

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Recovery of possession of dwelling-houses: anti-social behaviour grounds

Section 94: New ground for serious offences or breach of prohibitions etc

201. Under the provisions of the Housing Act 1985 (“the 1985 Act”) the county court may only make an order for possession of a secure tenancy if it considers it reasonable to do so and/or suitable alternative accommodation is available and one of the grounds in Schedule 2 to that Act is met. Under ground 2 of Schedule 2 to that Act, the court may grant possession for anti-social behaviour if it considers it reasonable to do so.
202. This section introduces a new absolute ground for possession of a dwelling that is the subject of a secure tenancy (in general, most secure tenants are local authority tenants although other social landlords, such as private registered providers of social housing (“PRPs”) in England and registered social landlords (“RSLs”) in Wales may have secure tenants). This new ground is an addition to the existing discretionary grounds for possession in Schedule 2 to the 1985 Act.
203. *Subsection (1)* inserts a new section 84A into the 1985 Act which provides that the court will be required to grant possession if any one of five conditions is met, the notice requirements have been met, and, where relevant, the review procedures have been followed. (New section 84A(1) clarifies that this is subject to any available defence based upon the tenant’s Convention rights, within the meaning of the Human Rights Act 1998. This is a statement of the law as established by *Manchester City Council v Pinnock* [2010] UKSC 45, which held that tenants of public authorities have the right to raise proportionality as a defence to possession proceedings.)
204. The five conditions in new section 84A relate to anti-social behaviour by the tenant, a member of the tenant’s household or a visitor to the property.
205. Condition 1, 2 or 3 will be met if the tenant, a member of the tenant’s household or a person visiting the property has been:
 - a. convicted of a serious offence (which is one of the offences set out in new Schedule 2A to the 1985 Act as inserted by *subsection (2)* of section 94 and Schedule 3 to the Act);
 - b. found by a court to have breached an injunction obtained under section 1 of the Act; or
 - c. convicted for breach of a criminal behaviour order obtained under section 22 of the Act.
206. The offence or anti-social conduct must have been committed in the dwelling-house or in the locality of the dwelling-house, affected a person with a right to live in the locality

These notes refer to the Anti-Social Behaviour, Crime and Policing Act 2014 (c.12) which received Royal Assent on 13 March 2014

of the dwelling-house or affected the landlord or a person connected with the landlord's housing management functions.

207. Condition 4 will be met if the tenant's property has been closed under a closure order obtained under section 80 of the Act as a result of anti-social behaviour in or near the property and the total period of closure (under the order or under a preceding closure notice) was more than 48 hours.
208. Condition 5 will be met if the tenant, a member of the tenant's household or a person visiting the property has been convicted for breach of a notice or order to abate noise in relation to the tenant's property under the Environmental Protection Act 1990.
209. New section 84A(10) and (11) confers power on the Secretary of State in relation to England and the Welsh Ministers in relation to Wales to amend new Schedule 2A to the 1985 Act by order (subject to the affirmative resolution procedure) by adding an indictable offence or removing an offence.