



Squatters - Interim possession order a quicker procedure - Information for owners and tenants

What is the quicker procedure?

It is a procedure in which you can apply to the court for an 'interim possession order'. If the court makes the order, anybody occupying your premises without your consent, that is, squatting, must leave within 24 hours of a copy of the order being delivered to them ('served' on them).

You are called the 'claimant'. The person (or people) said to be occupying the premises illegally are called the 'defendants'.

If the defendants do not leave within 24 hours, they will be guilty of a criminal offence. You can ask the police to arrest them. If they are convicted, they may be imprisoned, or fined, or both.

The court will normally make a decision on your application within a few days of your issuing it.

An interim possession order is not a final order giving you possession of the premises. You must, therefore, also make an application for possession when you apply for an interim possession order.

A final order for possession will normally be made at a hearing shortly after the interim possession order has been made.

When can I apply for an interim possession order?

You can apply for an interim possession order if you find that your premises have been occupied by a person (or people) without your consent. To do this you will need to meet a number of other requirements.

What are those other requirements?

The other requirements are that the premises being occupied are:

- a building; or
- part of a building, that is a self contained room or flat within it; or
- the land ancillary to a building.

The procedure does not apply to open land.

and that:

- you have an immediate right to possession of the premises being occupied;
- your right has existed for the whole of the time the premises have been occupied illegally;
- you are making your claim for possession within 28 days of the date on which you first knew your premises were being occupied without your consent;

If your premises were occupied for a time before you became aware of it, the judge will consider whether you should have known about it sooner than you did.

- the defendants are not people who have been given a right to occupy the premises by a legal tenant or lessee; and
- you are only making a claim for possession against squatters for the recovery of the premises.

The effects of an interim possession order are serious. Because of this, the court will be concerned to protect the defendant's interests if the order is later set aside following a successful objection to it.

You will be asked to say whether or not you are prepared to give certain promises to the court (called 'undertakings') which do this. You will have to indicate whether you have given, or you are prepared to give, the following undertakings:

- to allow the defendant back into the premises and pay them damages if an interim possession order is made and the court later decides you were not entitled to the order;

and

- not to let the premises to anyone else or damage them, or dispose of any of the defendant's possessions until the court makes a final decision on your right to possession.

It is not a requirement that you must give these undertakings, but the court will take into account your willingness to do so when deciding whether or not to grant you an interim possession order.

Can I make an application if I do not know the name of the defendant?

Yes. You can still make an application. On your application you will refer to the defendant as 'Persons unknown'.

Where must I make my application for possession and an interim possession order?

You should make your application at the County Court hearing centre in whose area the premises are.

The addresses and telephone numbers of all County Court Hearing Centres can be found at <https://courtribunalfinder.service.gov.uk>

How much will it cost?

You will have to pay a fee for your application. You will find a list of court fees in the leaflet EX50 Civil and family court fees.

You might not have to pay a fee if your financial situation, or if paying the fee, would cause you hardship. For more information, or to apply for a fee remission, read the booklet EX160A Court and tribunal fees – Do I have to pay them? It is available online at hmctsformfinder.justice.gov.uk

What forms will I need?

You will need forms:

N5 Claim form for possession of property

N130 Application for an interim possession order,

Form N130 includes a statement to support an application for possession and for an interim possession order.

If the owner of the premises is a corporate body, the statement can be signed by any of its officers authorised to sign such statements and give undertakings on its behalf.

You should make sure the statement contains all the information the court needs to decide whether you are entitled to an interim possession order.

How many copies of the forms will I need?

You will need several copies of the completed forms:

- two sets for you to keep;
- one set for the court;
- one set for each defendant, including one for those whose names you do not know.

You should send or take all the copies to the County Court hearing centre with the fee.

What will happen when I have paid my fee to the court?

You will be given form N206B (Notice of issue) which will be a receipt for your fee and tell you your claim number.

Court staff will seal all your sets of the two forms with the court seal and fix an appointment when the judge will consider your application for an interim possession order. The time, date and place of the appointment will be written on all the copies of form N130.

The appointment will be as soon as possible, but cannot be **less than 3 days** after the date you issued the application.

Court staff will hand back to you all but one copy of the forms N130. Attached to each will be a form N133 (Witness statement of the defendant to oppose the making of an interim possession order).

When do I have to serve the documents?

You must serve the documents within 24 hours of the court issuing your application for an interim possession order.

Do I have to hand the documents to the occupiers personally?

No. You can serve the documents by:

- fixing a copy of them to the main door or other prominent part of the premises, and
- if practicable, inserting them through the letter box in a sealed, transparent envelope addressed to 'the occupiers'.

If you wish, you may **also** place stakes in the ground at conspicuous parts of the premises. Copies of the documents, in sealed, transparent envelopes addressed to 'the occupiers', should be fixed to the stakes.

You, or any person who serves the documents on your behalf, must then fill in an N215 Certificate of service saying how and when the documents were served.

You must file the completed N215 with the court at or **before** the hearing to consider your application. If you are attending the hearing, you can take it with you and hand it to the judge.

What will happen at the hearing of any application?

The hearing will normally take place in the judge's room (called 'chambers'), in private, although the judge can decide that it should take place in open court.

A defendant may attend the hearing, and may provide written evidence in form N133 or give oral evidence if so required.

The judge can make a decision even if neither you nor the defendant attends.

The judge will consider the evidence in your statement, and whether the undertakings you have given are adequate before making a decision.

If the judge decides not to make an interim possession order, you will be given another hearing date when the court will consider your claim for possession of the premises. The judge may also say what other steps should be taken before that hearing (called 'giving directions').

Details of the new hearing and any directions will be set out in an 'order'. The court will send copies of it to you and the defendant. The defendant will also be sent a copy of form N130, which includes your statement.

Both you and the defendant can attend the new hearing, which will be held in open court. You may also give the court any additional evidence you may have to support your claim for possession.

If the court makes an order that you are entitled to possession of the premises and the defendant does not leave, you will be able to ask the court to issue a warrant of possession. This will allow the court bailiff to evict the defendant.

What will happen if the judge makes an interim possession order?

Court staff will prepare the interim possession order and pass it to the judge for approval.

You must serve the order within 48 hours of the judge approving it. The time limit for service will be included in the order.

You will be given sufficient copies of the order and form N5, N130, with written evidence in support to serve on the defendant(s) and a form N215 certificate of service.

You must serve the documents in the same way that you served your notice of application, unless the judge decides it should be served some other way.

You, or any person who serves the documents on your behalf, must fill in the form N215 saying how and when the documents were served. You must ensure the court has a copy before any subsequent hearing date.

The fact that you have obtained and served an interim possession order does not enable you to ask the court to issue a warrant of possession.

It is a criminal offence to disobey the interim possession order. If the defendant does not leave within 24 hours of service of the order, you can ask the police to arrest him or her. If convicted they can be imprisoned, or fined, or both.

If you do contact the police, you must hand them a copy of the interim possession order and a copy of the certificate of service of that order.

The interim possession order contains the time, date and place of a further hearing, the 'return date'. The interim possession order will expire on this date.

Both you and the defendant can attend the hearing and give additional evidence if you wish.

The judge can make a decision in the absence of one or both of you.

On the return date the judge may:

- make a final possession order;
- dismiss your claim for possession, or
- give directions as to how your claim should be handled.

If the judge decides that you were not entitled to an interim possession order, the defendant can ask the court to consider what compensation, if any, you should pay as agreed in the undertakings you gave to the court.

If the judge makes a final possession order, you may ask the court to issue a warrant of possession if the defendant does not leave the premises.

The court will send you copies of any orders which the judge makes.

Can the defendant object to the interim possession order before the return date?

Yes. The defendant can object (called 'applying to set the order aside'), but only if the order has been complied with. If the defendant has left the property, an application can be made to the court before the return date. The application must be accompanied by a completed form N133 which:

- gives the defendant's full name and an address to which court papers can be sent (an 'address for service');
- sets out why the interim possession order should be set aside, and
- includes any written evidence to support this.

An application to set aside cannot be made on the grounds that the defendant did not attend the hearing at which the order was made.

When the application and written evidence are received by the court, court staff will refer them to a judge.

The judge will decide:

- when the application should be heard;
- what period of notice you should be given of the hearing (if any), and
- if you are to be given notice, how the copies of the application are to be served on you.

If you are to be given notice, the judge can also treat the defendant's application as an application to bring forward the return date.

If you are **not** given any notice of the hearing of the application, the only matters the court can consider is whether the interim possession order should be set aside and any undertaking to re-instate the defendant should be enforced. It cannot, for example, consider the question of costs or damages.

If an order **is made** without your being given notice, the court will send you a copy of the order and copies of the defendant's application.

If an order is **made setting aside** the interim possession order, the defendant will normally be able to move back into the premises until any further order giving you possession is made.