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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 2**

**HOUSING**

**The Homeless Persons (Provision of Non-permanent Accommodation) (Scotland) Regulations 2010**

<i>Made</i>	- - - -	<i>6th January 2010</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>7th January 2010</i>
<i>Coming into force</i>	- -	<i>25th February 2010</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 32A(1) of the Housing (Scotland) Act 1987(1) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Homeless Persons (Provision of Non-permanent Accommodation) (Scotland) Regulations 2010 and shall come into force on 25th February 2010.

**Interpretation**

2. In these Regulations—

“the 1987 Act” means the Housing (Scotland) Act 1987;

“applicant” has the same meaning as in section 28(1) of the 1987 Act;

“housing support services” has the same meaning as in section 91(8) of the Housing (Scotland) Act 2001(2);

“housing support services assessment” means a decision by a local authority in any question as to whether an applicant or any person residing with that applicant should be provided with housing support services;

“permanent accommodation” has the same meaning as in section 31(5) of the 1987 Act(3);

“transitional accommodation” means accommodation that is not permanent accommodation.

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(1) 1987 (c.26); section 32A was inserted by section 3(5) of the [Housing \(Scotland\) Act 2001 \(asp 10\)](#). See section 338 of the Housing (Scotland) Act 1987 for the definition of “prescribed”. The function of the Secretary of State to prescribe by regulations was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) 2001 asp 10.

(3) section 31(5) was inserted by section 3(3)(d) of the [Housing \(Scotland\) Act 2001 \(asp 10\)](#).

### **Prescribed circumstances where non-permanent accommodation can be provided**

3. Section 31(2) of the 1987 Act, so far as requiring that accommodation is to be permanent accommodation, does not apply where the circumstances prescribed in regulation 4 or 5 are met.

4. The circumstances referred to in regulation 3 are—

- (a) a housing support services assessment has concluded that the applicant or any other person residing with that applicant currently requires a level of housing support services which makes permanent accommodation inappropriate; and
- (b) as a result of that housing support services assessment, the local authority is providing the applicant and any person residing with that applicant with transitional accommodation together with—
  - (i) all services required in terms of the housing support services assessment and a record of the services to be provided;
  - (ii) access to independent advice and information services in connection with the services mentioned in sub-paragraph (i);
  - (iii) a timetable, agreed with the applicant, for the provision of the transitional accommodation and housing support services and a record of the timetable;
  - (iv) a review date for the provision of services and transitional accommodation, not later than six months from the date on which the transitional accommodation was first provided;
  - (v) an undertaking to provide permanent accommodation when a housing support services assessment identifies that this would be appropriate; and
  - (vi) a mechanism to monitor the use of transitional accommodation and the long term outcomes for the applicant.

5.—(1) The circumstances referred to in regulation 3 are—

- (a) a short assured tenancy of a minimum duration of 12 months is available to the applicant;
- (b) the applicant has been placed in no more than one short assured tenancy of a duration of less than 12 months between the date of the application being made and the date of the tenancy mentioned in sub-paragraph (a) becoming available;
- (c) the local authority considers that the tenancy available can be afforded by the applicant;
- (d) a housing support services assessment for the applicant has concluded that any support needs of the household to which the applicant belongs can be met within the accommodation provided under the tenancy that is available;
- (e) the support to meet the support needs of the household is available; and
- (f) the local authority has advised the applicant of tenants' and landlords' rights and obligations under a short assured tenancy and has directed the applicant to sources of independent advice and information and the applicant then agrees in writing that the duty of the local authority under section 31(2) of the 1987 Act may be discharged by the provision of accommodation that is not permanent accommodation.

(2) In this regulation—

- (a) “short assured tenancy” has the meaning given in section 32 of the Housing (Scotland) Act 1988(4); and

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(4) 1988 (c.43).

- (b) “sources of independent advice and information” refers to organisations which provide independent advice on homelessness and housing and includes law centres, Citizens Advice Bureaux and Shelter Scotland.

**Revocation**

6. The Homeless Persons Interim Accommodation (Scotland) Regulations 2002(5) are revoked.

St Andrew’s House,  
Edinburgh  
6th January 2010

*ALEXANDER NEIL*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations prescribe the circumstances in which local authorities can provide non-permanent accommodation to homeless applicants who otherwise would be entitled to permanent accommodation in terms of section 31 of the Housing (Scotland) Act 1987.

Regulations 4 and 5 set out two sets of prescribed circumstances. The first is where a housing support services assessment has identified that an applicant for housing or a person living with the applicant requires housing support services which it is not appropriate to provide within permanent accommodation. The second is where a short assured tenancy can be made available to the applicant, and various conditions in respect of the tenancy and the applicant are fulfilled.