

2015 No. 1646

LANDLORD AND TENANT, ENGLAND

**The Assured Shorthold Tenancy Notices and Prescribed
Requirements (England) Regulations 2015**

<i>Made</i> - - - -	7th September 2015
<i>Laid before Parliament</i>	9th September 2015
<i>Coming into force</i> - -	1st October 2015

The Secretary of State, in exercise of the powers conferred by sections 8(3), 21(8), 21A and 21B of the Housing Act 1988(a), makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015 and come into force on 1st October 2015.

(2) In these Regulations “the Act” means the Housing Act 1988.

(3) Subject to paragraph (4), these Regulations apply in relation to an assured shorthold tenancy of a dwelling-house in England granted on or after 1st October 2015.

(4) These Regulations do not apply to an assured shorthold tenancy that came into being under section 5(2) of the Housing Act 1988 on or after 1st October 2015 on the coming to an end of an assured shorthold tenancy that was granted before that date.

Compliance with prescribed legal requirements

2.—(1) Subject to paragraph (2), the requirements prescribed(b) for the purposes of section 21A of the Act are the requirements contained in—

- (a) regulation 6(5) of the Energy Performance of Buildings (England and Wales) Regulations 2012(c) (requirement to provide an energy performance certificate to a tenant or buyer free of charge); and
- (b) paragraph (6) or (as the case may be) paragraph (7) of regulation 36 of the Gas Safety (Installation and Use) Regulations 1998(d) (requirement to provide tenant with a gas safety certificate).

(2) For the purposes of section 21A of the Act, the requirement prescribed by paragraph (1)(b) is limited to the requirement on a landlord to give a copy of the relevant record to the tenant and the 28 day period for compliance with that requirement does not apply.

(a) 1988 c. 50. Section 8(3) was amended by the Housing Act 1996 (c. 52), Schedule 1, paragraph 1 and section 97(2)(a) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Sections 21(8) and (9), section 21A and section 21B were inserted by sections 37, 38 and 39 respectively of the Deregulation Act 2015 (c. 20).
(b) Section 45(1) of the Act provides that “prescribed” means prescribed by regulations.
(c) S.I. 2012/3118.
(d) S.I. 1998/2451.

Requirement for landlord to provide prescribed information

3.—(1) A landlord under an assured shorthold tenancy of a dwelling-house in England, or a person acting on behalf of such a landlord, must give the tenant under that tenancy the information mentioned in paragraph (2).

(2) The information is the version of the document entitled “How to rent: the checklist for renting in England”, as published by the Department for Communities and Local Government, that has effect for the time being.

(3) The information may be provided to the tenant—

- (a) in hard copy; or
- (b) where the tenant has notified the landlord, or a person acting on behalf of the landlord, of an e-mail address at which the tenant is content to accept service of notices and other documents given under or in connection with the tenancy, by e-mail.

(4) Paragraph (1) does not require a landlord, or person acting on behalf of the landlord, who has provided the tenant with the document mentioned in paragraph (2) to supply a further copy of the document each time a different version of that document is published during the tenancy.

(5) This regulation does not apply—

- (a) where the landlord is a private registered provider of social housing; or
- (b) where—
 - (i) the tenancy (“the new tenancy”) is a replacement tenancy;
 - (ii) the landlord, or a person acting on behalf of the landlord, provided the tenant with the document mentioned in paragraph (2) under an earlier tenancy; and
 - (iii) the version of the document provided to the tenant under the earlier tenancy is the same version as the version which is in effect on the first day of the new tenancy.

(6) In this regulation “replacement tenancy” has the same meaning as in section 21(7) of the Act.

Amendments to the Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015

4.—(1) The Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015(a) are amended as follows.

(2) In regulation 3 (prescribed forms) after paragraph (f) insert—

“(fa) for a notice under paragraph (1) or (4) of section 21 informing a tenant that the landlord intends to seek recovery of possession of a dwelling-house let on an assured shorthold tenancy, Form No. 6A;”.

(3) After regulation 3 (prescribed forms) insert—

“Review

3A.—(1) The Secretary of State must from time to time—

- (a) carry out a review of regulation 3(fa) and the associated form (Form No. 6A),
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by regulation 3(fa),
- (b) assess the extent to which those objectives are achieved, and

(a) S.I. 2015/620.

- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (3) The first report under this regulation must be published before the end of the period of five years beginning with 1st October 2015.
- (4) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.
- (4) In the Schedule (forms prescribed for the purposes of Part 1 of the Housing Act 1988)—
 - (a) in Form No. 3, in the instructions, for “There is no form prescribed for these cases, but you must give notice in writing.” substitute—
 - “Form 6A ‘Notice seeking possession of a property let on an Assured Shorthold Tenancy’ is prescribed for these cases.”; and
 - (b) after Form No. 6 insert Form No. 6A as set out in the Schedule to these Regulations.

Review

- 5.—(1) The Secretary of State must from time to time—
 - (a) carry out a review of regulations 2 and 3,
 - (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) The report must in particular—
 - (a) set out the objectives intended to be achieved by the regulatory system established by those regulations,
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (3) The first report under this regulation must be published before the end of the period of five years beginning with the day on which regulations 2 and 3 come into force.
- (4) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Communities and Local Government

7th September 2015 *Brandon Lewis*
Minister of State
Department for Communities and Local Government

SCHEDULE

Regulation 4(4)(b)

Form No. 6A

Housing Act 1988 section 21(1) and (4) as amended by section 194 and paragraph 103 of Schedule 11 to the Local Government and Housing Act 1989 and section 98(2) and (3) of the Housing Act 1996

FORM 6A

Notice seeking possession of a property let on an Assured Shorthold Tenancy

Housing Act 1988 section 21(1) and (4) as amended by section 194 and paragraph 103 of Schedule 11 to the Local Government and Housing Act 1989 and section 98(2) and (3) of the Housing Act 1996

- Please write clearly in black ink. Please tick boxes where appropriate and cross out text marked with an asterisk (*) that does not apply.
- This form should be used where a no fault possession of accommodation let under an assured shorthold tenancy (AST) is sought under section 21(1) or (4) of the Housing Act 1988.
- Do not use this form: (a) if the tenant has resided in the property for less than four months; (b) where the landlord is prevented from retaliatory eviction under section 33 of the Deregulation Act 2015; (c) where the landlord has not complied with their requirements under SI 2015/1646; (d) where the landlord has not protected the tenant's deposit under one of the Government's three approved Tenancy Deposit schemes; or (e) where a property requires a licence but is unlicensed.
- This form must be used for all ASTs created on or after 1 October 2015 except for periodic tenancies which have come into being after 1 October 2015 and which were fixed term ASTs created before 1 October 2015. This form may nevertheless be used for all ASTs.

1. To:

Name(s) of tenant(s) (Block Capitals)

2. You are required to leave the below address after []¹. If you do not leave, your landlord may apply to the court for an order under section 21(1) or (4) of the Housing Act 1988 requiring you to give up possession.

Address of premises

3. If you have a fixed term AST, this notice is only valid for six months from the date of issue. If you have a rolling or periodic tenancy, e.g. you rent the property on a week by week or month by month basis, this notice is only valid for four months from the date of issue.

¹ Landlords should insert a calendar date here. The date should allow for the service period, and in effect be two months plus two days if the notice is served by post, e.g. where a notice is posted first class on 15 December 2015, the earliest a tenant may be required to give up possession of the property is after 17 February 2016. Where landlords are seeking an order for possession on a statutory periodic tenancy under section 21(4) of the Housing Act 1988, the notice period should also not be shorter than the period of the tenancy (up to a maximum of six months), e.g. where there is a quarterly periodic tenancy, the date should be three months from the date of service.

4. Name and address of landlord

To be signed and dated by the landlord or their agent (someone acting for them). If there are joint landlords each landlord or the agent must sign unless one signs on behalf of the rest with their agreement.

Signed _____ *Date* _____

Please specify whether: landlord joint landlords landlord's agent

Name(s) of signatory/signatories (Block Capitals) _____

Address(es) of signatory/signatories _____

Telephone of signatory/signatories _____

What to do if this notice is served on you

- This notice is the first step requiring you to give up possession of the property referred to in section 2 above. You should read it very carefully.
- You are entitled to at least two months' notice before being required to give up possession of the property. However, if you have a rolling or periodic tenancy which is quarterly, you must be given at least three months' notice, or, if you have a rolling or periodic tenancy which is half yearly or annual, you must be given at least six months' notice (which is the maximum). The date you are required to leave by should be shown in section 2 above.
- Where your tenancy is terminated before the end of a period of your tenancy (e.g. where you pay rent in advance on the first of each month and you are required to give up possession in the middle of the month), you may be entitled to repayment of rent from the landlord under section 21C of the Housing Act 1988.
- If you need advice about this notice, and what you should do about it, take it immediately to a citizens' advice bureau, a housing advice centre, a law centre or a solicitor.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations introduce a new prescribed form for a notice under section 21(1) or (4) of the Housing Act 1988 (“the Act”) informing a tenant that the landlord intends to seek recovery of possession of a property let on an assured shorthold tenancy (“a section 21 notice”) and new restrictions on the use of the “no fault” eviction procedure for assured shorthold tenancies where a landlord has not complied with certain obligations.

Regulation 2 prescribes certain requirements for the purposes of section 21A of the Act (compliance with prescribed legal requirements): these are the requirement to provide tenants with an energy performance certificate under regulation 6(5) of the Energy Performance of Buildings (England and Wales) Regulations 2012 and the requirement to provide tenants with a gas safety certificate under regulation 36 of the Gas Safety (Installation and Use) Regulations 1998. However, the requirement to provide tenants with a gas safety certificate is limited to the requirement on a landlord to give a copy of the relevant record to the tenant and the 28 day period for compliance with that requirement does not apply. The “no fault” eviction procedure for assured shorthold tenancies is not available to landlords at a time when either of the requirements has not been complied with.

Regulation 3 requires a landlord to provide tenants with a copy of the Department for Communities and Local Government’s booklet entitled “How to rent: the checklist for renting in England” which can be found at the following web address: <https://www.gov.uk/government/publications/how-to-rent>. Landlords are not required to supply a further copy of the booklet each time a different version is published during a tenancy. The requirement does not apply where a landlord is a registered provider of social housing or where a landlord has already provided the tenant with an up-to-date version of the booklet under an earlier tenancy. The “no fault” eviction procedure for assured shorthold tenancies is not available to landlords at a time when the requirement has not been complied with.

Regulation 4 amends the Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015 to introduce a new prescribed form for a notice under paragraph (1) or (4) of section 21 of the Act informing a tenant that the landlord intends to seek recovery of possession of a dwelling-house let on an assured shorthold tenancy. Regulation 4 also makes a consequential amendment to Form 3 and inserts a new regulation which requires the Secretary of State to review the operation and effect of the requirement to use the prescribed form and publish a report within five years of 1st October 2015 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the prescribed form should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the prescribed form or to amend it.

Regulation 5 requires the Secretary of State to review the operation and effect of regulations 2 and 3 of these Regulations in the same manner as the requirement to use the prescribed form.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from <https://www.gov.uk/dclg> or by contacting Mark Malvisi on 0303 444 3220 and is annexed to the Explanatory Memorandum.

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