

# **ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

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## **EXPLANATORY NOTES**

### **BACKGROUND**

#### **Parts 1 to 6: Anti-social Behaviour**

#### **Recovery of possession of dwelling-houses on anti-social behaviour grounds**

15. Under current housing legislation, landlords may apply to the county court to evict tenants who are behaving anti-socially using the relevant “ground for possession”. These are ground 2 of Schedule 2 to the Housing Act 1985 for secure tenants (mostly tenants of local authorities) and ground 14 of Schedule 2 to the Housing Act 1988 for assured tenants (tenants of housing associations and landlords in the private rented sector) respectively.<sup>1</sup> These grounds are discretionary, that is, the court must be satisfied that anti-social behaviour has occurred and that it would be reasonable to grant possession.
16. In practice, eviction for anti-social behaviour is exceptional: social landlords in England own around four million homes but only evict about 2,000 tenants for anti-social behaviour each year. Available evidence suggests that early interventions by social landlords successfully resolve over 80% of complaints about anti-social behaviour. However, where social landlords resort to eviction where all other intervention measures have been tried and have failed, that process can be protracted (on average around seven months from the date of application to the court for a possession order to an outcome).
17. In August 2011 the Department for Communities and Local Government (“DCLG”) consulted on proposals to expedite the possession process where serious housing related anti-social behaviour or criminality had already been proved in another court. In these circumstances landlords could choose to use, instead of existing discretionary grounds for possession, a new mandatory ground. This would provide the landlord with an unqualified right of possession, subject only to the court’s considering the proportionality of the decision to seek possession (where the landlord is a public authority) where this is required by the decision of the Supreme Court in *Manchester City Council v Pinnock* [2011] 2 AC 104.
18. The discretionary grounds for possession for anti-social behaviour (which also includes criminal behaviour) referred to above apply only where the behaviour has taken place in, or in the locality of, the dwelling house.

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<sup>1</sup> These relevant grounds on which a court may order repossession under these provisions are that: the tenant or a person residing in or visiting the dwelling-house: (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality; or (b) has been convicted either of using the dwelling-house or allowing it to be used for immoral or illegal purposes, or of an indictable offence committed in, or in the locality of, the dwelling-house.

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

19. Following the riots in August 2011, and concerns about “riot tourism”, DCLG broadened the consultation on the new mandatory power of possession to cover proposals to extend the scope of the discretionary ground so that landlords would have powers to seek to evict a tenant where they, or a member of their household, are engaged in riot related offences anywhere in the UK.
20. Final proposals, in the light of consultation, were published alongside and as part of the May 2012 White Paper *Putting victims first: more effective responses to anti-social behaviour*. Part 5 gives effect to these. In addition, following representations from landlords, and in light of the submissions to the Home Affairs Select Committee on the draft Anti-social Behaviour Bill, Part 5 extends the existing discretionary grounds for possession for anti-social behaviour to enable landlords to seek possession where criminality or anti-social behaviour is directed against them or their contractors or staff, wherever this occurs.