

EXPLANATORY MEMORANDUM TO
THE HOMELESS PERSONS ADVICE AND ASSISTANCE REGULATIONS
(NORTHERN IRELAND) 2011

S.R. 2011 No. 339

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 10(3)(b), 10(4) and 11(3) of the Housing (Northern Ireland) Order 1988 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Statutory Rule prescribes the types of advice and assistance that the Housing Executive is required to provide to certain persons who are homeless or at risk of homelessness.

3. Background

- 3.1. Under Article 10(2) of the Housing (Northern Ireland) Order 1988 ("the 1988 Order") the Housing Executive has a duty to secure that accommodation becomes available for eligible persons who are unintentionally homeless and in priority need. Where an applicant is in priority need but is "intentionally" homeless, the Housing Executive has a duty under Article 10(3) to provide temporary accommodation plus advice and assistance. Where an applicant is homeless but not in priority need, the Housing Executive has a duty under Article 10(4) to provide advice and assistance only. Under Article 11(3) of the 1988 Order, the Housing Executive has a duty to provide advice and assistance where an applicant is threatened with homelessness but either does not have priority need or is threatened with homelessness "intentionally".
- 3.2. Section 4 of the Housing (Amendment) Act (Northern Ireland) 2010 amended Articles 10 and 11 of the 1988 Order to provide that advice and assistance provided under those Articles to persons who are homeless or threatened with homelessness shall be of such type as may be prescribed by the Department.

4. Consultation

- 4.1. The Statutory Rule takes account of the views of the Voluntary Sector Housing Policy Forum, the Housing Executive and the Department of Health, Social Services and Public Safety .

5. Equality Impact

- 5.1. The Statutory Rule would have no adverse impact on any group and an Equality Impact Assessment is not considered necessary.

6. Regulatory Impact

- 6.1. The Statutory Rule does not require a Regulatory Impact Assessment as it has no impact on costs for business, charities or voluntary bodies.

7. Financial Implications

- 7.1. None for the Department.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Statutory Rule is not incompatible with any of the Convention Rights or Community law, does not discriminate against any person or class of person on the grounds of religious belief or political opinion and does not modify any enactment in breach of section 7 of that Act.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. Under the Housing Act 1996 ("the 1996 Act"), local housing authorities in England and Wales have certain duties in relation to homelessness. The duties to applicants who do not meet the full statutory criteria for re-housing are similar to the duties of the Housing Executive in such cases (i.e. the provision of temporary accommodation plus advice and assistance as appropriate). While there is no power under the 1996 Act to make subordinate legislation to prescribe the kind of advice and assistance to be provided, the Act provides that the advice and assistance 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.
- 10.2. Under the Housing (Scotland) Act 1987 ("the 1987 Act"), local housing authorities in Scotland have certain duties in relation to homelessness. The duties to applicants who do not meet the full statutory criteria for re-housing are similar to the duties of the Housing Executive in such cases (the provision of temporary accommodation plus advice and assistance in all cases where the applicant does not meet the full statutory criteria). The 1987 Act provides that, where advice and assistance is provided, it shall be of such type as may be prescribed. The type of advice and assistance to be provided under the 1987 Act is prescribed in The Homeless Persons Advice and Assistance (Scotland) Regulations 2002 and the Statutory Rule is based on those Regulations.

11. Additional Information

- 11.1. Not applicable.