. All Tenants must be served with the Section 21 notice. We recommend copies are sent to any Permitted Occupiers.
6. Check AST clause for service of notices and ensure service is carried out pursuant to this clause.
7. Keep evidence of service
	* Signed/dated copy of the Section 21 Notice
	* Complete a Certificate of Service (Form N215)
	* Covering letter/email/proof of postage depending on how you served
8. If you require a mandatory/additional/selective licence then you must have at least applied for it.
9. HTR Guide served must be the latest copy at the outset of the tenancy. If any renewal agreements then you should check the latest HTR Guide was served (if updated) at the outset of any renewal agreements or the commencement of a statutory periodic tenancy.
10. Once the notice period has expired, this does not end the tenancy. You will need to apply for a Possession Order. The Tenant will still be liable to pay rent.
11. The Section 21 notice will remain valid for 6 months from the day it is served. You should “use it or lose it”. You will need a fresh Section 21 notice if you have not applied for a Possession Order within 6 months.

This list is a basic guide and is not intended to be comprehensive legal advice and/or to apply to each and every case. This list is not exhaustive and if you have any queries or concerns please feel free to contact us.

|  |  |  |  |
| --- | --- | --- | --- |
|  Gemma Hackett Senior Associate Solicitor |  |  |  |
|  |
|  |  |
|

|  |  |  |  |
| --- | --- | --- | --- |
|  | D T F  | 0333 200 5212 0333 200 52000333 200 5201 | gemma.hackett@greenhalghkerr.com[www.greenhalghkerr.com](http://www.greenhalghkerr.com/) |
| Olympic House, Beecham Court, Smithy Brook Rd, Wigan, WN3 6PR |

 | Description: Description: Description: Description: Description: Description: Description: http://www.greenhalghkerr.com/img/footer_title.gif |
|  |
|  |



**Checklist – Section 21 Notice**

|  |  |
| --- | --- |
| **Section 21 Requirements - AST** |  |
| Is the tenancy an AST for the purposes of the Housing Act 1988? |    |
| Has the Landlord and/or managing agent changed since commencement of the tenancy? If so, ensure a section 48 notice has been served prior to serving any notices.  |    |
| Has any contractual fixed term of the AST expired?- If not, what is the expiry date? ………………………….(You cannot serve a section 21 notice to expire before the end of a fixed term.) |    |
| Has the tenant been in possession for at least 4 months?(You cannot serve a section 21 notice during the first 4 months of a tenant’s first tenancy agreement with you, but this does not apply to further agreements or periodic tenancies which follow a fixed term.) |    |
| Was the Deposit registered within 30 days of receipt and served on the Tenant?* Check deposit certificate
* Landlord, tenant names & property address all need to be exactly as stated on the AST
* The prescribed info needs to have been served on the tenant within 30 days

If the deposit is not compliant it should be refunded before serving a section 21 notice.  |    |
| Is the Deposit Under 5 weeks rent? (If not, you need to refund the difference before serving a section 21 notice) |    |
| Have any prohibited fees been taken from the Tenant?(Tenant Fees Act 2019 prohibits fees for references, administration, check out inspections, credit/immigration checks, renewals)(If banned fees have been taken they need to be refunded before serving a section 21 notice).  |    |
| Have you served the following documents on the tenant?* How to Rent Guide [ ]  Date …………………………………….
* Gas Safety Certificates [ ]  Date………………………………………
* Energy Performance Certificates [ ] Date ……………………………………..

If not, the documents should be served before serving a section 21 notice.  |    |
| HMO Licence Required?  |    |
| Have you received any council ordered repair within the last 6 months under an Improvement Notice or Emergency Works Notice? If so, you will need copies and evidence its been complied with.(You cannot serve a section 21 notice within 6 months of receiving this notice.) |    |
| Have you had any complaints about the conditions of the Property recently? (Consider whether serving notice could be deemed retaliation if so) |    |
| Is rent paid in advance?If so, once the tenant vacates you need to refund the period of time when the tenant was not occupying the property. |    |
| Is the tenant in a breathing space moratorium or a mental health crisis moratorium?(Whilst you can still serve a section 21 notice on a tenant in a moratorium, no accompanying claim for rent arrears can be brought at that time). |    |
| **Documents Required For Issuing Proceedings** | **Held?** |
| Tenancy Agreement:(Original & any renewals) |    |
| Statement of Account |    |
| Deposit Protection Certificate & Prescribed Information(Date of deposit refund if applicable) |    |
| Gas Safety Records from commencement of tenancy to present |    |
| HMO Certificate (If applicable) |    |
| How to Rent Guide  |    |
| EPC |    |
| Details of complaints or council ordered repairs: |    |