
STATUTORY INSTRUMENTS

1988 No. 1990

The Housing (Northern Ireland) Order 1988

PART II

HOUSING THE HOMELESS

Main definitions

Homelessness and threatened homelessness

3.—(1) A person is homeless if he has no accommodation in Northern Ireland.

(2) A person shall be treated as having no accommodation if there is no accommodation which he, together with any other person who normally resides with him as a member of his family or in circumstances in which it is reasonable for that person to reside with him—

- (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court, or
- (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.

(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) Regard may be had, in determining whether it would be reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in Northern Ireland.

(5) A person is also homeless if he has accommodation but—

- (a) he cannot secure entry to it, or
- (b) it is probable that occupation of it will lead to violence from some other person residing in it or to threats of violence from some other person residing in it and likely to carry out the threats, or
- (c) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted to place it and to reside in it.

(6) A person is threatened with homelessness if it is likely that he will become homeless within 28 days from the day on which he gives written notice to the Executive that he is threatened with homelessness.

Meaning of accommodation available for occupation

4. For the purposes of this Part accommodation shall be regarded as available for a person's occupation only if it is available for occupation both by him and by any other person who might reasonably be expected to reside with him; and references to securing accommodation for a person's occupation shall be construed accordingly.

Priority need for accommodation

5.—(1) The following have a priority need for accommodation—

- (a) a pregnant woman or a person with whom a pregnant woman 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 a flood, fire or other disaster;
- (e) a person without dependent children who satisfies the Executive that he has been subject to violence and is at risk of violent pursuit or, if he returns home, is at risk of further violence;
- (f) a young person who satisfies the Executive that he is at risk of sexual or financial exploitation.

(2) In paragraph (1)(f) “young person” means a person who is over compulsory school age (within the meaning of Article 46 of the Education and Libraries (Northern Ireland) Order 1986⁽¹⁾) and has not attained the age of 21 years.

(3) The Department may by order made subject to affirmative resolution—

- (a) specify further descriptions of persons as having a priority need for accommodation, and
- (b) amend or revoke any part of paragraph (1) or (2).

Becoming homeless intentionally

6.—(1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation, whether in Northern Ireland or elsewhere, which is available for his occupation and which it would have been reasonable for him to continue to occupy.

(2) 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.

(3) For the purposes of paragraph (1) or (2) 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.

(4) Regard may be had, in determining whether it would have been reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in Northern Ireland.

*Duties of the Executive with respect to homelessness and threatened homelessness***Inquiry into cases of possible homelessness or threatened homelessness**

7.—(1) If—

- (a) a person (an “applicant”) applies to the Executive for accommodation, or for assistance in obtaining accommodation, and
- (b) the Executive has reason to believe that he may be homeless or threatened with homelessness,

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it shall make such inquiries as are necessary to satisfy itself as to whether he is homeless or threatened with homelessness.

(2) If the Executive is so satisfied it shall make any further inquiries necessary to satisfy itself as to—

- (a) whether the applicant has a priority need, and
- (b) whether he became homeless or threatened with homelessness intentionally.

Interim duty to accommodate in case of apparent priority need

8. If the Executive has reason to believe that an applicant may be homeless and have a priority need, it shall secure that accommodation is made available for his occupation pending a decision as a result of its inquiries under Article 7.

Notification of decision and reasons

9.—(1) On completing its inquiries under Article 7, the Executive shall notify the applicant of its decision on the question whether he is homeless or threatened with homelessness.

(2) If the Executive notifies the applicant that its decision is that he is homeless or threatened with homelessness, it shall at the same time notify him of its decision on the question whether he has a priority need.

(3) If the Executive notifies the applicant that its decision is that he has a priority need, it shall at the same time notify him of its decision whether he became homeless or threatened with homelessness intentionally.

(4) If the Executive notifies the applicant—

- (a) that it is not satisfied that he is homeless or threatened with homelessness, or
- (b) that it is not satisfied that he has a priority need, or
- (c) that it is satisfied that he became homeless or threatened with homelessness intentionally,

it shall at the same time notify him of its reasons.

(5) The notice required to be given to a person under this Article shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available for a reasonable period at the office of the Executive to which he applied, for collection by him or on his behalf.

Duties to persons found to be homeless

10.—(1) This Article has effect as regards the duties owed by the Executive to an applicant where it is satisfied that he is homeless.

(2) Where the Executive is satisfied that the applicant has a priority need and is not satisfied that he became homeless intentionally, it shall secure that accommodation becomes available for his occupation.

(3) Where the Executive is satisfied that the applicant has a priority need but is also satisfied that he became homeless intentionally, it shall—

- (a) secure that accommodation is made available for his occupation for such period as it considers will give him a reasonable opportunity of securing accommodation for his occupation, and
- (b) furnish him with advice and such assistance as it considers appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.

(4) Where the Executive is not satisfied that the applicant has a priority need, it shall furnish him with advice and such assistance as it considers appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.

Duties to persons found to be threatened with homelessness

11.—(1) This Article has effect as regards the duties owed by the Executive to an applicant where it is satisfied that he is threatened with homelessness.

(2) Where the Executive is satisfied that the applicant has a priority need and is not satisfied that he became threatened with homelessness intentionally, it shall take reasonable steps to secure that accommodation does not cease to be available for his occupation.

(3) Where—

- (a) the Executive is not satisfied that the applicant has a priority need, or
- (b) it is satisfied that he has a priority need but is also satisfied that he became threatened with homelessness intentionally,

it shall furnish him with advice and such assistance as it considers appropriate in the circumstances in any attempts he may make to secure that accommodation does not cease to be available for his occupation.

(4) Paragraph (2) does not affect any right of the Executive, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of accommodation.

Provisions supplementary to Articles 8 and 10

12.—(1) The Executive may perform any duty under Article 8 or 10 (duties to persons found to be homeless) to secure that accommodation becomes available for the occupation of a person—

- (a) by making available suitable accommodation held by it, or
- (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 he obtains suitable accommodation from some other person,

and in determining whether accommodation is suitable the Executive shall have regard to Chapter II of Part III and Part VI of the Order of 1981.

(2) The Executive—

- (a) shall require a person to whom it is subject to a duty under Article 8 or 10 (interim duty to accommodate pending inquiries and duties to persons found to be homeless) to pay rent, in accordance with any rent scheme for the time being approved by the Department under Article 17 of the Order of 1981, in respect of any housing accommodation provided by the Executive itself; or
- (b) may require such a person—
 - (i) to pay such reasonable charges as the Executive may determine in respect of accommodation which it otherwise secures for that person’s occupation; or
 - (ii) to pay such reasonable amount as it may determine in respect of sums payable by it for accommodation made available by another person.

Protection of property of homeless persons and persons threatened with homelessness

13.—(1) This Article applies where the Executive has reason to believe that an applicant is homeless or threatened with homelessness (or, in the case of an applicant to whom it owes a duty

under Article 8 (interim duty to accommodate pending inquiries), that he may be homeless) and that—

- (a) there is a danger of loss of, or damage to, any personal property of his by reason of his inability to protect it or deal with it, and
- (b) no other suitable arrangements have been or are being made.

(2) If the Executive has become subject to a duty towards the applicant under Article 8, 10(2) or (3)(a) or 11(2) (duty to accommodate during inquiries and duties to persons found to be homeless or threatened with homelessness), then, whether or not it is still subject to such a duty, it shall take reasonable steps to prevent the loss of the property or prevent or mitigate damage to it; and if it has not become subject to such a duty, it may take any steps it considers reasonable for that purpose.

(3) The Executive may for the purposes of this Article—

- (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.

(4) The Executive may decline to take action under this Article except upon such conditions as it considers appropriate in the particular case, which may include conditions as to—

- (a) the making and recovery by the Executive of reasonable charges for the action taken, or
- (b) the disposal by the Executive, in such circumstances as may be specified, of property in relation to which it has taken action.

(5) When in the Executive's 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, the Executive ceases to have any duty or power to take action under this Article; but property stored by virtue of the Executive 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.

(6) Where the Executive—

- (a) ceases to be subject to a duty to take action under this Article in respect of an applicant's property, or
- (b) ceases to have power to take such action, having previously taken such action,

it shall notify the applicant of that fact and of the reason why it is of opinion that there is no longer any reason to believe that there is a danger of loss of or damage to his personal property by reason of his inability to protect it or deal with it.

(7) References in this Article to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.

Certain bodies to co-operate with the Executive

14. Where, the Executive—

- (a) requests a health and social services board to exercise any of its functions in relation to a case with which the Executive is dealing under Article 7, 8, 10 or 11 (which relate to homelessness and threatened homelessness as such), or to provide any information or advice in relation to such a case; or
- (b) requests the Probation Board for Northern Ireland to provide any information or advice in relation to such a case; or
- (c) requests a registered housing association, within the meaning of Part VII of the Order of 1981, to assist it in the discharge of its functions under those Articles;

that health and social services board, the Probation Board for Northern Ireland or that association, as the case may be, shall co-operate by exercising such of its functions, providing such information or advice or rendering such assistance as is reasonable in the circumstances.

Assistance for voluntary organisations

Financial and other assistance for voluntary organisations concerned with homelessness

15.—(1) Without prejudice to Article 28(1)(g) of the Order of 1981, the Executive may, upon such terms and subject to such conditions as it may determine, give to a voluntary organisation concerned with homelessness, or with matters relating to homelessness, assistance by way of grant or loan.

(2) The Executive may also assist such a voluntary organisation by—

- (a) permitting them to use premises belonging to the Executive upon such terms and subject to such conditions as may be agreed,
- (b) making available furniture or other goods, whether by way of gift, loan or otherwise, and
- (c) making available the services of staff employed by the Executive.

(3) No assistance shall be given under paragraph (1) or (2) unless the voluntary organisation first give an undertaking—

- (a) that they will use the money, furniture or other goods or premises made available to them for a specified purpose, and
- (b) that they will, if the Executive serves notice on them requiring them to do so, furnish, within the period of 21 days beginning with the date on which the notice is served, a certificate giving such information as may reasonably be required by the notice with respect to the manner in which the assistance given to them is being used.

(4) The conditions subject to which assistance is given under this Article shall in all cases include, in addition to any conditions determined or agreed under paragraph (1) or (2), conditions requiring the voluntary organisation to—

- (a) keep proper books of account and have them audited in such manner as may be specified,
- (b) keep records indicating how they have used the money, furniture or other goods or premises made available to them, and
- (c) submit the books of account and records for inspection by the Executive.

(5) If it appears to the Executive that the voluntary organisation have failed to carry out their undertaking as to the purpose for which the assistance was to be used, the Executive shall take all reasonable steps to recover from the organisation an amount equal to the amount of the assistance; but no sum is so recoverable unless the Executive has first served on the voluntary organisation a notice specifying the amount which, in the opinion of the Executive, is recoverable and the basis on which that amount has been calculated.

(6) In this Article “voluntary organisation” means a body, not being a district council or other public body, within the meaning of section 146(2) of the Local Government Act (Northern Ireland) 1972(2), whose activities are carried on otherwise than for profit.

Hostel accommodation for persons in need

Transfer of hostels

16.—(1) In Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972(3), in the definition of “person in need” sub-paragraph (c) shall be omitted as from the appointed day.

(2) The provisions of Schedule 1 shall have effect to facilitate the transfer to the Executive of hostels provided by the Department of Health and Social Services and health and social services boards for persons in need.

(3) In this Article—

- (a) “appointed day” means the day appointed for the coming into operation of this Article; and
- (b) “persons in need” means persons who have been rendered homeless and are in need of temporary accommodation.

Supplemental

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

17.—(1) If a person, with intent to induce the Executive to believe, in connection with the exercise of its functions under this Part, that he or another person—

- (a) is homeless or threatened with homelessness, or
- (b) has a priority need, or
- (c) did not become homeless or threatened with homelessness intentionally,

knowingly or recklessly makes a statement which is false in a material particular, or knowingly withholds information which the Executive has reasonably required him to give in connection with the exercise of those functions, he commits an offence.

(2) If before an applicant receives notification of the Executive’s decision on his application there is any change of facts material to his case, he shall notify the Executive as soon as possible; and the Executive shall explain to every applicant, in ordinary language, the duty imposed on him by this paragraph and the effect of paragraph (3).

(3) A person who fails to comply with paragraph (2) commits an offence unless he shows that he was not given the explanation required by that paragraph or that he had some other reasonable excuse for non-compliance.

(4) A person guilty of an offence under this Article is liable on summary conviction to a fine not exceeding level 4 on the standard scale.