



Anti-social Behaviour Act 2003

2003 CHAPTER 38

PART 2

HOUSING

12 Anti-social behaviour: landlords' policies and procedures

- (1) In Part 8 of the Housing Act 1996 (c. 52) before section 219 (power of Secretary of State to give directions as to certain charges by social landlords) there is inserted the following section—

“218A Anti-social behaviour: landlords' policies and procedures

- (1) This section applies to the following landlords—
- (a) a local housing authority;
 - (b) a housing action trust;
 - (c) a registered social landlord.
- (2) The landlord must prepare—
- (a) a policy in relation to anti-social behaviour;
 - (b) procedures for dealing with occurrences of anti-social behaviour.
- (3) The landlord must not later than 6 months after the commencement of section 12 of the Anti-social Behaviour Act 2003 publish a statement of the policy and procedures prepared under subsection (2).
- (4) The landlord must from time to time keep the policy and procedures under review and, when it thinks appropriate, publish a revised statement.
- (5) A copy of a statement published under subsection (3) or (4)—
- (a) must be available for inspection at all reasonable hours at the landlord's principal office;
 - (b) must be provided on payment of a reasonable fee to any person who requests it.

- (6) The landlord must also—
 - (a) prepare a summary of its current policy and procedures;
 - (b) provide without charge a copy of the summary to any person who requests it.
- (7) In preparing and reviewing the policy and procedures the landlord must have regard to guidance issued—
 - (a) by the Secretary of State in the case of a local housing authority or a housing action trust;
 - (b) by the Relevant Authority under section 36 in the case of a registered social landlord.
- (8) Anti-social behaviour is any conduct to which section 153A or 153B applies.
- (9) Relevant Authority has the same meaning as in Part 1.”
- (2) In section 36(2) of that Act (functions of the Housing Corporation relating to guidance and corresponding functions relating to Wales) after paragraph (h) there is inserted the following paragraph—
 - “(i) the policy and procedures a landlord is required under section 218A to prepare and from time to time revise in connection with anti-social behaviour.”

13 Injunctions against anti-social behaviour on application of certain social landlords

- (1) The Housing Act 1996 (c. 52) is amended as follows.
- (2) Sections 152 (power to grant injunctions against anti-social behaviour) and 153 (power of arrest for breach of certain injunctions against anti-social behaviour) are omitted.
- (3) Before section 154 (power of arrest in ex parte applications) there are inserted the following sections—

“153A Anti-social behaviour injunction

- (1) This section applies to conduct—
 - (a) which is capable of causing nuisance or annoyance to any person, and
 - (b) which directly or indirectly relates to or affects the housing management functions of a relevant landlord.
- (2) The court on the application of a relevant landlord may grant an injunction (an anti-social behaviour injunction) if each of the following two conditions is satisfied.
- (3) The first condition is that the person against whom the injunction is sought is engaging, has engaged or threatens to engage in conduct to which this section applies.
- (4) The second condition is that the conduct is capable of causing nuisance or annoyance to any of the following—
 - (a) a person with a right (of whatever description) to reside in or occupy housing accommodation owned or managed by the relevant landlord;

- (b) a person with a right (of whatever description) to reside in or occupy other housing accommodation in the neighbourhood of housing accommodation mentioned in paragraph (a);
 - (c) a person engaged in lawful activity in or in the neighbourhood of housing accommodation mentioned in paragraph (a);
 - (d) a person employed (whether or not by the relevant landlord) in connection with the exercise of the relevant landlord's housing management functions.
- (5) It is immaterial where conduct to which this section applies occurs.
- (6) An anti-social behaviour injunction prohibits the person in respect of whom it is granted from engaging in conduct to which this section applies.

153B Injunction against unlawful use of premises

- (1) This section applies to conduct which consists of or involves using or threatening to use housing accommodation owned or managed by a relevant landlord for an unlawful purpose.
- (2) The court on the application of the relevant landlord may grant an injunction prohibiting the person in respect of whom the injunction is granted from engaging in conduct to which this section applies.

153C Injunctions: exclusion order and power of arrest

- (1) This section applies if the court grants an injunction under subsection (2) of section 153A or 153B and it thinks that either of the following paragraphs applies—
- (a) the conduct consists of or includes the use or threatened use of violence;
 - (b) there is a significant risk of harm to a person mentioned in section 153A(4).
- (2) The court may include in the injunction a provision prohibiting the person in respect of whom it is granted from entering or being in—
- (a) any premises specified in the injunction;
 - (b) any area specified in the injunction.
- (3) The court may attach a power of arrest to any provision of the injunction.

153D Injunction against breach of tenancy agreement

- (1) This section applies if a relevant landlord applies for an injunction against a tenant in respect of the breach or anticipated breach of a tenancy agreement on the grounds that the tenant—
- (a) is engaging or threatening to engage in conduct that is capable of causing nuisance or annoyance to any person, or
 - (b) is allowing, inciting or encouraging any other person to engage or threaten to engage in such conduct.
- (2) The court may proceed under subsection (3) or (4) if it is satisfied—
- (a) that the conduct includes the use or threatened use of violence, or

- (b) that there is a significant risk of harm to any person.
- (3) The court may include in the injunction a provision prohibiting the person in respect of whom it is granted from entering or being in—
 - (a) any premises specified in the injunction;
 - (b) any area specified in the injunction.
- (4) The court may attach a power of arrest to any provision of the injunction.
- (5) Tenancy agreement includes any agreement for the occupation of residential accommodation owned or managed by a relevant landlord.

153E Injunctions: supplementary

- (1) This section applies for the purposes of sections 153A to 153D.
- (2) An injunction may—
 - (a) be made for a specified period or until varied or discharged;
 - (b) have the effect of excluding a person from his normal place of residence.
- (3) An injunction may be varied or discharged by the court on an application by—
 - (a) the person in respect of whom it is made;
 - (b) the relevant landlord.
- (4) If the court thinks it just and convenient it may grant or vary an injunction without the respondent having been given such notice as is otherwise required by rules of court.
- (5) If the court acts under subsection (4) it must give the person against whom the injunction is made an opportunity to make representations in relation to the injunction as soon as it is practicable for him to do so.
- (6) The court is the High Court or a county court.
- (7) Each of the following is a relevant landlord—
 - (a) a housing action trust;
 - (b) a local authority (within the meaning of the Housing Act 1985);
 - (c) a registered social landlord.
- (8) A charitable housing trust which is not a registered social landlord is also a relevant landlord for the purposes of section 153D.
- (9) Housing accommodation includes—
 - (a) flats, lodging-houses and hostels;
 - (b) any yard, garden, outhouses and appurtenances belonging to the accommodation or usually enjoyed with it;
 - (c) in relation to a neighbourhood, the whole of the housing accommodation owned or managed by a relevant landlord in the neighbourhood and any common areas used in connection with the accommodation.
- (10) A landlord owns housing accommodation if either of the following paragraphs applies to him—

- (a) he is a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion;
 - (b) he is a person who holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than three years.
- (11) The housing management functions of a relevant landlord include—
 - (a) functions conferred by or under any enactment;
 - (b) the powers and duties of the landlord as the holder of an estate or interest in housing accommodation.
- (12) Harm includes serious ill-treatment or abuse (whether physical or not).”
- (4) In section 154—
 - (a) in subsection (1) for “section 152(6) or section 153” there is substituted “section 153C(3) or 153D(4)”;
 - (b) in subsection (1)(b) for “152(1)(a) or section 153(5)(a)” there is substituted “section 153A(4)”.
- (5) In section 155—
 - (a) in subsection (1) for “section 152(6) or section 153” there is substituted “section 153C(3) or 153D(4)”;
 - (b) in subsection (3) for “section 152(6) or section 153” there is substituted “section 153C(3) or 153D(4)”.
- (6) In section 157—
 - (a) in subsection (1) for “section 152(6) or section 153” there is substituted “section 153C(3) or 153D(4)”;
 - (b) in subsection (3) for “section 152(6) or section 153” there is substituted “section 153C(3) or 153D(4)”.
- (7) In section 158—
 - (a) in subsection (1) the entries relating to “child”, “harm”, “health” and “ill-treatment” are omitted;
 - (b) subsection (2) is omitted.

14 Security of tenure: anti-social behaviour

- (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)”;
 - (b) after subsection (1) there is inserted the following subsection—
 - “(1A) These are the orders—
 - (a) an order of the court for the possession of the dwelling-house;
 - (b) an order under subsection (3);
 - (c) a demotion order under section 82A.”
- (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;
 - (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—

- (a) in subsection (1) for the words from “the possession” to the second “tenancy” substitute “an order mentioned in section 82(1A)”;
 - (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—

“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.
 - (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).

15 Demoted assured shorthold tenancies

- (1) In the Housing Act 1988 (c. 50) after section 20A (duty of landlord to provide statement of terms for certain tenancies) there is inserted the following section—

“20B Demoted assured shorthold tenancies

- (1) An assured tenancy is an assured shorthold tenancy to which this section applies (a demoted assured shorthold tenancy) if—
 - (a) the tenancy is created by virtue of an order of the court under section 82A of the Housing Act 1985 or section 6A of this Act (a demotion order), and
 - (b) the landlord is a registered social landlord.
- (2) At the end of the period of one year starting with the day when the demotion order takes effect a demoted assured shorthold tenancy ceases to be an assured shorthold tenancy unless subsection (3) applies.
- (3) This subsection applies if before the end of the period mentioned in subsection (2) the landlord gives notice of proceedings for possession of the dwelling house.
- (4) If subsection (3) applies the tenancy continues to be a demoted assured shorthold tenancy until the end of the period mentioned in subsection (2) or (if later) until one of the following occurs—
 - (a) the notice of proceedings for possession is withdrawn;
 - (b) the proceedings are determined in favour of the tenant;

- (c) the period of six months beginning with the date on which the notice is given ends and no proceedings for possession have been brought.
- (5) Registered social landlord has the same meaning as in Part 1 of the Housing Act 1996.”
- (2) In section 21 of that Act (recovery of possession on expiry or termination of assured shorthold tenancy) after subsection (5) there is inserted the following subsection—
 - “(5A) Subsection (5) above does not apply to an assured shorthold tenancy to which section 20B (demoted assured shorthold tenancies) applies.”
- (3) In Schedule 2A to that Act (assured tenancies which are not shorthold tenancies) after paragraph 5 (former secure tenancies) there is inserted the following paragraph—
 - “*Former demoted tenancies*
 - 5A. An assured tenancy which ceases to be an assured shorthold tenancy by virtue of section 20B(2) or (4).”

16 Proceedings for possession: anti-social behaviour

- (1) In the Housing Act 1985 (c. 68) after section 85 (which extends the court’s discretion in certain proceedings for possession) there is inserted the following section—

“85A Proceedings for possession: anti-social behaviour

- (1) This section applies if the court is considering under section 84(2)(a) whether it is reasonable to make an order for possession on ground 2 set out in Part 1 of Schedule 2 (conduct of tenant or other person).
- (2) The court must consider, in particular—
 - (a) the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;
 - (b) any continuing effect the nuisance or annoyance is likely to have on such persons;
 - (c) the effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated.”
- (2) In the Housing Act 1988 (c. 50) after section 9 (which extends the court’s discretion in certain proceedings for possession) there is inserted the following section—

“9A Proceedings for possession: anti-social behaviour

- (1) This section applies if the court is considering under section 7(4) whether it is reasonable to make an order for possession on ground 14 set out in Part 2 of Schedule 2 (conduct of tenant or other person).
- (2) The court must consider, in particular—
 - (a) the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;
 - (b) any continuing effect the nuisance or annoyance is likely to have on such persons;

Status: This is the original version (as it was originally enacted).

- (c) the effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated.”

17 Devolution: Wales

In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) references to the following Acts are to be treated as references to those Acts as amended by virtue of this Part—

- (a) the Housing Act 1985;
- (b) the Housing Act 1988;
- (c) the Housing Act 1996 (c. 52).