
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 139

HOUSING

**The Homeless Persons (Unsuitable Accommodation)
(Scotland) Amendment Order 2020**

Made - - - - at 12.30 p.m. on 5th
May 2020
Laid before the Scottish at 3.00 p.m. on 5th
Parliament - - - - May 2020
Coming into force in accordance with Article 1

The Scottish Ministers make the following Order in exercise of the powers conferred by section 29(3) and (4) of the Housing (Scotland) Act 1987⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and expiry

1.—(1) This Order may be cited as the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 and comes into force on the day after the day on which it is made.

(2) Article 3 expires on 30 September 2020.

Amendment of the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014

2.—(1) The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014⁽²⁾ is amended in accordance with paragraphs (2) to (6).

(2) In article 2 (interpretation)—

(a) omit “and” where it first occurs,

(b) after the definition of “the 1987 Act”, insert—

““community hosting” means the provision of a spare room and other support by a member of the community to a homeless household in crisis for a short period of time;”

(c) for “.” substitute “;”,

(d) after the definition of “household”, insert—

⁽¹⁾ 1987 c.26. Subsections (3) and (4) of section 29 were inserted by section 9(1)(b) of the Homelessness etc. (Scotland) Act 2003 (asp 10). There are amendments to section 29 that are not relevant to this Order.

⁽²⁾ S.S.I. 2014/243.

““minimum accommodation safety standards” includes standards specified in an enactment for accommodation in relation to health and safety, hygiene, fire, furniture and electrical equipment;

“rapid access accommodation” means emergency temporary accommodation for rough sleepers which consists of a bed, safe space, and which—

- (a) provides on-site homelessness and support assessments; and
- (b) provides support to access specialist support for residents; and

“shared tenancy accommodation” means accommodation which is not large scale or congregate in nature and which—

- (a) is shared, small scale and of a good standard;
- (b) is provided to residents on a temporary basis pending placement in settled accommodation; and
- (c) in which each resident has his or her own bedroom.”.

(3) In article 3 (application of order), omit from “, but” to “children”.

(4) In article 4 (unsuitable accommodation)—

- (a) in paragraph (a), omit “or”,
- (b) in paragraph (b)—
 - (i) for “children” substitute “a homeless household”,
 - (ii) for “.” substitute “; or”, and
- (c) after paragraph (b), insert—
 - “(c) not meeting minimum accommodation safety standards.”

(5) In article 5—

- (a) in paragraph (e), omit “or”,
- (b) in paragraph (f), for “.” substitute “;”,
- (c) after paragraph (f), insert—
 - “(g) is not in the locality of the place of employment of a member of the household, taking into account the distance of travel by public transport or transport provided by a local authority; or
 - (h) is not suitable for visitation by a child who is not a member of the household and in respect of whom a member of the household has parental rights.”

(6) In article 6—

- (a) in paragraph (c)(ii), omit “or”,
- (b) in paragraph (d)—
 - (i) for “the accommodation is owned by a local authority” substitute “the local authority has secured that the accommodation has been made available”,
 - (ii) for “.” substitute “; or”, and
- (c) after paragraph (d) insert—
 - “(e) the accommodation made available—
 - (i) is shared tenancy accommodation;
 - (ii) consists of community hosting; or
 - (ii) is rapid access accommodation.”.

Modification of the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014

3.—(1) The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 applies, in relation to accommodation provided to an applicant under section 29 of the Housing (Scotland) Act 1987 while this article is in force, in accordance with the modifications in this article.

- (2) Article 2 (interpretation) has effect as if—
- (a) after the definition of “community hosting”, there were inserted—
 - ““coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-Cov-2);”, and
 - (b) after the definition of “household”, there were inserted—
 - ““isolate” in relation to a person means separation of that person from any other person in such manner as to prevent infection or contamination with coronavirus;”.
- (3) Article 6 has effect as if—
- (a) in paragraph (d), “or” were omitted,
 - (b) in paragraph (e), for “.” there were substituted “;”, and
 - (c) after paragraph (e) there were inserted—
 - “(f) a person in the household has symptoms of coronavirus and the household requires to isolate; or
 - (g) the accommodation is required to provide temporary accommodation to ensure that a distance of 2 metres can be maintained between a member of the household and a person who is not a member of the household in order to prevent the spread of coronavirus. ”.

St Andrew’s House,
Edinburgh
At 12.30 p.m. on 5th May 2020

AILEEN CAMPBELL
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Homeless Persons (Unsuitable Accommodation) Order 2014 (“the 2014 Order”) by extending its scope to include all homeless persons rather than particular types of household.

Article 2(4) extends the types of accommodation that are always unsuitable to include accommodation not meeting safety standards.

Article 2(5) provides two further circumstances in which accommodation is unsuitable, unless article 6 of the 2014 Order applies.

Article 6 of the 2014 Order is amended so that paragraph (d) applies to accommodation the use of which is secured by a local authority (for example from a charity) but is not owned by the local authority. Article 6 is also amended to include further categories of accommodation.

Article 3 temporarily modifies the 2014 Order in response to the coronavirus pandemic. It allows for temporary accommodation to be provided for homeless households by way of accommodation within hotels and bed and breakfasts. This would have been a breach of the Order which only allows for such accommodation to be provided for a seven day period, but the amendment allows local authorities to provide such accommodation where such persons need to self-isolate or otherwise comply with physical distancing guidelines, which have come into being as a result of the coronavirus pandemic. This provision expires on 30 September 2020.