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# **Homelessness (Suitability of Accommodation) (England) Order 2012 No 2601**

incorporating pending amendments under the  
Homelessness Reduction Act 2017



## Aim of this guide

This guide shows how the Homelessness (Suitability of Accommodation) (England) Order 2012 will read once it is amended by [section 12](#) of the Homelessness Reduction Act 2017.

## When the changes will come into effect

The amendments will come into force via regulations that will confirm the commencement date ([HRA 2017, s.13\(3\)](#)). At the time of writing no statutory instrument has been laid before Parliament. The Government has yet to formally announce any timescale but the changes are expected to come into force in the financial year 2018/19, i.e. some time in or after April 2018.

## Version

This version was uploaded on 7 July 2017.

## Download this guide:

A pdf version can be downloaded at: [markprichard.co.uk/documents/suitability-of-accommodation-england-order-2012-as-amended](http://markprichard.co.uk/documents/suitability-of-accommodation-england-order-2012-as-amended)

## About the author

Mark Prichard is an independent housing consultant who works across England and Wales. He has worked in social housing for over 20 years in a variety of roles including as a paralegal, policy officer and senior homelessness officer. He has also reviewed hundreds of homelessness decisions for councils under section 202 of the Housing Act 1996.

In 2017 Mark launched a [website](#) from which a variety of guides, template letters and forms can be downloaded. He has written the following information guides:

- [‘Housing Act 1996 Part 7 incorporating pending amendments under the Homelessness Reduction Act 2017’](#)
- [‘Guide to homelessness duties in Wales’](#)
- [‘Section 21 validity checker’](#) and
- [‘Direct payments of housing benefit to private landlords – a guide for tenants’](#)

Mark designs and delivers bespoke training on a variety of housing related subjects. Examples of courses available can be found at [markprichard.co.uk/training](http://markprichard.co.uk/training)

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### Key to text:

Black text = currently in force

~~Strike through black text~~ and red text = amendments

## 2012 No. 2601

### HOUSING, ENGLAND

The Homelessness (Suitability of Accommodation) (England) Order 2012

Made	11th October 2012
Laid before Parliament	17th October 2012
Coming into force	9th November 2012

The Secretary of State in exercise of the powers conferred by [sections 210\(2\)\(a\), \(2\)\(b\) and 215\(2\)](#) of the [Housing Act 1996](#), makes the following Order:

#### Citation, commencement and application

- (1) This Order may be cited as the Homelessness (Suitability of Accommodation) (England) Order 2012 and comes into force on 9th November 2012
- (2) This Order applies in relation to England only.

#### Matters to be taken into account in determining whether accommodation is suitable for a person

- In determining whether accommodation is suitable for a person, the local housing authority must take into account the location of the accommodation, including –
  - where the accommodation is situated outside the district of the local housing authority, the distance of the accommodation from the district of the authority;
  - the significance of any disruption which would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person or members of the person's household;
  - the proximity and accessibility of the accommodation to medical facilities and other support which –
    - are currently used by or provided to the person or members of the person's household; and
    - are essential to the well-being of the person or members of the person's household; and



- (d) the proximity and accessibility of the accommodation to local services, amenities and transport.

**Circumstances in which accommodation is not to be regarded as suitable for a person**

3. (1)<sup>1</sup> For the purposes of a private rented sector offer under section 193(7F) of the Housing Act 1996 mentioned in paragraph (2),<sup>2</sup> accommodation shall not be regarded as suitable where one or more of the following apply –
- (a) the local housing authority are of the view that the accommodation is not in a reasonable physical condition;
  - (b) the local housing authority are of the view that any electrical equipment supplied with the accommodation does not meet the requirements of [Schedule 1](#) to the [Electrical Equipment \(Safety\) Regulations 2016](#);<sup>3</sup> or
  - (c) the local housing authority are of the view that the landlord has not taken reasonable fire safety precautions with the accommodation and any furnishings supplied with it;
  - (d) the local housing authority are of the view that the landlord has not taken reasonable precautions to prevent the possibility of carbon monoxide poisoning in the accommodation;
  - (e) the local housing authority are of the view that the landlord is not a fit and proper person to act in the capacity of landlord, having considered if the person has –
    - (i) committed any offence involving fraud or other dishonesty, or violence or illegal drugs, or any offence listed in [Schedule 3](#) to the [Sexual Offences Act 2003](#) (offences attracting notification requirements);
    - (ii) practised unlawful discrimination on grounds of sex, race, age, disability, marriage or civil partnership, pregnancy or maternity, religion or belief, sexual orientation, gender identity or gender reassignment in, or in connection with, the carrying on of any business;
    - (iii) contravened any provision of the law relating to housing (including landlord or tenant law); or
    - (iv) acted otherwise than in accordance with any applicable code of practice for the management of a house in multiple occupation, approved under [section 233](#) of the [Housing Act 2004](#);
  - (f) the accommodation is a house in multiple occupation subject to

<sup>1</sup> Homelessness Reduction Act 2017, [s.12](#)(1) and (2).

<sup>2</sup> Homelessness Reduction Act 2017, [s.12](#) (1) and (3).

<sup>3</sup> The words “Schedule to the Electrical Equipment (Safety) Regulations 2016” were substituted by [Schedule 7](#), paragraph 9 of the [Electrical Equipment \(Safety\) Regulations 2016](#).



licensing under [section 55](#) of the [Housing Act 2004](#) and is not licensed;

- (g) the accommodation is a house in multiple occupation subject to additional licensing under [section 56](#) of the [Housing Act 2004](#) and is not licensed;
- (h) the accommodation is or forms part of residential property which does not have a valid energy performance certificate as required by the [Energy Performance of Buildings \(Certificates and Inspections\) \(England and Wales\) Regulations 2007](#);
- (i) the accommodation is or forms part of relevant premises which do not have a current gas safety record in accordance with [regulation 36](#) of the [Gas Safety \(Installation and Use\) Regulations 1998](#); or
- (j) the landlord has not provided to the local housing authority a written tenancy agreement, which the landlord proposes to use for the purposes of a private rented sector offer, and which the local housing authority considers to be adequate.

(2) The purposes are –

- (a) determining, in accordance with [section 193\(7F\)](#) of the [Housing Act 1996](#), whether a local housing authority may approve a private rented sector offer;
- (b) determining, in accordance with [section 193A\(6\)](#) or [193C\(9\)](#) of that Act, whether a local housing authority may approve a final accommodation offer made by a private landlord;
- (c) determining whether any accommodation –
  - (i) secured for a person who has a priority need by a local housing authority in discharge of their functions under [section 189B\(2\)](#) or [195\(2\)](#) of that Act, and
  - (ii) made available for occupation under a tenancy with a private landlord,

is suitable for the purposes of the section concerned.<sup>4</sup>

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<sup>4</sup> Homelessness Reduction Act 2017, [s.12\(1\)](#) and (4).





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