



Housing Act 1996

1996 CHAPTER 52

PART V

CONDUCT OF TENANTS

CHAPTER III

INJUNCTIONS AGAINST ANTI-SOCIAL BEHAVIOUR

152 Power to grant injunctions against anti-social behaviour

- (1) The High Court or a county court may, on an application by a local authority, grant an injunction prohibiting a person from—
 - (a) engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises to which this section applies or in the locality of such premises,
 - (b) using or threatening to use residential premises to which this section applies for immoral or illegal purposes, or
 - (c) entering residential premises to which this section applies or being found in the locality of any such premises.
- (2) This section applies to residential premises of the following descriptions—
 - (a) dwelling-houses held under secure or introductory tenancies from the local authority;
 - (b) accommodation provided by that authority under Part VII of this Act or Part III of the Housing Act 1985 (homelessness).
- (3) The court shall not grant an injunction under this section unless it is of the opinion that—
 - (a) the respondent has used or threatened to use violence against any person of a description mentioned in subsection (1)(a), and

Status: This is the original version (as it was originally enacted).

- (b) there is a significant risk of harm to that person or a person of a similar description if the injunction is not granted.
- (4) An injunction under this section may—
- (a) in the case of an injunction under subsection (1)(a) or (b), relate to particular acts or to conduct, or types of conduct, in general or to both, and
 - (b) in the case of an injunction under subsection (1)(c), relate to particular premises or a particular locality;
- and may be made for a specified period or until varied or discharged.
- (5) An injunction under this section may be varied or discharged by the court on an application by—
- (a) the respondent, or
 - (b) the local authority which made the original application.
- (6) The court may attach a power of arrest to one or more of the provisions of an injunction which it intends to grant under this section.
- (7) The court may, in any case where it considers that it is just and convenient to do so, grant an injunction under this section, or vary such an injunction, even though the respondent has not been given such notice of the proceedings as would otherwise be required by rules of court.

If the court does so, it must afford the respondent an opportunity to make representations relating to the injunction or variation as soon as just and convenient at a hearing of which notice has been given to all the parties in accordance with rules of court.

- (8) In this section “local authority” has the same meaning as in the Housing Act 1985.

153 Power of arrest for breach of other injunctions against anti-social behaviour

- (1) In the circumstances set out in this section, the High Court or a county court may attach a power of arrest to one or more of the provisions of an injunction which it intends to grant in relation to a breach or anticipated breach of the terms of a tenancy.
- (2) The applicant is—
- (a) a local housing authority,
 - (b) a housing action trust,
 - (c) a registered social landlord, or
 - (d) a charitable housing trust,
- acting in its capacity as landlord of the premises which are subject to the tenancy.
- (3) The respondent is the tenant or a joint tenant under the tenancy agreement.
- (4) The tenancy is one by virtue of which—
- (a) a dwelling-house is held under an introductory, secure or assured tenancy, or
 - (b) accommodation is provided under Part VII of this Act or Part III of the Housing Act 1985 (homelessness).
- (5) The breach or anticipated breach of the terms of the tenancy consists of the respondent—

- (a) engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality,
 - (b) using or threatening to use the premises for immoral or illegal purposes, or
 - (c) allowing any sub-tenant or lodger of his or any other person residing (whether temporarily or otherwise) on the premises or visiting them to act as mentioned in paragraph (a) or (b).
- (6) The court is of the opinion that—
- (a) the respondent or any person mentioned in subsection (5)(c) has used or threatened violence against a person residing, visiting or otherwise engaging in a lawful activity in the locality, and
 - (b) there is a significant risk of harm to that person or a person of a similar description if the power of arrest is not attached to one or more provisions of the injunction immediately.
- (7) Nothing in this section prevents the grant of an injunction relating to other matters, in addition to those mentioned above, in relation to which no power of arrest is attached.

154 Powers of arrest: ex-parte applications for injunctions

- (1) In determining whether to exercise its power under section 152(6) or section 153 to attach a power of arrest to an injunction which it intends to grant on an ex-parte application, the High Court or a county court shall have regard to all the circumstances including—
- (a) whether it is likely that the applicant will be deterred or prevented from seeking the exercise of the power if the power is not exercised immediately, and
 - (b) whether there is reason to believe that the respondent is aware of the proceedings for the injunction but is deliberately evading service and that the applicant or any person of a description mentioned in 152(1)(a) or section 153(5)(a) (as the case may be) will be seriously prejudiced if the decision as to whether to exercise the power were delayed until substituted service is effected.
- (2) Where the court exercises its power as mentioned in subsection (1), it shall afford the respondent an opportunity to make representations relating to the exercise of the power as soon as just and convenient at a hearing of which notice has been given to all the parties in accordance with rules of court.

155 Arrest and remand

- (1) If a power of arrest is attached to certain provisions of an injunction by virtue of section 152(6) or section 153, a constable may arrest without warrant a person whom he has reasonable cause for suspecting to be in breach of any such provision or otherwise in contempt of court in relation to a breach of any such provision.

A constable shall after making any such arrest forthwith inform the person on whose application the injunction was granted.

- (2) Where a person is arrested under subsection (1)—
- (a) he shall be brought before the relevant judge within the period of 24 hours beginning at the time of his arrest, and

Status: This is the original version (as it was originally enacted).

(b) if the matter is not then disposed of forthwith, the judge may remand him.

In reckoning for the purposes of this subsection any period of 24 hours no account shall be taken of Christmas Day, Good Friday or any Sunday.

- (3) If the court has granted an injunction in circumstances such that a power of arrest could have been attached under section 152(6) or section 153 but—
- (a) has not attached a power of arrest under the section in question to any provisions of the injunction, or
 - (b) has attached that power only to certain provisions of the injunction,
- then, if at any time the applicant considers that the respondent has failed to comply with the injunction, he may apply to the relevant judge for the issue of a warrant for the arrest of the respondent.
- (4) The relevant judge shall not issue a warrant on an application under subsection (3) unless—
- (a) the application is substantiated on oath, and
 - (b) he has reasonable grounds for believing that the respondent has failed to comply with the injunction.
- (5) If a person is brought before a court by virtue of a warrant issued under subsection (4) and the court does not dispose of the matter forthwith, the court may remand him.
- (6) Schedule 15 (which makes provision corresponding to that applying in magistrates' courts in civil cases under sections 128 and 129 of the Magistrates' Courts Act 1980) applies in relation to the powers of the High Court and a county court to remand a person under this section.
- (7) If a person remanded under this section is granted bail by virtue of subsection (6), he may be required by the relevant judge to comply, before release on bail or later, with such requirements as appear to the judge to be necessary to secure that he does not interfere with witnesses or otherwise obstruct the course of justice.

156 Remand for medical examination and report

- (1) If the relevant judge has reason to consider that a medical report will be required, any power to remand a person under section 155 may be exercised for the purpose of enabling a medical examination and report to be made.
- (2) If such a power is so exercised the adjournment shall not be for more than 4 weeks at a time unless the judge remands the accused in custody.
- (3) If the judge so remands the accused, the adjournment shall not be for more than 3 weeks at a time.
- (4) If there is reason to suspect that a person who has been arrested—
 - (a) under section 155(1), or
 - (b) under a warrant issued under section 155(4),
 is suffering from mental illness or severe mental impairment, the relevant judge shall have the same power to make an order under section 35 of the Mental Health Act 1983 (remand for report on accused's mental condition) as the Crown Court has under section 35 of that Act in the case of an accused person within the meaning of that section.

157 Powers of arrest: supplementary provisions

- (1) If in exercise of its power under section 152(6) or section 153 the High Court or a county court attaches a power of arrest to any provisions of an injunction, it may provide that the power of arrest is to have effect for a shorter period than the other provisions of the injunction.
- (2) Any period specified for the purposes of subsection (1) may be extended by the court (on one or more occasions) on an application to vary or discharge the injunction.
- (3) If a power of arrest has been attached to certain provisions of an injunction by virtue of section 152(6) or section 153, the court may vary or discharge the injunction in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the injunction).
- (4) An injunction may be varied or discharged under subsection (3) on an application by the respondent or the person on whose application the injunction was made.

158 Interpretation: Chapter III

- (1) For the purposes of this Chapter—
 - “charitable housing trust” means a housing trust, within the meaning of the Housing Associations Act 1985, which is a charity within the meaning of the Charities Act 1993;
 - “child” means a person under the age of 18 years;
 - “harm”—
 - (a) in relation to a person who has reached the age of 18 years, means ill-treatment or the impairment of health, and
 - (b) in relation to a child, means ill-treatment or the impairment of health or development;
 - “health” includes physical or mental health;
 - “ill-treatment”, in relation to a child, includes sexual abuse and forms of ill-treatment which are not physical;
 - “relevant judge”, in relation to an injunction, means—
 - (a) where the injunction was granted by the High Court, a judge of that court,
 - (b) where the injunction was granted by a county court, a judge or district judge of that or any other county court;
 - “tenancy” includes a licence, and “tenant” and “landlord” shall be construed accordingly.
- (2) Where the question of whether harm suffered by a child is significant turns on the child’s health or development, his health or development shall be compared with that which could reasonably be expected of a similar child.