



## 2010 CHAPTER 9

### *Homelessness*

#### **Homelessness strategy**

1. After Article 6 of the Order of 1988 (becoming homeless intentionally) and before the cross-heading immediately preceding Article 7 insert—

*“Executive to publish homelessness strategy  
and provide advice about homelessness*

#### **Duty of Executive to formulate a homelessness strategy**

**6A.—**(1) The Executive may formulate and publish a homelessness strategy.

(2) The Regional Agency and the Regional Board shall give such assistance in connection with the exercise of the power under paragraph (1) as the Executive may reasonably require.

(3) The Executive shall exercise that power so as to ensure that the first homelessness strategy is published within the period of 12 months beginning with the day on which section 1 of the Housing (Amendment) Act (Northern Ireland) 2010 comes into operation.

(4) The Executive shall exercise that power so as to ensure that a new homelessness strategy is published within the period of 5 years beginning with the day on which its last homelessness strategy was published.

(5) The following shall take the homelessness strategy into account in the exercise of their functions—

- (a) the Executive;

- (b) the Regional Board;
- (c) Health and Social Care trusts;
- (d) education and library boards;
- (e) registered housing associations;
- (f) district councils;
- (g) the Secretary of State (in relation to any function exercisable in connection with prisons in Northern Ireland);
- (h) the Probation Board for Northern Ireland;
- (i) the Department of Education;
- (j) the Department for Employment and Learning;
- (k) the Department of Health, Social Services and Public Safety;
- (l) the Department for Social Development.

(6) Nothing in paragraph (5) affects any duty or requirement arising apart from this Article.

### **Homelessness strategy**

**6B.**—(1) For the purposes of this Order “homelessness strategy” means a strategy for—

- (a) preventing homelessness in Northern Ireland;
- (b) securing that sufficient accommodation is and will be available for people in Northern Ireland who are or may become homeless;
- (c) securing the satisfactory provision of advice and assistance for people in Northern Ireland—
  - (i) who are or may become homeless; or
  - (ii) who have been homeless and need advice and assistance to prevent them becoming homeless again.

(2) A homelessness strategy may include specific objectives to be pursued, and specific action planned to be taken, in the course of the exercise of—

- (a) the functions of the Executive;
- (b) the functions of the Regional Board; or
- (c) the functions of Health and Social Care trusts.

(3) A homelessness strategy may also include provision relating to specific action which the Executive expects to be taken—

- (a) by any statutory body with functions (not being functions mentioned in paragraph (2)) which are capable of contributing

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to the achievement of any of the objectives mentioned in paragraph (1); or

(b) by any voluntary organisation or other person whose activities are capable of contributing to the achievement of any of those objectives.

(4) The inclusion in a homelessness strategy of any provision relating to action mentioned in paragraph (3) requires the approval of the body or person concerned.

(5) In formulating a homelessness strategy the Executive shall consider (among other things) the extent to which any of the objectives mentioned in paragraph (1) can be achieved through action involving two or more of the bodies or other persons mentioned in paragraphs (2) and (3).

(6) The Executive shall keep its homelessness strategy under review and may modify it.

(7) If the Executive modifies its homelessness strategy, it shall publish the modifications or the strategy as modified (as it considers most appropriate).

(8) Before adopting or modifying a homelessness strategy the Executive shall consult such statutory bodies, voluntary organisations or other persons as it considers appropriate.

(9) The Executive shall—

(a) make a copy of everything published under Article 6A or this Article available at its district offices for inspection at all reasonable hours, without charge, by members of the public; and

(b) provide (on payment, if required by the Executive, of a reasonable charge) a copy of anything so published to any member of the public who asks for one.

### **Articles 6A and 6B: interpretation**

**6C.** In Articles 6A and 6B—

“the Regional Agency” means the Regional Agency for Public Health and Social Well-being established under section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

“the Regional Board” means the Regional Health and Social Care Board established under section 7 of that Act;

“registered housing association” means a registered housing association within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992;

“voluntary organisation” means a body which is not a statutory body and whose activities are carried on otherwise than for profit.”.

**Duty of Executive to provide advice**

2. After Article 6C of the Order of 1988 (inserted by section 1) insert—

**“Duty of the Executive to provide advice**

**6D.**—(1) The Executive shall secure that advice about homelessness, and the prevention of homelessness, is available free of charge to any person in Northern Ireland.

(2) The Executive may give to any person by whom such advice is provided on behalf of the Executive assistance by way of grant or loan.

(3) The Executive may also assist any such person—

- (a) by permitting him to use premises belonging to the Executive,
- (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 Executive.

(4) In relation to the form and content of advice under paragraph (1) the Executive shall have regard to any guidance issued by the Department.”.

**Eligibility for housing assistance**

**3.**—(1) Article 7A of the Order of 1988 (persons not eligible for housing assistance) shall be amended as follows.

(2) In paragraph (5) for the words “an applicant” substitute “a person”.

(3) At the end add—

“(9) Where the Executive decides that a person—

- (a) is ineligible for assistance under this Part by virtue of paragraph (1) (a) or (b), or
- (b) is to be treated as ineligible for assistance under this Part by virtue of paragraph (5),

the Executive shall notify him of the decision and the reasons for that decision.

(10) The notice required to be given to a person under paragraph (9) shall be given in writing and shall, if not received by the person, be treated as given to the person only if it is made available for a reasonable period at the office of the Executive to which the person applied, for collection by or on behalf of the person.”.

**Power of the Department to prescribe form of advice and assistance**

**4.**—(1) The Order of 1988 shall be amended as follows.

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- (2) In Article 10 (duties to persons found to be homeless)—
- (a) in paragraph (3)(b) for the words from “furnish” to “circumstances” substitute “provide the applicant with advice and assistance of such type as may be prescribed by the Department”;
  - (b) in paragraph (4) for the words from “furnish” to “circumstances” substitute “provide the applicant with advice and assistance of such type as may be prescribed by the Department”;
  - (c) at the end add—
    - “(6) In this Article and in Article 11 “prescribed” means prescribed by regulations subject to negative resolution.”.
- (3) In Article 11(3) (duties to persons found to be threatened with homelessness) for the words from “furnish” to “circumstances” substitute “provide the applicant with advice and assistance of such type as may be prescribed by the Department”.

#### **Reviews of decisions in relation to homelessness**

5.—(1) After Article 11 of the Order of 1988 (duties to persons found to be threatened with homelessness) insert—

*“Right to request review of decision*

#### **Right to request review of decision**

- 11A.—(1) An applicant has the right to request a review of any decision of the Executive—
- (a) as to the applicant’s eligibility for assistance under this Part;
  - (b) as to what duty (if any) is owed to the applicant under Articles 10 (duties to persons found to be homeless) and 11 (duties to persons found to be threatened with homelessness);
  - (c) as to the suitability of accommodation offered to the applicant in discharge of the Executive’s duty under either of those Articles.
- (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 28 days beginning with the day on which the applicant is notified of the Executive’s decision or such longer period as the Executive may in writing allow.
- (4) On a request being duly made to it, the Executive shall review its decision.

(5) Where the Executive gives a person notice of a decision mentioned in paragraph (1) it shall also inform that person—

- (a) of the right to request a review of the decision and of the time within which such a request must be made;
- (b) of the effect of Articles 8(3) and 11C(5).

### **Procedure on a review**

**11B.**—(1) The Department may make provision by regulations as to the procedure to be followed in connection with a review under Article 11A.

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 the applicant may be represented at such a hearing.

(3) The Executive shall notify the applicant of the decision on the review.

(4) If the decision is to confirm the original decision on any issue against the interests of the applicant, the Executive shall also notify the applicant of the reasons for the decision.

(5) In any case the Executive shall inform the applicant of the right to appeal to the county court on a point of law, and of the period within which such an appeal must be made (see Article 11C).

(6) Notice of the decision shall not be treated as given unless and until paragraph (5), and where applicable paragraph (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) The notice required to be given to a person under this Article shall be given in writing and shall, if not received by the person, be treated as given to the person only if it is made available for a reasonable period at the office of the Executive to which the person applied, for collection by or on behalf of that person.

(9) Regulations under this Article are subject to negative resolution.

### **Right of appeal to a county court on a point of law**

**11C.**—(1) If an applicant who has requested a review under Article 11A —

- (a) is dissatisfied with the decision on the review, or

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- (b) is not notified of the decision on the review within the time prescribed by regulations under Article 11B,

the applicant 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 28 days of the applicant's being notified of the decision or, as the case may be, of the date on which the applicant should have been notified of a decision on review.

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

- (a) where leave 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 leave 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 leave.

(4) On appeal the court may make such order confirming, quashing or varying the decision as it thinks fit.

(5) Where the Executive was under a duty under Article 8(1) or 10(3) to secure that accommodation is available for the applicant's occupation it may secure that accommodation is so available—

- (a) during the period for appealing under this Article against the Executive's decision, and
- (b) if an appeal is brought, until the appeal (and any further appeal) is finally determined.

#### **Article 11C(5): appeals**

**11D.**—(1) This Article applies where an applicant has the right to appeal to the county court against the Executive's decision on a review.

(2) If the applicant is dissatisfied with a decision by the Executive—

- (a) not to exercise its power under Article 11C(5) in relation to the applicant's case,
- (b) to exercise its power under Article 11C(5) for a limited period ending before the final determination by the county court of the applicant's appeal under Article 11C(1) ("the main appeal"), or
- (c) to cease exercising its power before that time,

the applicant may appeal to the county court against the decision.

(3) An appeal under this Article may not be brought after the final determination by the county court of the main appeal.

(4) On an appeal under this Article the court—

- (a) may order the Executive to secure that accommodation is available for the applicant's occupation until the determination of the appeal (or such earlier time as the court may specify), and
  - (b) shall confirm or quash the decision appealed against,
- and in considering whether to confirm or quash the decision the court shall apply the principles applied by the High Court on an application for judicial review.
- (5) If the court quashes the decision it may order the Executive to exercise its power under Article 11C(5) in the applicant's case for such period as may be specified in the order.
  - (6) An order under paragraph (5)—
    - (a) may only be made if the court is satisfied that failure to exercise any power under Article 11C(5) in accordance with the order would substantially prejudice the applicant's ability to pursue the main appeal;
    - (b) may not specify any period ending after the final determination by the county court of the main appeal.

*Supplementary provisions”.*

- (2) Renumber Article 8 of the Order of 1988 (interim duty to accommodate in case of apparent priority need) as paragraph (1) of that Article and after that paragraph insert—

“(2) The duty under paragraph (1) ceases when the Executive's decision is notified to the applicant even if the applicant requests a review of that decision under Article 11A.

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