

Squatting in residential properties is against the law. A squatter can be arrested and if found guilty can be sent to prison, fined or both. They can also be charged if they cause damage, for example, breaking a window to get in.

The offence doesn't cover non-residential property, for example, commercial properties or the land around residential or commercial properties. As a result, a trend has emerged whereby squatters are now targeting commercial buildings, in order to avoid the criminal effect of the new law.

What can you do if squatters target your property?

If your property is occupied by trespassers or anyone who does not have a right to be in the property, you can apply to the court for a possession order.

How do I start the claim?

You must file a claim form (Form N5), particulars of claim (Form N121) and a witness statement with the court. In addition to any other relevant matters the particulars of claim must state:

- the identity of the land to which the claim relates;
- whether the claim relates to residential property;
- the ground on which possession is claimed;
- every person who, to the best of your knowledge, is in possession of the property;
- your interest in the land; and
- the circumstances in which the property has been occupied without licence or consent.

What happens if I don't know the names of the squatters?

If you do not know the identity of the trespassers, they can be referred to simply as 'persons unknown'.

What happens next?

When the court issues the claim it will fix a date for a hearing. You will need to serve the claim on the squatters. In the case of residential dwellings, the squatter must be served with the claim form, particulars of claim and any witness statements not less than 5 clear days before the hearing.

In all other cases these documents must be served not less than 2 clear days before the hearing.

In a particularly urgent case it is possible to apply to serve the claim with less notice.

How do I serve the claim on unknown squatters?

You must arrange for the claim form, particulars of claim and any witness statements to be:

- fixed to the main door or some other part of the land so that they are clearly visible and if practical inserted through the letterbox in a sealed transparent envelope addressed to the occupiers; or
- attached to stakes placed in the land where they are clearly visible in a sealed transparent envelope addressed to the occupier.

Do the squatters need to respond?

No. They may just turn up and defend the claim at the hearing.

What happens at the hearing?

Unless the squatters have a defence, the court will usually make an order for possession. If the claim is genuinely disputed, on grounds which appear to be substantial, case management directions will be given.



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What happens if an order for possession is made but the squatters do not leave?

You can enforce the order for possession by requesting a warrant of possession. The bailiff will fix a date to execute the warrant. If the trespassers have not left by then, the bailiff will take steps to evict them.

Are there any alternatives?

As an alternative to the standard procedure, you may be able to apply for an interim possession order.

When can you apply for an interim possession order?

This procedure is suitable where:

- the only claim is in order to take back possession of premises from a squatter;
- you have an immediate right to possession;
- you have had that right throughout the period of occupation; and
- the claim is made within 28 days of the date on which you first knew or ought reasonably to have known that a squatter had entered the premises.

In order to obtain an interim possession order, you must provide certain undertakings, in particular:

- to reinstate the squatter and pay damages if an interim possession order is ultimately held to have been wrongly made;
- not to damage the premises, allow anyone else into occupation or damage or dispose of any of the squatter's belongings before a final possession order is granted.

What are the advantages?

It can be quicker. If the squatters don't leave within 24 hours of service of the interim possession order, they are committing a criminal offence and may be arrested by the police.

What are the disadvantages?

There are very strict deadlines to comply with:

- You must serve the claim on the squatters within 24 hours of it being issued.
- If the interim possession order is granted, you must serve it on the squatters within 48 hours of the order being made.
- It is more expensive as there will be two hearings. When the court makes the interim possession order, it will also list a hearing to consider if the possession order should be made final. The interim possession order is only effective until the hearing of the claim for a final possession order.
- It is not available if you are seeking to recover damages or costs from the squatters.

THIS LEAFLET HAS BEEN PRODUCED TO PROVIDE GENERAL GUIDANCE ONLY. IF YOU REQUIRE SPECIFIC ADVICE THAT WILL BE TAILORED TO YOUR CASE, PLEASE SPEAK TO A [MEMBER OF THE TEAM](#).