
STATUTORY INSTRUMENTS

2003 No. 3326

HOUSING, ENGLAND

The Homelessness (Suitability of Accommodation) (England) Order 2003

Made - - - - *19th December 2003*
Laid before Parliament *23rd December 2003*
Coming into force - - *1st April 2004*

The First Secretary of State, in exercise of the powers conferred upon him by sections 210(2)(a) and 215(2) of the Housing Act 1996⁽¹⁾ hereby makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Homelessness (Suitability of Accommodation) (England) Order 2003 and shall come into force on 1st April 2004.

(2) This Order applies in relation to the duties of local housing authorities in England to make accommodation available for occupation by applicants under Part 7 of the Housing Act 1996.

Interpretation

2. In this Order—

“applicant with family commitments” means an applicant—

- (a) who is pregnant;
- (b) with whom a pregnant woman resides or might reasonably be expected to reside; or
- (c) with whom dependent children reside or might reasonably be expected to reside;

“B&B accommodation” means accommodation (whether or not breakfast is included)—

- (a) which is not separate and self-contained premises; and
- (b) in which any one of the following amenities is shared by more than one household—
 - (i) a toilet;
 - (ii) personal washing facilities;

⁽¹⁾ 1966 c. 52. The functions of the Secretary of State under section 210 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2, *see* the entry in Schedule 1 for the Housing Act 1996.

(iii) cooking facilities,

but does not include accommodation which is owned or managed by a local housing authority, a registered social landlord or a voluntary organisation as defined in section 180(3) of the Housing Act 1996; and

any reference to a numbered section is a reference to a section of the Housing Act 1996.

Accommodation unsuitable where there is a family commitment

3. Subject to the exceptions contained in article 4, B&B accommodation is not to be regarded as suitable for an applicant with family commitments where accommodation is made available for occupation—

- (a) under section 188(1), 190(2), 193(2) or 200(1); or
- (b) under section 195(2)(2), where the accommodation is other than that occupied by the applicant at the time of making his application.

Exceptions

4.—(1) Article 3 does not apply—

- (a) where no accommodation other than B&B accommodation is available for occupation by an applicant with family commitments; and
- (b) the applicant occupies B&B accommodation for a period, or a total of periods, which does not exceed 6 weeks.

(2) In calculating the period, or total period, of an applicant's occupation of B&B accommodation for the purposes of paragraph (1)(b), there shall be disregarded—

- (a) any period before 1st April 2004; and
- (b) where a local housing authority is subject to the duty under section 193 by virtue of section 200(4)(3), any period before that authority became subject to that duty.

Signed by authority of the First Secretary of State

19th December 2003

Jeff Rooker
Minister of State,
Office of the Deputy Prime Minister

(2) Section 195(2) was amended by Schedule 2 to the Homelessness Act 2002 (c. 7).

(3) Section 200(4) was substituted by paragraph 15 of Schedule 1 to the Homelessness Act 2002.

EXPLANATORY NOTE

(This note is not part of the Order)

When discharging a housing function to secure that accommodation is available for an applicant who is homeless, or threatened with homelessness, under Part 7 of the Housing Act 1996, a local housing authority must ensure that the accommodation is suitable (section 206(1)). The Homelessness (Suitability of Accommodation) Order 1996 (S.I.1996/3204) specifies that in determining whether accommodation is suitable for a person, there shall be taken into account whether or not the accommodation is affordable for that person, and lists particular matters to be considered. This Order specifies the circumstances in which accommodation will not be regarded as suitable.

The Order applies to applicants with family commitments. This means applicants who are pregnant or with whom a pregnant woman or dependent children reside or might reasonably be expected to reside. The accommodation not to be regarded as suitable is defined as B&B accommodation. B&B accommodation is accommodation which, whether or not breakfast is provided, is not self contained or which involves sharing certain amenities with another household.

Article 3 provides that, where accommodation is provided under a duty under Part 7 to an applicant with family commitments, B&B accommodation is not to be regarded as suitable, subject to the exceptions contained in Article 4. Article 4 provides that if there is no accommodation, other than B&B accommodation, available for their occupation, the local housing authority may house such an applicant in B&B accommodation, but only for a period or total of periods not exceeding six weeks.

In calculating the total period of time during which an applicant with family commitments has been housed in B&B accommodation, a local housing authority is to disregard any period spent in such accommodation before 1st April 2004. It is also to disregard any period spent in B&B accommodation where such an applicant was being housed by another local housing authority prior to the conditions for a referral being met in accordance with sections 198 to 200 of the Housing Act 1996. Those sections provide that, where a local housing authority is of the opinion that the conditions for a referral are met and that an applicant has a local connection with the district of another local authority, it may refer the applicant to that authority and, if the conditions for referral are met, the second authority is subject to the duty under section 193 of that Act (the main housing duty) in respect of the applicant.