Anti-social Behaviour, Crime and Policing Act 2014

2014 CHAPTER 12

PART 5

RECOVERY OF POSSESSION OF DWELLING-HOUSES: ANTI-SOCIAL BEHAVIOUR GROUNDS

Absolute ground for possession: secure tenancies

94 New ground for serious offences or breach of prohibitions etc

(1) After section 84 of the Housing Act 1985 (secure tenancies: grounds and orders for possession) there is inserted—

"**84A Absolute ground for possession for anti-social behaviour**

(1) If the court is satisfied that any of the following conditions is met, it must make an order for the possession of a dwelling-house let under a secure tenancy.

This is subject to subsection (2) (and to any available defence based on the tenant's Convention rights, within the meaning of the Human Rights Act 1998).

(2) Subsection (1) applies only where the landlord has complied with any obligations it has under section 85ZA (review of decision to seek possession).

(3) Condition 1 is that—

(a) the tenant, or a person residing in or visiting the dwelling-house, has been convicted of a serious offence, and

(b) the serious offence—

(i) was committed (wholly or partly) in, or in the locality of, the dwelling-house,

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(ii) was committed elsewhere against a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or

(iii) was committed elsewhere against the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and directly or indirectly related to or affected those functions.

(4) Condition 2 is that a court has found in relevant proceedings that the tenant, or a person residing in or visiting the dwelling-house, has breached a provision of an injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014, other than a provision requiring a person to participate in a particular activity, and—

(a) the breach occurred in, or in the locality of, the dwelling-house, or

(b) the breach occurred elsewhere and the provision breached was a provision intended to prevent—

(i) conduct that is capable of causing nuisance or annoyance to a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or

(ii) conduct that is capable of causing nuisance or annoyance to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions.

(5) Condition 3 is that the tenant, or a person residing in or visiting the dwelling-house, has been convicted of an offence under section 30 of the Anti-social Behaviour, Crime and Policing Act 2014 consisting of a breach of a provision of a criminal behaviour order prohibiting a person from doing anything described in the order, and the offence involved—

(a) a breach that occurred in, or in the locality of, the dwelling-house, or

(b) a breach that occurred elsewhere of a provision intended to prevent—

(i) behaviour that causes or is likely to cause harassment, alarm or distress to a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or

(ii) behaviour that causes or is likely to cause harassment, alarm or distress to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions.

(6) Condition 4 is that—

(a) the dwelling-house is or has been subject to a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014, and

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(b) access to the dwelling-house has been prohibited (under the closure order or under a closure notice issued under section 76 of that Act) for a continuous period of more than 48 hours.

(7) Condition 5 is that—

(a) the tenant, or a person residing in or visiting the dwelling-house, has been convicted of an offence under—

(i) section 80(4) of the Environmental Protection Act 1990 (breach of abatement notice in relation to statutory nuisance), or

(ii) section 82(8) of that Act (breach of court order to abate statutory nuisance etc.), and

(b) the nuisance concerned was noise emitted from the dwelling-house which was a statutory nuisance for the purposes of Part 3 of that Act by virtue of section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance).

(8) Condition 1, 2, 3, 4 or 5 is not met if—

(a) there is an appeal against the conviction, finding or order concerned which has not been finally determined, abandoned or withdrawn, or

(b) the final determination of the appeal results in the conviction, finding or order being overturned.

(9) In this section—

"relevant proceedings" means proceedings for contempt of court or proceedings under Schedule 2 to the Anti-social Behaviour, Crime and Policing Act 2014;

"serious offence" means an offence which—

(a) was committed on or after the day on which subsection (3) comes into force,

(b) is specified, or falls within a description specified, in Schedule 2A at the time the offence was committed and at the time the court is considering the matter, and

(c) is not an offence that is triable only summarily by virtue of section 22 of the Magistrates' Courts Act 1980 (either-way offences where value involved is small).

(10) The Secretary of State may by order amend Schedule 2A as it applies in relation to dwelling-houses in England by—

(a) adding an indictable offence;

(b) removing an offence.

(11) The Welsh Ministers may by order amend Schedule 2A as it applies in relation to dwelling-houses in Wales by—

(a) adding an indictable offence;

(b) removing an offence.

(12) An order under subsection (10) or (11)—

(a) is to be made by statutory instrument;

(b) may make different provision for different purposes;

(c) may include incidental, supplementary, consequential, transitional or saving provision.

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(13) A statutory instrument containing an order under subsection (10) or (11) may not be made unless a draft of the instrument has been laid before and approved by a resolution of—

(a) each House of Parliament (in the case of an order of the Secretary of State), or

(b) the National Assembly for Wales (in the case of an order of the Welsh Ministers).”

(2) After Schedule 2 to that Act there is inserted the Schedule set out in Schedule 3 to this Act.

Commencement Information

I1 S. 94 in force at 20.10.2014 for E. by S.I. 2014/2590, **art. 2(a)** (with art. 5)

I2 S. 94 in force at 21.10.2014 for W. by S.I. 2014/2830, **art. 2(a)** (with art. 3)

95 Notice requirements for new ground

After section 83 of the Housing Act 1985 (proceedings for possession or termination: notice requirements) there is inserted—

“**83ZA Notice requirements in relation to proceedings for possession on absolute ground for anti-social behaviour**

(1) This section applies in relation to proceedings for possession of a dwelling-house under section 84A (absolute ground for possession for anti-social behaviour), including proceedings where possession is also sought on one or more of the grounds set out in Schedule 2.

(2) The court must not entertain the proceedings unless the landlord has served on the tenant a notice under this section.

(3) The notice must—

(a) state that the court will be asked to make an order under section 84A for the possession of the dwelling-house,

(b) set out the reasons for the landlord's decision to apply for the order (including the condition or conditions in section 84A on which the landlord proposes to rely), and

(c) inform the tenant of any right that the tenant may have under section 85ZA to request a review of the landlord's decision and of the time within which the request must be made.

(4) In a case where possession is also sought on one or more of the grounds set out in Schedule 2, the notice must also—

(a) specify the ground on which the court will be asked to make the order, and

(b) give particulars of that ground.

(5) A notice which states that the landlord proposes to rely upon condition 1, 3 or 5 in section 84A—

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(a) must also state the conviction on which the landlord proposes to rely, and

(b) must be served on the tenant within—

(i) the period of 12 months beginning with the day of the conviction, or

(ii) if there is an appeal against the conviction, the period of 12 months beginning with the day on which the appeal is finally determined or abandoned.

(6) A notice which states that the landlord proposes to rely upon condition 2 in section 84A—

(a) must also state the finding on which the landlord proposes to rely, and

(b) must be served on the tenant within—

(i) the period of 12 months beginning with the day on which the court has made the finding, or

(ii) if there is an appeal against the finding, the period of 12 months beginning with the day on which the appeal is finally determined, abandoned or withdrawn.

(7) A notice which states that the landlord proposes to rely upon condition 4 in section 84A—

(a) must also state the closure order concerned, and

(b) must be served on the tenant within—

(i) the period of 3 months beginning with the day on which the closure order was made, or

(ii) if there is an appeal against the making of the order, the period of 3 months beginning with the day on which the appeal is finally determined, abandoned or withdrawn.

(8) A notice under this section must also inform the tenant that, if the tenant needs help or advice about the notice and what to do about it, the tenant should take it immediately to a Citizens' Advice Bureau, a housing aid centre, a law centre or a solicitor.

(9) The notice—

(a) must also specify the date after which proceedings for the possession of the dwelling-house may be begun, and

(b) ceases to be in force 12 months after the date so specified.

(10) The date specified in accordance with subsection (9)(a) must not be earlier than—

(a) in the case of a periodic tenancy, the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same day as the notice under this section;

(b) in the case of a secure tenancy for a term certain, one month after the date of the service of the notice.

(11) Where a notice under this section is served with respect to a secure tenancy for a term certain, it has effect also with respect to any periodic tenancy arising on the termination of that tenancy by virtue of section 86; and subsection (10)(a) does not apply to the notice.”

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Commencement Information

I3 S. 95 in force at 20.10.2014 for E. by S.I. 2014/2590, **art. 2(b)**

I4 S. 95 in force at 21.10.2014 for W. by S.I. 2014/2830, **art. 2(b)**

96 Review requirements for new ground

After section 85 of the Housing Act 1985 (extended discretion of court in certain proceedings for possession) there is inserted—

"85ZA Review of decision to seek possession on absolute ground for anti-social behaviour

(1) A tenant may request a review of a landlord's decision to seek an order for possession of a dwelling-house under section 84A if the interest of the landlord belongs to—

(a) a local housing authority, or

(b) a housing action trust.

(2) Such a request must be made in writing before the end of the period of 7 days beginning with the day on which the notice under section 83ZA is served.

(3) On a request being duly made to it, the landlord must review its decision.

(4) The landlord must notify the tenant in writing of the decision on the review.

(5) If the decision is to confirm the original decision, the landlord must also notify the tenant of the reasons for the decision.

(6) The review must be carried out, and the tenant notified, before the day specified in the notice under section 83ZA as the day after which proceedings for the possession of the dwelling-house may be begun.

(7) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section that relates to an order for possession of a dwelling-house in England.

(8) The Welsh Ministers may by regulations make provision about the procedure to be followed in connection with a review under this section that relates to an order for possession of a dwelling-house in Wales.

(9) Regulations under subsections (7) and (8) may, in particular, make provision—

(a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and

(b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom the person may be represented at such a hearing.

(10) Regulations under this section—

(a) may contain transitional or saving provision;

(b) are to be made by statutory instrument which—

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(i) in the case of regulations made by the Secretary of State, is subject to annulment in pursuance of a resolution of either House of Parliament;

(ii) in the case of regulations made by the Welsh Ministers, is subject to annulment in pursuance of a resolution of the National Assembly for Wales."

Commencement Information

I5 S. 96 in force at 17.9.2014 for specified purposes by S.I. 2014/2454, **art. 2**

I6 S. 96 in force at 20.10.2014 for E. in so far as not already in force by S.I. 2014/2590, **art. 2(c)**

I7 S. 96 in force at 21.10.2014 for W. by S.I. 2014/2830, **art. 2(c)**

Absolute ground for possession: assured tenancies

97 Corresponding new ground and notice requirements for assured tenancies

(1) In Part 1 of Schedule 2 to the Housing Act 1988 (assured tenancies: grounds on which court must order possession), after ground 7 there is inserted—

"Ground 7A

Any of the following conditions is met.

Condition 1 is that—

(a) the tenant, or a person residing in or visiting the dwelling-house, has been convicted of a serious offence, and

(b) the serious offence—

(i) was committed (wholly or partly) in, or in the locality of, the dwelling-house,

(ii) was committed elsewhere against a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or

(iii) was committed elsewhere against the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and directly or indirectly related to or affected those functions.

Condition 2 is that a court has found in relevant proceedings that the tenant, or a person residing in or visiting the dwelling-house, has breached a provision of an injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014, other than a provision requiring a person to participate in a particular activity, and—

(a) the breach occurred in, or in the locality of, the dwelling-house, or

(b) the breach occurred elsewhere and the provision breached was a provision intended to prevent—

(i) conduct that is capable of causing nuisance or annoyance to a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or

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(ii) conduct that is capable of causing nuisance or annoyance to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions.

Condition 3 is that the tenant, or a person residing in or visiting the dwelling-house, has been convicted of an offence under section 30 of the Anti-social Behaviour, Crime and Policing Act 2014 consisting of a breach of a provision of a criminal behaviour order prohibiting a person from doing anything described in the order, and the offence involved—

(a) a breach that occurred in, or in the locality of, the dwelling-house, or

(b) a breach that occurred elsewhere of a provision intended to prevent—

(i) behaviour that causes or is likely to cause harassment, alarm or distress to a person with a right (of whatever description) to reside in, or occupy housing accommodation in the locality of, the dwelling-house, or

(ii) behaviour that causes or is likely to cause harassment, alarm or distress to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions.

Condition 4 is that—

(a) the dwelling-house is or has been subject to a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014, and

(b) access to the dwelling-house has been prohibited (under the closure order or under a closure notice issued under section 76 of that Act) for a continuous period of more than 48 hours.

Condition 5 is that—

(a) the tenant, or a person residing in or visiting the dwelling-house, has been convicted of an offence under—

(i) section 80(4) of the Environmental Protection Act 1990 (breach of abatement notice in relation to statutory nuisance), or

(ii) section 82(8) of that Act (breach of court order to abate statutory nuisance etc.), and

(b) the nuisance concerned was noise emitted from the dwelling-house which was a statutory nuisance for the purposes of Part 3 of that Act by virtue of section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance).

Condition 1, 2, 3, 4 or 5 is not met if—

(a) there is an appeal against the conviction, finding or order concerned which has not been finally determined, abandoned or withdrawn, or

(b) the final determination of the appeal results in the conviction, finding or order being overturned.

In this ground—

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"relevant proceedings" means proceedings for contempt of court or proceedings under Schedule 2 to the Anti-social Behaviour, Crime and Policing Act 2014;

"serious offence" means an offence which—

(a) was committed on or after the day on which this ground comes into force,

(b) is specified, or falls within a description specified, in Schedule 2A to the Housing Act 1985 at the time the offence was committed and at the time the court is considering the matter, and

(c) is not an offence that is triable only summarily by virtue of section 22 of the Magistrates' Courts Act 1980 (either-way offences where value involved is small)."

(2) In section 8 of that Act (notice of proceedings for possession)—

(a) in subsection (3)(b), for "subsections (4)" there is substituted " subsections (3A) ";

(b) after subsection (3) there is inserted—

"(3A) If a notice under this section specifies in accordance with subsection (3)(a) Ground 7A in Schedule 2 to this Act (whether with or without other grounds), the date specified in the notice as mentioned in subsection (3)(b) is not to be earlier than—

(a) in the case of a periodic tenancy, the earliest date on which, apart from section 5(1), the tenancy could be brought to an end by a notice to quit given by the landlord on the same date as the date of service of the notice under this section;

(b) in the case of a fixed term tenancy, one month after the date on which the notice was served.";

(c) in subsection (4), for "(whether with or without other grounds)" there is substituted " (whether without other grounds or with any ground other than Ground 7A) ";

(d) in subsection (4A), after "other than Ground" there is inserted " 7A or ";

(e) after subsection (4B) there is inserted—

"(4C) A notice under this section that specifies in accordance with subsection (3)(a) Ground 7A in Schedule 2 to this Act (whether with or without other grounds) must be served on the tenant within the time period specified in subsection (4D), (4E) or (4F).

(4D) Where the landlord proposes to rely on condition 1, 3 or 5 in Ground 7A, the notice must be served on the tenant within—

(a) the period of 12 months beginning with the day of the conviction, or

(b) if there is an appeal against the conviction, the period of 12 months beginning with the day on which the appeal is finally determined or abandoned.

(4E) Where the landlord proposes to rely on condition 2 in Ground 7A, the notice must be served on the tenant within—

(a) the period of 12 months beginning with the day on which the court has made the finding, or

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(b) if there is an appeal against the finding, the period of 12 months beginning with the day on which the appeal is finally determined, abandoned or withdrawn.

(4F) Where the landlord proposes to rely on condition 4 in Ground 7A, the notice must be served on the tenant within—

(a) the period of 3 months beginning with the day on which the closure order was made, or

(b) if there is an appeal against the making of the order, the period of 3 months beginning with the day on which the appeal is finally determined, abandoned or withdrawn.";

(f) in subsection (5), after "Ground" there is inserted " 7A or ".

Commencement Information

I8 S. 97 in force at 20.10.2014 for E. by S.I. 2014/2590, **art. 2(d)** (with art. 5)

I9 S. 97 in force at 21.10.2014 for W. by S.I. 2014/2830, **art. 2(d)** (with art. 3)

Discretionary grounds: secure and assured tenancies

98 Conduct causing nuisance to landlord etc

(1) In Part 1 of Schedule 2 to the Housing Act 1985 (grounds on which court may order possession in relation to secure tenancies if it considers it reasonable), in Ground 2, at the end of paragraph (a) (but before the "or") there is inserted—

"(aa) has been guilty of conduct causing or likely to cause a nuisance or annoyance to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions,".

(2) In Part 2 of Schedule 2 to the Housing Act 1988 (grounds on which court may order possession in relation to assured tenancies if it considers it reasonable), in Ground 14, at the end of paragraph (a) (but before the "or") there is inserted—

"(aa) has been guilty of conduct causing or likely to cause a nuisance or annoyance to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions,".

Commencement Information

I10 S. 98 in force at 13.5.2014 for E. by S.I. 2014/949, **art. 2(a)**

I11 S. 98 in force at 13.5.2014 for W. by S.I. 2014/1241, **art. 2(a)**

99 Offences connected with riot

(1) In Part 1 of Schedule 2 to the Housing Act 1985 (grounds on which court may order possession in relation to secure tenancies if it considers it reasonable), after Ground 2 there is inserted—

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"Ground 2ZA

The tenant or an adult residing in the dwelling-house has been convicted of an indictable offence which took place during, and at the scene of, a riot in the United Kingdom.

In this Ground—

"adult" means a person aged 18 or over;

"indictable offence" does not include an offence that is triable only summarily by virtue of section 22 of the Magistrates' Courts Act 1980 (either way offences where value involved is small);

"riot" is to be construed in accordance with section 1 of the Public Order Act 1986.

This Ground applies only in relation to dwelling-houses in England."

(2) In Part 2 of Schedule 2 to the Housing Act 1988 (grounds on which court may order possession in relation to assured tenancies if it considers it reasonable), after Ground 14 there is inserted—

"Ground 14ZA

The tenant or an adult residing in the dwelling-house has been convicted of an indictable offence which took place during, and at the scene of, a riot in the United Kingdom.

In this Ground—

"adult" means a person aged 18 or over;

"indictable offence" does not include an offence that is triable only summarily by virtue of section 22 of the Magistrates' Courts Act 1980 (either way offences where value involved is small);

"riot" is to be construed in accordance with section 1 of the Public Order Act 1986.

This Ground applies only in relation to dwelling-houses in England."

Commencement Information

I12 S. 99 in force at 13.5.2014 by S.I. 2014/949, art. 3, **Sch. para. 1** (with art. 7)

Supplemental

100 Restrictions where new possession proceedings in progress etc

(1) In section 138 of the Housing Act 1985 (right to buy: suspension of duty of landlord to convey freehold or grant lease)—

(a) in subsection (2A)(a), for "or Ground 2 possession order" there is substituted " , Ground 2 or 2ZA possession order or section 84A possession order ";

(b) in subsection (2B)(a), for "or an operative Ground 2 possession order" there is substituted " , an operative Ground 2 or 2ZA possession order or an operative section 84A possession order ";

(c) in subsection (2C), for the definition of "Ground 2 possession order" there is substituted—

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""Ground 2 or 2ZA possession order" means an order for possession under Ground 2 or Ground 2ZA in Schedule 2;";

(d) for the definition of "operative Ground 2 possession order" there is substituted—

" "operative Ground 2 or 2ZA possession order" means an order made under Ground 2 or Ground 2ZA in Schedule 2 which requires possession of the dwelling-house to be given up on a date specified in the order;";

(e) after that definition there is inserted—

""operative section 84A possession order" means an order under section 84A which requires possession of the dwelling-house to be given up on a date specified in the order;

"section 84A possession order" means an order for possession under section 84A;".

(2) In Schedule 3 to that Act (grounds for withholding consent to assignment of secure tenancy by way of exchange), after Ground 2 there is inserted—

"Ground 2ZA

Proceedings have been begun for possession of the dwelling-house, of which the tenant or the proposed assignee is the secure tenant, under section 84A (absolute ground for possession for anti-social behaviour), or there has been served on the tenant or the proposed assignee a notice under section 83ZA (notice requirements in relation to proceedings for possession on absolute ground for anti-social behaviour) which is still in force."

(3) In Schedule 14 to the Localism Act 2011 (grounds on which landlord may refuse to surrender and grant tenancies in pursuance of a request under section 158 of that Act)—

(a) after Ground 4 there is inserted—

4A "**Ground 4A**

(1) This ground is that either of the following conditions is met.

(2) The first condition is that—

(a) proceedings have begun for possession of a dwelling-house let on an existing tenancy which is a secure tenancy, and

(b) possession is sought under section 84A of the Housing Act 1985 (absolute ground for possession for anti-social behaviour).

(3) The second condition is that—

(a) a notice has been served on a relevant tenant under section 83ZA of that Act (notice requirements in relation to proceedings for possession on absolute ground for anti-social behaviour), and

(b) the notice is still in force.";

(b) after Ground 5 there is inserted—

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5A "**Ground 5A**

(1) This ground is that either of the following conditions is met.

(2) The first condition is that—

(a) proceedings have begun for possession of a dwelling-house let on an existing tenancy which is an assured tenancy, and

(b) possession is sought on ground 7A in Part 1 of Schedule 2 to the Housing Act 1988 (absolute ground for possession for anti-social behaviour).

(3) The second condition is that—

(a) a notice has been served on a relevant tenant under section 8 of that Act (notice of proceedings for possession), and

(b) the notice specifies ground 7A and is still in force."

Commencement Information

I13 S. 100(1) in force at 13.5.2014 for W. by S.I. 2014/1241, **art. 2(b)** (with art. 3(1)(2))

I14 S. 100(1) in force at 13.5.2014 for E. by S.I. 2014/949, **art. 2(b)** (with art. 11(1)(2))

I15 S. 100(2)(3) in force at 20.10.2014 for E. by S.I. 2014/2590, **art. 2(e)**

I16 S. 100(2)(3) in force at 21.10.2014 for W. by S.I. 2014/2830, **art. 2(e)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 102(2)(ba) inserted by 2022 c. 32 Sch. 11 para. 35(2)(a)