



# Anti-social Behaviour Act 2003

## 2003 CHAPTER 38

### PART 2 **E+W**

#### HOUSING

#### 14 **Security of tenure: anti-social behaviour** **E+W**

(1) In the Housing Act 1985 (c. 68) section 82 (which makes provision in relation to security of tenure) is amended as follows—

(a) in subsection (1) for the words from “of the court” to the end of the subsection there is substituted “ mentioned in subsection (1A) ”;

<sup>F1</sup>(b) .....

(2) After section 82 of that Act there is inserted the following section—

#### **“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;
- (c) a registered social landlord.

(2) The landlord may apply to a 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;

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- (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—
- (a) that the tenant or a person residing in or visiting the dwelling-house has engaged or has threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 (anti-social behaviour or use of premises for unlawful purposes) applies, 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.
- (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 a registered social landlord.”
- (3) Section 83 of that Act is amended as follows—
- <sup>F2</sup>(a) .....
  - (b) in subsection (2)(b) for the words from “an order” to “tenancy” substitute “the order”;
  - (c) after subsection (4) insert—
 

“(4A) If the proceedings are for a demotion order under section 82A the notice—

    - (a) must specify the date after which the proceedings may be begun;
    - (b) ceases to be in force twelve months after the date so specified.”;
  - (d) in subsection (5) for “or (4)” substitute “(4) or (4A) ”.
- (4) In the Housing Act 1988 (c. 50) after section 6 (which makes provision about fixing the terms of a statutory periodic tenancy) there is inserted the following section—

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### **“6A Demotion because of anti-social behaviour**

- (1) This section applies to an assured tenancy if the landlord is a registered social landlord.
- (2) The landlord may apply to a county court for a demotion order.
- (3) A demotion order has the following effect—
  - (a) the assured 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 assured 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 assured 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—
  - (a) that the tenant or a person residing in or visiting the dwelling-house has engaged or has threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 (anti-social behaviour or use of premises for unlawful purposes) applies, and
  - (b) that it is reasonable to make the order.
- (5) The court must not entertain proceedings for a demotion order unless—
  - (a) the landlord has served on the tenant a notice under subsection (6), or
  - (b) the court thinks it is just and equitable to dispense with the requirement of the notice.
- (6) The notice must—
  - (a) give particulars of the conduct in respect of which the order is sought;
  - (b) state that the proceedings will not begin before the date specified in the notice;
  - (c) state that the proceedings will not begin after the end of the period of twelve months beginning with the date of service of the notice.
- (7) The date specified for the purposes of subsection (6)(b) must not be before the end of the period of two weeks beginning with the date of service of the notice.
- (8) 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 assured 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.
- (9) Subsection (8)(b) does not apply if the assured tenancy was for a fixed term and in such a case the demoted tenancy is a weekly periodic tenancy.

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(10) If the landlord of the demoted tenancy serves on the tenant a statement of any other express terms of the assured tenancy which are to apply to the demoted tenancy such terms are also terms of the demoted tenancy.

(11) For the purposes of this section a demoted tenancy is a tenancy to which section 20B of the Housing Act 1988 applies.”

(5) Schedule 1 amends the Housing Act 1996 (c. 52) and the Housing Act 1985 (c. 68).

#### Textual Amendments

- F1** S. 14(1)(b) repealed (20.5.2009) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 16](#); [S.I. 2009/1261](#), art. 4
- F2** S. 14(3)(a) repealed (20.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 50](#) (with ss. 21, 33, 42, 58, 75, 93); [S.I. 2014/2590](#), art. 3(g)(bb)(viii) (as renumbered (20.10.2014) by [S.I. 2014/2754](#), arts. 1, 3(b))

#### Commencement Information

- I1** S. 14 in force at 30.6.2004 for E. by [S.I. 2004/1502](#), [art. 2\(a\)\(iii\)](#)
- I2** S. 14 in force at 30.9.2004 for specified purposes for W. by [S.I. 2004/2557](#), [art. 2\(a\)\(ii\)](#)
- I3** S. 14 in force at 30.4.2005 for W. insofar as not already in force by [S.I. 2005/1225](#), [art. 2\(b\)](#)

**Changes to legislation:**

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