

2022 No. 356

HOUSING

The Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022

Made - - - - 28th November 2022

Coming into force - - 29th November 2022

The Scottish Ministers make the following Order in exercise of the powers conferred by section 33A(1) and (2)(b) of the Housing (Scotland) Act 1987(a), and all other powers enabling them to do so.

In accordance with section 33A(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Homeless Persons (Suspension of Referrals between Local Authorities) (Scotland) Order 2022 and comes into force on the day after the day on which it is made.

(2) In this Order—

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

“relevant local authority” means a council constituted under section 2(1) of the Local Government etc. (Scotland) Act 1994(b).

Suspension of referrals

2. A relevant local authority may not exercise the power under section 33(1) of the 1987 Act (referral of application to another local authority) in respect of any other relevant local authority.

Transitory Provision

3. Article 2 does not apply in relation to an application made to a relevant local authority under section 28(1) of the 1987 Act before this Order comes into force.

SHONA ROBISON

A member of the Scottish Government

St Andrew's House,
Edinburgh
28th November 2022

(a) 1987 c. 26. Section 33A was inserted by section 8 of the Homelessness etc. (Scotland) Act 2003 asp. 10.

(b) 1994 c. 39.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the suspension of the power of a Scottish local authority under section 33(1) of the Housing (Scotland) Act 1987 to notify another Scottish local authority of certain matters.

Section 33(1) of the 1987 Act enables a local authority to notify another local authority that (1) they have received an application for accommodation, or for assistance in obtaining accommodation, (2) they are satisfied that the applicant is homeless and hasn't become homeless intentionally; and (3) they are of the opinion that the conditions for referral to that other local authority are satisfied.

The conditions for referral to another local authority are that the applicant (or person residing with them) (1) has no local connection to the local authority to which the application was made; (2) has a local connection to the local authority to which the application is being referred; and (3) is not at risk of domestic abuse in that other local authority's area.

This power in section 33(1) is being suspended (as described in Article 2) as it is no longer exercisable for so long as this Order is in force. Article 2 of the Order provides that, from the date that the Order comes into force, a relevant local authority (as defined in the Order as a council constituted in accordance with section 2 of the Local Government etc. (Scotland) Act 1994) will be unable to exercise the power under section 33 in relation to another relevant local authority.

Article 3 provides that the suspension under section 33 does not affect applications that were submitted to a relevant local authority under section 28(1) of the Housing (Scotland) Act 1987 before the date on which the Order comes into force.

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£4.90

<http://www.legislation.gov.uk/id/ssi/2022/356>

ISBN 978-0-11-105589-2



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