



# Homelessness Act 2002

## 2002 CHAPTER 7

### *Other functions relating to homelessness*

#### **5 Provision of accommodation for persons not in priority need who are not homeless intentionally**

(1) In section 192 of the 1996 Act (duty to persons not in priority need who are not homeless intentionally), after subsection (2) there is inserted—

“(3) The authority may secure that accommodation is available for occupation by the applicant.”

(2) In section 195 of the 1996 Act (duties in cases of threatened homelessness), after subsection (8) (as inserted by paragraph 14 of Schedule 1) there is inserted—

“(9) If the authority—

- (a) are not satisfied that the applicant has a priority need; and
- (b) are not satisfied that he became threatened with homelessness intentionally,

the authority may take reasonable steps to secure that accommodation does not cease to be available for the applicant’s occupation.”

#### **6 Abolition of minimum period for which an authority is subject to main homelessness duty**

(1) For subsections (3) and (4) of section 193 of the 1996 Act (period for which main homelessness duty is owed to person with priority need) there is substituted—

“(3) The authority are subject to the duty under this section until it ceases by virtue of any of the following provisions of this section.”

(2) Subsection (1) applies to a person who, immediately before the commencement of this section, is owed the duty under section 193 as it applies to a person who comes to be owed that duty after that commencement.

- (3) Section 194 of the 1996 Act (power to continue to secure accommodation after minimum period) shall cease to have effect.
- (4) Any person who, immediately before the commencement of this section, is a person in relation to whom a local housing authority are exercising their power under section 194 of the 1996 Act shall be treated at that commencement as a person to whom the authority owe the duty under section 193 of that Act.

## **7 Events which cause the main homelessness duty to cease**

- (1) Subsections (6) to (8) of section 193 of the 1996 Act (events which bring main homelessness duty to an end) are amended as follows.
- (2) In subsection (6), after paragraph (c) there is inserted—
  - “(cc) accepts an offer of an assured tenancy (other than an assured shorthold tenancy) from a private landlord,”.
- (3) For subsection (7) there is substituted—
  - “(7) The local housing authority shall also cease to be subject to the duty under this section if the applicant, having been informed of the possible consequence of refusal and of his right to request a review of the suitability of the accommodation, refuses a final offer of accommodation under Part 6.
  - (7A) An offer of accommodation under Part 6 is a final offer for the purposes of subsection (7) if it is made in writing and states that it is a final offer for the purposes of subsection (7).”
- (4) After subsection (7A) (which is inserted by subsection (3) above) there is inserted—
  - “(7B) The authority shall also cease to be subject to the duty under this section if the applicant accepts a qualifying offer of an assured shorthold tenancy which is made by a private landlord in relation to any accommodation which is, or may become, available for the applicant’s occupation.
  - (7C) The applicant is free to reject a qualifying offer without affecting the duty owed to him under this section by the authority.
  - (7D) For the purposes of subsection (7B) an offer of an assured shorthold tenancy is a qualifying offer if—
    - (a) it is made, with the approval of the authority, in pursuance of arrangements made by the authority with the landlord with a view to bringing the authority’s duty under this section to an end;
    - (b) the tenancy being offered is a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988 (c. 50)); and
    - (c) it is accompanied by a statement in writing which states the term of the tenancy being offered and explains in ordinary language that—
      - (i) there is no obligation to accept the offer, but
      - (ii) if the offer is accepted the local housing authority will cease to be subject to the duty under this section in relation to the applicant.

(7E) An acceptance of a qualifying offer is only effective for the purposes of subsection (7B) if the applicant signs a statement acknowledging that he has understood the statement mentioned in subsection (7D).

(7F) The local housing authority shall not—

- (a) make a final offer of accommodation under Part 6 for the purposes of subsection (7); or
- (b) approve an offer of an assured shorthold tenancy for the purposes of subsection (7B),

unless they are satisfied that the accommodation is suitable for the applicant and that it is reasonable for him to accept the offer.”

(5) In subsection (8), for “subsection (7)” there is substituted “subsection (7F)” and the words “of accommodation under Part VI” shall cease to have effect.

(6) Nothing in this section affects the operation of section 193 in relation to an offer of accommodation under Part 6 which is made before the commencement of subsection (3) above.

## **8 Review of decisions as to suitability of accommodation**

(1) In subsections (5) and (7)(a) of section 193 of the 1996 Act (cessation of main homelessness duty), after “of refusal” there is inserted “and of his right to request a review of the suitability of the accommodation”.

(2) In section 202 of the 1996 Act (right to request review of decision)—

- (a) in paragraph (f) of subsection (1), at the end there is inserted “or as to the suitability of accommodation offered to him as mentioned in section 193(7)”; and
- (b) after that subsection there is inserted—

“(1A) An applicant who is offered accommodation as mentioned in section 193(5) or (7) may under subsection (1)(f) request a review of the suitability of the accommodation offered to him whether or not he has accepted the offer.”

(3) This section comes into force on the day on which this Act is passed.

## **9 Abolition of duty under section 197**

(1) Section 197 of the 1996 Act (duty where other suitable accommodation available) shall cease to have effect.

(2) A person who, immediately before commencement, is a person to whom a local housing authority owe the duty under section 197(2) (instead of the duty under section 193 or 195) shall be treated at commencement as a person to whom the authority owe the duty under section 193 (the main homelessness duty) or, if at that time he is threatened with homelessness, section 195(2) (duty in case of threatened homelessness).

(3) In subsection (2) “commencement” means the commencement of this section.

**10 Persons claiming to be homeless who are at risk of violence**

(1) In section 177 of the 1996 Act (cases when it is reasonable to continue to occupy accommodation)—

- (a) in subsection (1), after “domestic violence” there is inserted “or other violence”; and
- (b) for the words following paragraph (b) of subsection (1) there is substituted—

“(1A) For this purpose “violence” means—

- (a) violence from another person; or
- (b) threats of violence from another person which are likely to be carried out;

and violence is “domestic violence” if it is from a person who is associated with the victim.”

(2) In section 198 of the 1996 Act (conditions for referral of case to another local housing authority), for subsection (3) there is substituted—

“(2A) But the conditions for referral mentioned in subsection (2) are not met if—

- (a) the applicant or any person who might reasonably be expected to reside with him has suffered violence (other than domestic violence) in the district of the other authority; and
- (b) it is probable that the return to that district of the victim will lead to further violence of a similar kind against him.

(3) For the purposes of subsections (2) and (2A) “violence” means—

- (a) violence from another person; or
- (b) threats of violence from another person which are likely to be carried out;

and violence is “domestic violence” if it is from a person who is associated with the victim.”

**11 Section 204(4): appeals**

After section 204 of the 1996 Act (appeal to county court on point of law) there is inserted—

**“204A Section 204(4): appeals**

(1) This section applies where an applicant has the right to appeal to the county court against a local housing authority’s decision on a review.

(2) If the applicant is dissatisfied with a decision by the authority—

- (a) not to exercise their power under section 204(4) (“the section 204(4) power”) in his case;
  - (b) to exercise that power for a limited period ending before the final determination by the county court of his appeal under section 204(1) (“the main appeal”); or
  - (c) to cease exercising that power before that time,
- he may appeal to the county court against the decision.

- (3) An appeal under this section may not be brought after the final determination by the county court of the main appeal.
- (4) On an appeal under this section the court—
  - (a) may order the authority to secure that accommodation is available for the applicant’s occupation until the determination of the appeal (or such earlier time as the court may specify); and
  - (b) shall confirm or quash the decision appealed against, and in considering whether to confirm or quash the decision the court shall apply the principles applied by the High Court on an application for judicial review.
- (5) If the court quashes the decision it may order the authority to exercise the section 204(4) power in the applicant’s case for such period as may be specified in the order.
- (6) An order under subsection (5)—
  - (a) may only be made if the court is satisfied that failure to exercise the section 204(4) power in accordance with the order would substantially prejudice the applicant’s ability to pursue the main appeal;
  - (b) may not specify any period ending after the final determination by the county court of the main appeal.”

## 12 Co-operation in certain cases involving children

After section 213 of the 1996 Act (co-operation between relevant housing authorities and bodies) there is inserted—

### “213A Co-operation in certain cases involving children

- (1) This section applies where a local housing authority have reason to believe that an applicant with whom a person under the age of 18 normally resides, or might reasonably be expected to reside—
  - (a) may be ineligible for assistance;
  - (b) may be homeless and may have become so intentionally; or
  - (c) may be threatened with homelessness intentionally.
- (2) A local housing authority shall make arrangements for ensuring that, where this section applies—
  - (a) the applicant is invited to consent to the referral of the essential facts of his case to the social services authority for the district of the housing authority (where that is a different authority); and
  - (b) if the applicant has given that consent, the social services authority are made aware of those facts and of the subsequent decision of the housing authority in respect of his case.
- (3) Where the local housing authority and the social services authority for a district are the same authority (a “unitary authority”), that authority shall make arrangements for ensuring that, where this section applies—
  - (a) the applicant is invited to consent to the referral to the social services department of the essential facts of his case; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) if the applicant has given that consent, the social services department is made aware of those facts and of the subsequent decision of the authority in respect of his case.
- (4) Nothing in subsection (2) or (3) affects any power apart from this section to disclose information relating to the applicant's case to the social services authority or to the social services department (as the case may be) without the consent of the applicant.
- (5) Where a social services authority—
  - (a) are aware of a decision of a local housing authority that the applicant is ineligible for assistance, became homeless intentionally or became threatened with homelessness intentionally, and
  - (b) request the local housing authority to provide them with advice and assistance in the exercise of their social services functions under Part 3 of the Children Act 1989,the local housing authority shall provide them with such advice and assistance as is reasonable in the circumstances.
- (6) A unitary authority shall make arrangements for ensuring that, where they make a decision of a kind mentioned in subsection (5)(a), the housing department provide the social services department with such advice and assistance as the social services department may reasonably request.
- (7) In this section, in relation to a unitary authority—
  - “the housing department” means those persons responsible for the exercise of their housing functions; and
  - “the social services department” means those persons responsible for the exercise of their social services functions under Part 3 of the Children Act 1989.”