

Draft Order laid before Parliament under section 198(7) of the Housing Act 1996, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1998 No.

HOUSING, ENGLAND AND WALES

The Homelessness (Decisions on Referrals) Order 1998

<i>Made</i>	- - - -	<i>1998</i>
<i>Coming into force</i>	- -	<i>1998</i>

The Secretary of State for the Environment, Transport and the Regions, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by section 198(5) and (6)(a) of the Housing Act 1996⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has been laid before and approved by resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the Homelessness (Decisions on Referrals) Order 1998 and shall come into force on the twenty eighth day after the day on which it is approved by resolution of each House of Parliament.

Arrangements for deciding whether conditions for referral are satisfied

2. The arrangements set out in the Schedule to this Order are those agreed by the Local Government Association, the Welsh Local Government Association, the Association of London Government and the Convention of Scottish Local Authorities⁽²⁾, and shall be the arrangements for the purposes of section 198(5) and (6)(a) of the Housing Act 1996.

Revocation of order

3.—(1) Subject to paragraph (2), the Housing (Homeless Persons) (Appropriate Arrangements) Order 1978⁽³⁾ (“the 1978 Order”) is hereby revoked.

(2) The 1978 Order shall remain in force for any case where a notified authority has received a notification under section 67(1) of the Housing Act 1985⁽⁴⁾ or section 198(1) of the Housing Act

(1) 1996 c. 52.
(2) see sections 201 and 217 of the Housing Act 1996.
(3) S.I.1978/69.
(4) The repeal of Part III of the Housing Act 1985 (c. 68), which includes section 67, commenced by the Housing Act 1996 (Commencement No. 5 and Transitional Provisions) Order 1996 (S.I. 1996/2959 (C.88)) does not, by virtue of paragraph [DOE 1279]

1996 (referral to another local housing authority) prior to the date on which this Order comes into force.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

1998

Minister of State,
Department of the Environment, Transport and
the Regions

Signed by authority of the Secretary of State for Wales

1998

Parliamentary Under Secretary of State, Welsh
Office

SCHEDULE

Article 2

The arrangements

Appointment of person by agreement between notifying authority and notified authority

1. Where the question whether the conditions for referral of a case are satisfied has not been decided by agreement between the notifying authority and the notified authority, the question shall be decided by a person appointed by those authorities.

Appointment of person other than by agreement between notifying authority and notified authority

2. If within a period of 21 days commencing on the day on which the notified authority receives a notification under section 198(1) of the Housing Act 1996 a person has not been appointed in accordance with paragraph 1, the question shall be decided by a person—

- (a) from the panel constituted in accordance with paragraph 3, and
- (b) appointed in accordance with paragraph 4.

3.—(1) Subject to sub-paragraph (2), the Local Government Association shall establish and maintain a panel of persons from which a person may be appointed to decide the question whether the conditions for referral of a case are satisfied.

(2) The Local Government Association shall consult such other associations of relevant authorities as they think appropriate before—

- (a) establishing the panel,
- (b) inviting a person to join the panel after it has been established, and
- (c) removing a person from the panel.

4.—(1) The notifying authority and the notified authority shall jointly request the Chairman of the Local Government Association or his nominee (“the proper officer”) to appoint a person from the panel.

(2) If within a period of six weeks commencing on the day on which the notified authority receives a notification under section 198(1) of the Housing Act 1996 a person has not been appointed, the notifying authority shall request the proper officer to appoint a person from the panel.

Procedural requirements

5.—(1) Subject to the following provisions of this paragraph, the procedure for deciding whether the conditions for referral of a case are satisfied shall be determined by the appointed person.

(2) The appointed person shall invite written representations from the notifying authority and the notified authority.

(3) The appointed person may also invite—

- (a) further written representations from the notifying authority and the notified authority,
- (b) written representations from any other person, and
- (c) oral representations from any person.

(4) If the appointed person invites representations from any person, those representations may be made by a person acting on his behalf, whether or not legally qualified.

Notification of decision

6. The appointed person shall notify his decision, and his reasons for it, in writing to the notifying authority and the notified authority.

Costs

7.—(1) The notifying authority and the notified authority shall pay their own costs incurred in connection with the arrangements set out in this Schedule.

(2) Where a person has made oral representations, the appointed person may give directions as to the payment by the notifying authority or the notified authority or both authorities of any travelling expenses reasonably incurred by that person.

Meaning of “appointed person”

8. In this Schedule “appointed person” means a person appointed in accordance with paragraph 1 or 4.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 198 of the Housing Act 1996 makes provision for a homeless person to be referred by a local housing authority to another such authority, in specified circumstances. The question whether the conditions for referral are satisfied in any particular case must be decided by agreement between the two authorities involved or, in default of agreement, in accordance with the arrangements set out in the Schedule to this Order.

The arrangements provide for the question to be decided either by a person agreed between the two authorities concerned or, in default of agreement, by a person appointed from a panel established by the Local Government Association.