



Housing Act 1996

1996 CHAPTER 52

PART VII

HOMELESSNESS

Homelessness and threatened homelessness

175 Homelessness and threatened homelessness

- (1) A person is homeless if he has no accommodation available for his occupation, in the United Kingdom or elsewhere, which he—
 - (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court,
 - (b) has an express or implied licence to occupy, or
 - (c) occupies 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 another person to recover possession.
- (2) A person is also homeless if he has accommodation but—
 - (a) he cannot secure entry to it, or
 - (b) it consists of a moveable 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) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.
- (4) A person is threatened with homelessness if it is likely that he will become homeless within 28 days.

176 Meaning of accommodation available for occupation

Accommodation shall be regarded as available for a person's occupation only if it is available for occupation by him together with—

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- (a) any other person who normally resides with him as a member of his family, or
- (b) any other person who might reasonably be expected to reside with him.

References in this Part to securing that accommodation is available for a person's occupation shall be construed accordingly.

177 Whether it is reasonable to continue to occupy accommodation

- (1) It is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to domestic violence against him, or against—
 - (a) a person who normally resides with him as a member of his family, or
 - (b) any other person who might reasonably be expected to reside with him.

For this purpose “domestic violence”, in relation to a person, means violence from a person with whom he is associated, or threats of violence from such a person which are likely to be carried out.

- (2) In determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation, regard may be had to the general circumstances prevailing in relation to housing in the district of the local housing authority to whom he has applied for accommodation or for assistance in obtaining accommodation.
- (3) The Secretary of State may by order specify—
 - (a) other circumstances in which it is to be regarded as reasonable or not reasonable for a person to continue to occupy accommodation, and
 - (b) other matters to be taken into account or disregarded in determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation.

178 Meaning of associated person

- (1) For the purposes of this Part, a person is associated with another person if—
 - (a) they are or have been married to each other;
 - (b) they are cohabitants or former cohabitants;
 - (c) they live or have lived in the same household;
 - (d) they are relatives;
 - (e) they have agreed to marry one another (whether or not that agreement has been terminated);
 - (f) in relation to a child, each of them is a parent of the child or has, or has had, parental responsibility for the child.
- (2) If a child has been adopted or has been freed for adoption by virtue of any of the enactments mentioned in section 16(1) of the Adoption Act 1976, two persons are also associated with each other for the purposes of this Part if—
 - (a) one is a natural parent of the child or a parent of such a natural parent, and
 - (b) the other is the child or a person—
 - (i) who has become a parent of the child by virtue of an adoption order or who has applied for an adoption order, or
 - (ii) with whom the child has at any time been placed for adoption.
- (3) In this section—

“adoption order” has the meaning given by section 72(1) of the Adoption Act 1976;

“child” means a person under the age of 18 years;

“cohabitants” means a man and a woman who, although not married to each other, are living together as husband and wife, and “former cohabitants” shall be construed accordingly;

“parental responsibility” has the same meaning as in the Children Act 1989; and

“relative”, in relation to a person, means—

- (a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that person or of that person’s spouse or former spouse, or
- (b) the brother, sister, uncle, aunt, niece or nephew (whether of the full blood or of the half blood or by affinity) of that person or of that person’s spouse or former spouse,

and includes, in relation to a person who is living or has lived with another person as husband and wife, a person who would fall within paragraph (a) or (b) if the parties were married to each other.

General functions in relation to homelessness or threatened homelessness

179 Duty of local housing authority to provide advisory services

- (1) Every local housing authority shall secure that advice and information about homelessness, and the prevention of homelessness, is available free of charge to any person in their district.
- (2) The authority may give to any person by whom such advice and information is provided on behalf of the authority assistance by way of grant or loan.
- (3) A local housing authority may also assist any such person—
 - (a) by permitting him to use premises belonging to the authority,
 - (b) by making available furniture or other goods, whether by way of gift, loan or otherwise, and
 - (c) by making available the services of staff employed by the authority.

180 Assistance for voluntary organisations

- (1) The Secretary of State or a local housing authority may give assistance by way of grant or loan to voluntary organisations concerned with homelessness or matters relating to homelessness.
- (2) A local housing authority may also assist any such organisation—
 - (a) by permitting them to use premises belonging to the authority,
 - (b) by making available furniture or other goods, whether by way of gift, loan or otherwise, and
 - (c) by making available the services of staff employed by the authority.
- (3) A “voluntary organisation” means a body (other than a public or local authority) whose activities are not carried on for profit.

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181 Terms and conditions of assistance

- (1) This section has effect as to the terms and conditions on which assistance is given under section 179 or 180.
- (2) Assistance shall be on such terms, and subject to such conditions, as the person giving the assistance may determine.
- (3) No assistance shall be given unless the person to whom it is given undertakes—
 - (a) to use the money, furniture or other goods or premises for a specified purpose, and
 - (b) to provide such information as may reasonably be required as to the manner in which the assistance is being used.

The person giving the assistance may require such information by notice in writing, which shall be complied with within 21 days beginning with the date on which the notice is served.

- (4) The conditions subject to which assistance is given shall in all cases include conditions requiring the person to whom the assistance is given—
 - (a) to keep proper books of account and have them audited in such manner as may be specified,
 - (b) to keep records indicating how he has used the money, furniture or other goods or premises, and
 - (c) to submit the books of account and records for inspection by the person giving the assistance.
- (5) If it appears to the person giving the assistance that the person to whom it was given has failed to carry out his undertaking as to the purpose for which the assistance was to be used, he shall take all reasonable steps to recover from that person an amount equal to the amount of the assistance.
- (6) He must first serve on the person to whom the assistance was given a notice specifying the amount which in his opinion is recoverable and the basis on which that amount has been calculated.

182 Guidance by the Secretary of State

- (1) In the exercise of their functions relating to homelessness and the prevention of homelessness, a local housing authority or social services authority shall have regard 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.

Application for assistance in case of homelessness or threatened homelessness

183 Application for assistance

- (1) The following provisions of this Part apply where a person applies to a local housing authority for accommodation, or for assistance in obtaining accommodation, and the authority have reason to believe that he is or may be homeless or threatened with homelessness.

(2) In this Part—

“applicant” means a person making such an application,

“assistance under this Part” means the benefit of any function under the following provisions of this Part relating to accommodation or assistance in obtaining accommodation, and

“eligible for assistance” means not excluded from such assistance by section 185 (persons from abroad not eligible for housing assistance) or section 186 (asylum seekers and their dependants).

(3) Nothing in this section or the following provisions of this Part affects a person’s entitlement to advice and information under section 179 (duty to provide advisory services).

184 Inquiry into cases of homelessness or threatened homelessness

(1) If the local housing authority have reason to believe that an applicant may be homeless or threatened with homelessness, they shall make such inquiries as are necessary to satisfy themselves—

(a) whether he is eligible for assistance, and

(b) if so, whether any duty, and if so what duty, is owed to him under the following provisions of this Part.

(2) They may also make inquiries whether he has a local connection with the district of another local housing authority in England, Wales or Scotland.

(3) On completing their inquiries the authority shall notify the applicant of their decision and, so far as any issue is decided against his interests, inform him of the reasons for their decision.

(4) If the authority have notified or intend to notify another local housing authority under section 198 (referral of cases), they shall at the same time notify the applicant of that decision and inform him of the reasons for it.

(5) A notice under subsection (3) or (4) shall also inform the applicant of his right to request a review of the decision and of the time within which such a request must be made (see section 202).

(6) Notice required to be given to a person under this section shall be given in writing and, if not received by him, shall be treated as having been given to him if it is made available at the authority’s office for a reasonable period for collection by him or on his behalf.

Eligibility for assistance

185 Persons from abroad not eligible for housing assistance

(1) A person is not eligible for assistance under this Part if he is a person from abroad who is ineligible for housing assistance.

(2) A person who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996 is not eligible for housing assistance unless he is of a class prescribed by regulations made by the Secretary of State.

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- (3) The Secretary of State may make provision by regulations as to other descriptions of persons who are to be treated for the purposes of this Part as persons from abroad who are ineligible for housing assistance.
- (4) A person from abroad who is not eligible for housing assistance shall be disregarded in determining for the purposes of this Part whether another person—
 - (a) is homeless or threatened with homelessness, or
 - (b) has a priority need for accommodation.

186 Asylum-seekers and their dependants

- (1) An asylum-seeker, or a dependant of an asylum-seeker who is not by virtue of section 185 a person from abroad who is ineligible for housing assistance, is not eligible for assistance under this Part if he has any accommodation in the United Kingdom, however temporary, available for his occupation.
- (2) For the purposes of this section a person who makes a claim for asylum—
 - (a) becomes an asylum-seeker at the time when his claim is recorded by the Secretary of State as having been made, and
 - (b) ceases to be an asylum-seeker at the time when his claim is recorded by the Secretary of State as having been finally determined or abandoned.
- (3) For the purposes of this section a person—
 - (a) becomes a dependant of an asylum-seeker at the time when he is recorded by the Secretary of State as being a dependant of the asylum-seeker, and
 - (b) ceases to be a dependant of an asylum-seeker at the time when the person whose dependant he is ceases to be an asylum-seeker or, if it is earlier, at the time when he is recorded by the Secretary of State as ceasing to be a dependant of the asylum-seeker.
- (4) In relation to an asylum-seeker, “dependant” means a person—
 - (a) who is his spouse or a child of his under the age of eighteen, and
 - (b) who has neither a right of abode in the United Kingdom nor indefinite leave under the Immigration Act 1971 to enter or remain in the United Kingdom.
- (5) In this section a “claim for asylum” means a claim made by a person that it would be contrary to the United Kingdom’s obligations under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention for him to be removed from, or required to leave, the United Kingdom.

187 Provision of information by Secretary of State

- (1) The Secretary of State shall, at the request of a local housing authority, provide the authority with such information as they may require—
 - (a) as to whether a person is or has become an asylum-seeker, or a dependant of an asylum-seeker, and
 - (b) to enable them to determine whether such a person is eligible for assistance under this Part under section 185 (persons from abroad not eligible for housing assistance).
- (2) Where that information is given otherwise than in writing, the Secretary of State shall confirm it in writing if a written request is made to him by the authority.

- (3) If it appears to the Secretary of State that any application, decision or other change of circumstances has affected the status of a person about whom information was previously provided by him to a local housing authority under this section, he shall inform the authority in writing of that fact, the reason for it and the date on which the previous information became inaccurate.

Interim duty to accommodate

188 Interim duty to accommodate in case of apparent priority need

- (1) If the local housing authority have reason to believe that an applicant may be homeless, eligible for assistance and have a priority need, they shall secure that accommodation is available for his occupation pending a decision as to the duty (if any) owed to him under the following provisions of this Part.
- (2) The duty under this section arises irrespective of any possibility of the referral of the applicant's case to another local housing authority (see sections 198 to 200).
- (3) The duty ceases when the authority's decision is notified to the applicant, even if the applicant requests a review of the decision (see section 202).

The authority may continue to secure that accommodation is available for the applicant's occupation pending a decision on a review.

189 Priority need for accommodation

- (1) The following have a priority need for accommodation—
 - (a) a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
 - (b) a person with whom dependent children reside or might reasonably be expected to reside;
 - (c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
 - (d) a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.
- (2) The Secretary of State may by order—
 - (a) specify further descriptions of persons as having a priority need for accommodation, and
 - (b) amend or repeal any part of subsection (1).
- (3) Before making such an order the Secretary of State shall consult such associations representing relevant authorities, and such other persons, as he considers appropriate.
- (4) No such order shall be made unless a draft of it has been approved by resolution of each House of Parliament.

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Duties to persons found to be homeless or threatened with homelessness

190 Duties to persons becoming homeless intentionally

- (1) This section applies where the local housing authority are satisfied that an applicant is homeless and is eligible for assistance but are also satisfied that he became homeless intentionally.
- (2) If the authority are satisfied that the applicant has a priority need, they shall—
 - (a) secure that accommodation is available for his occupation for such period as they consider will give him a reasonable opportunity of securing accommodation for his occupation, and
 - (b) provide him with advice and such assistance as they consider appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.
- (3) If they are not satisfied that he has a priority need, they shall provide him with advice and such assistance as they consider appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.

191 Becoming homeless intentionally

- (1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (2) For the purposes of subsection (1) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.
- (3) A person shall be treated as becoming homeless intentionally if—
 - (a) he enters into an arrangement under which he is required to cease to occupy accommodation which it would have been reasonable for him to continue to occupy, and
 - (b) the purpose of the arrangement is to enable him to become entitled to assistance under this Part,and there is no other good reason why he is homeless.
- (4) A person who is given advice or assistance under section 197 (duty where other suitable alternative accommodation available), but fails to secure suitable accommodation in circumstances in which it was reasonably to be expected that he would do so, shall, if he makes a further application under this Part, be treated as having become homeless intentionally.

192 Duty to persons not in priority need who are not homeless intentionally

- (1) This section applies where the local housing authority—
 - (a) are satisfied that an applicant is homeless and eligible for assistance, and
 - (b) are not satisfied that he became homeless intentionally,but are not satisfied that he has a priority need.
- (2) The authority shall provide the applicant with advice and such assistance as they consider appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.

193 Duty to persons with priority need who are not homeless intentionally

- (1) This section applies where the local housing authority are satisfied that an applicant is homeless, eligible for assistance and has a priority need, and are not satisfied that he became homeless intentionally.

This section has effect subject to section 197 (duty where other suitable accommodation available).

- (2) Unless the authority refer the application to another local housing authority (see section 198), they shall secure that accommodation is available for occupation by the applicant.
- (3) The authority are subject to the duty under this section for a period of two years (“the minimum period”), subject to the following provisions of this section.

After the end of that period the authority may continue to secure that accommodation is available for occupation by the applicant, but are not obliged to do so (see section 194).

- (4) The minimum period begins with—
- (a) if the applicant was occupying accommodation made available under section 188 (interim duty to accommodate), the day on which he was notified of the authority’s decision that the duty under this section was owed to him;
 - (b) if the applicant was occupying accommodation made available to him under section 200(3) (interim duty where case considered for referral but not referred), the date on which he was notified under subsection (2) of that section of the decision that the conditions for referral were not met;
 - (c) in any other case, the day on which accommodation was first made available to him in pursuance of the duty under this section.
- (5) The local housing authority shall cease to be subject to the duty under this section if the applicant, having been informed by the authority of the possible consequence of refusal, refuses an offer of accommodation which the authority are satisfied is suitable for him and the authority notify him that they regard themselves as having discharged their duty under this section.
- (6) The local housing authority shall cease to be subject to the duty under this section if the applicant—
- (a) ceases to be eligible for assistance,
 - (b) becomes homeless intentionally from the accommodation made available for his occupation,
 - (c) accepts an offer of accommodation under Part VI (allocation of housing), or
 - (d) otherwise voluntarily ceases to occupy as his only or principal home the accommodation made available for his occupation.
- (7) The local housing authority shall also cease to be subject to the duty under this section if—
- (a) the applicant, having been informed of the possible consequence of refusal, refuses an offer of accommodation under Part VI, and
 - (b) the authority are satisfied that the accommodation was suitable for him and that it was reasonable for him to accept it and notify him accordingly within 21 days of the refusal.
- (8) For the purposes of subsection (7) an applicant may reasonably be expected to accept an offer of accommodation under Part VI even though he is under contractual or other

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obligations in respect of his existing accommodation, provided he is able to bring those obligations to an end before he is required to take up the offer.

- (9) A person who ceases to be owed the duty under this section may make a fresh application to the authority for accommodation or assistance in obtaining accommodation.

194 Power exercisable after minimum period of duty under s. 193

- (1) Where a local housing authority have been subject to the duty under section 193 in relation to a person until the end of the minimum period, they may continue to secure that accommodation is available for his occupation.
- (2) They shall not do so unless they are satisfied on a review under this section that—
- (a) he has a priority need,
 - (b) there is no other suitable accommodation available for occupation by him in their district, and
 - (c) he wishes the authority to continue securing that accommodation is available for his occupation;

and they shall not continue to do so for more than two years at a time unless they are satisfied on a further review under this section as to those matters.

The review shall be carried out towards the end of the minimum period, or subsequent two year period, with a view to enabling the authority to make an assessment of the likely situation at the end of that period.

- (3) They shall cease to do so if events occur such that, by virtue of section 193(6) or (7), they would cease to be subject to any duty under that section.
- (4) Where an authority carry out a review under this section they shall make such inquiries as they consider appropriate to determine—
- (a) whether they are satisfied as to the matters mentioned in subsection (2)(a) to (c), and
 - (b) whether any of the events referred to in subsection (3) has occurred;
- and on completing the review they shall notify the applicant of their determination and of whether they propose to exercise, or continue to exercise, their power under this section.
- (5) The authority may at any time, whether in consequence of a review or otherwise, give notice to the person concerned that they propose to cease exercising their power under this section in his case.
- (6) The notice must specify—
- (a) the day on which they will cease exercising their power under this section, and
 - (b) any action that they intend to take as a result,
- and must be given not less than the prescribed period before the day so specified.

195 Duties in case of threatened homelessness

- (1) This section applies where the local housing authority are satisfied that an applicant is threatened with homelessness and is eligible for assistance.
- (2) If the authority—

- (a) are satisfied that he has a priority need, and
 - (b) are not satisfied that he became threatened with homelessness intentionally,
- they shall take reasonable steps to secure that accommodation does not cease to be available for his occupation.

This subsection has effect subject to section 197 (duty where other suitable accommodation available).

- (3) Subsection (2) does not affect any right of the authority, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of any accommodation.
- (4) Where in pursuance of the duty under subsection (2) the authority secure that accommodation other than that occupied by the applicant when he made his application is available for occupation by him, the provisions of section 193(3) to (9) (period for which duty owed) and section 194 (power exercisable after minimum period of duty) apply, with any necessary modifications, in relation to the duty under this section as they apply in relation to the duty under section 193.
- (5) If the authority—
 - (a) are not satisfied that the applicant has a priority need, or
 - (b) are satisfied that he has a priority need but are also satisfied that he became threatened with homelessness intentionally,they shall furnish him with advice and such assistance as they consider appropriate in the circumstances in any attempts he may make to secure that accommodation does not cease to be available for his occupation.

196 Becoming threatened with homelessness intentionally

- (1) A person becomes threatened with homelessness intentionally if he deliberately does or fails to do anything the likely result of which is that he will be forced to leave accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (2) For the purposes of subsection (1) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.
- (3) A person shall be treated as becoming threatened with homelessness intentionally if—
 - (a) he enters into an arrangement under which he is required to cease to occupy accommodation which it would have been reasonable for him to continue to occupy, and
 - (b) the purpose of the arrangement is to enable him to become entitled to assistance under this Part,and there is no other good reason why he is threatened with homelessness.
- (4) A person who is given advice or assistance under section 197 (duty where other suitable alternative accommodation available), but fails to secure suitable accommodation in circumstances in which it was reasonably to be expected that he would do so, shall, if he makes a further application under this Part, be treated as having become threatened with homelessness intentionally.

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Duty where other suitable accommodation available

197 Duty where other suitable accommodation available

- (1) This section applies if the local housing authority would be under a duty under this Part—
 - (a) to secure that accommodation is available for occupation by an applicant, or
 - (b) to secure that accommodation does not cease to be available for his occupation,but are satisfied that other suitable accommodation is available for occupation by him in their district.
- (2) In that case, their duty is to provide the applicant with such advice and assistance as the authority consider is reasonably required to enable him to secure such accommodation.
- (3) The duty ceases if the applicant fails to take reasonable steps to secure such accommodation.
- (4) In deciding what advice and assistance to provide under this section, and whether the applicant has taken reasonable steps, the authority shall have regard to all the circumstances including—
 - (a) the characteristics and personal circumstances of the applicant, and
 - (b) the state of the local housing market and the type of accommodation available.
- (5) For the purposes of this section accommodation shall not be regarded as available for occupation by the applicant if it is available only with assistance beyond what the authority consider is reasonable in the circumstances.
- (6) Subsection (1) does not apply to the duty of a local housing authority under—
 - section 188 (interim duty to accommodate in case of apparent priority need),
 - section 190(2)(a) (limited duty to person becoming homeless intentionally), or
 - section 200(1), (3) or (4) (interim duties where case is considered for referral or referred).

Referral to another local housing authority

198 Referral of case to another local housing authority

- (1) If the local housing authority would be subject to the duty under section 193 (accommodation for those with priority need who are not homeless intentionally) but consider that the conditions are met for referral of the case to another local housing authority, they may notify that other authority of their opinion.

The authority need not consider under section 197 whether other suitable accommodation is available before proceeding under this section.
- (2) The conditions for referral of the case to another authority are met if—
 - (a) neither the applicant nor any person who might reasonably be expected to reside with him has a local connection with the district of the authority to whom his application was made,
 - (b) the applicant or a person who might reasonably be expected to reside with him has a local connection with the district of that other authority, and

- (c) neither the applicant nor any person who might reasonably be expected to reside with him will run the risk of domestic violence in that other district.
- (3) For this purpose a person runs the risk of domestic violence—
 - (a) if he runs the risk of violence from a person with whom he is associated, or
 - (b) if he runs the risk of threats of violence from such a person which are likely to be carried out.
- (4) The conditions for referral of the case to another authority are also met if—
 - (a) the applicant was on a previous application made to that other authority placed (in pursuance of their functions under this Part) in accommodation in the district of the authority to whom his application is now made, and
 - (b) the previous application was within such period as may be prescribed of the present application.
- (5) The question whether the conditions for referral of a case are satisfied shall be decided by agreement between the notifying authority and the notified authority or, in default of agreement, in accordance with such arrangements as the Secretary of State may direct by order.
- (6) An order may direct that the arrangements shall be—
 - (a) those agreed by any relevant authorities or associations of relevant authorities, or
 - (b) in default of such agreement, such arrangements as appear to the Secretary of State to be suitable, after consultation with such associations representing relevant authorities, and such other persons, as he thinks appropriate.
- (7) No such order shall be made unless a draft of the order has been approved by a resolution of each House of Parliament.

199 Local connection

- (1) A person has a local connection with the district of a local housing authority if he has a connection with it—
 - (a) because he is, or in the past was, normally resident there, and that residence is or was of his own choice,
 - (b) because he is employed there,
 - (c) because of family associations, or
 - (d) because of special circumstances.
- (2) A person is not employed in a district if he is serving in the regular armed forces of the Crown.
- (3) Residence in a district is not of a person's own choice if—
 - (a) he becomes resident there because he, or a person who might reasonably be expected to reside with him, is serving in the regular armed forces of the Crown, or
 - (b) he, or a person who might reasonably be expected to reside with him, becomes resident there because he is detained under the authority of an Act of Parliament.
- (4) In subsections (2) and (3) “regular armed forces of the Crown” means the Royal Navy, the regular forces as defined by section 225 of the Army Act 1955, the regular air force

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as defined by section 223 of the Air Force Act 1955 and Queen Alexandra's Royal Naval Nursing Service.

- (5) The Secretary of State may by order specify other circumstances in which—
- (a) a person is not to be treated as employed in a district, or
 - (b) residence in a district is not to be treated as of a person's own choice.

200 Duties to applicant whose case is considered for referral or referred

- (1) Where a local housing authority notify an applicant that they intend to notify or have notified another local housing authority of their opinion that the conditions are met for the referral of his case to that other authority—
- (a) they cease to be subject to any duty under section 188 (interim duty to accommodate in case of apparent priority need), and
 - (b) they are not subject to any duty under section 193 (the main housing duty),
- but they shall secure that accommodation is available for occupation by the applicant until he is notified of the decision whether the conditions for referral of his case are met.

- (2) When it has been decided whether the conditions for referral are met, the notifying authority shall notify the applicant of the decision and inform him of the reasons for it.

The notice shall also inform the applicant of his right to request a review of the decision and of the time within which such a request must be made.

- (3) If it is decided that the conditions for referral are not met, the notifying authority shall secure that accommodation is available for occupation by the applicant until they have considered whether other suitable accommodation is available for his occupation in their district.

If they are satisfied that other suitable accommodation is available for his occupation in their district, section 197(2) applies; and if they are not so satisfied, they are subject to the duty under section 193 (the main housing duty).

- (4) If it is decided that the conditions for referral are met, the notified authority shall secure that accommodation is available for occupation by the applicant until they have considered whether other suitable accommodation is available for his occupation in their district.

If they are satisfied that other suitable accommodation is available for his occupation in their district, section 197(2) applies; and if they are not so satisfied, they are subject to the duty under section 193 (the main housing duty).

- (5) The duty under subsection (1), (3) or (4) ceases as provided in that subsection even if the applicant requests a review of the authority's decision (see section 202).

The authority may continue to secure that accommodation is available for the applicant's occupation pending the decision on a review.

- (6) Notice required to be given to an applicant under this section shall be given in writing and, if not received by him, shall be treated as having been given to him if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

201 Application of referral provisions to cases arising in Scotland

Sections 198 and 200 (referral of application to another local housing authority and duties to applicant whose case is considered for referral or referred) apply—

- (a) to applications referred by a local authority in Scotland in pursuance of sections 33 and 34 of the Housing (Scotland) Act 1987, and
- (b) to persons whose applications are so transferred,

as they apply to cases arising under this Part (the reference in section 198 to this Part being construed as a reference to Part II of that Act).

Right to request review of decision

202 Right to request review of decision

- (1) An applicant has the right to request a review of—
 - (a) any decision of a local housing authority as to his eligibility for assistance,
 - (b) any decision of a local housing authority as to what duty (if any) is owed to him under sections 190 to 193 and 195 to 197 (duties to persons found to be homeless or threatened with homelessness),
 - (c) any decision of a local housing authority to notify another authority under section 198(1) (referral of cases),
 - (d) any decision under section 198(5) whether the conditions are met for the referral of his case,
 - (e) any decision under section 200(3) or (4) (decision as to duty owed to applicant whose case is considered for referral or referred), or
 - (f) any decision of a local housing authority as to the suitability of accommodation offered to him in discharge of their duty under any of the provisions mentioned in paragraph (b) or (e).
- (2) There is no right to request a review of the decision reached on an earlier review.
- (3) A request for review must be made before the end of the period of 21 days beginning with the day on which he is notified of the authority's decision or such longer period as the authority may in writing allow.
- (4) On a request being duly made to them, the authority or authorities concerned shall review their decision.

203 Procedure on a review

- (1) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under section 202.

Nothing in the following provisions affects the generality of this power.

- (2) Provision may be made by regulations—
 - (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
 - (b) as to the circumstances in which the applicant is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.

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- (3) The authority, or as the case may be either of the authorities, concerned shall notify the applicant of the decision on the review.
- (4) If the decision is—
 - (a) to confirm the original decision on any issue against the interests of the applicant, or
 - (b) to confirm a previous decision—
 - (i) to notify another authority under section 198 (referral of cases), or
 - (ii) that the conditions are met for the referral of his case,they shall also notify him of the reasons for the decision.
- (5) In any case they shall inform the applicant of his right to appeal to a county court on a point of law, and of the period within which such an appeal must be made (see section 204).
- (6) Notice of the decision shall not be treated as given unless and until subsection (5), and where applicable subsection (4), is complied with.
- (7) Provision may be made by regulations as to the period within which the review must be carried out and notice given of the decision.
- (8) Notice required to be given to a person under this section shall be given in writing and, if not received by him, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

204 Right of appeal to county court on point of law

- (1) If an applicant who has requested a review under section 202—
 - (a) is dissatisfied with the decision on the review, or
 - (b) is not notified of the decision on the review within the time prescribed under section 203,he may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision.
- (2) An appeal must be brought within 21 days of his being notified of the decision or, as the case may be, of the date on which he should have been notified of a decision on review.
- (3) On appeal the court may make such order confirming, quashing or varying the decision as it thinks fit.
- (4) Where the authority were under a duty under section 188, 190 or 200 to secure that accommodation is available for the applicant's occupation, they may continue to secure that accommodation is so available—
 - (a) during the period for appealing under this section against the authority's decision, and
 - (b) if an appeal is brought, until the appeal (and any further appeal) is finally determined.

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—
 - (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,

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- (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
 - (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.

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- (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;
 - (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).

General provisions

214 False statements, withholding information and failure to disclose change of circumstances

- (1) It is an offence for a person, with intent to induce a local housing authority to believe in connection with the exercise of their functions under this Part that he or another person is entitled to accommodation or assistance in accordance with the provisions of this Part, or is entitled to accommodation or assistance of a particular description—
- (a) knowingly or recklessly to make a statement which is false in a material particular, or

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- (b) knowingly to withhold information which the authority have reasonably required him to give in connection with the exercise of those functions.
- (2) If before an applicant receives notification of the local housing authority's decision on his application there is any change of facts material to his case, he shall notify the authority as soon as possible.

The authority shall explain to every applicant, in ordinary language, the duty imposed on him by this subsection and the effect of subsection (3).

- (3) A person who fails to comply with subsection (2) commits an offence unless he shows that he was not given the explanation required by that subsection or that he had some other reasonable excuse for non-compliance.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

215 Regulations and orders

- (1) In this Part “prescribed” means prescribed by regulations of the Secretary of State.
- (2) Regulations or an order under this Part may make different provision for different purposes, including different provision for different areas.
- (3) Regulations or an order under this Part shall be made by statutory instrument.
- (4) Unless required to be approved in draft, regulations or an order under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

216 Transitional and consequential matters

- (1) The provisions of this Part have effect in place of the provisions of Part III of the Housing Act 1985 (housing the homeless) and shall be construed as one with that Act.
- (2) Subject to any transitional provision contained in an order under section 232(4) (power to include transitional provision in commencement order), the provisions of this Part do not apply in relation to an applicant whose application for accommodation or assistance in obtaining accommodation was made before the commencement of this Part.
- (3) The enactments mentioned in Schedule 17 have effect with the amendments specified there which are consequential on the provisions of this Part.

217 Minor definitions: Part VII

- (1) In this Part, subject to subsection (2)—
 - “relevant authority” means a local housing authority or a social services authority; and
 - “social services authority” means a local authority for the purposes of the Local Authority Social Services Act 1970, as defined in section 1 of that Act.
- (2) In this Part, in relation to Scotland—
 - (a) “local housing authority” means a local authority within the meaning of the Housing (Scotland) Act 1988, and

- (b) “social services authority” means a local authority for the purposes of the Social Work (Scotland) Act 1968.
- (3) References in this Part to the district of a local housing authority—
 - (a) have the same meaning in relation to an authority in England or Wales as in the Housing Act 1985, and
 - (b) in relation to an authority in Scotland, mean the area of the local authority concerned.

218 Index of defined expressions: Part VII

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section)—

accommodation available for occupation	section 176
applicant	section 183(2)
assistance under this Part	section 183(2)
associated (in relation to a person)	section 178
assured tenancy and assured shorthold tenancy	section 230
district (of local housing authority)	section 217(3)
eligible for assistance	section 183(2)
homeless	section 175(1)
housing functions under this Part (in sections 206 to 209)	section 205(2)
intentionally homeless	section 191
intentionally threatened with homelessness	section 196
local connection	section 199
local housing authority— -in England and Wales -in Scotland	section 230 section 217(2)(a)
minimum period (for purposes of section 193)	section 193(3) and (4)
prescribed	section 215(1)
priority need	section 189
reasonable to continue to occupy accommodation	section 177
registered social landlord	section 230
relevant authority	section 217(1)
social services authority	section 217(1) and (2)(b)
threatened with homelessness	section 175(4)
