



Homelessness etc. (Scotland) Act 2003

2003 asp 10

Homelessness: priority need for accommodation

1 Amendment of section 25 of the 1987 Act

(1) Section 25 (persons having priority need for accommodation) of the Housing (Scotland) Act 1987 (c. 26) (“the 1987 Act”) is amended as follows.

(2) In subsection (1)—

(a) for paragraph (c) substitute—

“(c) a person who is vulnerable as a result of—

- (i) old age;
- (ii) mental illness;
- (iii) personality disorder;
- (iv) learning disability;
- (v) physical disability;
- (vi) chronic ill health;
- (vii) having suffered a miscarriage or undergone an abortion;
- (viii) having been discharged from a hospital, a prison or any part of the regular armed forces of the Crown; or
- (ix) other special reason;”

(b) at the end insert—

“(e) a person with whom a person referred to in paragraph (c) or (d) resides or might reasonably be expected to reside;

- (f) a person aged 16 or 17;
- (g) a person aged 18 to 20 who satisfies either of the conditions specified in subsection (1A);
- (h) a person who, by reason of that person’s religion, sexual orientation, race, colour or ethnic or national origins—
 - (i) runs the risk of violence; or
 - (ii) is, or is likely to be, the victim of a course of conduct amounting to harassment;

Status: This is the original version (as it was originally enacted).

- (i) a person who runs the risk of domestic abuse (within the meaning of section 33(3)).”
- (3) After that subsection insert—
 - “(1A) The conditions referred to in subsection (1)(g) are—
 - (a) that, by reason of the circumstances in which the person is living, the person runs the risk of sexual or financial exploitation or involvement in the serious misuse of alcohol, any drug (whether or not a controlled drug within the meaning of the Misuse of Drugs Act 1971 (c. 38)) or any volatile substance;
 - (b) that, at the time when the person ceased to be of school age (within the meaning of section 31 of the Education (Scotland) Act 1980 (c. 44)) or at any subsequent time, the person was looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c. 36)) and the person is no longer being so looked after.
 - (1B) In subsection (1)(h), the references to conduct, course of conduct and harassment are to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c. 40).”
- (4) In subsection (2)(b), at the end insert “, (1A) or (1B)”.
- (5) The Homeless Persons (Priority Need) (Scotland) Order 1997 (S.I. 1997/3049) is revoked.

2 Abolition of priority need test

- (1) From such day as the Scottish Ministers may by order made by statutory instrument appoint, the question whether an applicant has a priority need is to be left out of account in determining the duties of a local authority under—
 - (a) section 31 (duties to persons found to be homeless), and
 - (b) section 32 (duties to persons found to be threatened with homelessness),
 of the 1987 Act.
- (2) The day to be appointed under subsection (1) is the earliest day on which, in the view of the Scottish Ministers, all local authorities can reasonably be expected to perform the duties under sections 31 and 32 of the 1987 Act as modified by that subsection.
- (3) An order under subsection (1) may make—
 - (a) such modifications of Part II of the 1987 Act and any other enactment, and
 - (b) such incidental, supplemental, consequential, transitional, transitory or saving provision,
 as the Scottish Ministers think necessary or expedient in consequence or for the purposes of that subsection.
- (4) Except where subsection (5) applies, a statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (5) No order under subsection (1) containing provisions which add to, replace or omit any part of the text of an Act is to be made unless a draft of it has been laid before, and approved by resolution of, the Parliament.

3 Statement on abolition of priority need test

- (1) The Scottish Ministers must, by 31st December 2005, prepare and publish a statement setting out the measures which they and local authorities have taken, are taking and intend to take for the purpose of ensuring that local authorities can reasonably be expected to perform the duties under sections 31 and 32 of the 1987 Act as modified by section 2(1) of this Act.
- (2) The statement must specify—
 - (a) a target date (which must be no later than 31st December 2012) for the achievement of that purpose, and
 - (b) interim objectives towards the achievement of that purpose.
- (3) Those interim objectives may include proposals to specify, under section 25(2) (a) of the 1987 Act, further descriptions of persons as having a priority need for accommodation.
- (4) The Scottish Ministers—
 - (a) must keep the statement under review,
 - (b) may from time to time modify the statement, and
 - (c) must publish any modified statement.
- (5) In preparing or modifying the statement, the Scottish Ministers must have regard to the homelessness strategies and local housing strategies prepared by local authorities under sections 1 and 89 respectively of the Housing (Scotland) Act 2001 ([asp 10](#)) (“the 2001 Act”).
- (6) Before preparing or modifying the statement the Scottish Ministers must consult—
 - (a) such associations representing local authorities, and
 - (b) such other persons,as they think fit.