

HOMELESSNESS ACT 2002

EXPLANATORY NOTES

OVERVIEW OF THE ACT

6. The Act is set out under three main headings. The first contains provisions requiring a local housing authority ("the housing authority") to adopt a strategy to address the problems of homelessness. The provisions under the second and third headings are framed as amendments to, and repeals of, the current provisions on homelessness and allocation of housing accommodation in Parts 6 and 7 of the Housing Act 1996 ("the 1996 Act"). The provisions of the Act therefore need to be read with those Parts of the 1996 Act.
7. Part 7 of the 1996 Act (homelessness) defines when a person is homeless and imposes duties on housing authorities in relation to those who are homeless. Anybody may apply for assistance under Part 7, but assistance is not available to certain classes of persons from abroad who are ineligible. Prior to the 2002 Act, where a housing authority was satisfied that applicants had a priority need for accommodation due to their circumstances (as set out in section 189 of the 1996 Act) and had not become homeless as a result of their own conduct, the authority had a duty to ensure that suitable accommodation was available. However, by section 197 of the 1996 Act, if the authority was satisfied that other suitable accommodation was available in the district, the duty was limited to the provision of advice and assistance necessary to enable the applicant to find suitable alternative accommodation himself. The 2002 Act repeals section 197. The duty under section 193, often referred to as "the main homelessness duty", is a duty to secure that suitable accommodation is available for applicants who are eligible, homeless through no fault of their own, and have a priority need. This duty was limited to two years by the 1996 Act; the 2002 Act removes that limitation.
8. Part 6 of the 1996 Act (allocation of housing accommodation) provides the statutory framework for the allocation by local housing authorities of the long term social housing accommodation within their gift (tenancies in their own stock and nominations to tenancies of stock held by registered social landlords). Authorities are required to have a scheme that determines priorities and sets out the procedure to be followed in the allocation of accommodation. Schemes must be framed so that reasonable preference is given to certain categories of applicant. The 1996 Act provided that allocations could only be made to those accepted as a qualifying person and placed on the housing register maintained by the housing authority. This requirement, and the requirement to have a housing register, are repealed by the Act. The Act requires all applications to be considered by authorities, including applications for a transfer of accommodation from existing tenants. The Act also gives authorities a power to decide that individual applicants are ineligible for an allocation as a result of unacceptable behaviour serious enough to make them unsuitable to be a tenant of the authority.
9. The Act:
 - requires housing authorities to take a more strategic, multi-agency approach to the prevention of homelessness and the provision of accommodation for homeless people;

- ensures that everyone accepted by housing authorities as eligible, unintentionally homeless and in priority need must be provided with suitable accommodation until they obtain a settled housing solution;
- allows housing authorities greater flexibility to assist non-priority homeless households, principally through a new power for housing authorities to secure accommodation for such households where they have scope to do so; and
- facilitates lettings policies which offer more choice to homeless people and others in housing need with the aim of helping to create sustainable communities, tackle social exclusion and make better use of the national housing stock.

Homelessness reviews and strategies

10. The Act includes a requirement for housing authorities, with the assistance of social services authorities, and in consultation with other bodies including registered social landlords and voluntary organisations, to:
 - carry out reviews of homelessness within their area;
 - formulate and publish strategies for tackling and preventing homelessness problems based on the results of those reviews;
 - publish the first strategy within 12 months of the coming into operation of these provisions; and
 - publish a new strategy thereafter within five years of the previous strategy having been published.

Other functions relating to homelessness

11. The Act provides for:
 - the abolition of the two year limitation of the period during which a housing authority had been subject to the main homelessness duty;
 - abolition of the duty on housing authorities to consider whether other suitable accommodation is available before they can secure accommodation themselves;
 - additional circumstances in which the applicant can bring the main homelessness duty to an end by accepting an assured tenancy; and
 - a new power for authorities to secure accommodation for unintentionally homeless applicants who do not have priority need.

Allocations of social housing under Part 6 of the Housing Act 1996

12. The Act covers:
 - the abolition of the requirement for housing authorities to maintain a housing register;
 - eligibility of applicants (including existing tenants) of a housing authority to be allocated housing accommodation, subject to certain exceptions;
 - the provision of information and advisory services to applicants for housing accommodation;
 - provisions that must or may be reflected in housing authorities' allocation schemes - including giving reasonable preference to certain categories of applicant; and
 - applicants' rights to information and to request a review of decisions about their application.