



# Housing Act 1996

## 1996 CHAPTER 52

### PART VII

#### HOMELESSNESS

##### *Supplementary provisions*

#### **205 Discharge of functions: introductory**

- (1) The following sections have effect in relation to the discharge by a local housing authority of their functions under this Part to secure that accommodation is available for the occupation of a person—
  - section 206 (general provisions),
  - section 207 (provision of accommodation by authority),
  - section 208 (out-of-area placements),
  - section 209 (arrangements with private landlord).
- (2) In those sections those functions are referred to as the authority's "housing functions under this Part".

#### **206 Discharge of functions by local housing authorities**

- (1) A local housing authority may discharge their housing functions under this Part only in the following ways—
  - (a) by securing that suitable accommodation provided by them is available,
  - (b) by securing that he obtains suitable accommodation from some other person, or
  - (c) by giving him such advice and assistance as will secure that suitable accommodation is available from some other person.
- (2) A local housing authority may require a person in relation to whom they are discharging such functions—

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- (a) to pay such reasonable charges as they may determine in respect of 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 by another person.

**207 Discharge of functions: provision of accommodation by the authority**

- (1) A local housing authority shall not under section 206(1)(a) discharge their housing functions under this Part by providing accommodation other than—
- (a) accommodation in a hostel within the meaning of section 622 of the Housing Act 1985, or
  - (b) accommodation leased to the authority as mentioned in subsection (2) below, for more than two years (continuously or in aggregate) in any period of three years.

This applies irrespective of the number of applications for accommodation or assistance in obtaining accommodation made by the person concerned.

- (2) The accommodation referred to in subsection (1)(b) is accommodation—
- (a) leased to the authority with vacant possession for use as temporary housing accommodation on terms which include provision for the lessor to obtain vacant possession from the authority on the expiry of a specified period or when required by the lessor,
  - (b) the lessor of which is not an authority or body within section 80(1) of the Housing Act 1985 (the landlord condition for secure tenancies), and
  - (c) in which the authority have no interest other than under the lease in question or as a mortgagee.
- (3) The authority shall not discharge such functions in relation to a person who—
- (a) normally resides with another person as a member of his family, or
  - (b) might reasonably be expected to reside with another person,
- in such a way that subsection (1) would be contravened if the functions were discharged in relation to that other person.
- (4) The Secretary of State may, on the application of a local housing authority, by direction exclude or modify the operation of subsection (1) in relation to that authority if it appears to him that the authority will not otherwise be able reasonably to discharge their housing functions under this Part.
- (5) Any such direction shall have effect only—
- (a) with respect to applicants of a description specified in the direction, and
  - (b) for a period specified in the direction, which shall not exceed one year,
- and may be expressed to have effect subject to any conditions specified in the direction.
- (6) Where the Secretary of State gives or has given a direction under subsection (4), he may give the authority such directions as he considers appropriate as to the discharge of their housing functions under this Part in cases affected by the direction having or ceasing to have effect.

## **208 Discharge of functions: out-of-area placements**

- (1) So far as reasonably practicable a local housing authority shall in discharging their housing functions under this Part secure that accommodation is available for the occupation of the applicant in their district.
- (2) If they secure that accommodation is available for the occupation of the applicant outside their district, they shall give notice to the local housing authority in whose district the accommodation is situated.
- (3) The notice shall state—
  - (a) the name of the applicant,
  - (b) the number and description of other persons who normally reside with him as a member of his family or might reasonably be expected to reside with him,
  - (c) the address of the accommodation,
  - (d) the date on which the accommodation was made available to him, and
  - (e) which function under this Part the authority was discharging in securing that the accommodation is available for his occupation.
- (4) The notice must be in writing, and must be given before the end of the period of 14 days beginning with the day on which the accommodation was made available to the applicant.

## **209 Discharge of functions: arrangements with private landlord**

- (1) This section applies where in pursuance of any of their housing functions under this Part a local housing authority make arrangements with a private landlord to provide accommodation.

For this purpose a “private landlord” means a landlord who is not within section 80(1) of the Housing Act 1985 (the landlord condition for secure tenancies).

- (2) If the housing function arises under section 188, 190, 200, or 204(4) (interim duties), a tenancy granted in pursuance of the arrangements to a person specified by the authority cannot be an assured tenancy before the end of the period of twelve months beginning with—
  - (a) the date on which the applicant was notified of the authority’s decision under section 184(3) or 198(5), or
  - (b) if there is a review of that decision under section 202 or an appeal to the court under section 204, the date on which he is notified of the decision on review or the appeal is finally determined,

unless, before or during that period, the tenant is notified by the landlord (or, in the cases of joint landlords, at least one of them) that the tenancy is to be regarded as an assured shorthold tenancy or an assured tenancy other than an assured shorthold tenancy.

A registered social landlord cannot serve such a notice making such a tenancy an assured tenancy other than an assured shorthold tenancy.

- (3) Where in any other case a tenancy is granted in pursuance of the arrangements by a registered social landlord to a person specified by the authority—
  - (a) the tenancy cannot be an assured tenancy unless it is an assured shorthold tenancy, and

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- (b) the landlord cannot convert the tenancy to an assured tenancy unless the accommodation is allocated to the tenant under Part VI.

## **210 Suitability of accommodation**

- (1) In determining for the purposes of this Part whether accommodation is suitable for a person, the local housing authority shall have regard to Parts IX, X and XI of the Housing Act 1985 (slum clearance; overcrowding; houses in multiple occupation).
- (2) The Secretary of State may by order specify—
  - (a) circumstances in which accommodation is or is not to be regarded as suitable for a person, and
  - (b) matters to be taken into account or disregarded in determining whether accommodation is suitable for a person.

## **211 Protection of property of homeless persons and persons threatened with homelessness**

- (1) This section applies where a local housing authority have reason to believe that—
  - (a) there is danger of loss of, or damage to, any personal property of an applicant by reason of his inability to protect it or deal with it, and
  - (b) no other suitable arrangements have been or are being made.
- (2) If the authority have become subject to a duty towards the applicant under—
  - section 188 (interim duty to accommodate),
  - section 190, 193 or 195 (duties to persons found to be homeless or threatened with homelessness), or
  - section 200 (duties to applicant whose case is considered for referral or referred),then, whether or not they are still subject to such a duty, they shall take reasonable steps to prevent the loss of the property or prevent or mitigate damage to it.
- (3) If they have not become subject to such a duty, they may take any steps they consider reasonable for that purpose.
- (4) The authority may decline to take action under this section except upon such conditions as they consider appropriate in the particular case, which may include conditions as to—
  - (a) the making and recovery by the authority of reasonable charges for the action taken, or
  - (b) the disposal by the authority, in such circumstances as may be specified, of property in relation to which they have taken action.
- (5) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.
- (6) Section 212 contains provisions supplementing this section.

## **212 Protection of property: supplementary provisions**

- (1) The authority may for the purposes of section 211 (protection of property of homeless persons or persons threatened with homelessness)—

- (a) enter, at all reasonable times, any premises which are the usual place of residence of the applicant or which were his last usual place of residence, and
  - (b) deal with any personal property of his in any way which is reasonably necessary, in particular by storing it or arranging for its storage.
- (2) Where the applicant asks the authority to move his property to a particular location nominated by him, the authority—
- (a) may, if it appears to them that his request is reasonable, discharge their responsibilities under section 211 by doing as he asks, and
  - (b) having done so, have no further duty or power to take action under that section in relation to that property.

If such a request is made, the authority shall before complying with it inform the applicant of the consequence of their doing so.

- (3) If no such request is made (or, if made, is not acted upon) the authority cease to have any duty or power to take action under section 211 when, in their opinion, there is no longer any reason to believe that there is a danger of loss of or damage to a person's personal property by reason of his inability to protect it or deal with it.

But property stored by virtue of their having taken such action may be kept in store and any conditions upon which it was taken into store continue to have effect, with any necessary modifications.

- (4) Where the authority—
- (a) cease to be subject to a duty to take action under section 211 in respect of an applicant's property, or
  - (b) cease to have power to take such action, having previously taken such action, they shall notify the applicant of that fact and of the reason for it.
- (5) The notification shall be given to the applicant—
- (a) by delivering it to him, or
  - (b) by leaving it, or sending it to him, at his last known address.
- (6) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.

## **213 Co-operation between relevant housing authorities and bodies**

- (1) Where a local housing authority—
- (a) request another relevant housing authority or body, in England, Wales or Scotland, to assist them in the discharge of their functions under this Part, or
  - (b) request a social services authority, in England, Wales or Scotland, to exercise any of their functions in relation to a case which the local housing authority are dealing with under this Part,
- the authority or body to whom the request is made shall co-operate in rendering such assistance in the discharge of the functions to which the request relates as is reasonable in the circumstances.
- (2) In subsection (1)(a) “relevant housing authority or body” means—
- (a) in relation to England and Wales, a local housing authority, a new town corporation, a registered social landlord or a housing action trust;

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- (b) in relation to Scotland, a local authority, a development corporation, a registered housing association or Scottish Homes.

Expressions used in paragraph (a) have the same meaning as in the Housing Act 1985; and expressions used in paragraph (b) have the same meaning as in the Housing (Scotland) Act 1987.

- (3) Subsection (1) above applies to a request by a local authority in Scotland under section 38 of the Housing (Scotland) Act 1987 as it applies to a request by a local housing authority in England and Wales (the references to this Part being construed, in relation to such a request, as references to Part II of that Act).