

*These notes refer to the Homelessness Act 2002 (c.7)
which received Royal Assent on 26th February 2002*

HOMELESSNESS ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Homelessness

14. *Section 1* imposes a duty on housing authorities to carry out a homelessness review and formulate and publish a homelessness strategy based on the result of the review.
15. A homelessness strategy must be published at least every five years. The first strategy must be published within one year of commencement of the section. The social services authority must give such assistance as the housing authority may reasonably require in relation both to the carrying out of the reviews and the formulating and publishing of the strategy. Housing and social services authorities must take into account the homelessness strategies in carrying out their functions.
16. *Section 2* defines "homelessness review" as a review by the housing authority of:
 - the levels, and likely future levels, of homelessness in their district;
 - the actions being taken to prevent homelessness, to secure that accommodation is or will be available and to provide advice, information or assistance to those who are homeless or most at risk of becoming homeless; and
 - the resources available to the authority and other bodies for carrying out the above actions.
17. It also sets out the places where the results of the review must be made available for public inspection and provides for members of the public to have a copy of those results (on payment of a reasonable fee if the housing authority requires).
18. *Section 3* defines "homelessness strategy" by setting out the matters it must cover, namely:
 - the prevention of homelessness;
 - securing that sufficient accommodation is available for those who are homeless, or most at risk of becoming homeless; and
 - the provision of satisfactory services to such people.
19. A strategy may include specific objectives and activities to be carried out by:
 - the housing and social services authorities;
 - other appropriate public authorities; or
 - appropriate voluntary organisations including registered social landlords and homelessness charities.
20. In formulating its strategy, a housing authority must consider the ways in which the objectives of the strategy can be achieved by the various authorities and other bodies

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and organisations working together. It must also keep its strategy under review and may modify it. However, before publishing a strategy, or any modification to it, an authority must consult, as it considers appropriate, the authorities and organisations mentioned in the previous paragraph. Again a housing authority must make available for inspection, and provide - on request and on payment of a reasonable fee - copies of documents published under this section.

21. *Section 5* provides authorities with a power to secure accommodation for applicants who are not in priority need and are not homeless intentionally, where previously they had no power to do so.
22. Equally where an applicant is in similar circumstances, but only threatened with homelessness, an authority may take reasonable steps to secure that he continues to be housed in his current accommodation.
23. *Section 6* amends the provisions of Part 7 of the 1996 Act which govern the period for which housing authorities are under a duty to secure accommodation for applicants who are unintentionally homeless and in priority need.
24. Previously, section 193(3) of the 1996 Act provided that the duty was owed for a two year period and section 194 enabled (but did not oblige) housing authorities to continue to secure accommodation after the end of that period.
25. *Section 6(1)* removes the two year time limit by substituting a new duty to secure accommodation until any of the circumstances specified in section 193 of the 1996 Act cause the duty to cease. In consequence of the abolition of the two year period, the power in section 194 is repealed by *section 6(3)*. Transitional provisions in *subsections (2) and (4)* provide that people accommodated under either section 193 or 194 immediately prior to commencement of this section are owed the new duty.
26. *Section 7* amends section 193(6) to (8) of the 1996 Act which set out the events which bring the main homelessness duty to an end. *Subsection (2)* provides additional circumstances under which that duty ceases, namely where an applicant accepts an offer of an assured tenancy, which is not an assured shorthold tenancy, from a private landlord.
27. Section 7(3) replaces section 193(7) of the 1996 Act and sets out further circumstances under which the main duty to secure accommodation ceases. The new provision clarifies the ending of the main homelessness duty where the applicant refuses an offer of suitable accommodation allocated under Part 6. The housing authority has to notify the applicant in writing that the offer is a final offer and that the duty will end if it is refused.
It must also notify the applicant of his right to request a review of the suitability of the accommodation.
28. *Section 7(4)* inserts new subsections before section 193(8) of the 1996 Act. These provide that where accommodation is made available to an applicant by a private landlord as a result of an arrangement between the housing authority and the landlord, the authority's homelessness duty under section 193 can be brought to an end if the applicant accepts an offer of an assured shorthold tenancy. The provisions make clear that an applicant is free to reject such an offer without this affecting the duty owed to him by the authority under section 193. They also provide that the acceptance of such a shorthold tenancy is not effective unless the tenancy is for a fixed term and the applicant confirms in writing that he understands the effect of accepting the offer (ie that it will bring to an end the section 193 homelessness duty owed to him by the authority).
29. In both the case of a final offer of accommodation under Part 6 and the offer of an assured shorthold tenancy secured by the housing authority, the offer is not effective unless the authority are satisfied that the accommodation is suitable for the applicant and it would be reasonable for him to accept it.

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30. *Section 8* makes provision in respect of reviews as to suitability of accommodation and came into force on Royal Assent on 26th February 2002. *Subsection (1)* amends section 193(5) and (7)(a) of the 1996 Act to provide that the main homelessness duty cannot be brought to an end unless the applicant has been informed of his right to request a review of the suitability of the accommodation offered.
31. *Subsection (2)* amends section 202 of the 1996 Act (right to request a review of decisions) and provides that an applicant offered accommodation under section 193(5) (temporary accommodation to carry out the main homelessness duty) or 193 (7) (an offer of an allocation under Part 6 that would bring the main homelessness duty to an end) may request a review of the suitability of that accommodation whether or not he has accepted the offer.
32. *Section 9* repeals section 197 of the 1996 Act which, in cases where other suitable accommodation was available for occupation by an applicant, replaced any duty for the housing authority to secure accommodation by a duty simply to provide advice and assistance to enable the applicant to obtain accommodation himself. In consequence, all applicants accepted by authorities as eligible, unintentionally homeless and having a priority need will be owed the stronger duties in section 193 (homelessness) or section 195 (threatened with homelessness). *Section 9* also provides that a person owed the section 197 duty immediately before commencement of the section is owed the section 193 duty or the section 195 duty, as the case may be, on commencement.
33. *Section 10* deals with persons claiming to be homeless who are at risk of violence. It amends section 177 of the 1996 Act to provide that, for the purposes of determining homelessness, it is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to violence or threats of violence against him or someone with whom he usually resides or might reasonably be expected to reside. Previously the provision applied only to cases of domestic violence. A consequential amendment is made to the conditions in section 198 of the 1996 Act for the referral of an applicant from one housing authority to another.
34. *Section 11* inserts a new section 204A of the 1996 Act. Section 204 gives a homeless applicant the right to appeal to the county court against a housing authority's decision on his case on a review under section 202. Under section 204(4) a housing authority has a power to accommodate an applicant pending his appeal where it previously had a duty to accommodate him under sections 188, 190 or 200. New section 204A gives applicants, among other rights, the right to appeal to the county court against a decision by a housing authority not to exercise its power under section 204(4) to accommodate him or to exercise it only for a limited period. If the court quashes that decision, it may order the housing authority to accommodate the applicant for a specified period. However, before doing so, the court must be satisfied that the applicant's ability to pursue his main appeal would be substantially prejudiced if he were not so accommodated.
35. *Section 12* inserts a new section 213A into the 1996 Act. Subsection (2) of section 213A requires housing authorities to have arrangements in place to ensure that the relevant social services authority are made aware of cases where the housing authority are dealing with an application from an applicant whose household includes a child under age 18, and the authority have reason to believe that they may be homeless (or threatened with homelessness) intentionally, or may be ineligible for housing assistance. The housing authority would also have to inform the social services department of the decision taken on the homelessness application. Subsection (3) places a requirement on unitary authorities to have similar arrangements for the referral of the facts of such cases by the housing department to the social services department.
36. Subsection (5) of section 213A also places a new duty on the housing authority to provide advice and assistance to the social services authority, where the latter are aware of a decision by the housing authority that a household that includes a child under 18 is unintentionally homeless (or threatened with homelessness) or ineligible for housing assistance, and the social services authority ask for assistance in the exercise of their

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functions under Part 3 of the Children Act 1989. Subsection (6) places a requirement on unitary authorities to have similar arrangements to ensure that the housing department provides advice and assistance to the social services department on request.