

*Changes to legislation: There are currently no known outstanding effects for the Homelessness Act 2002, SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 18(1)

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Housing Act 1985 (c. 68)*

- 1 In section 106(6) of the Housing Act 1985 (information about housing allocation not required in cases provided for by Part 6 of the 1996 Act), for “sections 166 and” there is substituted “ section ”.

##### **Commencement Information**

- 11** Sch. 1 para. 1 wholly in force at 31.1.2003; Sch. 1 para. 1 not in force at Royal Assent see s. 20(1); Sch. 1 para. 1 in force for W. at 27.1.2003 by S.I. 2002/1736, art. 2(2), Sch. Pt. 2; Sch. 1 para. 1 in force for E. at 31.1.2003 by S.I. 2002/3114, art. 3

##### *Housing Act 1996 (c. 52)*

- 2 The Housing Act 1996 is amended as follows.

##### **Commencement Information**

- 12** Sch. 1 para. 2 wholly in force at 31.1.2003; Sch. 1 para. 2 not in force at Royal Assent see s. 20(1); Sch. 1 para. 2 in force for W. at 27.1.2003 by S.I. 2002/1736, art. 2(2), Sch. Pt. 2; Sch. 1 para. 2 in force for E. at 31.1.2003 by S.I. 2002/3114, art. 3

- 3 (1) In section 161 (allocation only to qualifying persons), for subsection (2A) there is substituted—

“(2A) No person who is excluded from entitlement to housing benefit by section 115 of the Immigration and Asylum Act 1999 (c. 33) (exclusion from benefits) shall be included in any class prescribed under subsection (2).”

- (2) This paragraph comes into force on the day on which this Act is passed.
- 4 In section 168(3) (information about allocation schemes), for the words from “notify” to the end there is substituted “ take such steps as they consider reasonable to bring the effect of the alteration to the attention of those likely to be affected by it ”.

##### **Commencement Information**

- 13** Sch. 1 para. 4 wholly in force at 31.1.2003; Sch. 1 para. 4 not in force at Royal Assent see s. 20(1); Sch. 1 para. 4 in force for W. at 27.1.2003 by S.I. 2002/1736, art. 2(2), Sch. Pt. 2; Sch. 1 para. 4 in force for E. at 31.1.2003 by S.I. 2002/3114, art. 3

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- 5 In section 170 (co-operation between registered social landlords and local housing authorities), for “people with priority on the authority’s housing register” there is substituted “ people with priority under the authority’s allocation scheme ”.

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- I4** Sch. 1 para. 5 wholly in force at 31.1.2003; Sch. 1 para. 5 not in force at Royal Assent see s. 20(1); Sch. 1 para. 5 in force for W. at 27.1.2003 by S.I. 2002/1736, art. 2(2), Sch. Pt. 2; Sch. 1 para. 5 in force for E. at 31.1.2003 by S.I. 2002/3114, art. 3

- 6 In section 174 (index of defined expressions), after the entry for “assured tenancy” there is inserted—

“district (of local housing authority) section 166(5)”.

**Commencement Information**

- I5** Sch. 1 para. 6 wholly in force at 31.1.2003; Sch. 1 para. 6 not in force at Royal Assent see s. 20(1); Sch. 1 para. 6 in force for W. at 27.1.2003 by S.I. 2002/1736, art. 2(2), Sch. Pt. 2; Sch. 1 para. 6 in force for E. at 31.1.2003 by S.I. 2002/3114, art. 3

- 7 (1) In section 185 (persons from abroad not eligible for assistance under Part 7), for subsection (2A) there is substituted—

“(2A) No person who is excluded from entitlement to housing benefit by section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) shall be included in any class prescribed under subsection (2).”

- (2) This paragraph comes into force on the day on which this Act is passed.

- 8 In section 188(3) (interim duty to accommodate in case of apparent priority need), for “continue to secure” there is substituted “ secure ”.

**Commencement Information**

- I6** Sch. 1 para. 8 wholly in force at 30.9.2002; Sch. 1 para. 8 not in force at Royal Assent see s. 20(1); Sch. 1 para. 8 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 8 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

- 9 In section 190(2)(b) and (3) (provision of advice and assistance), for “advice and such assistance as they consider appropriate in the circumstances” there is substituted “ (or secure that he is provided with) advice and assistance ”.

**Commencement Information**

- I7** Sch. 1 para. 9 wholly in force at 30.9.2002; Sch. 1 para. 9 not in force at Royal Assent see s. 20(1); Sch. 1 para. 9 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 9 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

- 10 At the end of section 190 there is inserted—

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“(4) The applicant’s housing needs shall be assessed before advice and assistance is provided under subsection (2)(b) or (3).

(5) The advice and assistance provided under subsection (2)(b) or (3) must include information about the likely availability in the authority’s district of types of accommodation appropriate to the applicant’s housing needs (including, in particular, the location and sources of such types of accommodation).”

**Commencement Information**

**I8** Sch. 1 para. 10 wholly in force at 30.9.2002; Sch. 1 para. 10 not in force at Royal Assent see s. 20(1); Sch. 1 para. 10 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 10 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

11 In section 192(2) (provision of advice and assistance), for the words from “advice” to “circumstances” there is substituted “ (or secure that he is provided with) advice and assistance ”.

**Commencement Information**

**I9** Sch. 1 para. 11 wholly in force at 30.9.2002; Sch. 1 para. 11 not in force at Royal Assent see s. 20(1); Sch. 1 para. 11 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 11 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

12 After subsection (3) of section 192 (as inserted by section 5(1) above) there is inserted—

“(4) The applicant’s housing needs shall be assessed before advice and assistance is provided under subsection (2).

(5) The advice and assistance provided under subsection (2) must include information about the likely availability in the authority’s district of types of accommodation appropriate to the applicant’s housing needs (including, in particular, the location and sources of such types of accommodation).”

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**I10** Sch. 1 para. 12 wholly in force at 30.9.2002; Sch. 1 para. 12 not in force at Royal Assent see s. 20(1); Sch. 1 para. 12 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 12 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

13 In section 193 (duty to persons with priority need who are not homeless intentionally), after subsection (3) (as substituted by section 6 above) there is inserted—

“(3A) The authority shall, on becoming subject to the duty under this section, give the applicant a copy of the statement included in their allocation scheme by virtue of section 167(1A) (policy on offering choice to people allocated housing accommodation under Part 6).”

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**III** Sch. 1 para. 13 wholly in force at 31.1.2003; Sch. 1 para. 13 not in force at Royal Assent see s. 20(1); Sch. 1 para. 13 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1; Sch. 1 para. 13 in force for E. at 31.1.2003 by S.I. 2002/3114, art. 3

- 14 In section 195 (duties in case of threatened homelessness)—
- (a) after subsection (3) there is inserted—
- “(3A) The authority shall, on becoming subject to the duty under this section, give the applicant a copy of the statement included in their allocation scheme by virtue of section 167(1A) (policy on offering choice to people allocated housing accommodation under Part 6).”;
- (b) in subsection (5), for the words from “furnish” to “circumstances” there is substituted “ provide him with (or secure that he is provided with) advice and assistance ”;
- (c) after subsection (5) there is inserted—
- “(6) The applicant’s housing needs shall be assessed before advice and assistance is provided under subsection (5).
- (7) The advice and assistance provided under subsection (5) must include information about the likely availability in the authority’s district of types of accommodation appropriate to the applicant’s housing needs (including, in particular, the location and sources of such types of accommodation).”;
- and
- (d) after subsection (7) (as inserted by paragraph (c) above) there is inserted—
- “(8) If the authority decide that they owe the applicant the duty under subsection (5) by virtue of paragraph (b) of that subsection, they may, pending a decision on a review of that decision—
- (a) secure that accommodation does not cease to be available for his occupation; and
- (b) if he becomes homeless, secure that accommodation is so available.”

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**III2** Sch. 1 para. 14 wholly in force at 31.1.2003; Sch. 1 para. 14 not in force at Royal Assent see s. 20(1); Sch. 1 para. 14(b)-(d) in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 14 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1; Sch. 1 para. 14 in force for E. at 31.1.2003 except in so far as already in force by S.I. 2002/3114, art. 3

- 15 In section 200 (cases considered for referral to another local housing authority)—
- (a) for subsections (3) and (4) there is substituted—
- “(3) If it is decided that the conditions for referral are not met, the notifying authority are subject to the duty under section 193 (the main housing duty).

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(4) If it is decided that those conditions are met, the notified authority are subject to the duty under section 193 (the main housing duty).”;

and

(b) in subsection (5), for “continue to secure” there is substituted “ secure ”.

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**I13** Sch. 1 para. 15 wholly in force at 30.9.2002; Sch. 1 para. 15 not in force at Royal Assent see s. 20(1); Sch. 1 para. 15 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 15 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

16 In section 202(1)(b) (right to request review of decision), for “to 197” there is substituted “ and 196 ”.

#### Commencement Information

**I14** Sch. 1 para. 16 wholly in force at 30.9.2002; Sch. 1 para. 16 not in force at Royal Assent see s. 20(1); Sch. 1 para. 16 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 16 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

17 In section 204 (right of appeal to county court)—

(a) after subsection (2) there is inserted—

“(2A) The court may give permission for an appeal to be brought after the end of the period allowed by subsection (2), but only if it is satisfied—

(a) where permission is sought before the end of that period, that there is a good reason for the applicant to be unable to bring the appeal in time; or

(b) where permission is sought after that time, that there was a good reason for the applicant’s failure to bring the appeal in time and for any delay in applying for permission.”;

and

(b) in subsection (4), for “, they may continue to” there is substituted “, or had the power under section 195(8) to do so, they may ”.

#### Commencement Information

**I15** Sch. 1 para. 17 wholly in force at 31.1.2003; Sch. 1 para. 17 not in force at Royal Assent see s. 20(1); Sch. 1 para. 17(b) in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 17(a) in force for E. at 30.9.2002 by S.I. 2002/2324, art. 3 (subject to art. 4); Sch. 1 para. 17 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1; Sch. 1 para. 17 in force for E. at 31.3.2003 except in so far as already in force by S.I. 2002/3114, art. 3

18 In section 205(2) (meaning of the authority’s “housing functions under this Part” in sections 206 to 209), for “those sections” there is substituted “ sections 206 and 208 ”.

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**I16** Sch. 1 para. 18 wholly in force at 30.9.2002; Sch. 1 para. 18 not in force at Royal Assent see s. 20(1); Sch. 1 para. 18 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 18 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

- 19 For section 209 (discharge of duties through arrangements with private landlords) there is substituted—

**“209 Discharge of interim duties: arrangements with private landlord**

- (1) This section applies where in pursuance of any of their housing functions under section 188, 190, 200 or 204(4) (interim duties) a local housing authority make arrangements with a private landlord to provide accommodation.
- (2) A tenancy granted to the applicant in pursuance of the arrangements 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 case 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.”

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**I17** Sch. 1 para. 19 wholly in force at 30.9.2002; Sch. 1 para. 19 not in force at Royal Assent see s. 20(1); Sch. 1 para. 19 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 19 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

- 20 In section 217(1) (minor definitions) before the definition of “relevant authority” there is inserted—

““private landlord” means a landlord who is not within section 80(1) of the Housing Act 1985 (c. 68) (the landlord condition for secure tenancies);”.

**Commencement Information**

**I18** Sch. 1 para. 20 wholly in force at 30.9.2002; Sch. 1 para. 20 not in force at Royal Assent see s. 20(1); Sch. 1 para. 20 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 20 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

- 21 In section 218 (index of defined expressions)—
- (a) in the entry for “housing functions under this Part”, for “206 to 209” there is substituted “ 206 and 208 ”; and
  - (b) after the entry for “priority need” there is inserted—

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“private landlord

section 217(1)”.

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**I19** Sch. 1 para. 21 wholly in force at 30.9.2002; Sch. 1 para. 21 not in force at Royal Assent see s. 20(1); Sch. 1 para. 21 in force for E. at 31.7.2002 by S.I. 2002/1799, art. 2; Sch. 1 para. 21 in force for W. at 30.9.2002 by S.I. 2002/1736, art. 2(1), Sch. Pt. 1

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