

2004 No. 1627

HOUSING, ENGLAND

**The Secure Tenancies (Notices) (Amendment) (England)
Regulations 2004**

Made - - - - - *24th June 2004*

Coming into force - - - - - *19th July 2004*

The First Secretary of State, in exercise of the powers conferred upon him by section 83(2) and (7) of the Housing Act 1985(a), hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Secure Tenancies (Notices)(Amendment) (England) Regulations 2004 and shall come into force on 19th July 2004.

(2) These Regulations apply to England only.

Amendment: notice to be served before proceedings for a demotion order

2.—(1) The Secure Tenancies (Notices) Regulations 1987(b) shall be amended as follows.

(2) After regulation 2, add—

“ 3. The notice to be served on a secure tenant under section 83 of the Housing Act 1985 before the court can entertain proceedings for a demotion order under section 82A(c) of that Act, shall be in the form specified in Part III of the Schedule to these Regulations, or in a form substantially to the same effect.”

(3) In the Schedule, after Part II add—

“Part III

Notice before proceedings for a demotion order

Housing Act 1985, s83

This Notice is the first step towards the termination of your secure tenancy and its replacement with a demoted tenancy. You should read it very carefully.

(a) 1985 c.68. The functions of the Secretary of State under the Housing Act 1985 (the 1985 Act) are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672, to which there are amendments not relevant to these Regulations). Section 83 of the 1985 Act was substituted by section 147 of the Housing Act 1996 (c.52). In section 83, subsections (1) and (2) are amended, and subsection (4A) inserted, by section 14(3) of the Anti-social Behaviour Act 2003 (c. 38).

(b) SI 1987/755 as amended by SI 1997/71 and SI 1997/377.

(c) Section 82A was inserted by section 14(2) of the Anti-social Behaviour Act 2003 (c.38)

- *If you need advice about this Notice, and what you should do about it, take it as quickly as possible to a Citizen’s Advice Bureau, a Housing Aid Centre, or a Law Centre, or to a Solicitor*

1. To
 [Names(s) of secure tenant(s)]

 [address of property]

2. The [name of landlord] **intends to apply to the Court for a demotion order, the effect of which will be the termination of your secure tenancy and its replacement with a demoted tenancy.**

- *Demoted tenants have less security and fewer rights than secure tenants.*
- *If your landlord is a registered social landlord then the demoted tenancy would be a demoted assured shorthold tenancy as set out in section 20B of the Housing Act 1988 (inserted by section 15 of the Anti-social Behaviour Act 2003). A demoted assured shorthold tenancy will become an ordinary assured tenancy after one year unless the landlord gives notice of proceedings for possession within that year.*
- *If your landlord is a local authority (LA) or a housing action trust (HAT) the demoted tenancy would be a demoted tenancy as set out in Chapter 1A of Part 5 of the Housing Act 1996 (inserted by section 14 of and Schedule 1 to the Anti-social Behaviour Act 2003). A LA or HAT demoted tenancy will become a secure tenancy after one year unless the landlord gives notice of proceedings for possession within that year.*

3. The grounds for the demotion order are that you or a person residing in or visiting[first line of the address of property] **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. The court must also be satisfied that it is reasonable to make the order.**

- *Section 153A applies to conduct which is capable of causing nuisance or annoyance to any person and which directly or indirectly relates to or affects the housing management functions of your landlord.*
- *Section 153B applies to conduct which consists of or involves using or threatening to use housing accommodation owned or managed by your landlord for an unlawful purpose.*

4. The particulars of the conduct in respect of which the demotion order is sought are as follows–

.....

.....
.....
.....
.....

[give full details]

- *Even if you accept that the conduct referred to above has occurred, you will still have the right to argue at the hearing that it is not reasonable for a demotion order to be made.*

5. The Court proceedings for demotion will not be begun until after
..... [give the date after which Court proceedings can be begun]

- *Court proceedings cannot be begun until after this date, which cannot be earlier than the date when, apart from the provisions of the Housing Act 1985, your tenancy or licence could have been brought to an end. This means that if you have a weekly or fortnightly tenancy, there should be at least 4 weeks between the date this Notice is given and the date in this paragraph.*
- *After this date, Court proceedings can be begun at once or at any time during the following twelve months. Once the twelve months are up this Notice will lapse and a new notice must be served before proceedings for a demotion order can be brought.”.*

Signed by authority of the First Secretary of State

24th June 2004

Yvette Cooper
Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Secure Tenancies (Notices) Regulations 1987 as they apply in England to prescribe the form of notice which should be served on a secure tenant before a landlord begins proceedings for a demotion order under section 82A of that Act.

Section 14 of the Anti-social Behaviour Act 2003 amended Part 4 of the Housing Act 1985 to allow a secure tenancy to be brought to an end and replaced with a less secure demoted tenancy by a demotion order made by a county court.

Section 83 of the Housing Act 1985, as amended by section 14 of the Anti-social Behaviour Act 2003, provides that a court may not entertain proceedings for a demotion order unless either a notice in the prescribed form and containing certain specified information has been served on the secure tenant, or the court considers it just and equitable to dispense with such a notice.

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