

**EXPLANATORY MEMORANDUM TO THE ANTI-SOCIAL BEHAVIOUR, CRIME
AND POLICING ACT 2014 (CONSEQUENTIAL AMENDMENTS) (WALES)
ORDER 2015**

This Explanatory Memorandum has been prepared by the Housing Policy Division and is laid before the National Assembly for Wales in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Anti-social Behaviour, Crime and Policing Act 2014 (Consequential Amendments) (Wales) Order 2015.

Lesley Griffiths AM

Minister for Communities and Tackling Poverty, one of the Welsh Ministers

18 March 2015

1. Description

The Anti-social Behaviour, Crime and Policing Act 2014 (Consequential Amendments) (Wales) Order 2015 makes a consequential amendment to section 160A(8) of the Housing Act 1996 (“the 1996 Act”) to add a reference to the new absolute ground for possession of a dwelling on the grounds of anti-social behaviour. The new absolute ground was introduced by section 94(1) of the Anti-social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”).

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative background

Section 84A of the Housing Act 1985 (“the 1985 Act”) (as inserted by section 94(1) of the Anti-social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”)) introduces a new absolute ground for possession of a dwelling on the grounds of serious anti-social behaviour that is the subject of a secure tenancy. Section 84A provides that the court will be required to grant possession if any one of the following five conditions is met:

Condition 1. The tenant, a member of the tenant’s household, or a person visiting the property, has been convicted of a serious offence (which is one of the offences set out in Schedule 2A to the 1985 Act as inserted by section 94(2) and Schedule 3 to the 2014 Act);

Condition 2. The tenant, a member of the tenant’s household, or a person visiting the property has been found by a court to have breached an injunction obtained under section 1 of the 2014 Act (anti-social behaviour injunction), other than a provision requiring a person to participate in a particular activity;

Condition 3. The tenant, a member of the tenant’s household, or a person visiting the property has been convicted of an offence under section 30 of the 2014 Act consisting of a breach of a criminal behaviour order;

Condition 4. The tenant’s property has been closed for more than 48 hours under a closure order (under section 80 of the 2014 Act) for anti-social behaviour; or

Condition 5. The tenant, a member of the tenant’s household, or a person visiting the property has been convicted for breaching a noise abatement notice or order in relation to the tenant’s property under the Environmental Protection Act 1990.

The offence or anti-social behaviour must have been committed in, or in the locality of, the property affected a person with a right to live in the locality of the property or affected the landlord or a person connected with the landlord's housing management functions. Section 84A of the 1985 Act came into force on the 21 October 2014.

Section 160A of the 1996 Act provides that a local authority shall not allocate housing accommodation under Part 6 of that Act to ineligible persons. Section 160A(7) provides that a local authority may decide that an application is to be treated as ineligible for an allocation if their behaviour (or that of a household member) makes them unsuitable to be a tenant of the authority. Section 160A (8) provides that such behaviour is unacceptable if it would entitle the authority (if the applicant were a secure tenant) to a possession order under section 85 of the 1985 Act. This Order amends section 160A(8) to include behaviour of the person concerned which would (if he were a secure tenant of the authority) entitle the authority to a possession order under section 84A of the Housing Act 1985. This has the effect that such behaviour will constitute unacceptable behaviour for the purposes of subsection (7).

Section 181(1)(4)(a) of the 2014 Act enables the Welsh Ministers, by order, to make provision consequential upon certain provisions in that Act. This Order is made in exercise of that power and is subject to the affirmative resolution procedure under section 182(3).

4. Purpose & intended effect of the legislation

A new absolute ground for possession for anti-social behaviour was introduced by the 2014 Act in order to expedite the eviction of landlords' most anti-social tenants and, thereby, bring faster relief to victims and witnesses.

The new ground is designed to be used for the most serious cases of anti-social behaviour and the recently produced UK guidance for frontline practitioners on the use of the new anti-social behaviour powers in the 2014 Act advises landlords to use it selectively. The guidance is available at:

https://www.google.co.uk/url?url=https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf&rct=w

The effect of this Order is to amend section 160A(8) of the 1996 Act so that reference is made to the new absolute ground for possession. This amendment is consequential upon the provisions in sections 94 to 96 of, and Schedule 3 to, the 2014 Act.

This means a Local Authority may be able to decide a person is to be treated as ineligible for an allocation of housing accommodation if their behaviour (or that of a household member) would be sufficient to entitle the Authority to a possession order on the grounds of serious anti-social behaviour as set out in section 84A of the 1985 Act.

5. Consultation

No formal consultation has been undertaken for this instrument.

The broad policy proposals to introduce a new absolute ground for possession were the subject of a public consultation in Wales undertaken between 18 November 2011 and February 2012. The UK Government also consulted on proposals for a simplified toolkit of powers for practitioners to tackle anti-social behaviour both in England and Wales in August 2011. Consultation results demonstrated that Welsh stakeholders were keen to have the same tools to deal with anti-social behaviour as England.

6. Regulatory Impact Assessment (RIA)

There is no impact on business, charities or voluntary bodies as the Order simply makes a consequential amendment to the Housing Act 1996 so that reference is made to the new absolute ground for possession.

An Impact Assessment has not been prepared for this instrument. These Regulations relate to the implementation of Part 5 of the 2014 Act. An Impact Assessment relating to that Part as well as an overarching Impact Assessment of the whole Act has been carried out by the Home Office and is published on the Home Office's website. <https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>