



# Anti-social Behaviour, Crime and Policing Act 2014

## 2014 CHAPTER 12

### PART 5 **E+W**

#### RECOVERY OF POSSESSION OF DWELLING-HOUSES: ANTI-SOCIAL BEHAVIOUR GROUNDS

##### *Absolute ground for possession: secure tenancies*

#### 94 **New ground for serious offences or breach of prohibitions etc** **E+W**

- (1) After section 84 of the Housing Act 1985 (secure tenancies: grounds and orders for possession) there is inserted—

##### **“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,

*Status: Point in time view as at 25/05/2018.*

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- (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
    - (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

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- (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—

- (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.

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- (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).”
- (2) After Schedule 2 to that Act there is inserted the Schedule set out in Schedule 3 to this Act.

#### **Commencement Information**

- I1** S. 94 in force at 20.10.2014 for E. by S.I. 2014/2590, art. 2(a) (with art. 5)  
**I2** S. 94 in force at 21.10.2014 for W. by S.I. 2014/2830, art. 2(a) (with art. 3)

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