
WELSH STATUTORY INSTRUMENTS

2006 No. 650 (W.71)

HOUSING, WALES

The Homelessness (Suitability of Accommodation) (Wales) Order 2006

<i>Made</i> - - - -	<i>8 March 2006</i>
<i>Coming into force</i>	
<i>Articles 1 — 3</i>	<i>3 April 2006</i>
<i>Articles 4 — 6</i>	<i>2 April 2007</i>
<i>Articles 7 — 10</i>	<i>7 April 2008</i>

The National Assembly for Wales, in exercise of the powers conferred on the Secretary of State by sections 210(2) and 215(2) of the Housing Act 1996⁽¹⁾, and now vested in the National Assembly for Wales⁽²⁾, hereby makes the following Order:

Title, commencement and application

1.—(1) The title of this Order is the Homelessness (Suitability of Accommodation) (Wales) Order 2006.

(2) Save as provided in paragraphs (3) and (4) of this Article, this Order comes into force on 3 April 2006.

(3) Articles 4, 5 and 6 of, and the Schedule to this Order come into force on 2 April 2007.

(4) Articles 7, 8, 9 and 10 of this Order come into force on 7 April 2008.

(5) This Order applies in relation to the duties of local housing authorities in Wales under Part 7 of the Housing Act 1996 (homelessness).

Interpretation

2. In this Order—

“the 1996 Act” (“*Deddf 1996*”) means the Housing Act 1996; and any reference to a numbered section is a reference to a section of the Housing Act 1996;

(1) 1996 c. 52

(2) See S.I. 1999/672. The functions of the Secretary of State under sections 210 and 215 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999. See the entry in Schedule 1 for the Housing Act 1996.

“B&B accommodation” (“*llety Gwely a Brecwast*”) means commercially provided accommodation (whether or not breakfast is included)—

- (a) which is not separate and self-contained premises;
- (b) in which any of the following amenities is not available to the applicant or is shared by more than one household—
 - (i) a toilet;
 - (ii) personal washing facilities;
 - (iii) cooking facilities;
- (c) which is not 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; or
- (d) which is not an establishment registered under the provisions of the Care Standards Act 2000(3);

and “B&B” (“*Gwely a Brecwast*”) is to be construed accordingly;

“basic standard accommodation” (“*llety o safon sylfaenol*”) means accommodation that—

- (a) complies with all statutory requirements (such as requirements relating to fire and gas safety, planning and licences for houses in multiple occupation, where applicable); and
- (b) has a manager deemed by the local housing authority to be a fit and proper person with the ability to manage B&B accommodation;

and “basic standard” (“*safon sylfaenol*”) is to be construed accordingly;

“higher standard accommodation” (“*llety o safon uwch*”) means accommodation that meets—

- (a) the basic standard; and
- (b) the standards contained in the Schedule to this Order,

and “higher standard” (“*safon uwch*”) is to be construed accordingly;

“shared accommodation” (“*llety a rennir*”) means accommodation—

- (a) which is not separate and self-contained premises; or
- (b) in which any of the following amenities is not available to the applicant or is shared by more than one household—
 - (i) a toilet;
 - (ii) personal washing facilities;
 - (iii) cooking facilities; or
- (c) which is not an establishment registered under the provisions of the Care Standards Act 2000;

“small B&B” (“*llety Gwely a Brecwast bach*”) means—

B&B accommodation—

- (i) where the manager resides on the premises; and
- (ii) which has fewer than 7 bedrooms available for letting.

PART 1(4)

Additional matters to be taken into account in determining suitability

3. In determining for the purposes of Part 7 of the 1996 Act whether accommodation is suitable for a person in priority need⁽⁵⁾ there must be taken into account the following matters—
- (a) the specific health needs of the person;
 - (b) the proximity and accessibility of social services;
 - (c) the proximity and accessibility of the support of the family or other support services; or
 - (d) any disability of the person.

PART 2(6)

Circumstances applying from 2 April 2007 in which accommodation is not to be regarded as suitable

B&B accommodation used for housing a homeless person to meet the basic standard

4. For the purposes of Part 7 of the 1996 Act, B&B accommodation is not to be regarded as suitable unless it meets at least the basic standard.

B&B accommodation not to be regarded as suitable for a minor or a pregnant woman

5. For the purposes of Part 7 of the 1996 Act and subject to the exceptions contained in Article 6, B&B accommodation is not to be regarded as suitable for a person who is a minor or a pregnant woman.

Exceptions

- 6.—(1) Article 5 does not apply where—
- (a) the person occupies a basic standard B&B for a period, or a total of periods, which does not exceed 2 weeks;
 - (b) the person occupies a higher standard B&B for a period or a total of periods which does not exceed 6 weeks;
 - (c) the person occupies a basic standard small B&B for a period or a total of periods which does not exceed 6 weeks, and the local housing authority has, before the expiry of the two-week period referred to in sub-paragraph (a), offered suitable alternative accommodation, but the person has chosen to remain in the said B&B;
 - (d) the person occupies a basic standard small B&B after exercising the choice referred to in sub-paragraph (c) above, and the local housing authority has offered suitable alternative accommodation before the end of the six-week period referred to in sub-paragraph (c) above, but the person has chosen to remain in the said B&B; or
 - (e) the person occupies a higher standard small B&B, and the local housing authority has offered suitable alternative accommodation, before the expiry of the six-week period referred to in sub-paragraph (b) above, but the person has chosen to remain in the said B&B.

(4) *Cif*: 3 April 2006.

(5) See the definition of “priority need” in section 189(1) Housing Act 1996 and S.I. 2001/607.

(6) *Cif*: 2 April 2007.

(2) If the suitable alternative accommodation offered for the purposes of paragraph (1) is shared, it must meet the higher standard.

(3) In the case of households with dependant children or a pregnant woman, the offer made under sub-paragraphs (d) or (e) must be of suitable self-contained accommodation. In the case of an applicant who is a minor, the offer must be of suitable accommodation with support.

(4) In calculating a period, or total period, of a person's occupation of B&B accommodation for the purposes of paragraph (1), there must be disregarded—

- (a) any period before 2 April 2007; and
- (b) where a local housing authority⁽⁷⁾ is subject to the duty under section 193 by virtue of section 200(4)⁽⁸⁾, any period before that authority became subject to that duty.

PART 3(9)

Extension from 7 April 2008 to all accommodation provided in discharge of homelessness functions

B&B accommodation not to be regarded as suitable for a homeless person in priority need

7. For the purposes of Part 7 of the 1996 Act and subject to the exceptions contained in article 9, B&B accommodation is not to be regarded as suitable for a person who is in priority need.

Shared accommodation to meet the higher standard

8. For the purposes of Part 7 of the 1996 Act and subject to the exceptions contained in articles 9 and 10, shared accommodation is not to be regarded as suitable for a person who is in priority need unless it meets the higher standard.

Exceptions

9.—(1) Articles 7 and 8 do not apply where—

- (a) the person occupies basic standard B&B for a period, or a total of periods, which does not exceed 2 weeks;
- (b) the person occupies a higher standard B&B for a period or a total of periods which does not exceed 6 weeks;
- (c) the person occupies a basic standard small B&B for a period or a total of periods which does not exceed 6 weeks, and the local housing authority has, before the expiry of the two-week period referred to in sub-paragraph (a), offered suitable alternative accommodation, but the person has chosen to remain in the said B&B;
- (d) the person occupies a basic standard small B&B after exercising the choice referred to in sub-paragraph (c), and the local housing authority has offered suitable alternative accommodation before the end of the six-week period referred to in sub-paragraph (c) above, but the person has chosen to remain in the said B&B;
- (e) the person occupies a higher standard small B&B, the local housing authority has offered suitable alternative accommodation, before the expiry of the six-week period referred to in sub-paragraph (b), but the person has chosen to remain in the said B&B: or

⁽⁷⁾ See the definition of local housing authority in section 230 Housing Act 1996

⁽⁸⁾ Section 200(4) was substituted by paragraph 15 of Schedule 1 to the Homelessness Act 2002.

⁽⁹⁾ *Cf:* 7 April 2008.

- (f) the person occupies basic standard shared accommodation for a period, or a total of periods, which does not exceed 2 weeks;
 - (g) the person occupies, for a period or a total of periods which does not exceed 6 weeks, basic standard shared accommodation owned by a local housing authority or registered social landlord, and the local housing authority has offered suitable alternative accommodation before the expiry of the two-week period referred to in sub-paragraph (f), but the person has chosen to remain in the said accommodation.
- (2) If the suitable alternative accommodation offered for the purposes of paragraph (1) is shared, it must meet the higher standard.
- (3) In the case of households with dependant children or a pregnant woman, the offer made under sub-paragraphs (d) or (e) must be of suitable self-contained accommodation. In the case of an applicant who is a minor, the offer must be of suitable accommodation with support.
- (4) In calculating a period, or total period, of a person's occupation of shared accommodation for the purposes of paragraph (1), there must be disregarded —
- (a) any period before 7 April 2008; and
 - (b) where a local housing authority is subject to the duty under section 193 by virtue of section 200(4), any period before that authority became subject to that duty.

Delayed application to Social Housing

10. Article 7 is not to apply until 4 April 2011 to any property owned or managed by a local authority or registered social landlord and used for the purposes of Part 7 of the 1996 Act on 7 April 2008.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**10**)

8 March 2006

D. Elis-Thomas
The Presiding Officer of the National Assembly

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SCHEDULE

Higher Standard

1 Minimum Space Standards

1.

Space standards for sleeping accommodation

Room sizes where cooking facilities provided in a separate room or kitchen

Floor Area of Room	Maximum No of Persons
Not less than 6.5 square metres	1 person
Not less than 10.2 square metres	2 persons
Not less than 14.9 square metres	3 persons
Not less than 19.6 square metres	4 persons

Room sizes where cooking facilities provided within the room

Floor Area of Room	Maximum No of Persons
Not less than 10.2 square metres	1 person
Not less than 13.9 square metres	2 persons
Not less than 18.6 square metres	3 persons
Not less than 23.2 square metres	4 persons

For the purposes of the room size calculations above, a child less than 10 years old is treated as a half person.

- (a) No room to be occupied by more than 4 persons, except where the occupants consent.
- (b) No sharing of rooms for those of opposite genders, aged 10 or above unless they are living together as partners and both are over the age of consent, or where a parent or guardian elects to share with an older child.
- (c) All rooms must have a floor to ceiling height of at least 2.1 metres over not less than 75% of the room area. Any part of the room where the ceiling height is less than 1.5 metres must be disregarded when calculating the floor area.
- (d) Separate kitchens and bathrooms are unsuitable for sleeping accommodation.

2 Installation for heating

2. The premises must have adequate provision for heating. All habitable rooms and bath- or shower-rooms must have a heating system capable of maintaining the room at a minimum temperature of 18°C when the outside temperature is minus 1°C.

3 Facilities for the storage, preparation and cooking of food within the unit

(1) In a unit of accommodation accommodating more than one person, the food preparation area provided within the unit must include the following facilities:

- (a) four burners or hobs, conventional oven and grill, or two burners or hobs and a microwave with a built in oven and grill,

- (b) a sink and integral drainer, with a constant supply of hot water and cold drinking water,
- (c) a storage cupboard of a minimum capacity 0.2 cubic metres excluding storage beneath the sink,
- (d) a refrigerator,
- (e) a minimum of four 13-amp sockets (single or double) situated over the worktop,
- (f) a worktop for food preparation of minimum dimensions 1 metre x 0.6 metre, and
- (g) a minimum of 1 metre circulation space from facilities to other furniture in the room.

(2) In a unit of accommodation accommodating one person, the food preparation area provided within the unit of accommodation must include the following facilities:

As (a) — (g) above but (a) to have a minimum of two burners or hobs.

4 Storage, preparation and cooking of food in a shared facility

(1) Where food preparation areas are shared between more than one household there must be one set of kitchen facilities for:

- (a) every 3 family households or fewer;
- (b) every 5 single-person households or fewer. (For between 6 and 9 single-person households an additional oven or microwave is required.)
- (c) every 10 persons or fewer where there is a mixture of family and single-person households within the same premises.

(2) Each set of shared facilities must provide the following facilities:

- (a) as for unit accommodating more than one person except that cooking facilities must consist of 4 burners or hobs, conventional oven, grill and microwave,
- (b) an electric kettle,
- (c) a toaster.

The food preparation area used by the management may be included when calculating the ratio, provided it meets the criteria for storage, preparation and cooking of food in a shared facility.

Where residents have no access to kitchen facilities and the proprietor provides at least a breakfast and evening-meal for residents, the requirements for shared kitchen facilities will be deemed to have been met.

Additional facilities to be provided in each bedroom or within the total accommodation occupied exclusively by each household must include:

- (a) a refrigerator; and
- (b) lockable storage.

Alternatively, these may be provided elsewhere within the building.

5 Toilet and washing facilities

(1) Facilities for the exclusive use of the occupant or household must include:

- (a) bath or shower,
- (b) a wash hand basin with a constant supply of hot and cold water, and
- (c) a water-closet either en-suite or in a separate room reserved for the exclusive use of individuals or households.

(2) Shared facilities must include:

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- (a) One water closet and wash hand basin with a constant supply of hot and cold water within the building for every five households or fewer. This must be located not more than one floor away from the intended users. For the first five households the water closet and wash hand basin may be in the shower or bathroom. All additional water closets and wash hand basins for occupancies of six households or more must be in a separate compartment.
- (b) One bathroom or shower-room to be provided for every five persons. This must be located not more than one floor away from the intended users.
- (c) In premises accommodating children under the age of 10, at least half of the bathing facilities must contain baths suitable for children.

The number of persons occupying a unit of accommodation with a water closet facility provided for their exclusive use is not to be included in the calculation for shared water closets.

6 Security

6. The entrance door to each unit of accommodation must be lockable and be capable of being unlocked from inside without the use of a key.

7 Common Room (s)

7. Every premises must have a common room of at least 12 square metres unless all households have a living area separate from their sleeping area that is available for their exclusive use or the premises are for single person households only.

8 Management Standard(11)

- (a) (a) Each household must be issued with written 'house rules' which include details as to how sanctions will be applied. This document is to be approved by the local authority placing homeless households in the premises.
- (b) Each household must be issued with written information relating to the premises including how to operate all installations, for example heating and hot water appliances and fire fighting equipment.
- (c) Written information must be made available to residents relating to the local area including the location or contact details of local facilities, laundrettes, doctors' surgeries and schools.
- (d) Residents must have access to their rooms at all times except when rooms are being cleaned or otherwise maintained. Provision must be made to accommodate residents at these times.
- (e) Access is allowed for the appropriate officers of the local housing authority in whose area the premises are situated, and officers of any authority placing homeless households in the premises, to inspect the premises as and when they consider necessary, to ensure that the requirements are being complied with; and that the manager will allow such inspections to take place, if necessary without notice.
- (f) Access is allowed for the officers of the local authority and authorised health and community workers for the area in which the premises are situated, to visit the occupiers of the premises and interview them in private in the room(s) they occupy.
- (g) A manager with adequate day to day responsibility to ensure the good management of the property can be contacted at all times and that a notice giving the name, address and telephone number of the manager must be displayed in a readily visible position in the property.

(11) This standard will be in addition to the legal standard contained in "The Housing (Management of Houses in Multiple Occupation) Regulations 1990" or the standard developed as a result of "Licensing in the Private Rented Sector — A Consultation Paper on the Implementation of HMO licensing in Wales" published in January 2005.

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- (h) A clear emergency evacuation plan is in place setting out action upon hearing the fire alarm, escape routes and safe assembly points. The managers must ensure that each person newly arriving at the premises is told what to do in the event of a fire and about fire precautions provided.
- (i) Each household must be issued with a complaints procedure which specifies how a complaint can be made. This information must also include where the complainant can obtain further advice and assistance.

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 (homelessness) of the Housing Act 1996 (“the 1996 Act”), a local housing authority must ensure that the accommodation is suitable (section 206(1)). Section 210 specifies matters to be taken into account when determining suitability of accommodation for the purposes of Part 7 of the 1996 Act.

The National Assembly for Wales has the power to specify additional matters under section 210. The Secretary of State previously made the Homelessness (Suitability of Accommodation) Order 1996 (S.I.1996/3204) which specified that in determining for the purposes of Part 7 whether accommodation is suitable for a person, there is to be taken into account whether or not the accommodation is affordable for that person. That Order listed particular matters to be considered with reference to affordability.

This order is called the Homelessness (Suitability of Accommodation) order 2006 and is in three parts.

Part 1 of this Order comes into force on 3 April 2006. It relies on the power in section 210(2)(b) of Part 7 of the 1996 Act. Part 1 applies to persons in priority need as defined by section 189 of the 1996 Act. Under section 210(2)(b), this Order specifies matters to be taken into account in determining whether accommodation is suitable for a person. These additional matters relate to the health needs of the person, any disability of the person and the proximity of social services and other support.

Part 2 of this Order comes into force on 2 April 2007. It applies to accommodation made available under Part 7 of the 1996 Act. This Part relies on the powers in section 210(2)(a) and (b) of Part 7 of the 1996 Act. Article 4 of this Order specifies that Bed and Breakfast (“B&B”) accommodation may only be regarded as suitable for the purposes of Part 7 of the 1996 Act if it complies with a Basic Standard. The Basic Standard requires that the B&B accommodation must firstly meet all statutory requirements. Some examples are fire and gas safety, planning permission and HMO licencing (where required). The premises must also be managed by a fit and proper person. Local Housing Authorities must have regard to the statutory guidance issued under section 182 of the 1996 Act in assessing whether a person is fit and proper.

Part 2 then specifies, in Article 5, additional circumstances in which accommodation must not be regarded as suitable. It does this by specifying minimum standards for B&B accommodation used for households containing or consisting of a minor or a pregnant woman. This includes households consisting only of one or more minors aged 16 or 17. Article 5 specifies that, where accommodation is provided under a duty under Part 7 of the 1996 Act to a household containing a minor or a

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pregnant woman, B&B accommodation is not to be regarded as suitable, subject to the exceptions contained in Article 6. Article 6 provides for certain exceptions relating to the length of time spent in B&B accommodation, the standard of the B&B accommodation, and the choice of the homeless household.

B&B accommodation is defined as commercially provided accommodation which, whether or not breakfast is provided, is not self contained or which involves sharing certain amenities with another household.

In calculating the total period of time during which a household containing a minor or pregnant woman has been housed in B&B accommodation, a local housing authority is to disregard any period spent in such accommodation before 2 April 2007. 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 1996 Act. 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 the 1996 Act (the main housing duty) in respect of the applicant.

Part 3 of this Order comes into force on 7 April 2008. It extends the Part 2 standards to all types of shared accommodation provided under Part 7 of the 1996 Act. It also extends restrictions on the provision of B&B accommodation to all priority need households. It contains exceptions which are similar to those in Part 2. There is an additional exception for accommodation managed by a local authority or registered housing association.

For existing social housing schemes, there is a transitional provision. This provides for a 3-year delay in application until 4 April 2011, for those housing schemes already used for housing homeless persons before 7 April 2008.

This Order does not apply where the local housing authority is exercising discretionary powers to assist homeless persons.

The dates when this Order is to come into force have been chosen to coincide with the start of the financial year for Local Housing Authorities in Wales.