



## 2010 CHAPTER 9

### *Homelessness*

#### **Reviews of decisions in relation to homelessness**

**5.—(1)** After Article 11 of the Order of 1988 (duties to persons found to be threatened with homelessness) insert—

#### *“Right to request review of decision*

#### **Right to request review of decision**

**11A.—(1)** An applicant has the right to request a review of any decision of the Executive—

- (a) as to the applicant's eligibility for assistance under this Part;
- (b) as to what duty (if any) is owed to the applicant under Articles 10 (duties to persons found to be homeless) and 11 (duties to persons found to be threatened with homelessness);
- (c) as to the suitability of accommodation offered to the applicant in discharge of the Executive's duty under either of those Articles.

(2) There is no right to request a review of the decision reached on an earlier review.

(3) A request for review must be made before the end of the period of 28 days beginning with the day on which the applicant is notified of the Executive's decision or such longer period as the Executive may in writing allow.

(4) On a request being duly made to it, the Executive shall review its decision.

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*Changes to legislation: There are currently no known outstanding effects for the Housing (Amendment) Act (Northern Ireland) 2010, Section 5. (See end of Document for details)*

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(5) Where the Executive gives a person notice of a decision mentioned in paragraph (1) it shall also inform that person—

- (a) of the right to request a review of the decision and of the time within which such a request must be made;
- (b) of the effect of Articles 8(3) and 11C(5).

### **Procedure on a review**

**11B.**—(1) The Department may make provision by regulations as to the procedure to be followed in connection with a review under Article 11A. Nothing in the following provisions affects the generality of this power.

(2) Provision may be made by regulations—

- (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
- (b) as to the circumstances in which the applicant is entitled to an oral hearing, and whether and by whom the applicant may be represented at such a hearing.

(3) The Executive shall notify the applicant of the decision on the review.

(4) If the decision is to confirm the original decision on any issue against the interests of the applicant, the Executive shall also notify the applicant of the reasons for the decision.

(5) In any case the Executive shall inform the applicant of the right to appeal to the county court on a point of law, and of the period within which such an appeal must be made (see Article 11C).

(6) Notice of the decision shall not be treated as given unless and until paragraph (5), and where applicable paragraph (4), is complied with.

(7) Provision may be made by regulations as to the period within which the review must be carried out and notice given of the decision.

(8) The notice required to be given to a person under this Article shall be given in writing and shall, if not received by the person, be treated as given to the person only if it is made available for a reasonable period at the office of the Executive to which the person applied, for collection by or on behalf of that person.

(9) Regulations under this Article are subject to negative resolution.

### **Right of appeal to a county court on a point of law**

**11C.**—(1) If an applicant who has requested a review under Article 11A —

- (a) is dissatisfied with the decision on the review, or

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- (b) is not notified of the decision on the review within the time prescribed by regulations under Article 11B,

the applicant may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision.

(2) An appeal must be brought within 28 days of the applicant's being notified of the decision or, as the case may be, of the date on which the applicant should have been notified of a decision on review.

(3) The court may give leave for an appeal to be brought after the end of the period allowed by paragraph (2), but only if it is satisfied—

- (a) where leave is sought before the end of that period, that there is a good reason for the applicant to be unable to bring the appeal in time; or  
 (b) where leave is sought after that time, that there was a good reason for the applicant's failure to bring the appeal in time and for any delay in applying for leave.

(4) On appeal the court may make such order confirming, quashing or varying the decision as it thinks fit.

(5) Where the Executive was under a duty under Article 8(1) or 10(3) to secure that accommodation is available for the applicant's occupation it may secure that accommodation is so available—

- (a) during the period for appealing under this Article against the Executive's decision, and  
 (b) if an appeal is brought, until the appeal (and any further appeal) is finally determined.

#### **Article 11C(5): appeals**

**11D.**—(1) This Article applies where an applicant has the right to appeal to the county court against the Executive's decision on a review.

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

- (a) not to exercise its power under Article 11C(5) in relation to the applicant's case,  
 (b) to exercise its power under Article 11C(5) for a limited period ending before the final determination by the county court of the applicant's appeal under Article 11C(1) (“the main appeal”), or  
 (c) to cease exercising its power before that time,

the applicant may appeal to the county court against the decision.

(3) An appeal under this Article may not be brought after the final determination by the county court of the main appeal.

(4) On an appeal under this Article the court—

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- (a) may order the Executive 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 Executive to exercise its power under Article 11C(5) in the applicant's case for such period as may be specified in the order.
  - (6) An order under paragraph (5)—
    - (a) may only be made if the court is satisfied that failure to exercise any power under Article 11C(5) 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.

Supplementary provisions ”.

(2) Renumber Article 8 of the Order of 1988 (interim duty to accommodate in case of apparent priority need) as paragraph (1) of that Article and after that paragraph insert—

“(2) The duty under paragraph (1) ceases when the Executive's decision is notified to the applicant even if the applicant requests a review of that decision under Article 11A.

(3) But the Executive may secure that accommodation is available for the applicant's occupation pending a decision on the review.”.

**Changes to legislation:**

There are currently no known outstanding effects for the Housing (Amendment) Act (Northern Ireland) 2010, Section 5.