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STATUTORY INSTRUMENTS

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**1998 No. 1603 (S.88)**

**HOUSING, SCOTLAND**

**The Homelessness (Decisions on  
Referrals) (Scotland) Order 1998**

*Made* - - - - 27th June 1998

*Coming into force* - - 20th July 1998

The Secretary of State, in exercise of the powers conferred on him by section 33(4) and (5)(a) of the Housing (Scotland) Act 1987<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Order, a draft of which has been laid before and approved by resolution of each House of Parliament:

**Citation and commencement**

1. This Order may be cited as the Homelessness (Decisions on Referrals) (Scotland) Order 1998 and shall come into force on the twenty eighth day after the day on which it is approved by resolution of each House of Parliament.

**Arrangements for deciding whether conditions for referral are satisfied**

2. The arrangements set out in the Schedule to this Order are those agreed by the Convention of Scottish Local Authorities, the Local Government Association, the Association of London Government and the Welsh Local Government Association, and shall be the arrangements for the purposes of section 33(4) and (5)(a) of the Housing (Scotland) Act 1987.

**Revocation and saving**

3.—(1) Subject to paragraph (2), the Housing (Homeless Persons) (Appropriate Arrangements) (No.2) Order 1978<sup>(2)</sup> is hereby revoked.

(2) The Order referred to in paragraph (1) shall continue to apply in any case where a notified authority has, prior to the date on which this Order comes into force, received a notification under—

- (a) section 67(1) of the Housing Act 1985<sup>(3)</sup>;
- (b) section 33(1) of the Housing (Scotland) Act 1987; or

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(1) 1987 c. 26.

(2) S.I.1978/661.

(3) The repeal of Part III of the Housing Act 1985 (c. 68), which includes section 67, commenced by the Housing Act 1996 (Commencement No.5 and Transitional Provisions) Order 1996 (S.I. 1996/2959) does not, by virtue of paragraph 1 of the Schedule to that Order, apply to applicants under Part III of that Act whose applications were made before 20th January 1997.

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**Status:** This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.

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(c) section 198(1) of the Housing Act 1996(4).

St Andrew's House, Edinburgh  
27th June 1998

*Calum MacDonald*  
Parliamentary Under Secretary of State, Scottish  
Office

## SCHEDULE

Article 2

### The Arrangements

#### **Appointment of person by agreement between notifying authority and notified authority**

1. Subject to paragraph 2, where the question whether the conditions for referral of a case are satisfied has not been decided by agreement between the notifying authority and the notified authority, the question shall be decided by a person appointed by those authorities.

#### **Appointment of person other than by agreement between notifying authority and notified authority**

2. If within a period of 21 days commencing on the day on which the notified authority receives a notification under section 33(1) of the Housing (Scotland) Act 1987 a person has not been appointed in accordance with paragraph 1, the question shall be decided by a person—

- (a) from the panel constituted in accordance with paragraph 3; and
- (b) appointed in accordance with paragraph 4.

3.—(1) Subject to sub-paragraph (2), the Convention of Scottish Local Authorities shall establish and maintain a panel of persons from which a person may be appointed to decide the question whether the conditions for referral of a case are satisfied.

(2) The Convention of Scottish Local Authorities shall consult such other associations of relevant authorities as they think appropriate before—

- (a) establishing the panel;
- (b) inviting a person to join the panel after it has been established; and
- (c) removing a person from the panel.

4.—(1) The notifying authority and the notified authority shall jointly request the President of the Convention of Scottish Local Authorities or his nominee (“the proper officer”) to appoint a person from the panel.

(2) If within a period of six weeks commencing on the day on which the notified authority receives a notification under section 33(1) of the Housing (Scotland) Act 1987 a person has not been appointed, the notifying authority shall request the proper officer to appoint a person from the panel.

#### **Procedural requirements**

5.—(1) Subject to the following provisions of this paragraph, the procedure for deciding whether the conditions for referral of a case are satisfied shall be determined by the appointed person.

(2) The appointed person shall invite written representations from the notifying authority and the notified authority.

(3) The appointed person may also invite—

- (a) further written representations from the notifying authority and the notified authority;
- (b) written representations from any other person; and
- (c) oral representations from any person.

(4) If the appointed person invites representations from any person, those representations may be made by a person acting on his behalf, whether or not legally qualified.

### **Notification of decision**

6. The appointed person shall notify his decision, and his reasons for it, in writing to the notifying authority and the notified authority.

### **Costs**

7.—(1) The notifying authority and the notified authority shall pay their own expenses incurred in connection with the arrangements set out in this Schedule.

(2) Where a person has made oral representations, the appointed person may give directions as to the payment by the notifying authority or the notified authority or both authorities of any travelling expenses reasonably incurred by that person.

### **Definitions**

8. In this Schedule “appointed person” means a person appointed in accordance with paragraph 1 or 4.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

Section 33 of the Housing (Scotland) Act 1987 makes provision for a homeless person to be referred by a local authority to another such authority, in specified circumstances. The question whether the conditions for referral are satisfied in any particular case must be decided by agreement between the two authorities involved or, in default of agreement, in accordance with the arrangements set out in the Schedule to this Order.

The arrangements provide for the question to be decided either by a person agreed between the two authorities concerned or, in default, by a person appointed from a panel established by the Convention of Scottish Local Authorities.