



# Homelessness Act 2002

## 2002 CHAPTER 7

### *Allocations under Part 6 of the Housing Act 1996*

#### **13 Application of Part 6 to existing tenants**

For subsections (5) and (6) of section 159 of the 1996 Act (application of Part 6 of that Act to existing secure and introductory tenants, to existing tenants of registered social landlords and to certain other tenants) there is substituted—

“(5) The provisions of this Part do not apply to an allocation of housing accommodation to a person who is already a secure or introductory tenant unless the allocation involves a transfer of housing accommodation for that person and is made on his application.”

#### **Commencement Information**

- II** [S. 13](#) wholly in force at 31.1.2003; [s. 13](#) not in force at Royal Assent see [s. 20\(1\)](#); [s. 13](#) in force for W. at 27.1.2003 by [S.I. 2002/1736](#), [art. 2\(2\)](#), [Sch. Pt. 2](#); [s. 13](#) in force for E. at 31.1.2003 by [S.I. 2002/3114](#), [art. 3](#)

#### **14 Abolition of duty to maintain housing register**

- (1) Local housing authorities are no longer required to maintain a housing register and, accordingly, sections 161 to 165 of the 1996 Act (the housing register) shall cease to have effect.
- (2) After section 160 of the 1996 Act (cases where provisions about allocations do not apply) there is inserted—

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*“ Eligibility for allocation of housing accommodation*

**160A Allocation only to eligible persons**

- (1) A local housing authority shall not allocate housing accommodation—
  - (a) to a person from abroad who is ineligible for an allocation of housing accommodation by virtue of subsection (3) or (5);
  - (b) to a person who the authority have decided is to be treated as ineligible for such an allocation by virtue of subsection (7); or
  - (c) to two or more persons jointly if any of them is a person mentioned in paragraph (a) or (b).
- (2) Except as provided by subsection (1), any person may be allocated housing accommodation by a local housing authority (whether on his application or otherwise).
- (3) A person subject to immigration control within the meaning of the Asylum and Immigration Act 1996 (c. 49) is (subject to subsection (6)) ineligible for an allocation of housing accommodation by a local housing authority unless he is of a class prescribed by regulations made by the Secretary of State.
- (4) No person who is excluded from entitlement to housing benefit by section 115 of the Immigration and Asylum Act 1999 (c. 33) (exclusion from benefits) shall be included in any class prescribed under subsection (3).
- (5) The Secretary of State may by regulations prescribe other classes of persons from abroad who are (subject to subsection (6)) ineligible for an allocation of housing accommodation, either in relation to local housing authorities generally or any particular local housing authority.
- (6) Nothing in subsection (3) or (5) affects the eligibility of a person who is already—
  - (a) a secure or introductory tenant;
  - (b) an assured tenant of housing accommodation allocated to him by a local housing authority.
- (7) A local housing authority may decide that an applicant is to be treated as ineligible for an allocation of housing accommodation by them if they are satisfied that—
  - (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the authority; and
  - (b) in the circumstances at the time his application is considered, he is unsuitable to be a tenant of the authority by reason of that behaviour.
- (8) The only behaviour which may be regarded by the authority as unacceptable for the purposes of subsection (7)(a) is—
  - (a) behaviour of the person concerned which would (if he were a secure tenant of the authority) entitle the authority to a possession order under section 84 of the Housing Act 1985 (c. 68) on any ground mentioned in Part 1 of Schedule 2 to that Act (other than ground 8); or

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- (b) behaviour of a member of his household which would (if he were a person residing with a secure tenant of the authority) entitle the authority to such a possession order.
- (9) If a local housing authority decide that an applicant for housing accommodation—
- (a) is ineligible for an allocation by them by virtue of subsection (3) or (5); or
  - (b) is to be treated as ineligible for such an allocation by virtue of subsection (7),
- they shall notify the applicant of their decision and the grounds for it.
- (10) That notice shall be given in writing and, if not received by the applicant, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.
- (11) A person who is being treated by a local housing authority as ineligible by virtue of subsection (7) may (if he considers that he should no longer be treated as ineligible by the authority) make a fresh application to the authority for an allocation of housing accommodation by them.”
- (3) Any person—
- (a) who is on a housing register immediately before commencement; or
  - (b) whose application to be put on a housing register has not been determined before commencement,
- shall be treated at commencement as a person who has applied to the authority concerned for an allocation of housing accommodation.
- (4) In subsection (3) “commencement” means the commencement of this section.

#### **Commencement Information**

**I2** S. 14 wholly in force at 31.1.2003; s. 14 not in force at Royal Assent see s. 20(1); s. 14 in force for W. at 27.1.2003 by S.I. 2002/1736, art. 2(2), Sch. Pt. 2; s. 14 in force for E. for specified purposes at 5.12.2002 and except in so far as already in force at 31.1.2003 by S.I. 2002/3114, arts. 2, 3

## **15 Applications for housing accommodation**

For section 166 (information about housing register) there is substituted—

*“Applications for housing accommodation*

### **166 Applications for housing accommodation**

- (1) A local housing authority shall secure that—
- (a) advice and information is available free of charge to persons in their district about the right to make an application for an allocation of housing accommodation; and
  - (b) any necessary assistance in making such an application is available free of charge to persons in their district who are likely to have difficulty in doing so without assistance.

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- (2) A local housing authority shall secure that an applicant for an allocation of housing accommodation is informed that he has the rights mentioned in section 167(4A).
- (3) Every application made to a local housing authority for an allocation of housing accommodation shall (if made in accordance with the procedural requirements of the authority's allocation scheme) be considered by the authority.
- (4) The fact that a person is an applicant for an allocation of housing accommodation shall not be divulged (without his consent) to any other member of the public.
- (5) In this Part "district" in relation to a local housing authority has the same meaning as in the Housing Act 1985 (c. 68)."

#### Commencement Information

**I3** S. 15 wholly in force at 31.1.2003; s. 15 not in force at Royal Assent see s. 20(1); s. 15 in force for W. at 27.1.2003 by S.I. 2002/1736, art. 2(2), Sch. Pt. 2; s. 15 in force for E. at 31.1.2003 by S.I. 2002/3114, art. 3

## 16 Allocation schemes

- (1) Section 167 of the 1996 Act (allocation in accordance with allocation scheme) is amended as follows.
- (2) After subsection (1) there is inserted—
  - “(1A) The scheme shall include a statement of the authority's policy on offering people who are to be allocated housing accommodation—
    - (a) a choice of housing accommodation; or
    - (b) the opportunity to express preferences about the housing accommodation to be allocated to them.”
- (3) For subsection (2) there is substituted—
  - “(2) As regards priorities, the scheme shall be framed so as to secure that reasonable preference is given to—
    - (a) people who are homeless (within the meaning of Part 7);
    - (b) people who are owed a duty by any local housing authority under section 190(2), 193(2) or 195(2) (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any such authority under section 192(3);
    - (c) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
    - (d) people who need to move on medical or welfare grounds; and
    - (e) people who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

The scheme may also be framed so as to give additional preference to particular descriptions of people within this subsection (being descriptions of people with urgent housing needs).

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- (2A) The scheme may contain provision for determining priorities in allocating housing accommodation to people within subsection (2); and the factors which the scheme may allow to be taken into account include—
- (a) the financial resources available to a person to meet his housing costs;
  - (b) any behaviour of a person (or of a member of his household) which affects his suitability to be a tenant;
  - (c) any local connection (within the meaning of section 199) which exists between a person and the authority's district.
- (2B) Nothing in subsection (2) requires the scheme to provide for any preference to be given to people the authority have decided are people to whom subsection (2C) applies.
- (2C) This subsection applies to a person if the authority are satisfied that—
- (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the authority; and
  - (b) in the circumstances at the time his case is considered, he deserves by reason of that behaviour not to be treated as a member of a group of people who are to be given preference by virtue of subsection (2).
- (2D) Subsection (8) of section 160A applies for the purposes of subsection (2C)(a) above as it applies for the purposes of subsection (7)(a) of that section.
- (2E) Subject to subsection (2), the scheme may contain provision about the allocation of particular housing accommodation—
- (a) to a person who makes a specific application for that accommodation;
  - (b) to persons of a particular description (whether or not they are within subsection (2)).”
- (4) After subsection (4) there is inserted—
- “(4A) The scheme shall be framed so as to secure that an applicant for an allocation of housing accommodation—
- (a) has the right to request such general information as will enable him to assess—
    - (i) how his application is likely to be treated under the scheme (including in particular whether he is likely to be regarded as a member of a group of people who are to be given preference by virtue of subsection (2)); and
    - (ii) whether housing accommodation appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available for allocation to him;
  - (b) is notified in writing of any decision that he is a person to whom subsection (2C) applies and the grounds for it;
  - (c) has the right to request the authority to inform him of any decision about the facts of his case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to him; and

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- (d) has the right to request a review of a decision mentioned in paragraph (b) or (c), or in section 160A(9), and to be informed of the decision on the review and the grounds for it.”

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**Commencement Information**

- I4** S. 16 wholly in force at 31.1.2003; s. 16 not in force at Royal Assent see s. 20(1); s. 16 in force for W. at 27.1.2003 by S.I. 2002/1736, art. 2(2), Sch. Pt. 2; s. 16 in force for E. at 31.1.2003 by S.I. 2002/3114, art. 3

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