



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART II

#### HOMELESS PERSONS

##### *Main definitions*

#### **24 Homeless persons and persons threatened with homelessness.**

- (1) A person is homeless if he has no accommodation in [<sup>F1</sup>the United Kingdom or elsewhere].
- (2) A person is to be treated as having no accommodation if there is no accommodation which he, together with any other person who normally resides with him as a member of his family or in circumstances in which the local authority consider it reasonable for that person to reside with him—
  - (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court, or
  - (b) has a right or permission, or an implied right or permission to occupy, or in England and Wales has an express or implied licence to occupy, or
  - (c) occupies as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession.
- [<sup>F2</sup>(2A) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.
- (2B) Regard may be had, in determining whether it would be reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the area of the local authority to whom he has applied for accommodation or for assistance in obtaining accommodation.]
- (3) A person is also homeless if he has accommodation but—
  - (a) he cannot secure entry to it, or

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- (b) it is probable that occupation of it will lead to <sup>F3</sup>abuse (within the meaning of the Protection from Abuse (Scotland) Act 2001 (asp 14)),] or
  - <sup>F2</sup>(bb) it is probable that occupation of it will lead to <sup>F4</sup>abuse (within the meaning of that Act)] from some other person who previously resided with that person, whether in that accommodation or elsewhere, or]
  - (c) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it; or
  - (d) it is overcrowded within the meaning of section 135 and may endanger the health of the occupants <sup>F5</sup>; or
  - (e) it is not permanent accommodation, in circumstances where, immediately before the commencement of his occupation of it, a local authority had a duty under section 31(2) in relation to him.]
- (4) A person is threatened with homelessness if it is likely that he will become homeless within <sup>F6</sup>2 months].
- <sup>F7</sup>(5) For the purposes of subsection (3)(e), “permanent accommodation” includes accommodation—
- (a) of which the person is the heritable proprietor,
  - (b) secured by a Scottish secure tenancy,
  - (c) secured by an assured tenancy that is not a short assured tenancy,
  - (d) where paragraph 1 or 2 of schedule 6 to the Housing (Scotland) Act 2001 (asp 10) is satisfied in relation to the person, secured by a short Scottish secure tenancy.]

#### Textual Amendments

- F1** Words in s. 24(1) substituted (1.4.2002) by 2001 asp 10, s. 3(1)(a); S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)
- F2** S. 24(2A)(2B), 24(3)(bb) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 65(2)
- F3** Words in s. 24(3)(b) substituted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), ss. 10(2)(a), 14(1); S.S.I. 2003/609, art. 2
- F4** Words in s. 24(3)(bb) substituted for s. 24(3)(bb)(i)(ii) (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), ss. 10(2)(b), 14(1); S.S.I. 2003/609, art. 2
- F5** S. 24(3)(e) and preceding word “or” inserted (30.9.2002) by 2001 asp 10, s. 3(1)(b); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F6** Words in s. 24(4) substituted (1.4.2002) by 2001 asp 10, s. 3(1)(c); S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)
- F7** S. 24(5) inserted (30.9.2002) by 2001 asp 10, s. 3(1)(d); S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

## 25 Priority need for accommodation.

- (1) The following have a priority need for accommodation—
- (a) a pregnant woman or a person with whom a pregnant woman resides or might reasonably be expected to reside;
  - (b) a person with whom dependent children reside or might reasonably be expected to reside;

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- [<sup>F8</sup>(c) a person who is vulnerable as a result of—
- (i) old age;
  - (ii) mental illness;
  - (iii) personality disorder;
  - (iv) learning disability;
  - (v) physical disability;
  - (vi) chronic ill health;
  - (vii) having suffered a miscarriage or undergone an abortion;
  - (viii) having been discharged from a hospital, a prison or any part of the regular armed forces of the Crown; or
  - (ix) other special reason;]
- (d) a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or any other disaster.
- [<sup>F9</sup>(e) a person with whom a person referred to in paragraph (c) or (d) resides or might reasonably be expected to reside;
- (f) a person aged 16 or 17;
  - (g) a person aged 18 to 20 who satisfies either of the conditions specified in subsection (1A);
  - (h) a person who, by reason of that person’s religion, sexual orientation, race, colour or ethnic or national origins—
    - (i) runs the risk of violence; or
    - (ii) is, or is likely to be, the victim of a course of conduct amounting to harassment;
  - (i) a person who runs the risk of domestic abuse (within the meaning of section 33(3)).]
- [<sup>F10</sup>(1A) The conditions referred to in subsection (1)(g) are—
- (a) that, by reason of the circumstances in which the person is living, the person runs the risk of sexual or financial exploitation or involvement in the serious misuse of alcohol, any drug (whether or not a controlled drug within the meaning of the Misuse of Drugs Act 1971 (c. 38)) or any volatile substance;
  - (b) that, at the time when the person ceased to be of school age (within the meaning of section 31 of the Education (Scotland) Act 1980 (c. 44)) or at any subsequent time, the person was looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c. 36)) and the person is no longer being so looked after.
- (1B) In subsection (1)(h), the references to conduct, course of conduct and harassment are to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c. 40).]
- (2) The Secretary of State may by order made by statutory instrument—
- (a) specify further descriptions of persons as having a priority need for accommodation, and
  - (b) amend or repeal any part of subsection (1) [<sup>F11</sup>, (1A) or (1B)] .
- (3) Before making such an order the Secretary of State shall consult such associations representing relevant authorities, and such other persons, as he considers appropriate.
- (4) No such order shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

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### Textual Amendments

- F8** S. 25(1)(c) substituted (30.1.2004) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\), ss. 1\(2\)\(a\), 14\(1\); S.S.I. 2003/609, art. 2](#)
- F9** S. 25(1)(e)-(i) inserted (30.1.2004) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\), ss. 1\(2\)\(b\), 14\(1\); S.S.I. 2003/609, art. 2](#)
- F10** S. 25(1A)(1B) inserted (30.1.2004) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\), ss. 1\(3\), 14\(1\); S.S.I. 2003/609, art. 2](#)
- F11** Words in s. 25(2)(b) inserted (30.1.2004) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\), ss. 1\(4\), 14\(1\); S.S.I. 2003/609, art. 2](#)

## 26 Becoming homeless intentionally.

- (1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (2) A person becomes threatened with homelessness intentionally if he deliberately does or fails to do anything the likely result of which is that he will be forced to leave accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (3) For the purposes of subsection (1) or (2) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.
- (4) Regard may be had, in determining for the purpose of subsections (1) and (2) whether it would have been reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the district of the local authority to whom he applied for accommodation or for assistance in obtaining accommodation.

## 27 Meaning of “local connection”.

- (1) Any reference in this Part to a person having a local connection with a district is a reference to his having a connection with that district—
  - (a) because he is, or in the past was, normally resident in it and his residence in it is or was of his own choice; or
  - (b) because he is employed in it, or
  - (c) because of family associations, or
  - (d) because of any special circumstances.
- (2) Residence in a district is not of a person’s own choice for the purposes of subsection (1) if he became resident in it—
  - (a) because he or any person who might reasonably be expected to reside with him—
    - (i) was serving in the regular armed forces of the Crown, or
    - (ii) was detained under the authority of any Act of Parliament, [<sup>F12</sup>or
    - (iii) was resident in accommodation provided in pursuance of section 95 (provision of support for asylum-seekers and dependants) of the Immigration and Asylum Act 1999 (c. 33),]
  - (b) in such other circumstances as the Secretary of State may by order specify.

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- (3) A person is not employed in a district for the purposes of subsection (1)—
- (a) if he is serving in the regular armed forces of the Crown, or
  - (b) in such other circumstances as the Secretary of State may by order specify.
- (4) An order under subsections (2) or (3) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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**Textual Amendments**

**F12** S. 27(2)(a)(iii) and word inserted (30.1.2004) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\)](#), ss. 7, 14(1); S.S.I. 2003/609, art. 2

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