



# Homelessness Reduction Act 2017

## 2017 CHAPTER 13

### *Duties to those who are homeless or threatened with homelessness*

#### **4 Duty in cases of threatened homelessness**

- (1) The Housing Act 1996 is amended as follows.
- (2) For section 195 (duties in case of threatened homelessness) substitute—

##### **“195 Duties in cases of threatened homelessness**

- (1) This section applies where the local housing authority are satisfied that an applicant is—
  - (a) threatened with homelessness, and
  - (b) eligible for assistance.
- (2) The authority must take reasonable steps to help the applicant to secure that accommodation does not cease to be available for the applicant's occupation.
- (3) In deciding what steps they are to take, the authority must have regard to their assessment of the applicant's case under section 189A.
- (4) Subsection (2) does not affect any right of the authority, whether by virtue of contract, enactment or rule of law, to secure vacant possession of any accommodation.
- (5) If any of the circumstances mentioned in subsection (8) apply, the authority may give notice to the applicant bringing the duty under subsection (2) to an end.
- (6) But the authority may not give notice to the applicant under subsection (5) on the basis that the circumstances in subsection (8)(b) apply if a valid notice has been given to the applicant under section 21 of the Housing Act 1988 (orders for possession on expiry or termination of assured shorthold tenancy) that—
  - (a) will expire within 56 days or has expired, and

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- (b) is in respect of the only accommodation that is available for the applicant's occupation.
- (7) The notice must—
- (a) specify which of the circumstances apply, and
  - (b) inform the applicant that the applicant has a right to request a review of the authority's decision to bring the duty under subsection (2) to an end and of the time within which such a request must be made.
- (8) The circumstances are that the authority are satisfied that—
- (a) the applicant has—
    - (i) suitable accommodation available for occupation, and
    - (ii) a reasonable prospect of having suitable accommodation available for occupation for at least 6 months, or such longer period not exceeding 12 months as may be prescribed, from the date of the notice,
  - (b) the authority have complied with the duty under subsection (2) and the period of 56 days beginning with the day that the authority are first satisfied as mentioned in subsection (1) has ended (whether or not the applicant is still threatened with homelessness),
  - (c) the applicant has become homeless,
  - (d) the applicant has refused an offer of suitable accommodation and, on the date of refusal, there was a reasonable prospect that suitable accommodation would be available for occupation by the applicant for at least 6 months or such longer period not exceeding 12 months as may be prescribed,
  - (e) the applicant has become homeless intentionally from any accommodation that has been made available to the applicant as a result of the authority's exercise of their functions under subsection (2),
  - (f) the applicant is no longer eligible for assistance, or
  - (g) the applicant has withdrawn the application mentioned in section 183(1).
- (9) A notice under this section must be given in writing and, if not received by the applicant, is to be treated as having been given to the applicant if it is made available at the authority's office for a reasonable period for collection by or on behalf of the applicant.
- (10) The duty under subsection (2) can also be brought to an end under sections 193B and 193C (notices in cases of applicant's deliberate and unreasonable refusal to co-operate)."
- (3) In section 184 (inquiry into cases of homelessness or threatened homelessness), in subsection (3A)—
- (a) omit "or 195(2)";
  - (b) omit "or (as the case may be) section 195(4A)".
- (4) In section 195A (re-application after private rented sector offer)—
- (a) omit subsections (3) and (4);
  - (b) in subsection (5), omit "or (3)";
  - (c) in subsection (6), omit "or (3)" (in both places).

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- (5) Omit section 196 (becoming threatened with homelessness intentionally).
- (6) In section 204 (right of appeal to the county court on point of law), in subsection (4), omit “or had the power under section 195(8) to do so,”.
- (7) In section 213A (co-operation in certain cases involving children)—
  - (a) in subsection (1)—
    - (i) at the end of paragraph (a) insert “ or ”;
    - (ii) omit paragraph (c) and the “or” preceding it;
  - (b) in subsection (5)(a), for the words from “assistance” to the second “intentionally” substitute “ assistance or became homeless intentionally ”.
- (8) In section 218 (index of defined expressions: Part 7), in the Table, omit the entry for “intentionally threatened with homelessness”.

#### Commencement Information

**II** S. 4 in force at 3.4.2018 by S.I. 2018/167, reg. 3(d) (with reg. 4(1))

## 5 Duties owed to those who are homeless

- (1) The Housing Act 1996 is amended as follows.
- (2) Before section 190, but after the heading before that section (duties to persons found to be homeless or threatened with homelessness), insert—

### “189B Initial duty owed to all eligible persons who are homeless

- (1) This section applies where the local housing authority are satisfied that an applicant is—
  - (a) homeless, and
  - (b) eligible for assistance.
- (2) Unless the authority refer the application to another local housing authority in England (see section 198(A1)), the authority must take reasonable steps to help the applicant to secure that suitable accommodation becomes available for the applicant's occupation for at least—
  - (a) 6 months, or
  - (b) such longer period not exceeding 12 months as may be prescribed.
- (3) In deciding what steps they are to take, the authority must have regard to their assessment of the applicant's case under section 189A.
- (4) Where the authority—
  - (a) are satisfied that the applicant has a priority need, and
  - (b) are not satisfied that the applicant became homeless intentionally,the duty under subsection (2) comes to an end at the end of the period of 56 days beginning with the day the authority are first satisfied as mentioned in subsection (1).

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- (5) If any of the circumstances mentioned in subsection (7) apply, the authority may give notice to the applicant bringing the duty under subsection (2) to an end.
- (6) The notice must—
- (a) specify which of the circumstances apply, and
  - (b) inform the applicant that the applicant has a right to request a review of the authority's decision to bring the duty under subsection (2) to an end and of the time within which such a request must be made.
- (7) The circumstances are that the authority are satisfied that—
- (a) the applicant has—
    - (i) suitable accommodation available for occupation, and
    - (ii) a reasonable prospect of having suitable accommodation available for occupation for at least 6 months, or such longer period not exceeding 12 months as may be prescribed, from the date of the notice,
  - (b) the authority have complied with the duty under subsection (2) and the period of 56 days beginning with the day that the authority are first satisfied as mentioned in subsection (1) has ended (whether or not the applicant has secured accommodation),
  - (c) the applicant has refused an offer of suitable accommodation and, on the date of refusal, there was a reasonable prospect that suitable accommodation would be available for occupation by the applicant for at least 6 months or such longer period not exceeding 12 months as may be prescribed,
  - (d) the applicant has become homeless intentionally from any accommodation that has been made available to the applicant as a result of the authority's exercise of their functions under subsection (2),
  - (e) the applicant is no longer eligible for assistance, or
  - (f) the applicant has withdrawn the application mentioned in section 183(1).
- (8) A notice under this section must be given in writing and, if not received by the applicant, is to be treated as having been given to the applicant if it is made available at the authority's office for a reasonable period for collection by or on behalf of the applicant.
- (9) The duty under subsection (2) can also be brought to an end under—
- (a) section 193A (consequences of refusal of final accommodation offer or final Part 6 offer at the initial relief stage), or
  - (b) sections 193B and 193C (notices in cases of applicant's deliberate and unreasonable refusal to co-operate)."
- (3) In section 184 (inquiry into cases of homelessness)—
- (a) in subsection (3A), after “duty is” insert “, or after the authority's duty to the applicant under section 189B(2) comes to an end would be, ”;
  - (b) in subsection (4), for “under section 198 (referral of cases)” substitute “ in England under section 198(A1) (referral of cases where section 189B applies) ”.

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(4) In section 188 (interim duty to accommodate in case of apparent priority need)—

(a) for subsection (1) substitute—

“(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 must secure that accommodation is available for the applicant's occupation.

(1ZA) In a case in which the local housing authority conclude their inquiries under section 184 and decide that the applicant does not have a priority need—

(a) where the authority decide that they do not owe the applicant a duty under section 189B(2), the duty under subsection (1) comes to an end when the authority notify the applicant of that decision, or

(b) otherwise, the duty under subsection (1) comes to an end upon the authority notifying the applicant of their decision that, upon the duty under section 189B(2) coming to an end, they do not owe the applicant any duty under section 190 or 193.

(1ZB) In any other case, the duty under subsection (1) comes to an end upon the later of—

(a) the duty owed to the applicant under section 189B(2) coming to an end or the authority notifying the applicant that they have decided that they do not owe the applicant a duty under that section, and

(b) the authority notifying the applicant of their decision as to what other duty (if any) they owe to the applicant under the following provisions of this Part upon the duty under section 189B(2) coming to an end.”;

(b) in subsection (1A), for “pending a decision of the kind referred to in subsection (1)” substitute “ until the later of paragraph (a) or (b) of subsection (1ZB). ”;

(c) for subsection (3) substitute—

“(2A) For the purposes of this section, where the applicant requests a review under section 202(1)(h) of the authority's decision as to the suitability of accommodation offered to the applicant by way of a final accommodation offer or a final Part 6 offer (within the meaning of section 193A), the authority's duty to the applicant under section 189B(2) is not to be taken to have come to an end under section 193A(2) until the decision on the review has been notified to the applicant.

(3) Otherwise, the duty under this section comes to an end in accordance with subsections (1ZA) to (1A), regardless of any review requested by the applicant under section 202.

But the authority may secure that accommodation is available for the applicant's occupation pending a decision on review.”

(5) In section 190 (duties to persons becoming homeless intentionally)—

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- (a) for subsection (1) substitute—
  - “(1) This section applies where—
    - (a) the local housing authority are satisfied that an applicant—
      - (i) is homeless and eligible for assistance, but
      - (ii) became homeless intentionally,
    - (b) the authority are also satisfied that the applicant has a priority need, and
    - (c) the authority's duty to the applicant under section 189B(2) has come to an end.”;
  - (b) in subsection (2), for the words before paragraph (a) substitute “ The authority must— ”;
  - (c) omit subsection (3);
  - (d) in subsection (5), omit “or (3)”.
- (6) Omit section 192 (duty to persons not in priority need who are not homeless intentionally).
- (7) In section 193 (duty to persons with priority need who are not homeless intentionally), for subsection (1) substitute—
  - “(1) This section applies where—
    - (a) the local housing authority—
      - (i) are satisfied that an applicant is homeless and eligible for assistance, and
      - (ii) are not satisfied that the applicant became homeless intentionally,
    - (b) the authority are also satisfied that the applicant has a priority need, and
    - (c) the authority's duty to the applicant under section 189B(2) has come to an end.”
- (8) In section 198 (referral of case to another local housing authority), before subsection (1) insert—
  - “(A1) If the local housing authority would be subject to the duty under section 189B (initial duty owed to all eligible persons who are homeless) but consider that the conditions are met for referral of the case to another local housing authority in England, they may notify that other authority of their opinion.”
- (9) After section 199 insert—

**“199A Duties to the applicant whose case is considered for referral or referred under section 198(A1)**

- (1) Where a local housing authority (“the notifying authority”) notify an applicant that they intend to notify or have notified another local housing authority in England (“the notified authority”) under section 198(A1) of their opinion that the conditions are met for referral of the applicant's case to the notified authority, the notifying authority—
  - (a) cease to be subject to any duty under section 188 (interim duty to accommodate in case of apparent priority need), and

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- (b) are not subject to the duty under section 189B (initial duty owed to all eligible persons who are homeless).
- (2) But, if the notifying authority have reason to believe that the applicant may have a priority need, they must secure that accommodation is available for occupation by the applicant until the applicant is notified of the decision as to whether the conditions for referral of the applicant's case are met.
- (3) When it has been decided whether the conditions for referral are met, the notifying authority must give notice of the decision and the reasons for it to the applicant.

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

- (4) If it is decided that the conditions for referral are not met—
  - (a) the notifying authority are subject to the duty under section 189B,
  - (b) the references in subsections (4) and (7)(b) of that section to the day that the notifying authority are first satisfied as mentioned in subsection (1) of that section are to be read as references to the day on which notice is given under subsection (3) of this section, and
  - (c) if the notifying authority have reason to believe that the applicant may have a priority need, they must secure that accommodation is available for occupation by the applicant until the later of—
    - (i) the duty owed to the applicant under section 189B coming to an end, and
    - (ii) the authority deciding what other duty (if any) they owe to the applicant under this Part after the duty under section 189B comes to an end.
- (5) If it is decided that the conditions for referral are met—
  - (a) for the purposes of this Part, the applicant is to be treated as having made an application of the kind mentioned in section 183(1) to the notified authority on the date on which notice is given under subsection (3),
  - (b) from that date, the notifying authority owes no duties to the applicant under this Part,
  - (c) where the notifying authority have made a decision as to whether the applicant is eligible for assistance, is homeless or became homeless intentionally, the notified authority may only come to a different decision if they are satisfied that—
    - (i) the applicant's circumstances have changed, or further information has come to light, since the notifying authority made their decision, and
    - (ii) that change in circumstances, or further information, justifies the notified authority coming to a different decision to the notifying authority, and
  - (d) the notifying authority must give to the notified authority copies of any notifications that the notifying authority have given to the applicant under section 189A(3) or (10) (notifications of the notifying authority's assessments of the applicant's case).

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- (6) A duty under subsection (2) or paragraph (c) of subsection (4) ceases as provided in the subsection or paragraph concerned even if the applicant requests a review of the authority's decision upon which the duty ceases.

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

- (7) A notice under this section must be given in writing and, if not received by the applicant, is to be treated as having been given to the applicant if it is made available at the authority's office for a reasonable period for collection by or on behalf of the applicant."

- (10) In section 200 (duties to the applicant whose case is considered for referral or referred)

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- (a) in the heading, after "referred" insert " under section 198(1) ";
- (b) in subsection (1), after "another local housing authority" insert " under section 198(1) ";
- (c) after that subsection insert—

"(1A) A local housing authority in England may not notify an applicant as mentioned in subsection (1) until the authority's duty to the applicant under section 189B(2) (initial duty owed to all eligible persons who are homeless) has come to an end.";

- (d) in subsection (6), omit "required to be".

- (11) In section 204 (right of appeal to county court on point of law), in subsection (4), after "190" insert " , 199A ".

- (12) In section 211 (protection of property of homeless persons and persons threatened with homelessness), in subsection (2), after "accommodate)," insert— " section 189B (initial duty owed to all eligible persons who are homeless), ".

#### Commencement Information

**I2** S. 5 in force at 3.4.2018 by S.I. 2018/167, reg. 3(e) (with reg. 4(1))

## 6 Duties to help to secure accommodation

In section 205 of the Housing Act 1996 (discharge of functions: introductory), after subsection (2) insert—

- "(3) For the purposes of this section, a local housing authority's duty under section 189B(2) or 195(2) is a function of the authority to secure that accommodation is available for the occupation of a person only if the authority decide to discharge the duty by securing that accommodation is so available."

#### Commencement Information

**I3** S. 6 in force at 3.4.2018 by S.I. 2018/167, reg. 3(f)



**Changes to legislation:**

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