



# Housing (Homeless Persons) Act 1977

## 1977 CHAPTER 48

### *Homelessness and threatened homelessness*

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

- (1) A person is homeless for the purposes of this Act if he has no accommodation, and a person is to be treated as having no accommodation for those purposes if there is no accommodation—
  - (a) which he, together with any other person who normally resides with him as a member of his family or in circumstances in which the housing authority consider it reasonable for that person to reside with him—
    - (i) is entitled to occupy by virtue of an interest in it or of an order of a court, or
    - (ii) has, in England or Wales, an express or implied licence to occupy, or
    - (iii) has, in Scotland, a right or permission, or an implied right or permission to occupy, or
  - (b) which he (together with any such person) is occupying as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession of it.
- (2) A person is also homeless for the purposes of this Act if he has accommodation but—
  - (a) he cannot secure entry to it, or
  - (b) it is probable that occupation of it will lead to violence from some other person residing in it or to threats of violence from some other person residing in it and likely to carry out the threats, or
  - (c) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it.
- (3) For the purposes of this Act a person is threatened with homelessness if it is likely that he will become homeless within 28 days.

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## **2 Priority need for accommodation**

- (1) For the purposes of this Act a homeless person or a person threatened with homelessness has a priority need for accommodation when the housing authority are satisfied that he is within one of the following categories:—
  - (a) he has dependent children who are residing with him or who might reasonably be expected to reside with him;
  - (b) he is homeless or threatened with homelessness as a result of any emergency such as flood, fire or any other disaster;
  - (c) he or any person who resides or might reasonably be expected to reside with him is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason.
- (2) For the purposes of this Act a homeless person or a person threatened with homelessness who is a pregnant woman or resides or might reasonably be expected to reside with a pregnant woman has a priority need for accommodation.
- (3) The Secretary of State may by order, made after appropriate consultations,—
  - (a) specify further categories of persons as having a priority need for accommodation, and
  - (b) amend or repeal any part of subsection (1) or (2) above.
- (4) No order under subsection (3) above shall be made unless a draft of the order has been approved by resolution of each House of Parliament.
- (5) Any reference in this Act to a person having a priority need is a reference to his having a priority need for accommodation within the meaning of this section or any order for the time being in force under subsection (3) above.

## **3 Preliminary duties of housing authorities in cases of possible homelessness, etc.**

- (1) If—
  - (a) a person applies to a housing authority for accommodation or for assistance in obtaining accommodation, and
  - (b) the authority have reason to believe that he may be homeless or threatened with homelessness,the authority shall make appropriate inquiries.
- (2) In subsection (1) above "appropriate inquiries" means—
  - (a) such inquiries as are necessary to satisfy the authority whether the person who applied to them is homeless or threatened with homelessness, and
  - (b) if the authority are satisfied that he is homeless or threatened with homelessness, any further inquiries necessary to satisfy them—
    - (i) whether he has a priority need, and
    - (ii) whether he became homeless or threatened with homelessness intentionally.
- (3) If the authority think fit, they may also make inquiries as to whether the person who applied to them has a local connection with the area of another housing authority.
- (4) If the authority have reason to believe that the person who applied to them may be homeless and have a priority need, they shall secure that accommodation is made available for his occupation pending any decision which they may make as a result

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of their inquiries (irrespective of any local connection he may have with the area of another housing authority).

#### **4 Duties of housing authorities to homeless persons and persons threatened with homelessness**

(1) If a housing authority are satisfied, as a result of inquiries under section 3 above, that a person who has applied to them for accommodation or for assistance in obtaining accommodation is homeless or threatened with homelessness, they shall be subject to a duty towards him under this section.

(2) Where—

- (a) they are not satisfied that he has a priority need, or
- (b) they are satisfied that he has a priority need but are also satisfied that he became homeless or threatened with homelessness intentionally,

their duty is to furnish him with advice and appropriate assistance.

(3) Where—

- (a) they are satisfied that he is homeless, and
  - (b) they are subject to a duty towards him by virtue of subsection (2)(b) above,
- they shall secure that accommodation is made available for his occupation for such period as they consider will give him a reasonable opportunity of himself securing accommodation for his occupation.

(4) Where—

- (a) they are satisfied—
  - (i) that he is threatened with homelessness, and
  - (ii) that he has a priority need, but
- (b) they are not satisfied that he became threatened with homelessness intentionally,

their duty, subject to subsection (6) below, is to take reasonable steps to secure that accommodation does not cease to be available for his occupation.

(5) Where—

- (a) they are satisfied—
  - (i) that he is homeless, and
  - (ii) that he has a priority need, but
- (b) they are not satisfied that he became homeless intentionally,

their duty, subject to section 5 below, is to secure that accommodation becomes available for his occupation.

(6) Nothing in subsection (4) above shall affect any right of a housing authority to secure vacant possession of accommodation, whether by virtue of a contract or of any enactment or rule of law.

#### **5 Responsibility as between housing authorities**

(1) A housing authority are not subject to a duty under section 4(5) above—

- (a) if they are of the opinion—
  - (i) that neither the person who applied to them for accommodation or for assistance in obtaining accommodation nor any person who might

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- reasonably be expected to reside with him has a local connection with their area, and
- (ii) that the person who so applied or a person who might reasonably be expected to reside with him has a local connection with another housing authority's area, and
- (iii) that neither the person who so applied nor any person who might reasonably be expected to reside with him will run the risk of domestic violence in that, housing authority's area, and
- (b) if they notify that authority—
- (i) that the application has been made, and
- (ii) that they are of the opinion specified in paragraph (a) above.
- (2) In this Act "notifying authority" means a housing authority who give a notification under subsection (1) above and "notified authority" means a housing authority who receive such a notification.
- (3) It shall be the duty of the notified authority to secure that accommodation becomes available for occupation by the person to whom the notification relates if neither he nor any person who might reasonably be expected to reside with him has a local connection with the area of the notifying authority but the conditions specified in subsection (4) below are satisfied.
- (4) The conditions mentioned in subsection (3) above are—
- (a) that the person to whom the notification relates or some person who might reasonably be expected to reside with him has a local connection with the area of the notified authority, and
- (b) that neither he nor any such person will run the risk of domestic violence in that area.
- (5) In any other case it shall be the duty of the notifying authority to secure that accommodation becomes available for occupation by the person to whom the notification relates.
- (6) It shall also be the duty of the notifying authority to secure that accommodation is available for occupation by the person to whom notification relates until it is determined whether subsection (3) or (5) above applies to him.
- (7) Any question which falls to be determined under this section shall be determined by agreement between the notifying authority and the notified authority or, in default of such agreement, in accordance with the appropriate arrangements.
- (8) The appropriate arrangements for the purposes of this section are any such arrangements as the Secretary of State may by order direct.
- (9) An order under subsection (8) above may direct that the appropriate arrangements for the purposes of this section shall be—
- (a) arrangements agreed by any relevant authorities or associations of relevant authorities, or
- (b) in default of such agreement, any such arrangements as appear to the Secretary of State, after appropriate consultations, to be suitable.
- (10) No order under subsection (8) above shall be made unless a draft of the order has been approved by resolution of each House of Parliament.
- (11) For the purposes of this section a person runs the risk of domestic violence—

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- (a) if he runs the risk of violence from any person with whom, but for the risk of violence, he might reasonably be expected to reside or from any person with whom he formerly resided, or
- (b) if he runs the risk of threats of violence from any such person which are likely to be carried out.

## **6 Provisions supplementary to sections 4 and 5**

- (1) A housing authority may perform any duty under section 4 or 5 above to secure that accommodation becomes available for the occupation of a person—
  - (a) by making available accommodation held by them under Part V of the Housing Act 1957 or Part VII of the Housing (Scotland) Act 1966 or under any other enactment, or
  - (b) by securing that he obtains accommodation from some other person, or
  - (c) by giving him such advice and assistance as will secure that he obtains accommodation from some other person.
- (2) At the end of section 113(2) of the Housing Act 1957 and section 151(2) of the Housing (Scotland) Act 1966 (priorities in selection of local authority tenants) there shall be added the words " and to persons towards whom they are subject to a duty under section 4 or 5 of the Housing (Homeless Persons) Act 1977 " .

## **7 Protection for property**

- (1) If a housing authority have become subject to a duty towards a person under any provision of this Act to which this subsection applies (whether or not they are still subject to any such duty) and have reason to believe—
  - (a) that there is a danger of loss of, or damage to, any relevant property of his by reason of his inability to protect or deal with it, and
  - (b) that no other suitable arrangements have been or are being made,it shall be the duty of the authority, subject to subsection (6) below, to take reasonable steps to prevent the loss of the property or prevent or mitigate damage to it.
- (2) The provisions of this Act to which subsection (1) above applies are—
  - section 3(4);
  - section 4(3), (4) and (5); and
  - section 5.
- (3) If a housing authority—
  - (a) have reason to believe—
    - (i) that a person who has applied to them for accommodation or for assistance in obtaining accommodation is homeless or threatened with homelessness, and
    - (ii) that there is a danger of loss of, or damage to, any relevant property of his by reason of his inability to protect or deal with it, and
    - (iii) that no other suitable arrangements have been or are being made, but
  - (b) have not become subject to a duty towards him under any provision of this Act to which subsection (1) above applies,they may take any steps that they consider reasonable to prevent the loss of the property or prevent or mitigate damage to it.

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- (4) For the purpose—
- (a) of discharging the duty imposed by subsection (1) above, or
  - (b) of exercising the power conferred by subsection (3) above,
- the authority shall have power at all reasonable times to enter any premises which are the usual place of residence of the person in question or which were his last usual place of residence and to deal with any relevant property of his in any way which is reasonably necessary.
- (5) Without prejudice to the generality of subsection (4) above, the power conferred by that subsection includes power to store or arrange for the storage of any relevant property.
- (6) It shall be reasonable for a housing authority to decline to discharge the duty imposed by subsection (1) above or to exercise the power conferred by subsection (3) above except upon appropriate conditions.
- (7) In subsection (6) above " appropriate conditions " means such conditions as a housing authority consider appropriate in a particular case, and may include, without prejudice to the generality of this subsection, conditions empowering the authority—
- (a) to make and recover reasonable charges for the discharge of the duty or the exercise of the power, and
  - (b) to dispose, in such circumstances as may be specified, of any property in respect of which they have discharged the duty or exercised the power.
- (8) Subject to subsection (9) below, a housing authority shall cease—
- (a) to be subject to the duty imposed by subsection (1) above, or
  - (b) to have the power conferred by subsection (3) above,
- in respect of the relevant property of any person when in their opinion there is no longer any reason to believe that there is a danger of loss of, or damage to, that property by reason of his inability to protect or deal with it.
- (9) Property stored by virtue of subsection (5) above may be kept in store after the duty imposed by subsection (1) above has terminated in respect of it by virtue of subsection (8)(a) above or the power conferred by subsection (3) above has terminated in respect of it by virtue of subsection (8)(b) above.
- (10) If property continues to be stored by virtue of subsection (9) above any conditions under subsection (6) above upon which it was taken into store shall continue to have effect in relation to it with any necessary modifications.
- (11) In this section " relevant property " means—
- (a) in England and Wales, personal property, and
  - (b) in Scotland, moveable property.

## **8 Duties of notification**

- (1) On completing their inquiries under section 3 above, a housing authority shall notify the person who applied to them for accommodation or for assistance in obtaining accommodation of their decision on the question whether he is homeless or threatened with homelessness.

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- (2) If they notify him that their decision is that he is homeless or threatened with homelessness, they shall at the same time notify him of their decision on the question whether he has a priority need.
- (3) If they notify him that their decision is that he has a priority need, they shall at the same time notify him—
  - (a) of their decision on the question whether he became homeless or threatened with homelessness intentionally, and
  - (b) whether they have notified or propose to notify any other housing authority that his application has been made.
- (4) If they notify him—
  - (a) that they are not satisfied—
    - (i) that he is homeless or threatened with homelessness, or
    - (ii) that he has a priority need, or
  - (b) that they are satisfied that he became homeless or threatened with homelessness intentionally, or
  - (c) that they have notified or propose to notify another housing authority that his application has been made,they shall at the same time notify him of their reasons.
- (5) When it has been determined whether subsection (3) or (5) of section 5 above applies to a person to whom a notification under that section relates, it shall be the duty of the notifying authority to notify him—
  - (a) whether they or the notified authority are the authority whose duty it is under that section to secure that accommodation becomes available for his occupation, and
  - (b) of the reasons why the authority subject to that duty are subject to it.
- (6) If a housing authority cease in respect of the property of any person to be subject to the duty imposed by subsection (1) of section 7 above or, subject to subsection (7) below, to have the power conferred by subsection (3) of that section, it shall be their duty to notify him—
  - (a) that they have ceased to be subject to the duty or, as the case may be, to have the power, and
  - (b) of the reason why they are of the opinion mentioned in section 7(8) above.
- (7) An authority who cease to have the power conferred by section 7(3) above in respect of the property of any person need not notify him that they have ceased to have the power unless they have exercised it.
- (8) Subject to subsections (10) and (11) below, any notification or reasons required to be given to a person under this section shall be treated as having been given to him only if the requirement specified in subsection (9) below is satisfied.
- (9) The requirement mentioned in subsection (8) above is that any such notification and reasons shall for a reasonable period be made available by the housing authority at their office for collection by or on behalf of the person to whom they are required to be given.
- (10) A notification required under subsection (6) above may be given to the person to whom it is required to be given only—
  - (a) by delivering it to him, or

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- (b) by leaving it at his proper address, or
- (c) by sending it by post to him at that address.

(11) For the purposes of this section and section 26 of the Interpretation Act 1889 (service of documents by post) in its application to this section, the proper address of any person to whom such a notification is to be given shall be his last known address.

## 9 Co-operation between authorities

(1) Where a housing authority—

- (a) request—
  - (i) another housing authority ;
  - (ii) the Greater London Council;
  - (iii) a development corporation ;
  - (iv) the Commission for the New Towns ;
  - (v) a registered housing association ; or
  - (vi) the Scottish Special Housing Association

to assist them in the discharge of their functions under section 3, 4 or 5 above,  
or

- (b) request a social services authority or a social work authority to exercise any of their functions in relation to a case with which the housing authority are dealing under section 3, 4 or 5 above,

they shall co-operate with the housing authority in rendering such assistance in the discharge of the functions to which the request relates as is reasonable in the circumstances.

(2) Paragraph (a) of subsection (1) above shall have effect in relation to a housing authority and the Greater London Council as if the reference to sections 3, 4 and 5 above included a reference to section 7 above.

## 10 Power to charge

Without prejudice to the generality of section 111 of the Housing Act 1957 or section 1(2) of the Housing Rents and Subsidies (Scotland) Act 1975 (power to make reasonable charges for accommodation provided by a local authority), a housing authority may require a person towards whom they were subject to a duty under section 3(4), 4 or 5 above—

- (a) to pay such reasonable charges as they may determine in respect of any accommodation which they secure for his occupation (either by making it available themselves or otherwise); or
- (b) to pay such reasonable amount as they may determine in respect of sums payable by them for accommodation made available to him by another person.

## 11 Offences

(1) If any person, with intent to induce a housing authority, in connection with the exercise of their functions under this Act, to believe that he or any other person—

- (a) is homeless or threatened with homelessness, or
- (b) has a priority need, or
- (c) did not become homeless or threatened with homelessness intentionally,



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knowingly or recklessly makes a statement which is false in a material particular or knowingly withholds information which the authority have reasonably required him to give in connection with the exercise of their functions under this Act, he shall be guilty of an offence.

- (2) A person who has applied to a housing authority for accommodation or for assistance in obtaining accommodation shall notify to the authority as soon as possible any change of facts material to his case which occurs before he receives notification under section 8 above of the authority's decision on it.
- (3) The authority shall explain to any such person in ordinary language—
  - (a) the duty imposed by subsection (2) above, and
  - (b) the effect of subsection (4) below.
- (4) A person who fails to comply with subsection (2) above shall be guilty of an offence unless he shows—
  - (a) that he was not given the explanation required by subsection (3) above, or
  - (b) that he was given it but nevertheless had a reasonable excuse for his non-compliance.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £500.

## **12 Guidance to authorities by Secretary of State**

- (1) In relation to homeless persons and persons threatened with homelessness a relevant authority shall have regard in the exercise of their functions to such guidance as may from time to time be given by the Secretary of State.
- (2) The Secretary of State may give guidance either generally or to specified descriptions of authorities.