



# Housing Act 1985

## 1985 CHAPTER 68

### PART IV

#### SECURE TENANCIES AND RIGHTS OF SECURE TENANTS

##### *Security of tenure*

#### **79 Secure tenancies.**

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is a secure tenancy at any time when the conditions described in sections 80 and 81 as the landlord condition and the tenant condition are satisfied.
- (2) Subsection (1) has effect subject to—
  - (a) the exceptions in Schedule 1 (tenancies which are not secure tenancies),
  - (b) sections 89(3) and (4) and 90(3) and (4) (tenancies ceasing to be secure after death of tenant), and
  - (c) sections 91(2) and 93(2) (tenancies ceasing to be secure in consequence of assignment of subletting).
- (3) The provisions of this Part apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.
- (4) Subsection (3) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

#### **80 The landlord condition.**

- (1) The landlord condition is that the interest of the landlord belongs to one of the following authorities or bodies—
  - a local authority,
  - a [<sup>F1</sup>development] corporation,

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[<sup>F2</sup>a housing action trust]  
[<sup>F3</sup> a Mayoral development corporation, ]  
an urban development corporation, [<sup>F4</sup>in the case of a tenancy falling within  
subsections (2A) to (2E), the Homes and Communities Agency [<sup>F5</sup>, the Greater  
London Authority] or the Welsh Ministers (as the case may be), ]

<sup>F6</sup>  
...

<sup>F7</sup>  
...

<sup>F7</sup>  
...

<sup>F8</sup>  
...

... housing co-operative to which this section applies.

<sup>F9</sup>(2) .....

[<sup>F10</sup>(2A) A tenancy falls within this subsection if the interest of the landlord is transferred to—

(a) the Homes and Communities Agency as mentioned in section 52(1)(a) to (d)  
of the Housing and Regeneration Act 2008,

[<sup>F11</sup>(aa) the Greater London Authority as mentioned in section 333ZI(2)(a) to (d) of  
the Greater London Authority Act 1999, or]

(b) the Welsh Ministers as mentioned in section 36(1)(a)(i) to (iii) of the New  
Towns Act 1981.

(2B) A tenancy falls within this subsection if it is entered into pursuant to a contract under  
which the rights and liabilities of the prospective landlord are transferred to the Homes  
and Communities Agency [<sup>F12</sup>, the Greater London Authority] or the Welsh Ministers  
as mentioned in subsection (2A)(a)[<sup>F13</sup>, (aa)] or (b) (as the case may be).

(2C) A tenancy falls within this subsection if it is granted by the Homes and Communities  
Agency [<sup>F14</sup>, the Greater London Authority] or the Welsh Ministers to a person (alone  
or jointly with others) who, immediately before it was entered into, was a secure tenant  
of the Homes and Communities Agency [<sup>F14</sup>, the Greater London Authority] or the  
Welsh Ministers (as the case may be).

(2D) A tenancy falls within this subsection if—

(a) it is granted by the Homes and Communities Agency [<sup>F15</sup>, the Greater London  
Authority] or the Welsh Ministers to a person (alone or jointly with others),

(b) before the grant of the tenancy, an order for possession of a dwelling-house  
let under a secure tenancy was made against the person (alone or jointly with  
others) and in favour of the Homes and Communities Agency [<sup>F15</sup>, the Greater  
London Authority] or the Welsh Ministers (as the case may be) on the court  
being satisfied as mentioned in section 84(2)(b) or (c), and

(c) the tenancy is of the premises which constitute the suitable accommodation  
as to which the court was so satisfied.

(2E) A tenancy falls within this subsection if it is granted by the Homes and Communities  
Agency [<sup>F16</sup>, the Greater London Authority] or the Welsh Ministers pursuant to an  
obligation under section 554(2A).]

(3) If a co-operative housing association ceases to be [<sup>F17</sup>a private registered provider of  
social housing or][<sup>F18</sup>a registered social landlord], it shall, within the period of 21 days  
beginning with the date on which it ceases to be [<sup>F19</sup>such a body], notify each of its  
tenants who thereby becomes a secure tenant, in writing, that he has become a secure  
tenant.

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[<sup>F20</sup>(4) This section applies to a housing co-operative within the meaning of section 27B (agreements under certain superseded provisions) where the dwelling-house is comprised in a housing co-operative agreement within the meaning of that section.]

[<sup>F21</sup>(5) In this Act and in any provision made under this Act, or made by or under any other enactment, a reference to—

- (a) a person within section 80 or 80(1) of this Act, or
- (b) a person who satisfies the landlord condition under this section,

includes a reference to the Homes and Communities Agency [<sup>F22</sup>, to the Greater London Authority] or to the Welsh Ministers so far as acting in their capacity as landlord (or, in the case of disposals, former landlord) in respect of a tenancy which falls within subsections (2A) to (2E) above but, subject to this, does not include the Homes and Communities Agency [<sup>F23</sup>, the Greater London Authority ] or the Welsh Ministers.

(6) Subsection (5)—

- (a) applies whether the person is described as an authority, body or landlord or in any other way and whether the reference is otherwise expressed in a different way, and
- (b) is subject to any provision to the contrary.]

#### Textual Amendments

- F1** Words in s. 80(1) substituted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), art. 4, **Sch. 1 para. 10(2)(a)** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)
- F2** Words in s. 80(1) inserted by Housing Act 1988 (c. 50, SIF 61), s. **83(2)**
- F3** Words in s. 80(1) inserted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), **Sch. 22 para. 11**
- F4** Words in s. 80(1) inserted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), art. 4, **Sch. 1 para. 10(2)(b)** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)
- F5** Words in s. 80(1) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 13(2)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F6** Words in s. 80(1) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F7** Words repealed by virtue of Housing Act 1988 (c.50, SIF 61), s. 140(1)(2), Sch. 17 Pt. I para. 106, **Sch. 18**, note 4
- F8** Words in s. 80(1) repealed by Housing Act 1988 (c.50, SIF 61), s. 140(2), **Sch. 18**, note 4
- F9** S. 80(2) repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), **Sch. 18**, note 4 and s. 80(2) as so saved amended (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(8)(a)**
- F10** S. 80(2A)-(2E) inserted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), art. 4, **Sch. 1 para. 10(3)** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)
- F11** S. 80(2A)(aa) substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 13(3)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F12** Words in s. 80(2B) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 13(4)(a)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F13** Words in s. 80(2B) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 13(4)(b)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F14** Words in s. 80(2C) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 13(5)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)

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- F15** Words in s. 80(2D) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 13(6)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F16** Words in s. 80(2E) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 13(7)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F17** Words in s. 80(3) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 19(4)(a)** (with art. 6, Sch. 3)
- F18** Words in s. 80(3) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(8)(b)**
- F19** Words in s. 80(3) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 19(4)(b)** (with art. 6, Sch. 3)
- F20** S. 80(4) substituted by Housing and Planning Act 1986 (c.63, SIF 61), s. 24(2), **Sch. 5 Pt. II para. 26**
- F21** S. 80(5)(6) inserted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), art. 4, **Sch. 1 para. 10(4)** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)
- F22** Words in s. 80(5) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 13(8)(a)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F23** Words in s. 80(5) inserted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 13(8)(b)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)

**Modifications etc. (not altering text)**

- C1** S. 80 modified (6.4.2006 for E. and 16.6.2006 for W.) by Housing Act 2004 (c. 34), ss. 132, 270, **Sch. 7 para. 12(6)(a)(9)**; S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)
- C2** S. 80 modified (6.4.2006 for E. and 16.6.2006 for W.) by Housing Act 2004 (c. 34), ss. 132, 270, **Sch. 7 para. 4(6)(a)**; S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)
- C3** S. 80 extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 21(c)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C4** S. 80(1) excluded (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 2 para. 9**

**81 The tenant condition.**

The tenant condition is that the tenant is an individual and occupies the dwelling-house as his only or principal home; or, where the tenancy is a joint tenancy, that each of the joint tenants is an individual and at least one of them occupies the dwelling-house as his only or principal home.

**82 Security of tenure.**

(1) A secure tenancy which is either—

(a) a weekly or other periodic tenancy, or

(b) a tenancy for a term certain but subject to termination by the landlord,

cannot be brought to an end by the landlord except [<sup>F24</sup>as][<sup>F25</sup>mentioned in subsection (1A)].

[<sup>F26</sup>(1A) The tenancy may be brought to an end by the landlord—

(a) obtaining—

(i) an order of the court for the possession of the dwelling-house, and

(ii) the execution of the order,

(b) obtaining an order under subsection (3), or

(c) obtaining a demotion order under section 82A.

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- (2) In the case mentioned in subsection (1A)(a), the tenancy ends when the order is executed.]
- (3) Where a secure tenancy is a tenancy for a term certain but with a provision for re-entry or forfeiture, the court shall not order possession of the dwelling-house in pursuance of that provision, but in a case where the court would have made such an order it shall instead make an order terminating the tenancy on a date specified in the order and section 86 (periodic tenancy arising on termination of fixed term) shall apply.
- (4) Section 146 of the <sup>M1</sup>Law of Property Act 1925 (restriction on and relief against forfeiture), except subsection (4) (vesting in under-lessee), and any other enactment or rule of law relating to forfeiture, shall apply in relation to proceedings for an order under subsection (3) of this section as if they were proceedings to enforce a right of re-entry or forfeiture.

#### Textual Amendments

- F24** Words in s. 82(1) substituted (20.5.2009) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 299, 325, [Sch. 11 para. 2\(2\)](#) (with [Sch. 11 para. 14](#)); S.I. 2009/1261, [arts. 2, 3](#)
- F25** Words in s. 82(1) substituted (30.6.2004 for E. and 30.9.2004 for specified purposes for W. and otherwise 30.4.2005 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 14\(1\), 93](#); S.I. 2004/1502, [art. 2\(a\)\(iii\)](#) (subject to [Sch.](#)); S.I. 2004/2557, [art. 2\(a\)\(ii\)](#) (subject to [Sch.](#)); S.I. 2005/1225, [art. 2\(b\)](#)
- F26** S. 82(1A)(2) substituted (20.5.2009) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 299, 325, [Sch. 11 para. 2\(3\)](#) (with [Sch. 11 para. 14](#)); S.I. 2009/1261, [arts. 2, 3](#)

#### Marginal Citations

- M1** 1925 c. 20.

### [<sup>F27</sup>82A Demotion because of anti-social behaviour

- (1) This section applies to a secure tenancy if the landlord is—
  - (a) a local housing authority;
  - (b) a housing action trust;
  - [ a private registered provider of social housing;]
  - <sup>F28</sup>(ba)
  - (c) a registered social landlord.
- (2) The landlord may apply to [<sup>F29</sup>the county court ] for a demotion order.
- (3) A demotion order has the following effect—
  - (a) the secure tenancy is terminated with effect from the date specified in the order;
  - (b) if the tenant remains in occupation of the dwelling-house after that date a demoted tenancy is created with effect from that date;
  - (c) it is a term of the demoted tenancy that any arrears of rent payable at the termination of the secure tenancy become payable under the demoted tenancy;
  - (d) it is also a term of the demoted tenancy that any rent paid in advance or overpaid at the termination of the secure tenancy is credited to the tenant's liability to pay rent under the demoted tenancy.
- (4) The court must not make a demotion order unless it is satisfied—

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- (a) that the tenant or a person residing in or visiting the dwelling-house has engaged or has threatened to <sup>F30</sup> engage in—
    - <sup>F31</sup>(i) conduct that is capable of causing nuisance or annoyance to some person (who need not be a particular identified person) and that directly or indirectly relates to or affects the landlord's housing management functions, or
    - (ii) conduct that consists of or involves using housing accommodation owned or managed by the landlord for an unlawful purpose, and]]
  - (b) that it is reasonable to make the order.
- (5) Each of the following has effect in respect of a demoted tenancy at the time it is created by virtue of an order under this section as it has effect in relation to the secure tenancy at the time it is terminated by virtue of the order—
- (a) the parties to the tenancy;
  - (b) the period of the tenancy;
  - (c) the amount of the rent;
  - (d) the dates on which the rent is payable.
- (6) Subsection (5)(b) does not apply if the secure tenancy was for a fixed term and in such a case the demoted tenancy is a weekly periodic tenancy.
- (7) If the landlord of the demoted tenancy serves on the tenant a statement of any other express terms of the secure tenancy which are to apply to the demoted tenancy such terms are also terms of the demoted tenancy.
- <sup>F32</sup>(7A) In subsection (4)(a)(ii) “housing accommodation” includes—
- (a) flats, lodging-houses and hostels;
  - (b) any yard, garden, outhouses and appurtenances belonging to the accommodation or usually enjoyed with it;
  - (c) any common areas used in connection with the accommodation.]
- (8) For the purposes of this section a demoted tenancy is—
- (a) a tenancy to which section 143A of the Housing Act 1996 applies if the landlord of the secure tenancy is a local housing authority or a housing action trust;
  - (b) a tenancy to which section 20B of the Housing Act 1988 applies if the landlord of the secure tenancy is <sup>F33</sup>a private registered provider of social housing or] a registered social landlord.]

#### Textual Amendments

- F27** S. 82A inserted (30.6.2004 for E. and 30.9.2004 for specified purposes for W. and otherwise 30.4.2005 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 14\(2\)](#), [93\(2\)](#); S.I. 2004/1502, [s. 2\(a\)\(iii\)](#) (subject to [Sch.](#)); S.I. 2004/2557, [art. 2\(a\)\(ii\)](#) (subject to [Sch.](#)); S.I. 2005/1225, [art. 2\(b\)](#)
- F28** S. 82A(1)(ba) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), [art. 1\(2\)](#), [Sch. 2 para. 20\(2\)](#) (with [art. 6](#), [Sch. 3](#))
- F29** Words in s. 82A(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(3\)](#), [Sch. 9 para. 52](#); S.I. 2014/954, [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F30** S. 82A(4)(a): paras. (i)(ii) and preceding words substituted (6.4.2007 for E. and otherwise prosp.) for words by [Police and Justice Act 2006 \(c. 48\)](#), [ss. 52, 53](#), [Sch. 14 para. 12\(2\)](#); S.I. 2007/709, [art. 4\(c\)](#) ([d](#)) (subject to [art. 8](#))

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- F31** S. 82A(4)(a)(i)(ii) substituted (23.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 6\(2\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(ii)
- F32** S. 82A(7A) substituted (23.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 6\(3\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(ii)
- F33** Words in s. 82A(8)(b) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010](#) (S.I. 2010/866), art. 1(2), [Sch. 2 para. 20\(3\)](#) (with art. 6, Sch. 3)

**[<sup>F35</sup>83 Proceedings for possession or termination: [<sup>F34</sup>general] notice requirements.**

- (1) The court shall not entertain [<sup>F36</sup>proceedings to which this section applies] unless—
- the landlord has served a notice on the tenant complying with the provisions of this section, or
  - the court considers it just and equitable to dispense with the requirement of such a notice.

[ This section applies in relation to proceedings for an order mentioned in <sup>F37</sup>(A1) section 82(1A) other than—

- proceedings for possession of a dwelling-house under section 84A (absolute ground for possession for anti-social behaviour), including proceedings where possession is also sought on one or more of the grounds set out in Schedule 2, or
- proceedings for possession of a dwelling-house under section 107D (recovery of possession on expiry of flexible tenancy).]

(2) A notice under this section shall—

- be in a form prescribed by regulations made by the Secretary of State,
- specify the ground on which the court will be asked to make [<sup>F38</sup>the order] and
- give particulars of that ground.

[<sup>F39</sup>(3) Where the tenancy is a periodic tenancy and the ground or one of the grounds specified in the notice is Ground 2 in Schedule 2 (nuisance or other anti-social behaviour), the notice—

- shall also—
  - state that proceedings for the possession of the dwelling-house may be begun immediately, and
  - specify the date sought by the landlord as the date on which the tenant is to give up possession of the dwelling-house, and
- ceases to be in force twelve months after the date so specified.]

(4) [<sup>F40</sup>Where the tenancy is a periodic tenancy and Ground 2 in Schedule 2 is not specified in the notice,][<sup>F40</sup>If the proceedings are for an order for the possession of a dwelling-house,] the notice—

- shall also specify the date after which proceedings for the possession of the dwelling-house may be begun, and
- ceases to be in force twelve months after the date so specified.

[ If the proceedings are for a demotion order under section 82A the notice—

- <sup>F41</sup>(4A)
  - must specify the date after which the proceedings may be begun;
  - ceases to be in force twelve months after the date so specified.]

[ The date specified in accordance with subsection (4)—  
<sup>F42</sup>(4B)

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- (a) must not be earlier than three months after the date of service of the notice, and
  - (b) in a case where the tenancy is a periodic tenancy, must also not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same date as the notice under this section.]
- (5) The date specified in accordance with [F43]subsection (3) [F44](4) or (4A)] [F43]subsection (4A)] must not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same date as the notice under this section.
- (6) Where a notice under this section is served with respect to a secure tenancy for a term certain, it has effect also with respect to any periodic tenancy arising on the termination of that tenancy by virtue of section 86; and [F45]subsections (3) to (5)] [F45]subsections (4B)(b) and (5)] of this section do not apply to the notice.
- (7) Regulations under this section shall be made by statutory instrument and may make different provision with respect to different cases or descriptions of case, including different provision for different areas.]

#### Textual Amendments

- F34** Word in s. 83 heading inserted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 7(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, **art. 2(h)**; S.I. 2014/2830, **art. 2(g)(ii)**
- F35** Ss. 83, 83A substituted for s. 83 (1.10.1996 for specified purposes and 4.2.1997 otherwise) by 1996 c. 52, **s. 147(1)**; S.I. 1996/2402, **art. 4**; S.I. 1997/66, **art. 2** (subject to savings in Sch.)
- F36** Words in s. 83(1) substituted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 7(4)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, **art. 2(h)**; S.I. 2014/2830, **art. 2(g)(ii)**
- F37** S. 83(A1) inserted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 7(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, **art. 2(h)**; S.I. 2014/2830, **art. 2(g)(ii)**
- F38** Words in s. 83(2)(b) substituted (30.6.2004 for E. and 30.9.2004 for specified purposes for W. and otherwise 30.4.2005 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 14(1)**, 93; S.I. 2004/1502, **art. 2(a)(iii)** (subject to Sch.); S.I. 2004/2557, **art. 2(a)(ii)** (subject to Sch.); S.I. 2005/1225, **art. 2(b)**
- F39** S. 83(3) omitted (temp.) (26.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), Sch. 29 paras. 1, **3(a)** (with ss. 88-90)
- F40** Words in s. 83(4) substituted (temp.) (26.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), Sch. 29 paras. 1, **3(b)** (with ss. 88-90)
- F41** S. 83(4A) substituted (30.6.2004 for E. and 30.9.2004 for specified purposes for W. and otherwise 30.4.2005 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 14(1)**, 93; S.I. 2004/1502, **art. 2(a)(iii)** (subject to Sch.); S.I. 2004/2557, **art. 2(a)(ii)** (subject to Sch.); S.I. 2005/1225, **art. 2(b)**
- F42** S. 83(4B) inserted (temp.) (26.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), Sch. 29 paras. 1, **3(c)** (with ss. 88-90)
- F43** Words in s. 83(5) substituted (temp.) (26.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), Sch. 29 paras. 1, **3(d)** (with ss. 88-90)
- F44** Words in s. 83(5) substituted (30.6.2004 for E. and 30.9.2004 for specified purposes for W. and otherwise 30.4.2005 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 14(1)**, 93; S.I. 2004/1502, **art. 2(a)(iii)** (subject to Sch.); S.I. 2004/2557, **art. 2(a)(ii)** (subject to Sch.); S.I. 2005/1225, **art. 2(b)**
- F45** Words in s. 83(6) substituted (temp.) (26.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), Sch. 29 paras. 1, **3(e)** (with ss. 88-90)



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### **[<sup>F46</sup>83ZA] Notice requirements in relation to proceedings for possession on absolute ground for anti-social behaviour**

- (1) This section applies in relation to proceedings for possession of a dwelling-house under section 84A (absolute ground for possession for anti-social behaviour), including proceedings where possession is also sought on one or more of the grounds set out in Schedule 2.
- (2) The court must not entertain the proceedings unless the landlord has served on the tenant a notice under this section.
- (3) The notice must—
  - (a) state that the court will be asked to make an order under section 84A for the possession of the dwelling-house,
  - (b) set out the reasons for the landlord's decision to apply for the order (including the condition or conditions in section 84A on which the landlord proposes to rely), and
  - (c) inform the tenant of any right that the tenant may have under section 85ZA to request a review of the landlord's decision and of the time within which the request must be made.
- (4) In a case where possession is also sought on one or more of the grounds set out in Schedule 2, the notice must also—
  - (a) specify the ground on which the court will be asked to make the order, and
  - (b) give particulars of that ground.
- (5) A notice which states that the landlord proposes to rely upon condition 1, 3 or 5 in section 84A—
  - (a) must also state the conviction on which the landlord proposes to rely, and
  - (b) must be served on the tenant within—
    - (i) the period of 12 months beginning with the day of the conviction, or
    - (ii) if there is an appeal against the conviction, the period of 12 months beginning with the day on which the appeal is finally determined or abandoned.
- (6) A notice which states that the landlord proposes to rely upon condition 2 in section 84A—
  - (a) must also state the finding on which the landlord proposes to rely, and
  - (b) must be served on the tenant within—
    - (i) the period of 12 months beginning with the day on which the court has made the finding, or
    - (ii) if there is an appeal against the finding, the period of 12 months beginning with the day on which the appeal is finally determined, abandoned or withdrawn.
- (7) A notice which states that the landlord proposes to rely upon condition 4 in section 84A—
  - (a) must also state the closure order concerned, and
  - (b) must be served on the tenant within—
    - (i) the period of 3 months beginning with the day on which the closure order was made, or

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- (ii) if there is an appeal against the making of the order, the period of 3 months beginning with the day on which the appeal is finally determined, abandoned or withdrawn.
- (8) A notice under this section must also inform the tenant that, if the tenant needs help or advice about the notice and what to do about it, the tenant should take it immediately to a Citizens' Advice Bureau, a housing aid centre, a law centre or a solicitor.
- (9) The notice—
- (a) must also specify the date after which proceedings for the possession of the dwelling-house may be begun, and
  - (b) ceases to be in force 12 months after the date so specified.
- (10) [<sup>F47</sup>The date specified in accordance with subsection (9)(a)—
- (a) must not be earlier than three months after the date of the service of the notice, and
  - (b) in a case where the tenancy is a periodic tenancy, must also not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same day as the notice under this section.]
- (11) Where a notice under this section is served with respect to a secure tenancy for a term certain, it has effect also with respect to any periodic tenancy arising on the termination of that tenancy by virtue of section 86; and [<sup>F48</sup>subsection (10)(a)][<sup>F48</sup>subsection (10)(b)] does not apply to the notice.]

#### Textual Amendments

- F46** S. 83ZA inserted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 95**, 185(1)(2)(c)(3)(a) (with **ss. 21, 33, 42, 58, 75, 93**); [S.I. 2014/2590](#), **art. 2(b)**; [S.I. 2014/2590](#), **art. 2(b)(a)**
- F47** S. 83ZA(10) substituted (temp.) (26.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), Sch. 29 paras. 1, **4(a)** (with **ss. 88-90**)
- F48** Words in s. 83ZA(11) substituted (temp.) (26.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), Sch. 29 paras. 1, **4(b)** (with **ss. 88-90**)

#### [<sup>F49</sup>83A Additional requirements in relation to certain proceedings for possession.

- (1) Where a notice under section 83 has been served on a tenant containing the information mentioned in subsection (3)(a) of that section, the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun at a time when the notice is still in force.
- (2) Where—
- (a) a notice under section 83 [<sup>F50</sup>or 83ZA] has been served on a tenant, and
  - (b) a date after which proceedings may be begun has been specified in the notice in accordance with [<sup>F51</sup>section 83(4)(a) or section 83ZA(9)(a)],
- the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun after the date so specified and at a time when the notice is still in force.
- (3) Where—

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- (a) the ground or one of the grounds specified in a notice under section 83 [<sup>F52</sup>or 83ZA] is Ground 2A in Schedule 2 (domestic violence), and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house,

the court shall not entertain proceedings for the possession of the dwelling-house unless it is satisfied that the landlord has served a copy of the notice on the partner who has left or has taken all reasonable steps to serve a copy of the notice on that partner.

This subsection has effect subject to subsection (5).

(4) Where—

- (a) Ground 2A in Schedule 2 is added to a notice under section 83 [<sup>F53</sup>or 83ZA ] with the leave of the court after proceedings for possession are begun, and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings,

the court shall not continue to entertain the proceedings unless it is satisfied that the landlord has served a notice under subsection (6) on the partner who has left or has taken all reasonable steps to serve such a notice on that partner.

This subsection has effect subject to subsection (5).

- (5) Where subsection (3) or (4) applies and Ground 2 in Schedule 2 (nuisance or other anti-social behaviour) is also specified in [<sup>F54</sup>a notice] under section 83 [<sup>F55</sup>or a notice is served under section 83ZA], the court may dispense with the requirements as to service in relation to the partner who has left the dwelling-house if it considers it just and equitable to do so.

(6) A notice under this subsection shall—

- (a) state that proceedings for the possession of the dwelling-house have begun,
- (b) specify the ground or grounds on which possession is being sought, and
- (c) give particulars of the ground or grounds.]

#### Textual Amendments

- F49** Ss. 83, 83A substituted for s. 83 (1.10.1996 for specified purposes and 4.2.1997 otherwise) by 1996 c. 52, s. 147(1); S.I. 1996/2402, art. 4; S.I. 1997/66, art. 2 (subject to savings in Sch.)
- F50** Words in s. 83A(2)(a) inserted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1)(2)(c)(3)(c), Sch. 11 para. 8(2) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(h); S.I. 2014/2830, art. 2(g)(iii)
- F51** Words in s. 83A(2)(b) substituted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1)(2)(c)(3)(c), Sch. 11 para. 8(3) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(h); S.I. 2014/2830, art. 2(g)(iii)
- F52** Words in s. 83A(3)(a) inserted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1)(2)(c)(3)(c), Sch. 11 para. 8(4) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(h); S.I. 2014/2830, art. 2(g)(iii)
- F53** Words in s. 83A(4)(a) inserted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1)(2)(c)(3)(c), Sch. 11 para. 8(5) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(h); S.I. 2014/2830, art. 2(g)(iii)
- F54** Words in s. 83A(5) substituted (20.10.2014 for E., 21.10.2014 for W.) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1)(2)(c)(3)(c), Sch. 11 para. 8(6)(a) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 2(h); S.I. 2014/2830, art. 2(g)(iii)

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**F55** Words in s. 83A(5) inserted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 8(6)(b)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, **art. 2(h)**; S.I. 2014/2830, **art. 2(g)(iii)**

## 84 Grounds and orders for possession.

- (1) The court shall not make an order for the possession of a dwelling-house let under a secure tenancy except on one or more of the grounds set out in Schedule 2 [<sup>F56</sup>or in accordance with [<sup>F57</sup>section 84A (absolute ground for possession for anti-social behaviour) or] section 107D (recovery of possession on expiry of flexible tenancy)].
- (2) The court shall not make an order for possession—
  - (a) on the grounds set out in Part I of [<sup>F58</sup>Schedule 2] (grounds 1 to 8), unless it considers it reasonable to make the order,
  - (b) on the grounds set out in Part II of that Schedule (grounds 9 to 11), unless it is satisfied that suitable accommodation will be available for the tenant when the order takes effect,
  - (c) on the grounds set out in Part III of that Schedule (grounds 12 to 16), unless it both considers it reasonable to make the order and is satisfied that suitable accommodation will be available for the tenant when the order takes effect; and Part IV of that Schedule has effect for determining whether suitable accommodation will be available for a tenant.
- [<sup>F59</sup>(3) Where a notice under section 83 [<sup>F60</sup>or 83ZA ] has been served on the tenant, the court shall not make [<sup>F61</sup>an order on any of the grounds mentioned in subsection (2)] unless the ground is specified in the notice; but the grounds so specified may be altered or added to with the leave of the court.
- (4) Where a date is specified in a notice under section 83 in accordance with subsection (3) of that section, the court shall not make an order which requires the tenant to give up possession of the dwelling-house in question before the date so specified.]

### Textual Amendments

- F56** Words in s. 84(1) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 155(2)**, 240(2); S.I. 2012/628, **art. 6(a)** (with arts. 9, 11, 14, 15, 17)
- F57** Words in s. 84(1) inserted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 9(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, **art. 2(h)**; S.I. 2014/2830, **art. 2(g)(iv)**
- F58** Words in s. 84(2)(a) substituted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 9(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, **art. 2(h)**; S.I. 2014/2830, **art. 2(g)(iv)**
- F59** S. 84(3)(4) substituted for s. 84(3) (1.10.1996 for specified purposes and 4.2.1997 otherwise) by 1996 c. 52, **s. 147(2)**; S.I. 1996/2402, **art. 4**; S.I. 1997/66, **art. 2** (with savings in Sch.)
- F60** Words in s. 84(3) inserted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 9(4)(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, **art. 2(h)**; S.I. 2014/2830, **art. 2(g)(iv)**
- F61** Words in s. 84(3) substituted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1)(2)(c)(3)(c), **Sch. 11 para. 9(4)(b)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, **art. 2(h)**; S.I. 2014/2830, **art. 2(g)(iv)**

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F62F34 F63 F62F34  
**84A Absolute ground for possession for anti-social behaviour**

- (1) If the court is satisfied that any of the following conditions is met, it must make an order for the possession of a dwelling-house let under a secure tenancy.

This is subject to subsection (2) (and to any available defence based on the tenant's Convention rights, within the meaning of the Human Rights Act 1998).

- (2) Subsection (1) applies only where the landlord has complied with any obligations it has under section 85ZA (review of decision to seek possession).

- (3) Condition 1 is that—

- (a) the tenant, or a person residing in or visiting the dwelling-house, has been convicted of a serious offence, and
- (b) the serious offence—
  - (i) was committed (wholly or partly) in, or in the locality of, the dwelling-house,
  - (ii) was committed elsewhere against a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or
  - (iii) was committed elsewhere against the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and directly or indirectly related to or affected those functions.

- (4) Condition 2 is that a court has found in relevant proceedings that the tenant, or a person residing in or visiting the dwelling-house, has breached a provision of an injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014, other than a provision requiring a person to participate in a particular activity, and—

- (a) the breach occurred in, or in the locality of, the dwelling-house, or
- (b) the breach occurred elsewhere and the provision breached was a provision intended to prevent—
  - (i) conduct that is capable of causing nuisance or annoyance to a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or
  - (ii) conduct that is capable of causing nuisance or annoyance to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions.

- (5) Condition 3 is that the tenant, or a person residing in or visiting the dwelling-house, has been convicted of an offence under section 30 of the Anti-social Behaviour, Crime and Policing Act 2014 consisting of a breach of a provision of a criminal behaviour order prohibiting a person from doing anything described in the order, and the offence involved—

- (a) a breach that occurred in, or in the locality of, the dwelling-house, or
- (b) a breach that occurred elsewhere of a provision intended to prevent—
  - (i) behaviour that causes or is likely to cause harassment, alarm or distress to a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or

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- (ii) behaviour that causes or is likely to cause harassment, alarm or distress to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions.
- (6) Condition 4 is that—
- (a) the dwelling-house is or has been subject to a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014, and
  - (b) access to the dwelling-house has been prohibited (under the closure order or under a closure notice issued under section 76 of that Act) for a continuous period of more than 48 hours.
- (7) Condition 5 is that—
- (a) the tenant, or a person residing in or visiting the dwelling-house, has been convicted of an offence under—
    - (i) section 80(4) of the Environmental Protection Act 1990 (breach of abatement notice in relation to statutory nuisance), or
    - (ii) section 82(8) of that Act (breach of court order to abate statutory nuisance etc. ), and
  - (b) the nuisance concerned was noise emitted from the dwelling-house which was a statutory nuisance for the purposes of Part 3 of that Act by virtue of section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance).
- (8) Condition 1, 2, 3, 4 or 5 is not met if—
- (a) there is an appeal against the conviction, finding or order concerned which has not been finally determined, abandoned or withdrawn, or
  - (b) the final determination of the appeal results in the conviction, finding or order being overturned.
- (9) In this section—
- “ relevant proceedings ” means proceedings for contempt of court or proceedings under Schedule 2 to the Anti-social Behaviour, Crime and Policing Act 2014;
  - “ serious offence ” means an offence which—
    - (a) was committed on or after the day on which subsection (3) comes into force,
    - (b) is specified, or falls within a description specified, in Schedule 2A at the time the offence was committed and at the time the court is considering the matter, and
    - (c) is not an offence that is triable only summarily by virtue of section 22 of the Magistrates' Courts Act 1980 (either-way offences where value involved is small).
- (10) The Secretary of State may by order amend Schedule 2A as it applies in relation to dwelling-houses in England by—
- (a) adding an indictable offence;
  - (b) removing an offence.
- (11) The Welsh Ministers may by order amend Schedule 2A as it applies in relation to dwelling-houses in Wales by—

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- (a) adding an indictable offence;
  - (b) removing an offence.
- (12) An order under subsection (10) or (11)—
- (a) is to be made by statutory instrument;
  - (b) may make different provision for different purposes;
  - (c) may include incidental, supplementary, consequential, transitional or saving provision.
- (13) A statutory instrument containing an order under subsection (10) or (11) may not be made unless a draft of the instrument has been laid before and approved by a resolution of—
- (a) each House of Parliament (in the case of an order of the Secretary of State), or
  - (b) the National Assembly for Wales (in the case of an order of the Welsh Ministers).]

#### Textual Amendments

- F34** Word in s. 83 heading inserted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1)(2)(c)(3)(c), [Sch. 11 para. 7\(2\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, [art. 2\(h\)](#); S.I. 2014/2830, [art. 2\(g\)\(ii\)](#)
- F62** Words in s. 85A heading inserted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1)(2)(c)(3)(c), [Sch. 11 para. 10](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, [art. 2\(h\)](#); S.I. 2014/2830, [art. 2\(g\)\(v\)](#)
- F63** S. 84A inserted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 94\(1\)](#), 185(1)(2)(c)(3)(a) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, [art. 2\(a\)](#) (with art. 5); S.I. 2014/2830, [art. 2\(a\)](#) (with art. 3)

#### 85 Extended discretion of court in certain proceedings for possession.

- (1) Where proceedings are brought for possession of a dwelling-house let under a secure tenancy on any of the grounds set out in Part I or Part III of Schedule 2 (grounds 1 to 8 and 12 to 16: cases in which the court must be satisfied that it is reasonable to make a possession order), the court may adjourn the proceedings for such period or periods as it thinks fit.
- (2) On the making of an order for possession of such a dwelling-house on any of those grounds, or at any time before the execution of the order, the court may—
- (a) stay or suspend the execution of the order, or
  - (b) postpone the date of possession,
- for such period or periods as the court thinks fit.
- (3) On such an adjournment, stay, suspension or postponement the court—
- (a) shall impose conditions with respect to the payment by the tenant of arrears of rent (if any) and rent <sup>F64</sup> . . . unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, and
  - (b) may impose such other conditions as it thinks fit.
- [<sup>F65</sup>(4) The court may discharge or rescind the order for possession if it thinks it appropriate to do so having had regard to—
- (a) any conditions imposed under subsection (3), and

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(b) the conduct of the tenant in connection with those conditions.]

(5)<sup>F66</sup> .....

(5A)<sup>F67</sup> .....

#### Textual Amendments

- F64** Words in s. 85(3)(a) omitted (20.5.2009) and repealed (prosp.) by virtue of [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 299, 321(1), 325, [Sch. 11 para. 3\(2\)](#), [Sch. 16](#) (with [Sch. 11 para. 14](#)); S.I. 2009/1261, [arts. 2, 3](#)
- F65** S. 85(4) substituted (20.5.2009) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 299, 321(1), 325, [Sch. 11 para. 3\(3\)](#) (with [Sch. 11 para. 14](#)); S.I. 2009/1261, [art. 2](#)
- F66** S. 85(5) omitted (20.5.2009) and repealed (prosp.) by virtue of [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 299, 321(1), 325, [Sch. 11 para. 3\(4\)](#), [Sch. 16](#) (with [Sch. 11 para. 14](#)); S.I. 2009/1261, [arts. 2, 3](#)
- F67** S. 85(5A) omitted (20.5.2009) and repealed (prosp.) by virtue of [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 299, 321(1), 325, [Sch. 11 para. 3\(4\)](#), [Sch. 16](#) (with [Sch. 11 para. 14](#)); S.I. 2009/1261, [arts. 2, 3](#)

#### [<sup>F68</sup>85ZA] Review of decision to seek possession on absolute ground for anti-social behaviour

- (1) A tenant may request a review of a landlord's decision to seek an order for possession of a dwelling-house under section 84A if the interest of the landlord belongs to—
  - (a) a local housing authority, or
  - (b) a housing action trust.
- (2) Such a request must be made in writing before the end of the period of 7 days beginning with the day on which the notice under section 83ZA is served.
- (3) On a request being duly made to it, the landlord must review its decision.
- (4) The landlord must notify the tenant in writing of the decision on the review.
- (5) If the decision is to confirm the original decision, the landlord must also notify the tenant of the reasons for the decision.
- (6) The review must be carried out, and the tenant notified, before the day specified in the notice under section 83ZA as the day after which proceedings for the possession of the dwelling-house may be begun.
- (7) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section that relates to an order for possession of a dwelling-house in England.
- (8) The Welsh Ministers may by regulations make provision about the procedure to be followed in connection with a review under this section that relates to an order for possession of a dwelling-house in Wales.
- (9) Regulations under subsections (7) and (8) may, in particular, make provision—
  - (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and



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*Changes to legislation: Housing Act 1985, Cross Heading: Security of tenure is up to date with all changes known to be in force on or before 20 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom the person may be represented at such a hearing.
- (10) Regulations under this section—
- (a) may contain transitional or saving provision;
  - (b) are to be made by statutory instrument which—
    - (i) in the case of regulations made by the Secretary of State, is subject to annulment in pursuance of a resolution of either House of Parliament;
    - (ii) in the case of regulations made by the Welsh Ministers, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

#### Textual Amendments

**F68** S. 85ZA inserted (17.9.2014 for specified purposes, 20.10.2014 for E. and 21.10.2014 for W. in so far as not already in force) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 96, 185\(1\)\(2\)\(c\)\(3\)\(a\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/2454](#), [art. 2](#); [S.I. 2014/2590](#), [art. 2\(c\)](#); [S.I. 2014/2830](#), [art. 2\(c\)](#)

#### [<sup>F69</sup>85A Proceedings for possession [<sup>F62</sup>on non-absolute grounds] : anti-social behaviour

- (1) This section applies if the court is considering under section 84(2)(a) whether it is reasonable to make an order for possession on ground 2 set out in Part 1 of Schedule 2 (conduct of tenant or other person).
- (2) The court must consider, in particular—
  - (a) the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;
  - (b) any continuing effect the nuisance or annoyance is likely to have on such persons;
  - (c) the effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated.]

#### Textual Amendments

**F62** Words in s. 85A heading inserted (20.10.2014 for E., 21.10.2014 for W.) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [s. 185\(1\)\(2\)\(c\)\(3\)\(c\)](#), [Sch. 11 para. 10](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/2590](#), [art. 2\(h\)](#); [S.I. 2014/2830](#), [art. 2\(g\)\(v\)](#)

**F69** S. 85A inserted (30.6.2004 for E. and 30.9.2004 for W.) by [Anti-social Behaviour Act 2004 \(c. 38\)](#), [ss. 16\(1\), 93\(2\)](#); [S.I. 2004/1502](#), [art. 2\(a\)\(v\)](#) (subject to [Sch.](#)); [S.I. 2004/2557](#), [art. 2\(a\)\(iii\)](#), [Sch.](#)

#### 86 Periodic tenancy arising on termination of fixed term.

- (1) Where a secure tenancy (“the first tenancy”) is a tenancy for a term certain and comes to an end—
  - (a) by effluxion of time, or
  - (b) by an order of the court under section 82(3) (termination in pursuance of provision for re-entry or forfeiture),

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a periodic tenancy of the same dwelling-house arises by virtue of this section, unless the tenant is granted another secure tenancy of the same dwelling-house (whether a tenancy for a term certain or a periodic tenancy) to begin on the coming to an end of the first tenancy.

- (2) Where a periodic tenancy arises by virtue of this section—
- (a) the periods of the tenancy are the same as those for which rent was last payable under the first tenancy, and
  - (b) the parties and the terms of the tenancy are the same as those of the first tenancy at the end of it;

except that the terms are confined to those which are compatible with a periodic tenancy and do not include any provision for re-entry or forfeiture.

**Status:**

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**Changes to legislation:**

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