

SCOTTISH STATUTORY INSTRUMENTS

2014 No. 243

HOUSING

**The Homeless Persons (Unsuitable
Accommodation) (Scotland) Order 2014**

Made - - - - 8th September 2014
*Laid before the Scottish
Parliament* - - - - 12th September 2014
Coming into force - - 21st November 2014

The Scottish Ministers make the following Order in exercise of the powers conferred by section 29(3) and (4) of the Housing (Scotland) Act 1987^{M1} and all other powers enabling them to do so.

Modifications etc. (not altering text)

C1 Order modified (temp.) (31.1.2021) by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) \(Modification and Revocation\) \(Coronavirus\) Order 2021 \(S.S.I. 2021/10\)](#), arts. 1(1), 2 (with art. 1(2)) (as amended (29.6.2021) by [S.S.I. 2021/222](#), arts. 1, 2(2))

Marginal Citations

M1 1987 c.26. Subsections (3) and (4) of section 29 were inserted by section 9 of the [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\)](#), [section 9\(1\)\(b\)](#). There are amendments to section 29 that are not relevant to this Order.

Citation and commencement

1. This Order may be cited as the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 and comes into force on 21st November 2014.

Interpretation

2. In this Order—

“the 1987 Act” means the Housing (Scotland) Act 1987;^{F1}...

[^{F2}“community hosting” means the provision of a spare room and other support by a member of the community to a homeless household in crisis for a short period of time;]

[^{F3}“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-Cov-2);]

“household” means the applicant and any person who resides, or might reasonably be expected to reside, with the applicant^{F4};

^{F5}“isolate” in relation to a person means separation of that person from any other person in such manner as to prevent infection or contamination with coronavirus;

^{F6}“minimum accommodation safety standards” includes standards specified in an enactment for accommodation in relation to health and safety, hygiene, fire, furniture and electrical equipment;

^{F7}“rapid access accommodation” means emergency temporary accommodation for rough sleepers, or those at risk of rough sleeping, which—

- (a) contains a bedroom which is—
 - (i) safe, private and lockable;
 - (ii) furnished; and
 - (iii) of a good standard; and
- (b) provides support to a person using that accommodation to—
 - (i) access benefits or other services through provision of on-site homelessness and support assessments; and
 - (ii) access ongoing support services, including specialist support services; and]

^{F8}“shared tenancy accommodation” means accommodation which—

- (a) is shared by no more than 5 people;
- (b) is of a good standard;
- (c) is provided to residents who agree to share accommodation on a temporary basis pending placement in settled accommodation; and
- (d) in which each resident has a private and lockable bedroom.]

F1	Word in art. 2 omitted (6.5.2020) by virtue of The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 (S.S.I. 2020/139) , arts. 1(1), 2(2)(a)
F2	Words in art. 2 inserted (6.5.2020) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 (S.S.I. 2020/139) , arts. 1(1), 2(2)(b)
F3	Words in art. 2 inserted (temp.) (30.9.2020) by virtue of The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020 (S.S.I. 2020/268) , arts. 1(1), 3(1)(2)(a) (with art. 1(2))
F4	Semicolon in art. 2 substituted for full stop (6.5.2020) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 (S.S.I. 2020/139) , arts. 1(1), 2(2)(c)
F5	Words in art. 2 inserted (temp.) (30.9.2020) by virtue of The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020 (S.S.I. 2020/268) , arts. 1(1), 3(1)(2)(b) (with art. 1(2))
F6	Words in art. 2 inserted (6.5.2020) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 (S.S.I. 2020/139) , arts. 1(1), 2(2)(d)
F7	Words in art. 2 substituted (31.1.2021) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No. 2) Order 2020 (S.S.I. 2020/419) , arts. 1, 2(2)(a)
F8	Words in art. 2 substituted (31.1.2021) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No. 2) Order 2020 (S.S.I. 2020/419) , arts. 1, 2(2)(b)

Application of this Order

3. This Order applies to accommodation provided to an applicant under section 29 of the 1987 Act (interim duty to accommodate an applicant who may be homeless),^{F9} ...

- F9(a)
- F9(b)
- F9(c)

F9 Words in art. 3 omitted (6.5.2020) by virtue of [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment Order 2020 \(S.S.I. 2020/139\)](#), arts. 1(1), **2(3)**

Unsuitable accommodation

4. In all circumstances, accommodation is unsuitable if it is—

- (a) not wind and watertight;^{F10} ...
- (b) not suitable for occupation by [^{F11}a homeless household][^{F12}, taking into account the needs of the household][^{F13}; or]
- [^{F14}(c) not meeting minimum accommodation safety standards.]

F10 Word in art. 4(a) omitted (6.5.2020) by virtue of [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment Order 2020 \(S.S.I. 2020/139\)](#), arts. 1(1), **2(4)(a)**

F11 Words in art. 4(b) substituted (6.5.2020) by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment Order 2020 \(S.S.I. 2020/139\)](#), arts. 1(1), **2(4)(b)(i)**

F12 Words in art. 4(b) inserted (31.1.2021) by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment \(No. 2\) Order 2020 \(S.S.I. 2020/419\)](#), arts. 1, **2(3)**

F13 Word in art. 4(b) substituted (6.5.2020) by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment Order 2020 \(S.S.I. 2020/139\)](#), arts. 1(1), **2(4)(b)(ii)**

F14 Art. 4(c) inserted (6.5.2020) by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment Order 2020 \(S.S.I. 2020/139\)](#), arts. 1(1), **2(4)(c)**

5. Unless any of the circumstances in article 6 apply, accommodation is also unsuitable if it—
[^{F15}(a) is both—

- (i) outwith the area of the local authority which is subject to the duty to accommodate under section 29 of the 1987 Act; and
- (ii) accommodation in which the household has not agreed to be placed;]
- (b) is not in the locality of facilities and services for the purposes of health and education which are being used, or might reasonably be expected to be used, by members of the household, unless those facilities are reasonably accessible from the accommodation, taking into account the distance of travel by public transport or transport provided by a local authority;
- (c) lacks within the accommodation adequate toilet and personal washing facilities for the exclusive use of the household [^{F16}which meet the accessibility needs of the household];
- (d) lacks adequate [^{F17}and accessible] bedrooms for the exclusive use of the household;
- (e) is accommodation within which the household does not have the use of adequate [^{F18}and accessible] cooking facilities and the use of a living room;^{F19} ...
- (f) is not usable by the household for 24 hours a day[^{F20};

- [^{F21}(g) is not in the locality of the place of employment of a member of the household, taking into account the distance of travel by public transport or transport provided by a local authority; or
- (h) is not suitable for visitation by a child who is not a member of the household and in respect of whom a member of the household has parental rights.]

F15	Art. 5(a) substituted (31.1.2021) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No. 2) Order 2020 (S.S.I. 2020/419) , arts. 1, 2(4)(a)
F16	Words in art. 5(c) inserted (31.1.2021) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No. 2) Order 2020 (S.S.I. 2020/419) , arts. 1, 2(4)(b)
F17	Words in art. 5(d) inserted (31.1.2021) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No. 2) Order 2020 (S.S.I. 2020/419) , arts. 1, 2(4)(c)
F18	Words in art. 5(e) inserted (31.1.2021) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No. 2) Order 2020 (S.S.I. 2020/419) , arts. 1, 2(4)(d)
F19	Word in art. 5(e) omitted (6.5.2020) by virtue of The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 (S.S.I. 2020/139) , arts. 1(1), 2(5)(a)
F20	Semicolon in art. 5(f) substituted for full stop (6.5.2020) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 (S.S.I. 2020/139) , arts. 1(1), 2(5)(b)
F21	Art. 5(g)(h) inserted (6.5.2020) by The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 (S.S.I. 2020/139) , arts. 1(1), 2(5)(c)

6. Article 5 does not apply where—

- (a) the local authority believes that the applicant may be homeless or threatened with homelessness as a result of an emergency, such as flood, fire or other disaster;
- (b) the local authority has offered the applicant accommodation that meets the requirements of article 5, but the applicant wishes to be accommodated in other accommodation that does not meet those requirements;
- (c) the accommodation is used wholly or mainly to provide temporary accommodation to persons who have left their homes as a result of domestic abuse and is managed by an organisation which—
 - (i) is not a public authority or a local authority; and
 - (ii) does not trade for profit; [^{F22}or]
- (d) [^{F23}the local authority has secured that the accommodation has been made available] and services relating to health, child care or family welfare are provided to persons accommodated there[^{F24}; [^{F25}or]]
- ^{F26}(e)
- [^{F27}(f) a person in the household has symptoms of coronavirus and the household requires to isolate;
- (g) the accommodation is required to provide temporary accommodation to ensure that a distance of 2 metres can be maintained between a member of the household and a person who is not a member or the household in order to prevent the spread of coronavirus;
- (h) the following conditions are both satisfied—
 - (i) the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area; and
 - (ii) the household does not include a dependent child or a pregnant woman; or

- (i) the following conditions are all satisfied—
- (i) the local authority is unable to place the household in suitable accommodation as a result of the impacts of coronavirus on temporary accommodation supply in the area;
 - (ii) the household includes either, or both, a dependent child or pregnant woman; and
 - (iii) the local authority provides the household with accommodation which does not meet the requirements of article 5 for no longer than 7 days in total in respect of that household's application.]

- F22** Word in art. 6(c)(ii) inserted (31.1.2021) by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment \(No. 2\) Order 2020 \(S.S.I. 2020/419\)](#), arts. 1, **2(5)(a)**
- F23** Words in art. 6(d) substituted (6.5.2020) by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment Order 2020 \(S.S.I. 2020/139\)](#), arts. 1(1), **2(6)(b)(i)**
- F24** Word in art. 6(d) substituted (6.5.2020) by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment Order 2020 \(S.S.I. 2020/139\)](#), arts. 1(1), **2(6)(b)(ii)**
- F25** Word in art. 6(d) omitted (temp.) (30.9.2020) by virtue of [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment \(Coronavirus\) Order 2020 \(S.S.I. 2020/268\)](#), arts. 1(1), **3(1)(3)(a)** (with art. 1(2))
- F26** Art. 6(e) omitted (31.1.2021) by virtue of [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment \(No. 2\) Order 2020 \(S.S.I. 2020/419\)](#), arts. 1, **2(5)(b)**
- F27** Art. 6(f)-(i) inserted (temp.) (30.9.2020) by virtue of [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment \(Coronavirus\) Order 2020 \(S.S.I. 2020/268\)](#), arts. 1(1), **3(1)(3)(c)** (with art. 1(2))

Temporary accommodation

7.—(1) Paragraph (2) applies where—

- (a) an applicant who is a person referred to in article 3 seeks accommodation from the local authority, or assistance in obtaining accommodation, outwith normal business hours; or
- (b) the local authority has no accommodation suitable for such an applicant.

(2) The local authority may provide that applicant with accommodation which does not meet the requirements of article 5, but (unless article 6 disapplies article 5) for no longer than [^{F28}7] days in total in respect of that person's application.

- F28** Word in art. 7(2) substituted (2.10.2017) by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment Order 2017 \(S.S.I. 2017/273\)](#), arts. 1, **2(2)**

[^{F29}Additional exemptions from Article 5

7A.—(1) Where paragraph (4) applies, accommodation in the form of community hosting is not unsuitable by virtue of article 5 despite that accommodation—

- (a) lacking adequate toilet and personal washing facilities for the exclusive use of the household; or
- (b) not being usable by the household for 24 hours a day.

(2) Where paragraph (4) applies, rapid access accommodation is not unsuitable by virtue of article 5 despite lacking adequate toilet and personal washing facilities for the exclusive use of the household.

Changes to legislation: There are currently no known outstanding effects for the *The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014*. (See end of Document for details)

(3) Where paragraph (4) applies, accommodation which is shared tenancy accommodation is not unsuitable by virtue of article 5 despite lacking adequate toilet and personal washing facilities for the exclusive use of the household.

(4) This paragraph applies where—

(a) a household does not include either—

(i) a pregnant woman;

(ii) a dependent child; or

(iii) a person who exercises parental rights in respect of a dependent child who is not part of the household; and

(b) the household has agreed to be placed in the accommodation referred to in paragraph (1), (2) or (3).]

F29 [Art. 7A](#) inserted (31.1.2021) by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment \(No. 2\) Order 2020 \(S.S.I. 2020/419\)](#), arts. 1, **2(6)**

Revocation

8. The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004 ^{M2} is revoked.

Marginal Citations

M2 [S.S.I. 2004/489](#).

St Andrew's House,
Edinburgh

M J BURGESS
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

Section 29(1) of the Housing (Scotland) Act 1987 places a duty on local authorities to provide interim accommodation to certain applicants who present as homeless.

This Order describes accommodation that may not be used to fulfil this duty, for the applicants described in article 3.

In all cases accommodation must meet the standard required by article 4, of being wind and watertight and suitable for occupation by children.

Article 5 sets out further requirements, though these can be disapplied in the circumstances set out in article 6, which include emergency accommodation or where the applicant chooses accommodation that does not meet the requirements. Article 6 also allows use of some non-compliant accommodation provided by voluntary organisations, such as women's refuges, or local authorities.

Article 7 provides two further situations where the article 5 requirements do not apply, but only for a time-limited period. These are where assistance is sought outwith normal hours or where the local authority cannot provide compliant accommodation immediately.

Article 8 revokes an earlier Order that defines unsuitable accommodation for the purposes of section 29.

Changes to legislation:

There are currently no known outstanding effects for the The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014.