



# Housing (Scotland) Act 2001

## 2001 asp 10

### PART 1

#### HOMELESSNESS AND ALLOCATION OF HOUSING

#### **3 Homeless persons and persons threatened with homelessness**

- (1) In section 24 (definition of persons threatened with homelessness) of the 1987 Act—
- (a) in subsection (1), for “Scotland, or England or Wales” substitute “ the United Kingdom or elsewhere ”,
  - (b) in subsection (3), after paragraph (d) insert “; or
  - (c) it is not permanent accommodation, in circumstances where, immediately before the commencement of his occupation of it, a local authority had a duty under section 31(2) in relation to him.”,
  - (d) in subsection (4), for “28 days” substitute “ 2 months ”,
  - (e) after subsection (4) insert—
    - “(5) For the purposes of subsection (3)(e), “permanent accommodation” includes accommodation—
    - (a) of which the person is the heritable proprietor,
    - (b) secured by a Scottish secure tenancy,
    - (c) secured by an assured tenancy that is not a short assured tenancy,
    - (d) where paragraph 1 or 2 of schedule 6 to the Housing (Scotland) Act 2001 (asp 10) is satisfied in relation to the person, secured by a short Scottish secure tenancy.”
- (2) In section 29(1) (interim duty to accommodate) of that Act, the words “and have a priority need” are repealed.
- (3) In section 31 (duties to persons found to be homeless) of that Act—
- (a) in subsection (2), after “secure that” insert “ permanent ”,
  - (b) in subsection (3)—
    - (i) for the words from “Where” to “intentionally” substitute “ In any other case ”,

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*Changes to legislation: Housing (Scotland) Act 2001, Section 3 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (ii) in paragraph (b), for the words from “such” to “circumstances” substitute “ assistance of such type as may be prescribed ”,
  - (c) subsection (4) is repealed,
  - (d) at the end insert—
    - “(5) For the purposes of subsection (2), “permanent accommodation” includes accommodation—
      - (a) secured by a Scottish secure tenancy,
      - (b) secured by an assured tenancy that is not a short assured tenancy,
      - (c) where paragraph 1 or 2 of schedule 6 to the Housing (Scotland) Act 2001 (asp10) is satisfied in relation to the applicant, secured by a short Scottish secure tenancy.”
- (4) In section 32 (duties to persons found to be threatened with homelessness) of that Act—
- (a) in subsection (3)—
    - (i) for the words from “Where” to “intentionally” substitute “ In any other case ”,
    - (ii) for the words from “such” to “circumstances” substitute “ assistance of such type as may be prescribed ”,
  - (b) in subsection (5)—
    - (i) after “accommodation” insert “ (a) ”,
    - (ii) at the end insert—
      - “(b) that does not meet any special needs of the applicant and any other person referred to in section 24(2), or
      - (c) that it is not reasonable for the applicant to occupy.”,
  - (c) after subsection (5) insert—
    - “(6) Regulations made by virtue of section 31(3)(b) or subsection (3) above may make different provision for different purposes and different areas.
    - (7) Before making any such regulations, the Scottish Ministers shall consult—
      - (a) such associations representing local authorities, and
      - (b) such other persons,
 as they think fit on the proposed regulations.
    - (8) In exercising their functions under section 31 or this section in respect of a person falling within section 25(1)(b), the local authority shall have regard to the best interests of the dependent children referred to in that provision.”
- (5) After that section insert—

**“32A Power of the Scottish Ministers to modify application of sections 31 and 32**

- (1) The provisions of—

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- (a) section 31(2) so far as requiring that accommodation is to be permanent accommodation (within the meaning of section 31(5)), and
- (b) section 32(5)(b),

do not apply in such circumstances as may be prescribed.

(2) Where—

- (a) accommodation has been provided under section 31(2), and
- (b) by virtue of subsection (1) above, that accommodation is not permanent accommodation (within the meaning of section 31(5)) or does not meet the special needs of the applicant and any other person referred to in section 24(2),

section 26 does not apply.”

(6) In section 34 (duties to persons whose applications are referred)—

- (a) in subsection (2), after “that” in the second and fourth places where it occurs insert “ permanent ”,
- (b) in subsection (3)(a), after “that” insert “ permanent ”,
- (c) after subsection (4) insert—

“(5) For the purposes of subsection (1), “accommodation” has the meaning given in section 32(5).

(6) For the purposes of subsections (2) and (3)(a), “permanent accommodation” has the meaning given in section 31(5) as read with section 32(5).”

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#### **Commencement Information**

- II** [S. 3](#) wholly in force at 30.9.2002; [s. 3](#) not in force at Royal Assent, see [s. 113\(1\)\(2\)](#); [s. 3\(1\)\(a\)\(c\)\(4\)\(b\)](#) in force at 1.4.2002 by [S.S.I. 2002/168](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [art. 3](#)); [s. 3](#) in force insofar as not already in force at 30.9.2002 by [S.S.I. 2002/321](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-5](#))

**Changes to legislation:**

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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. 5(5A) inserted by [2003 asp 10 s. 5\(4\)\(c\)](#) (This amendment not applied to legislation.gov.uk. S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 14(1)(a) words renumbered as s. 14(1)(a) by [2021 asp 16 s. 22\(2\)\(a\)\(i\)](#)
- s. 14(1)(b) inserted by [2021 asp 16 s. 22\(2\)\(a\)\(ii\)](#)
- s. 14(1A)(1B) inserted by [2021 asp 16 s. 22\(2\)\(b\)](#)
- s. 14(5C)-(5E) inserted by [2021 asp 16 s. 22\(2\)\(e\)](#)
- s. 16(2)(d)(e) inserted by [2021 asp 16 s. 22\(3\)\(b\)\(ii\)](#)
- s. 16(3ZA)(3ZB) inserted by [2021 asp 16 s. 22\(3\)\(c\)](#)
- s. 16(5C) inserted by [2021 asp 16 s. 22\(3\)\(e\)](#)
- s. 16(7)-(10) inserted by [2021 asp 16 s. 22\(3\)\(f\)](#)
- s. 34(7A)-(7C) inserted by [2003 asp 10 s. 6\(2\)](#) (This amendment not applied to legislation.gov.uk. S. 6 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 34(8)(b) and words inserted by [2003 asp 10 s. 6\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 6 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 89(12) inserted by [2019 asp 10 s. 18\(3\)](#)
- sch. 2 para. 15A inserted by [2021 asp 16 s. 22\(4\)](#)
- sch. 6 para. 5A and cross-heading inserted by [2003 asp 10 s. 5\(5\)](#) (This amendment not applied to legislation.gov.uk. S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)