

Draft Regulations laid before Parliament under section 214(2)(b) of the Housing and Planning Act 2016, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No. ***

HOUSING, ENGLAND

The Housing and Planning Act 2016
(Banning Order Offences) Regulations 2017

Made - - - - - ***
Coming into force - - - - - 6th April 2018

The Secretary of State, in exercise of the powers conferred by section 14(3) of the Housing and Planning Act 2016⁽¹⁾, makes the following Regulations.

In accordance with section 214(2)(b) of the Housing and Planning Act 2016, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017.

(2) These Regulations come into force on 6th April 2018.

(3) These Regulations apply only in relation to offences committed after these Regulations come into force.

Interpretation

2. In these Regulations—

“associated person” has the meaning given by section 178 of the Housing Act 1996⁽²⁾; and
“tenant”, in relation to housing, includes a person who has a licence to occupy housing.

Banning order offences

3. The following offences are banning order offences⁽³⁾—

(1) 2016 c. 22.
(2) 1996 c. 52; section 178 was amended by the Civil Partnership Act 2004 (c. 33), Schedule 8, paragraph 61(2), (3), (4), (5), (6) and (7) and the Adoption and Children Act 2002 (c. 38) Schedule 3, paragraphs 90, 91 and 92.
(3) Under section 15(1) of the Housing and Planning Act 2016, a local housing authority in England may apply to the First-tier Tribunal for a banning order against a person who has been convicted of a banning order offence.

- (a) an offence listed in any of items 1 to 5 of the Schedule, unless the sentence imposed on the person convicted of the offence (“the offender”) is an absolute discharge or a conditional discharge;
- (b) an offence listed in item 6 of the Schedule;
- (c) an offence listed in any of items 7 to 14 of the Schedule if—
 - (i) the offence was committed against or in collusion with a tenant occupying any housing (or another person occupying that housing with the tenant) or the offence was committed at or in relation to that housing;
 - (ii) at the time the offence was committed, the offender was the residential landlord or property agent of that housing or an officer of a body corporate who was the residential landlord or property agent of that housing; and
 - (iii) the offender was sentenced for the offence in the Crown Court.

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

Date

Name
Title
Department for Communities and Local
Government

SCHEDULE

Regulation 3

OFFENCES

<i>Item</i>	<i>Statute</i>	<i>Provision</i>	<i>Offence</i>
1.	Protection from Eviction Act 1977(4)	Section 1(2), (3) and (3A)	Unlawful eviction and harassment of occupier
2.	Criminal Law Act 1977(5)	Section 6(1)	Violence for securing entry
3.	Housing Act 2004(6)	Section 30(1)	Failing to comply with an improvement notice
		Section 32(1)	Failing to comply with a prohibition order
		Section 72(1), (2) and (3)	Offences in relation to licensing of Houses in Multiple Occupation
		Section 95(1) and (2)	Offences in relation to licensing of houses under Part 3
		Section 139(7)	Contravention of an overcrowding notice
		Section 234(3)	Failure to comply with management regulations in respect of Houses in Multiple Occupation
		Section 238(1)	False or misleading information
4.	Regulatory Reform (Fire Safety) Order 2005(7)	Article 32(1) and (2)	Fire safety offences
5.	Health and Safety at Work etc. Act 1974(8)	Section 33(1)(c) where a person contravenes any requirement specified in regulation 36 of the Gas Safety (Installation and Use) Regulations 1998(9)	Gas safety offences - duties on landlords
6.	Immigration Act 2014(10)	Section 33A(1) and (10)	Residential tenancies – landlord offences

(4) 1977 c. 43; section 1(3) was amended by the Housing Act 1988 (c. 50) (“the 1988 Act”), section 29(1). Section 1(3A) was inserted by section 29(2) of the 1988 Act.

(5) 1977 c. 45.

(6) 2004 c. 34.

(7) S.I. 2005/1541.

(8) 1974 c. 37.

(9) S.I. 1998/2451.

(10) 2014 c. 22; sections 33A and 33B were inserted by the Immigration Act 2016 (c. 19), section 39(2).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018 No. 216

<i>Item</i>	<i>Statute</i>	<i>Provision</i>	<i>Offence</i>
		Section 33B(2) and (4)	Residential tenancies – agent offences
7.	Fraud Act 2006 (11)	Section 1(1)	Fraud
		Section 6(1)	Possession etc. of articles for use in frauds
		Section 7(1)	Making or supplying articles for use in frauds
		Section 9(1)	Participating in fraudulent business carried on by sole trader etc.
		Section 11(1)	Obtaining services dishonestly
		Section 12(2)	Liability of company officers for offences by company
8.	Criminal Justice Act 2003 (12)	Schedule 15	Specified violent and sexual offences
9.	Misuse of Drugs Act 1971 (13)	Section 8	Occupiers etc. of premises to be punishable for permitting certain activities to take place there
		Section 9	Prohibition of certain activities relating to opium
		Section 9A(1) and (3)	Prohibition of supply etc. of articles for administering or preparing controlled drugs
		Section 18(1), (2), (3) and (4)	Miscellaneous offences
		Section 19	Attempts etc. to commit offences
		Section 20	Assisting in or inducing commission outside United Kingdom of offence punishable under a corresponding law
		Section 21	Offences by corporations
10.	Proceeds of Crime Act 2002 (14)	Section 327	Concealing etc. criminal property

(11) 2006 c. 35.

(12) 2003 c. 44.

(13) 1971 c. 38. Section 8 was saved by the Criminal Law Act 1977 (c. 45), Schedule 5, paragraph 1(2)(b)(iv). Section 9A was inserted by the Drug Trafficking Offences Act 1986 (c. 32), section 34(1). Section 19 was amended by the Serious Crime Act 2007 (c. 27), Schedule 6(2), paragraph 53, and by the Criminal Attempts Act 1981 (c. 47), Schedule Part I. Section 21 was amended by the Criminal Justice (International Co-operation) Act 1990 (c. 5) Part II, section 23(3) and by the Proceeds of Crime Act 2002 (c. 29), Schedule 12, paragraph 1.

(14) 2002 c. 29. Sections 2A to 2C were inserted by the Serious Organised Crime and Police Act 2005 (c. 15), sections 102(2) and 103(2).

<i>Item</i>	<i>Statute</i>	<i>Provision</i>	<i>Offence</i>
		Section 328	Arrangements
		Section 329	Acquisition, use and possession
11.	Protection from Harassment Act 1997 (15)	Section 2	Offence of harassment
		Section 2A	Offence of stalking
12.	Anti-social Behaviour, Crime and Policing Act 2014 (16)	Section 30	Breach of criminal behaviour order
		Section 48	Failure to comply with a community protection notice
13.	Criminal Damage Act 1971 (17)	Section 1(1)	Destroying or damaging property
		Section 2	Threats to destroy or damage property
		Section 3	Possessing anything with intent to destroy or damage property
14.	Theft Act 1968 (18)	Section 7	Theft
		Section 9	Burglary
		Section 21	Blackmail
		Section 22	Handling stolen goods

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2 of the Housing and Planning Act 2016 (c. 22) (“the Act”) makes provision for the imposition of banning orders. Section 15 of the Act confers power on local housing authorities in England to apply to the First-tier Tribunal for a banning order against a person who has been convicted of a banning order offence. Section 16 confers power on the First-tier Tribunal to make a banning order against that person if that person was a residential landlord or property agent at the time the offence was committed. Section 14 defines “banning order” and “banning order offence” for the purposes of Part 2 of the Act (rogue landlords and property agents in England). Section 14(3) confers power on the Secretary of State to make regulations specifying the description of what constitutes a “banning order offence”. Regulation 3 and the Schedule to these Regulations specify those offences.

(15) 1997 c. 40. Section 2(1) was amended by the Serious Organised Crime and Police Act 2005 (c. 15), section 125(3). Section 2A(1) was inserted by the Protection of Freedoms Act 2012 (c. 9).

(16) 2014 c. 12.

(17) 1971 c. 48. Sections 1 to 3 were amended by the Computer Misuse Act 1990 (c. 18), sections 3(6) and 4. Section 1 was extended by the Internationally Protected Persons Act 1978 (c. 31).

(18) 1968 c. 60. Sections 7 and 9 were amended by the Criminal Justice Act 1991 (c. 53), section 26(1) and (2). Section 21 was extended by the Nuclear Material (Offences) Act 1983 (c. 18), sections 1(1)(d) and 8(2).

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