

ANTI-SOCIAL BEHAVIOUR ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Housing

Section 14 : Security of tenure: anti-social behaviour

39. *Subsection (1)* amends section 82 of the Housing Act 1985 to allow a secure tenancy to be brought to an end by a demotion order. *Subsection (2)* inserts new section 82A into the Housing Act 1985.
40. New section 82A of the 1985 Act provides that a local authority, a housing action trust or a registered social landlord can apply for a demotion order. A demotion order will end the secure tenancy on a specified date. If the tenant remains in occupation, a new demoted tenancy will begin on the same date. The court may only make the order if the tenant, another resident of or visitor to the tenant's home has behaved in a way which is capable of causing nuisance or annoyance or if such a person has used the premises for illegal purposes. In addition the court must be satisfied that it is reasonable to make the order.
41. New section 82A(8) of the 1985 Act defines what is meant by a demoted tenancy by reference to new section 143A of the Housing Act 1996 and new section 20B of the Housing Act 1988. Subsections (3)(c) and (d) of new section 82A confirm that any rent owed or overpaid on the tenant's rent account under the secure tenancy will be transferred across to the demoted tenancy. Subsection (5) of new section 82A sets out certain basic terms of the demoted tenancy at the point at which it is created.
42. *Subsection (3)* of section 14 amends section 83 of the Housing Act 1985 to ensure that landlords are required to serve notice on secure tenants before issuing demotion proceedings, and specifies the information which the notice should contain.
43. *Subsection (4)* of section 14 inserts new section 6A into the Housing Act 1988, dealing with the demotion of assured tenants of registered social landlords. A demotion order will end the assured tenancy on a specified date. If the tenant remains in occupation, a new demoted assured shorthold tenancy will begin on the same date. The court may only make the order if the tenant, another resident of or visitor to the tenant's home has behaved in a way which is capable of causing nuisance or annoyance or if such a person has used the premises for illegal purposes. In addition the court must be satisfied that it is reasonable to make the order.
44. Subsection (3)(c) and (d) of new section 6A of the 1988 Act confirm that any rent owed or overpaid on the tenant's rent account under the secure tenancy will be transferred across to the new demoted tenancy. Subsections (4A) and 4(B) of the new section 6A require landlords to serve notice on assured tenants before issuing demotion proceedings, and specify the information which the notice should contain. Subsection (5) of new section 6A sets out certain basic terms of the demoted tenancy at the point at which it is created.

*These notes refer to the Anti-Social Behaviour Act 2003
(c.38) which received Royal Assent on 20 November 2003*

45. *Subsection (5)* of section 14 introduces Schedule 1, which amends the Housing Act 1996 and the Housing Act 1985 and sets out the legal position regarding demoted tenancies where the landlord is a local authority or a housing action trust.