



Housing (Scotland) Act 1987

1987 CHAPTER 26

PART II

HOMELESS PERSONS

Supplementary provisions

40 False statements, withholding information and failure to disclose change of circumstances.

- (1) If a person, with intent to induce a local authority to believe, in connection with the exercise of their functions under this Part, that he or another person—
 - (a) is homeless or threatened with homelessness, or
 - ^{F1}(b)
 - (c) did not become homeless or threatened with homelessness intentionally, knowingly or recklessly makes a statement which is false in a material particular, or knowingly withholds information which the authority have reasonably required him to give in connection with the exercise of those functions, he shall be guilty of an offence.
- (2) If before an applicant receives notification of the local authority's decision on his application there is any change of facts material to his case, he shall notify the authority as soon as possible; and the authority shall explain to every applicant, in ordinary language, the duty imposed on him by this subsection and the effect of subsection (3).
- (3) A person who fails to comply with subsection (2) commits an offence unless he shows that he was not given the explanation required by that subsection or that he had some other reasonable excuse for non-compliance.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Changes to legislation: Housing (Scotland) Act 1987, Cross Heading: Supplementary provisions is up to date with all changes known to be in force on or before 11 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F1** S. 40(1)(b) omitted (31.12.2012) by virtue of [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, **11**

Modifications etc. (not altering text)

- C1** S. 40 applied (26.7.1993) by [1993 c. 23, s. 4\(5\)](#), [Sch. 1 para. 5](#) (with [Sch. 1 para. 8](#)); [S.I. 1993/1655](#), [art. 2](#).

41 Meaning of accommodation available for occupation.

For the purposes of this Part accommodation shall be regarded as available for a person's occupation only if it is available for occupation both by him and by any other person who might reasonably be expected to reside with him; and references to securing accommodation for a person's occupation shall be construed accordingly.

42 Application of this Part to cases arising in England or Wales.

- (1) Sections 33 and 34 (referral of application to another local authority and duties to persons whose applications are referred) apply—
- (a) to applications referred by a local authority in England or Wales in pursuance of [^{F2}section 198(1) of the Housing Act 1996], and
 - (b) to persons whose applications are so transferred,
- as they apply to cases arising under this Part.
- (2) Section 38 (duty of other authorities to co-operate with local authority) applies to a request by a local authority in England or Wales under [^{F3}section 213 of the Housing Act 1996] as it applies to a request by a local authority in Scotland.
- (3) In this Part, in relation to England and Wales—
- (a) “local authority” means a local housing authority within the meaning of section 1(1) of the said Act of 1985 and references to the district of such an authority are to the area of the council concerned,
 - (b) “social work authority” means a social services authority for the purposes of the ^{M1}Local Authority Social Services Act 1970, as defined in section 1 of that Act;

and in section 38(a) (requests for co-operation) “development corporation” means a development corporation established by an order made or having effect as if made under the ^{M2}New Towns Act 1981 or the Commission for the New Towns.

Textual Amendments

- F2** Words in s. 42(1) substituted (20.1.1997) by [1996 c. 52, s. 216\(3\)](#), [Sch. 17 para. 4](#); [S.I. 1996/2959](#), [art. 2](#)
- F3** Words in s. 42(2) substituted (20.1.1997) by [1996 c. 52, s. 216\(3\)](#), [Sch. 17 para. 4](#); [S.I. 1996/2959](#), [art. 2](#)

Marginal Citations

- M1** 1970 c. 42.
M2 1981 c. 64.

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43 Minor definitions.

In this Part—

“accommodation available for occupation” has the meaning assigned to it by section 41;

“applicant (for housing accommodation)” has the meaning assigned to it by section 28(1);

“homeless” has the meaning assigned to it by section 24(1) to (3);

“homeless intentionally or threatened with homelessness intentionally” has the meaning assigned to it by section 26;

“local connection (in relation to the district of a local authority)” has the meaning assigned to it by section 27;

^{F4}
...

[^{F5}“private accommodation offer” has the meaning assigned to it by section 31(2D);]

[^{F6}“private residential tenancy” has the meaning given by the Private Housing (Tenancies) (Scotland) Act 2016;]

“relevant authority” means a local authority or social work authority;

[^{F7}“restricted person” has the meaning assigned to it by section 30(6);]

“securing accommodation for a person’s occupation” has the meaning assigned to it by section 41;

[^{F8}“short assured tenancy” has the same meaning as in Part 2 of the Housing (Scotland) Act 1988;]

“social work authority” means a local authority for the purposes of the ^{M3}Social Work (Scotland) Act 1968, that is to say, a regional or islands council;

“threatened with homelessness” has the meaning assigned to it by section 24(4);

“voluntary organisation” means a body, not being a public or local authority, whose activities are carried on otherwise than for profit.

Textual Amendments

- F4** Words in s. 43 omitted (31.12.2012) by virtue of [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, 12
- F5** Words in s. 43 inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 15 para. 16\(a\)](#); S.I. 2009/415, art. 3
- F6** Words in s. 43 inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\)](#), s. 79(2), [sch. 4 para. 4\(5\)](#); S.S.I. 2017/346, reg. 2, sch.
- F7** Words in s. 43 inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 15 para. 16\(b\)](#); S.I. 2009/415, art. 3
- F8** Words in s. 43 inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 15 para. 16\(c\)](#); S.I. 2009/415, art. 3

Marginal Citations

- M3** 1968 c. 49.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 21(3)(i)s. 21(3)(ai)(ii) by [2001 asp 10 Sch. 10 para. 13\(3\)\(c\)para. 13\(I\)-\(iii\)](#)
- s. 24(3)(f) and word(s) inserted by [2003 asp 10 s. 5\(1\)](#) (This amendment not applied to legislation.gov.uk. S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 31(2C)(c) words substituted by [2004 asp 8 Sch. 4 para. 2](#)
- s. 61(2)(a)(ia) by [2001 asp 10 Sch. 10 para. 13\(6\)\(a\)\(ii\)](#)
- s. 63(1A)-(61C) by [2001 asp 10 s. 46\(2\)](#)
- s. 66(1)(vi)(vii) by [2001 asp 10 Sch. 10 para. 13\(9\)\(b\)](#)
- s. 286(a)(c) by [2001 asp 10 Sch. 10 para. 13\(40\)\(a\)\(b\)](#)