

2014 No. 2554

HOUSING, ENGLAND

**The Absolute Ground for Possession for Anti-social Behaviour
(Review Procedure) (England) Regulations 2014**

<i>Made</i>	- - - -	<i>22nd September 2014</i>
<i>Laid before Parliament</i>		<i>25th September 2014</i>
<i>Coming into force</i>	- -	<i>20th October 2014</i>

The Secretary of State, in exercise of the power conferred by section 85ZA(7) of the Housing Act 1985(a), makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Absolute Ground for Possession for Anti-social Behaviour (Review Procedure) (England) Regulations 2014 and come into force on 20th October 2014.

(2) These Regulations apply in relation to dwelling-houses in England only.

(3) In these Regulations—

“the Act” means the Housing Act 1985;

“applicant” means a tenant who has requested a review;

“business day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday, or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971(b);

“landlord” means a person to whom a request for a review is made;

“original decision” means a landlord’s decision to seek an order for possession of a dwelling-house under section 84A of the Act(c) (absolute ground for possession for anti-social behaviour);

“review” means a review under section 85ZA(1) of the Act (review of decision to seek possession on absolute ground for anti-social behaviour).

Application

2. An application for a review must include—

(a) the applicant’s name and address;

(a) 1985 c. 68; section 85ZA was inserted by section 96 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) which came into force for the purpose of making these Regulations on 17th September 2014.

(b) 1971 c. 80.

(c) Section 84A was inserted by section 94(1) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).

- (b) a description of the original decision in respect of which the review is sought including the date on which the decision was made;
- (c) a statement of the grounds on which the review is sought;
- (d) a statement to the effect that the applicant does, or does not, require the review to be conducted by way of an oral hearing;
- (e) a statement to the effect that the applicant does, or does not, agree to receive communications relating to the review by email, and if the former, the email address to which such communications should be sent.

Right to a hearing

3.—(1) Where an application includes a statement to the effect that the applicant requires the review to be conducted by way of an oral hearing, the review must be conducted in accordance with regulations 6 to 10.

(2) In any other case, the review must be conducted in accordance with regulation 5.

Communication

4.—(1) Where an application includes a statement to the effect that the applicant agrees to receive communications relating to the review by email, any notice, document or other communication sent in connection with the review by the landlord to the email address referred to in regulation 2(e) is to be taken as having been received by the applicant on the day on which it was sent to that address.

(2) In any other case, a notice, document or other communication sent in connection with the review by the landlord is to be taken as having been received by the applicant on —

- (a) the day it is given to the applicant in person;
- (b) the second business day after it is sent by first class post to the address referred to in regulation 2(a); or
- (c) the day it is delivered by hand to the address referred to in regulation 2(a).

Review without a hearing

5.—(1) Where regulation 3(2) applies, the landlord must send a written notice to the applicant stating that the applicant may make written representations in support of the application before a time specified in the notice.

(2) The time specified pursuant to paragraph (1) must not be earlier than five days after the day on which the notice referred to in that paragraph is received by the applicant.

(3) In making a decision on the review the person conducting the review must take into account any representations received in accordance with this regulation.

(4) The review must be conducted by a person appointed for that purpose by the landlord, who may be an officer or employee of the landlord.

(5) A person appointed under paragraph (4) who is an officer or employee of the landlord must be a person of greater seniority than the person who made the original decision.

(6) The person referred to in paragraph (4) must not be a person who was involved in the making of the original decision.

Review by way of a hearing

6.—(1) Where regulation 3(1) applies, the landlord must send a written notice to the applicant stating the date, time and place of the oral hearing.

(2) The date referred to in paragraph (1) must not be earlier than five days after the day on which the notice referred to in that paragraph is received by the applicant.

(3) If at any time before the date on which the hearing is due to take place the applicant so requests, the landlord may postpone the hearing to a later date.

Procedure at hearing

7.—(1) The hearing must be conducted by a person appointed for that purpose by the landlord, who may be an officer or employee of the landlord.

(2) A person appointed under paragraph (1) who is an officer or employee of the landlord must be a person of greater seniority than the person who made the original decision.

(3) The person referred to in paragraph (1) must not be a person who was involved in the making of the original decision.

(4) The hearing must be conducted with the minimum amount of formality and in accordance with any directions given by the person conducting it.

(5) At the hearing the applicant may—

- (a) make oral or written representations relevant to the decision to be made on the review;
- (b) be accompanied or represented by another person appointed by the applicant for that purpose (whether that person is professionally qualified or not);
- (c) call persons to give evidence on any matter relevant to the decision to be made on the review; and
- (d) put questions to any person who gives evidence at the hearing.

(6) The person who made the original decision may attend the hearing and may do any of the things the applicant may do pursuant to paragraph (5).

(7) A person appointed as a representative pursuant to paragraph (5)(b) has the same rights as the applicant (or, as the case may be, the person who made the original decision) for the purposes of the conduct of the hearing.

Absence of applicant at hearing

8. If the applicant fails to attend the hearing, the person conducting it may, having regard to all the circumstances (including any explanation offered for the absence) proceed with the hearing or give such directions with a view to the further conduct of the review as that person may think appropriate.

Adjournment of hearing

9.—(1) The hearing may be adjourned by the person conducting it (on the application of the applicant or otherwise).

(2) Where the hearing is adjourned for more than one day, the person conducting it must specify a date on which the hearing is to be resumed by sending a notice in writing to that effect to the applicant and any other person whose attendance is required at the resumed hearing.

Decision on review

10. Where regulation 3(1) applies, the decision on the review must be made by the person who conducted the hearing.

Signed by the authority of the Secretary of State for Communities and Local Government

Brandon Lewis
Minister of State

22nd September 2014

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 84A of the Housing Act 1985 (“the Act”) provides for a new, absolute, anti-social behaviour ground for possession of a dwelling that is the subject of a secure tenancy. Section 85ZA of the Act provides secure tenants of local housing authorities and housing action trusts with a right to request a review of the landlord’s decision to seek possession under section 84A. The landlord must review the decision if the tenant requests it.

Section 85ZA specifies how requests should be made, the time limits that apply to the review procedure and how the outcome of the review should be communicated to the tenant. These Regulations make provision about the procedure to be followed in conducting such a review.

Regulation 2 sets out the information that must be included in a tenant’s application for a review. Regulation 3 specifies that where an application includes a statement to the effect that the applicant requires the review to be conducted by way of an oral hearing, the review must be conducted in accordance with regulations 6 to 10. In any other case, the review must be conducted in accordance with regulation 5.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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