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## STATUTORY INSTRUMENTS

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### 1988 No. 1990

## The Housing (Northern Ireland) Order 1988

### PART II

#### HOUSING THE HOMELESS

##### *Duties of the Executive with respect to homelessness and threatened homelessness*

##### **Inquiry into cases of possible homelessness or threatened homelessness**

7.—(1) If—

- (a) a person (an “applicant”) applies to the Executive for accommodation, or for assistance in obtaining accommodation, and
- (b) the Executive has reason to believe that he may be homeless or threatened with homelessness,

it shall make such inquiries as are necessary to satisfy itself as to whether he is homeless or threatened with homelessness.

(2) If the Executive is so satisfied it shall make any further inquiries necessary to satisfy itself as to—

- (a) whether the applicant has a priority need, and
- (b) whether he became homeless or threatened with homelessness intentionally.

##### **[<sup>F1</sup>Persons not eligible for housing assistance**

7A.—(1) A person is not eligible for assistance under this Part—

- (a) if he is a person from abroad who is subject to immigration control and is ineligible for such assistance by virtue of section 119 of the Immigration and Asylum Act 1999 (c. 33);
- (b) if he is any other person from abroad who is ineligible for such assistance by virtue of regulations made under paragraph (2); or
- (c) if he is a person who the Executive has decided is to be treated as ineligible for such assistance by virtue of paragraph (5).

(2) The Secretary of State may, for the purposes of paragraph (1)(b), make provision by regulations as to other descriptions of persons who are to be treated as persons from abroad who are ineligible for assistance under this Part.

(3) Regulations made under paragraph (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

(4) A person from abroad who is not eligible for assistance under this Part shall be disregarded in determining for the purposes of this Part whether [<sup>F2</sup>a person falling within paragraph (4A)]—

- (a) is homeless or threatened with homelessness, or

(b) has a priority need for accommodation.

[  
<sup>F3</sup>(4A) A person falls within this paragraph if the person—

(a) falls within a class specified in an order under section 119(1) of the Immigration and Asylum Act 1999; but

[<sup>F4</sup>(b) is not a person who, immediately before IP completion day, was—

(i) a national of an EEA State or Switzerland, and

(ii) within a class specified in an order under section 119(1) of the Immigration and Asylum Act 1999 which had effect at that time.]]

(5) The Executive may decide that [<sup>F5</sup>a person] is to be treated as ineligible for assistance under this Part if it is satisfied that—

(a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the Executive; and

(b) in the circumstances at the time his application is considered, he is unsuitable to be a tenant of the Executive by reason of that behaviour.

(6) The only behaviour which may be regarded by the Executive as unacceptable for the purposes of paragraph (5)(a) is—

(a) behaviour of the person concerned which would (if he were a secure tenant of the Executive) entitle the Executive to a possession order under Article 29 of the Order of 1983 on Ground 2 or Ground 3 in Schedule 3 to that Order; or

(b) behaviour of a member of his household which would (if he were a person residing with a secure tenant of the Executive) entitle the Executive to such a possession order.

(7) Where the Executive is satisfied that a person is not eligible for assistance under this Part by virtue of paragraph (1)(c) of this Article but has a priority need, it shall treat him in the same manner as an applicant to whom paragraph (3) of Article 10 applies.

(8) Where the Executive is satisfied that a person—

(a) is not eligible for assistance under this Part by virtue of paragraph (1)(a) or (b); or

(b) is not eligible for assistance under this Part by virtue of paragraph (1)(c) and does not have a priority need;

it shall treat him in the same manner as an applicant to whom paragraph (4) of Article 10 applies.

[  
<sup>F6</sup>(9) Where the Executive decides that a person—

(a) is ineligible for assistance under this Part by virtue of paragraph (1)(a) or (b), or

(b) is to be treated as ineligible for assistance under this Part by virtue of paragraph (5),

the Executive shall notify him of the decision and the reasons for that decision.

(10) The notice required to be given to a person under paragraph (9) 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 the person.]]

**F1** 2003 NI 2

**F2** Words in art. 7A(4) substituted (2.3.2009 for certain purposes, otherwise prosp.) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 314, 325\(1\), Sch. 15 para. 18\(2\); S.I. 2009/415, art. 3](#)

**F3** Art. 7A(4A) inserted (2.3.2009 for certain purposes, otherwise prosp.) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 314, 325\(1\), Sch. 15 para. 18\(3\); S.I. 2009/415, art. 3](#)

**Changes to legislation:** There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1988, Cross Heading: Duties of the Executive with respect to homelessness and threatened homelessness. (See end of Document for details)

- F4** Art. 7A(4A)(b) substituted (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **9(2)**
- F5** Words in art. 7A(5) substituted (31.7.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 3(2), 19(1)**; S.R. 2010/251, **art. 2**
- F6** Art. 7A(9)(10) added (31.7.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 3(3), 19(1)**; S.R. 2010/251, **art. 2**

### Provision of information by Secretary of State

**7B.**—(1) The Secretary of State shall, at the request of the Executive, provide the Executive with such information as it may require to enable it to determine for the purposes of paragraph (1)(a) or (b) of Article 7A whether such a person is eligible for assistance under this Part.

(2) Where that information is given otherwise than in writing, the Secretary of State shall confirm it in writing if a written request is made to him by the Executive.

(3) If it appears to the Secretary of State that any application, decision or other change of circumstances has affected the status of a person about whom information was previously provided by him to the Executive under this Article, he shall inform the Executive in writing of that fact, the reason for it and the date on which the previous information became inaccurate.

### Interim duty to accommodate in case of apparent priority need

**8.**—<sup>[F7]</sup>(1) If the Executive has reason to believe that an applicant may be homeless and have a priority need, it shall secure that accommodation is made available for his occupation pending a decision as a result of its inquiries under Article 7.

<sup>[F8]</sup>(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.]

- F7** Art. 8 renumbered (1.12.2010) as art. 8(1) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 5(2), 19(1)**; S.R. 2010/251, **art. 3**
- F8** Art. 8(2)(3) inserted (1.12.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 5(2), 19(1)**; S.R. 2010/251, **art. 3**

### Notification of decision and reasons

**9.**—(1) On completing its inquiries under Article 7, the Executive shall notify the applicant of its decision on the question whether he is homeless or threatened with homelessness.

(2) If the Executive notifies the applicant that its decision is that he is homeless or threatened with homelessness, it shall at the same time notify him of its decision on the question whether he has a priority need.

(3) If the Executive notifies the applicant that its decision is that he has a priority need, it shall at the same time notify him of its decision whether he became homeless or threatened with homelessness intentionally.

<sup>[F9]</sup>(3A) If the Executive decides that the applicant is homeless, threatened with homelessness or has a priority need but would not have done so without having had regard to a restricted person, it shall also notify him of—

- (a) the fact that its decision was reached on that basis,

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- (b) the name of the restricted person,
  - (c) the reason why the person is a restricted person, and
  - (d) the effect of Article 10(2E) and (2F) or (as the case may be) 11(2A) and (2B).]
- (4) If the Executive notifies the applicant—
- (a) that it is not satisfied that he is homeless or threatened with homelessness, or
  - (b) that it is not satisfied that he has a priority need, or
  - (c) that it is satisfied that he became homeless or threatened with homelessness intentionally,
- it shall at the same time notify him of its reasons.
- (5) The notice required to be given to a person under this Article shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available for a reasonable period at the office of the Executive to which he applied, for collection by him or on his behalf.

- [<sup>F10</sup>(6) In this Article “a restricted person” means a person—
- (a) who is not eligible for assistance under this Part,
  - (b) who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996, and
  - (c) either—
    - (i) who does not have leave to enter or remain in the United Kingdom, or
    - (ii) whose leave to enter or remain in the United Kingdom is subject to a condition to maintain and accommodate himself, and any dependants, without recourse to public funds.]

**F9** Art. 9(3A) inserted (2.3.2009 for certain purposes, otherwise prosp.) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 314, 325\(1\), Sch. 15 para. 19\(2\); S.I. 2009/415, art. 3](#)

**F10** Art. 9(6) inserted (2.3.2009 for certain purposes, otherwise prosp.) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 314, 325\(1\), Sch. 15 para. 19\(3\); S.I. 2009/415, art. 3](#)

### Duties to persons found to be homeless

**10.**—(1) This Article has effect as regards the duties owed by the Executive to an applicant where it is satisfied that he is homeless.

(2) Where the Executive is satisfied that the applicant has a priority need and is not satisfied that he became homeless intentionally, it shall secure that accommodation becomes available for his occupation.

[<sup>F11</sup>(2ZA) The Executive shall cease to be subject to the duty under paragraph (2) if the applicant ceases to be eligible for assistance under this Part by virtue of Article 7A(1)(a) or (b).]

[<sup>F12</sup>(2A) In a restricted case the Executive shall cease to be subject to the duty under paragraph (2) if the applicant, having been informed of the possible consequence of refusal—

- (a) accepts a private accommodation offer, or
  - (b) refuses such an offer.
- (2B) For the purposes of this Article an offer is a private accommodation offer if—
- (a) it is an offer of a private tenancy made by a landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant's occupation,

(b) it is made, with the approval of the Executive, in pursuance of arrangements made by the Executive with the landlord with a view to bringing its duty under paragraph (2) to an end, and

(c) the tenancy being offered is for a term certain of at least 12 months.

(2C) The Executive shall not approve a private accommodation offer unless it is satisfied that the accommodation is suitable for the applicant and that it is reasonable for him to accept the offer.

(2D) For the purposes of paragraph (2C) an applicant may reasonably be expected to accept an offer even though he is under contractual or other obligations in respect of his existing accommodation, provided he is able to bring those obligations to an end before he is required to take up the offer.

(2E) In a restricted case the Executive shall, so far as reasonably practicable, bring its duty under paragraph (2) to an end as mentioned in paragraph (2A).

(2F) In a restricted case the Executive shall also cease to be subject to the duty under paragraph (2) if the applicant, having been informed of the possible consequence of refusal, refuses a reasonable offer of accommodation under the Housing Selection Scheme.

(2G) For the purposes of paragraph (2F)—

(a) “the Housing Selection Scheme” means the scheme for the allocation of housing accommodation held by the Executive approved from time to time under Article 22 of the Order of 1981, and

(b) an offer of accommodation is reasonable if it is a reasonable offer within the meaning of that Scheme.

(2H) Paragraphs (2A) to (2G) are without prejudice to any other way in which the Executive can cease to be subject to the duty under paragraph (2).]

(3) Where the Executive is satisfied that the applicant has a priority need but is also satisfied that he became homeless intentionally, it shall—

(a) secure that accommodation is made available for his occupation for such period as it considers will give him a reasonable opportunity of securing accommodation for his occupation, and

(b) [F13provide the applicant with advice and assistance of such type as may be prescribed by the Department] in any attempts he may make to secure that accommodation becomes available for his occupation.

(4) Where the Executive is not satisfied that the applicant has a priority need, it shall [F14provide the applicant with advice and assistance of such type as may be prescribed by the Department] in any attempts he may make to secure that accommodation becomes available for his occupation.

[F15(5) In this Article—

“a private tenancy” has the same meaning as in the Private Tenancies (Northern Ireland) Order 2006,

“a restricted case” means a case falling within paragraph (2) where the Executive would not be satisfied as mentioned in paragraphs (1) and (2) without having had regard to a restricted person,

“a restricted person” has the same meaning as in Article 9.]

[F16(6) In this Article and in Article 11 “prescribed” means prescribed by regulations subject to negative resolution.]

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**F11** [Art. 10\(2ZA\)](#) inserted (1.9.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\)](#), **ss. 16, 25(1)**; [S.R. 2011/241](#), **art. 2(2)**, [Sch. 2](#)

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- F12** Art. 10(2A)-(2H) inserted (2.3.2009 for certain purposes, otherwise prosp.) by Housing and Regeneration Act 2008 (c. 17), ss. 314, 325(1), **Sch. 15 para. 20(2)**; S.I. 2009/415, **art. 3**
- F13** Words in art. 10(3)(b) substituted (31.7.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 4(2)(a)**, 19(1); S.R. 2010/251, **art. 2**
- F14** Words in art. 10(4) substituted (31.7.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 4(2)(b)**, 19(1); S.R. 2010/251, **art. 2**
- F15** Art. 10(5) inserted (2.3.2009 for certain purposes, otherwise prosp.) by Housing and Regeneration Act 2008 (c. 17), ss. 314, 325(1), **Sch. 15 para. 20(3)**; S.I. 2009/415, **art. 3**
- F16** Art. 10(6) added (31.7.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 4(2)(c)**, 19(1); S.R. 2010/251, **art. 2**

### Duties to persons found to be threatened with homelessness

**11.—(1)** This Article has effect as regards the duties owed by the Executive to an applicant where it is satisfied that he is threatened with homelessness.

(2) Where the Executive is satisfied that the applicant has a priority need and is not satisfied that he became threatened with homelessness intentionally, it shall take reasonable steps to secure that accommodation does not cease to be available for his occupation.

[<sup>F17</sup>(2A) Paragraph (2B) applies in a restricted threatened homelessness case where, in pursuance of the duty under paragraph (2), the Executive secures that accommodation other than that occupied by the applicant when he made his application is available for occupation by him.

(2B) The provisions of Article 10(2A) to (2H) (circumstances in which duty in restricted case ceases) apply, with any necessary modifications, in relation to the duty under paragraph (2) as they apply in relation to the duty under Article 10(2) in a restricted case (within the meaning of that Article).]

(3) Where—

- (a) the Executive is not satisfied that the applicant has a priority need, or
- (b) it is satisfied that he has a priority need but is also satisfied that he became threatened with homelessness intentionally,

it shall [<sup>F18</sup>provide the applicant with advice and assistance of such type as may be prescribed by the Department] in any attempts he may make to secure that accommodation does not cease to be available for his occupation.

(4) Paragraph (2) does not affect any right of the Executive, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of accommodation.

[<sup>F19</sup>(4A) In this Article—

“a restricted person” has the same meaning as in Article 9,

“a restricted threatened homelessness case” means a case falling within paragraph (2) where the Executive would not be satisfied as mentioned in paragraphs (1) and (2) without having had regard to a restricted person.]

- F17** Art. 11(2A)(2B) inserted (2.3.2009 for certain purposes, otherwise prosp.) by Housing and Regeneration Act 2008 (c. 17), ss. 314, 325(1), **Sch. 15 para. 21(2)**; S.I. 2009/415, **art. 3**
- F18** Words in art. 11(3) substituted (31.7.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 4(3)**, 19(1); S.R. 2010/251, **art. 2**
- F19** Art. 11(4A) inserted (2.3.2009 for certain purposes, otherwise prosp.) by Housing and Regeneration Act 2008 (c. 17), ss. 314, 325(1), **Sch. 15 para. 21(3)**; S.I. 2009/415, **art. 3**

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