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# Housing Act 1996 Part 7

incorporating pending amendments under the  
Homelessness Reduction Act 2017



## Purpose of this guide

Part 7 of the Housing Act 1996 will shortly be amended by the [Homelessness Reduction Act 2017](#). This guide shows how Part 7 will read once all of the amendments have been brought into force.

## When the changes will come into effect

The amendments will come into force via regulations, which will confirm the commencement date(s) ([HRA 2017, s.13\(3\)](#)). At the time of writing no such statutory instruments have been laid before Parliament and the Government has yet to announce a timescale for implementation.

## Download this document:

A pdf version of this document can be downloaded at:

[markprichard.co.uk/documents/ha-1996-part-7-amended-by-hra-2017](http://markprichard.co.uk/documents/ha-1996-part-7-amended-by-hra-2017)

## Summary of the amendments:

A blog post summarising the forthcoming changes is available at:

[markprichard.co.uk/news/2017/homelessness-reduction-bill-briefing](http://markprichard.co.uk/news/2017/homelessness-reduction-bill-briefing)

## 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 homelessness officer and housing paralegal. He also conducted hundreds of homelessness decisions for councils under section 202 of the Housing Act 1996.

During 2014/15 Mark provided training and consultancy support to Welsh councils as they prepared to implement Part 2 of the Housing (Wales) Act 2014, the forerunner of the Homelessness Reduction Act 2017. This involved reviewing council processes, advising managers on service reconfiguration, contributing to ICT workflow solutions and drafting template notification letters and information for service users using plain English.

In 2017 Mark launched a [website](#) from which housing professionals can download a variety of guides and template letters and forms.

He has written the following information guides:

- [‘Direct payments of housing benefit to private landlords – a guide for tenants’](#) and
- [‘Guide to homelessness duties in Wales’](#)

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**Key to text:**

Black text = currently in force

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

Sections that are not amended by the 2017 Act are omitted except for the title to the section and the following words: “[...] [No amendments]”

**PART VII****HOMELESSNESS***Homelessness and threatened homelessness***175. – Homelessness and threatened homelessness**

- (1) A person is homeless if he has no accommodation available for his occupation, in the United Kingdom or elsewhere, which he –
  - (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court,
  - (b) 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 another person to recover possession.
- (2) A person is also homeless if he has accommodation but –
  - (a) he cannot secure entry to it, or
  - (b) it consists of a moveable 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.
- (3) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.
- (4) A person is threatened with homelessness if it is likely that he will become homeless within ~~28~~ 56<sup>1</sup> days.
- (5) A person is also threatened with homelessness if –
  - (a) a valid notice has been given to the person under section 21 of the Housing Act 1988 (orders for possession on expiry or termination of assured shorthold tenancy) in respect of the only accommodation the person has that is available for the person’s occupation, and

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<sup>1</sup> Section 1(2).



(b) that notice will expire within 56 days.<sup>2</sup>

#### 176. – Meaning of accommodation available for occupation

[...] [No amendments]

#### 177. – Whether it is reasonable to continue to occupy accommodation

[...] [No amendments]

#### 178. – Meaning of associated person

[...] [No amendments]

*General functions in relation to homelessness or threatened homelessness*

#### ~~179. – Duty of local housing authority to provide advisory services~~

- ~~(1) Every local housing authority in England shall secure that advice and information about homelessness, and the prevention of homelessness, is available free of charge to any person in their district.~~
- ~~(2) The authority may give to any person by whom such advice and information is provided on behalf of the authority assistance by way of grant or loan.~~
- ~~(3) A local housing authority may also assist any such person –~~
  - ~~(a) by permitting him to use premises belonging to the authority,~~
  - ~~(b) by making available furniture or other goods, whether by way of gift, loan or otherwise, and~~
  - ~~(c) by making available the services of staff employed by the authority.~~

#### 179. – Duty of local housing authority in England to provide advisory services

- (1) Each local housing authority in England must provide or secure the provision of a service, available free of charge to any person in the authority's district, providing information and advice on –
  - (a) preventing homelessness,
  - (b) securing accommodation when homeless,
  - (c) the rights of persons who are homeless or threatened with homelessness, and the duties of the authority, under this Part,
  - (d) any help that is available from the authority or anyone else, whether under this Part or otherwise, for persons in the authority's district who are homeless or may become homeless (whether or not they are threatened with homelessness), and
  - (e) how to access that help.
- (2) The service must be designed to meet the needs of persons in the authority's district including, in particular, the needs of –

<sup>2</sup> Section 1(3).



- (a) persons released from prison or youth detention accommodation,
  - (b) care leavers,
  - (c) former members of the regular armed forces,
  - (d) victims of domestic abuse,
  - (e) persons leaving hospital,
  - (f) persons suffering from a mental illness or impairment, and
  - (g) any other group that the authority identify as being at particular risk of homelessness in the authority's district.
- (3) The authority may give to any person by whom the service is provided on behalf of the authority assistance by way of grant or loan.
- (4) The authority may also assist any such person –
  - (a) by permitting the person to use premises belonging to the authority,
  - (b) by making available furniture or other goods, whether by way of gift, loan or otherwise, and
  - (c) by making available the services of staff employed by the authority.
- (5) In this section –
  - “care leavers” means persons who are former relevant children (within the meaning given by section 23C(1) of the Children Act 1989);
  - “domestic abuse” means –
    - (a) physical violence,
    - (b) threatening, intimidating, coercive or controlling behaviour, or
    - (c) emotional, financial, sexual or any other form of abuse,where the victim is associated with the abuser;
  - “financial abuse” includes –
    - (a) having money or other property stolen,
    - (b) being defrauded,
    - (c) being put under pressure in relation to money or other property, and
    - (d) having money or other property misused;
  - “hospital” has the same meaning as in the National Health Service Act 2006 (see section 275(1) of that Act);
  - “regular armed forces” means the regular forces as defined by section 374 of the Armed Forces Act 2006;
  - “youth detention accommodation” means –



- (a) a secure children's home,
- (b) a secure training centre,
- (c) a secure college,
- (d) a young offender institution,
- (e) accommodation provided by or on behalf of a local authority for the purpose of restricting the liberty of children;
- (f) accommodation provided for that purpose under section 82(5) of the Children Act 1989, or
- (g) accommodation, or accommodation of a description, for the time being specified by order under section 107(1)(e) of the Powers of Criminal Courts (Sentencing) Act 2000 (youth detention accommodation for the purposes of detention and training orders).<sup>3</sup>

**180. – Assistance for voluntary organisations**

[...] [No amendments]

**181. – Terms and conditions of assistance**

[...] [No amendments]

**182. – Guidance by the Secretary of State**

[...] [No amendments]

*Application for assistance in case of homelessness or threatened homelessness*

**183. – Application for assistance**

[...] [No amendments]

**184. – Inquiry into cases of homelessness or threatened homelessness**

- (1) If the local housing authority have reason to believe that an applicant may be homeless or threatened with homelessness, they shall make such inquiries as are necessary to satisfy themselves –
  - (a) whether he is eligible for assistance, and
  - (b) if so, whether any duty, and if so what duty, is owed to him under the following provisions of this Part.
- (2) They may also make inquiries whether he has a local connection with the district of another local housing in England, Wales or Scotland.
- (3) On completing their inquiries the authority shall notify the applicant of their decision and, so far as any issue is decided against his interests, inform him of the reasons for their decision.

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<sup>3</sup> Section 2.



- (3A) If the authority decide that a duty is, **or after the authority's duty to the applicant under section 189B(2) comes to an end would be,**<sup>4</sup> owed to the applicant under section 193(2) ~~or 195(2)~~<sup>5</sup> but would not have done so without having had regard to a restricted person, the notice under subsection (3) must also –
- (a) inform the applicant that their decision was reached on that basis,
  - (b) include the name of the restricted person,
  - (c) explain why the person is a restricted person, and
  - (d) explain the effect of section 193(7AD) ~~or (as the case may be) section 195(4A)~~<sup>6</sup>.
- (4) If the authority have notified or intend to notify another local housing authority ~~under section 198 (referral of cases)~~ **in England under section 198(A1) (referral of cases where section 189B applies)**<sup>7</sup>, they shall at the same time notify the applicant of that decision and inform him of the reasons for it.
- (5) A notice under subsection (3) or (4) shall also inform the applicant of his right to request a review of the decision and of the time within which such a request must be made (see section 202).
- (6) Notice required to be given to a person under this section shall be given in writing and, if not required by him, shall be treated as having been given to him if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.
- (7) In this Part "a restricted person" means a person –
- (a) who is not eligible for assistance under this Part,
  - (b) who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996, and
  - (c) either –
    - (i) who does not have leave to enter or remain in the United Kingdom, or
    - (ii) whose leave to enter or remain in the United Kingdom is subject to a condition to maintain and accommodate himself, and any dependents, without recourse to public funds.

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<sup>4</sup> Section 5(3)(a).

<sup>5</sup> Section 4(3)(a).

<sup>6</sup> Section 4(3)(b).

<sup>7</sup> Section 5(3)(b).



*Eligibility for assistance***185. – Persons from abroad not eligible for housing assistance**

[...] [No amendments]

**186. – Asylum-seekers and their dependants**

[...] [No amendments]

**187. – Provision of information by Secretary of State**

[...] [No amendments]

*Interim duty to accommodate***188. – Interim duty to accommodate in case of apparent priority need**

~~(1) If the local housing authority have reason to believe that an applicant may be homeless, eligible for assistance and have a priority need, they shall secure that accommodation is available for his occupation pending a decision as to the duty (if any) owed to him under the following provisions of this Part.~~

(1) If the local housing authority have reason to believe that an applicant may be homeless, eligible for assistance and have a priority need, they must secure that accommodation is available for the applicant's occupation.

(1ZA) In a case in which the local housing authority conclude their inquiries under section 184 and decide that the applicant does not have a priority need –

- (a) where the authority decide that they do not owe the applicant a duty under section 189B(2), the duty under subsection (1) comes to an end when the authority notify the applicant of that decision, or
- (b) otherwise, the duty under subsection (1) comes to an end upon the authority notifying the applicant of their decision that, upon the duty under section 189B(2) coming to an end, they do not owe the applicant any duty under section 190 or 193.

(1ZB) In any other case, the duty under subsection (1) comes to an end upon the later of –

- (a) the duty owed to the applicant under section 189(B)(2) coming to an end or the authority notifying the applicant that they have decided that they do not owe the applicant a duty under that section, and
- (b) the authority notifying the applicant of their decision as to what other duty (if any) they owe to the applicant under the following provisions of this Part upon the duty under section 189B(2) coming to an end.<sup>8</sup>

(1A) But if the local housing authority have reason to believe that the duty under section 193(2) may apply in relation to an applicant in the circumstances referred to in section 195A(1), they shall secure that accommodation is

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<sup>8</sup> Section 5(4)(a).





available for the applicant's occupation ~~pending a decision of the kind referred to in subsection (1)~~ **until the later of paragraph (a) or (b) of subsection (1ZB)**<sup>9</sup> regardless of whether the applicant has a priority need.

- (2) The duty under this section arises irrespective of any possibility of the referral of the applicant's case to another local housing authority (see sections 198 to 200).
- (3) ~~The duty ceases when the authority's decision is notified to the applicant, even if the applicant requests a review of the decision (see section 202).  
The authority may secure that accommodation is available for the applicant's occupation pending a decision on a review.~~
- (2A) **For the purposes of this section, where the applicant requests a review under section 202(1)(h) of the authority's decision as to the suitability of accommodation offered to the applicant by way of a final accommodation offer or a final Part 6 offer (within the meaning of section 193A), the authority's duty to the applicant under section 189B(2) is not to be taken to have come to an end under section 193A(2) until the decision on review has been notified to the applicant.**
- (3) **Otherwise, the duty under this section comes to an end in accordance with subsections (1ZA) to (1A), regardless of any review requested by the applicant under section 202.**

**But the authority may secure that accommodation is available for the applicant's occupation pending a decision on review.**<sup>10</sup>

## **189. – Priority need for accommodation**

[...] [No amendments]

*Duty to assess every eligible applicant's case and agree a plan*

## **189A. – Assessments and personalised plan**

- (1) If the local housing authority are satisfied that an applicant is –
  - (a) homeless or threatened with homelessness, and
  - (b) eligible for assistance,
 the authority must make an assessment of the applicant's case.
- (2) The authority's assessment of the applicant's case must include an assessment of –
  - (a) the circumstances that caused the applicant to become homeless or threatened with homelessness,
  - (b) the housing needs of the applicant including, in particular, what

<sup>9</sup> Section 5(4)(b).

<sup>10</sup> Section 5(4)(c).



- accommodation would be suitable for the applicant and any persons with whom the applicant resides or might reasonably be expected to reside ("other relevant persons"), and
- (c) what support would be necessary for the applicant and any other relevant persons to be able to have and retain suitable accommodation.
- (3) The authority must notify the applicant, in writing, of the assessment that the authority make.
  - (4) After the assessment has been made, the authority must try to agree with the applicant –
    - (a) any steps the applicant is to be required to take for the purposes of securing that the applicant and any other relevant persons have and are able to retain suitable accommodation, and
    - (b) the steps the authority are to take under this Part for those purposes.
  - (5) If the authority and the applicant reach an agreement, the authority must record it in writing.
  - (6) If the authority and the applicant cannot reach an agreement, the authority must record in writing –
    - (a) why they could not agree,
    - (b) any steps the authority consider it would be reasonable to require the applicant to take for the purposes mentioned in subsection (4)(a), and
    - (c) the steps the authority are to take under this Part for those purposes.
  - (7) The authority may include in a written record produced under subsection (5) or (6) any advice for the applicant that the authority consider appropriate (including any steps the authority consider it would be a good idea for the applicant to take but which the applicant should not be required to take).
  - (8) The authority must give to the applicant a copy of any written record produced under subsection (5) or (6).
  - (9) Until such time as the authority consider that they owe the applicant no duty under any of the following sections of this Part, the authority must keep under review –
    - (a) their assessment of the applicant's case, and
    - (b) the appropriateness of any agreement reached under subsection (4) or steps recorded under subsection (6)(b) or (c).
  - (10) If –
    - (a) the authority's assessment of any of the matters mentioned in subsection (2) changes, or
    - (b) the authority's assessment of the applicant's case otherwise changes



- such that the authority consider it appropriate to do so,  
the authority must notify the applicant, in writing, of how their assessment of the applicant's case has changed (whether by providing the applicant with a revised written assessment or otherwise).
- (11) If the authority consider that any agreement reached under subsection (4) or any step recorded under subsection (6)(b) or (c) is no longer appropriate –
- (a) the authority must notify the applicant, in writing, that they consider the agreement or step is no longer appropriate,
  - (b) any failure, after the notification is given, to take a step that was agreed to in the agreement or recorded under subsection (6)(b) or (c) is to be disregarded for the purposes of this Part, and
  - (c) subsections (4) to (8) apply as they applied after the assessment was made.
- (12) A notification under this section or a copy of any written record produced under subsection (5) or (6), if not received by the applicant, is to be treated as having been given to the applicant if it is made available at the authority's office for a reasonable period for collection by or on behalf of the applicant.<sup>11</sup>

*Duties to persons found to be homeless or threatened with homelessness*

**189B. – Initial duty owed to all eligible persons who are homeless**

- (1) This section applies where the local housing authority are satisfied that an applicant is –
- (a) homeless, and
  - (b) eligible for assistance.
- (2) Unless the authority refer the application to another local housing authority in England (see section 198(A1)), the authority must take reasonable steps to help the applicant to secure that suitable accommodation becomes available for the applicant's occupation for at least –
- (a) 6 months, or
  - (b) such longer period not exceeding 12 months as may be prescribed.
- (3) In deciding what steps they are to take, the authority must have regard to their assessment of the applicant's case under section 189A.
- (4) Where the authority –
- (a) are satisfied that the applicant has a priority need, and
  - (b) are not satisfied that the applicant became homeless intentionally,
- the duty under subsection (2) comes to an end at the end of the period of 56

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<sup>11</sup> Section 3(1).



days beginning with the day the authority are first satisfied as mentioned in subsection (1).

- (5) If any of the circumstances mentioned in subsection (7) apply, the authority may give notice to the applicant bringing the duty under subsection (2) to an end.
- (6) The notice must –
  - (a) specify which of the circumstances apply, and
  - (b) inform the applicant that the applicant has a right to request a review of the authority's decision to bring the duty under subsection (2) to an end and of the time within which such a request must be made.
- (7) The circumstances are that the authority are satisfied that –
  - (a) the applicant has –
    - (i) suitable accommodation available for occupation, and
    - (ii) a reasonable prospect of having suitable accommodation available for occupation for at least 6 months, or such longer period not exceeding 12 months as may be prescribed, from the date of the notice,
  - (b) the authority have complied with the duty under subsection (2) and the period of 56 days beginning with the day that the authority are first satisfied as mentioned in subsection (1) has ended (whether or not the applicant has secured accommodation),
  - (c) the applicant has refused an offer of suitable accommodation and, on the date of refusal, there was a reasonable prospect that suitable accommodation would be available for occupation by the applicant for at least 6 months or such longer period not exceeding 12 months as may be prescribed,
  - (d) the applicant has become homeless intentionally from any accommodation that has been made available to the applicant as a result of the authority's exercise of their functions under subsection (2),
  - (e) the applicant is no longer eligible for assistance, or
  - (f) the applicant has withdrawn the application mentioned in section 183(1).
- (8) A notice under this section must be given in writing and, if not received by the applicant, is to be treated as having been given to the applicant if it is made available at the authority's office for a reasonable period for collection by or on behalf of the applicant.
- (9) The duty under subsection (2) can also be brought to an end under –
  - (a) section 193A (consequences of refusal of final accommodation offer or



final Part 6 offer at the initial relief stage), or

- (b) sections 193B and 193C (notices in cases of applicant's deliberate and unreasonable refusal to co-operate).<sup>12</sup>

#### 190. – Duties to persons becoming homeless intentionally

- ~~(1) This section applies where the local housing authority are satisfied that an applicant is homeless and is eligible for assistance but are also satisfied that he became homeless intentionally.~~
- (1) This section applies where –
- (a) the local housing authority are satisfied that an applicant –
- (i) is homeless and eligible for assistance, but
- (ii) became homeless intentionally,
- (b) the authority are also satisfied that the applicant has a priority need, and
- (c) the authority's duty to the applicant under section 189B(2) has come to an end.<sup>13</sup>
- (2) ~~If the authority are satisfied that the applicant has a priority need, they shall –~~  
The authority must –<sup>14</sup>
- (a) secure that accommodation is available for his occupation for such period as they consider will give him a reasonable opportunity of securing accommodation for his occupation, and
- (b) provide him with (or secure that he is provided with) advice and assistance in any attempt he may make to secure that accommodation becomes available for his occupation.
- (3) ~~If they are not satisfied that he has a priority need, they shall provide him with (or secure that he is provided with) advice and assistance in any attempts he may make to secure that accommodation becomes available for his occupation.~~<sup>15</sup>
- ~~(4) The applicant's housing needs shall be assessed before advice and assistance is provided under subsection (2)(b) or (3).~~
- (4) In deciding what advice and assistance is to be provided under this section, the authority must have regard to their assessment of the applicant's case under section 189A.<sup>16</sup>
- (5) The advice and assistance provided under subsection (2)(b) ~~or (3)~~<sup>17</sup> must

<sup>12</sup> Section 5(2).

<sup>13</sup> Section 5(5)(a).

<sup>14</sup> Section 5(5)(b).

<sup>15</sup> Section 5(5)(c).

<sup>16</sup> Section 3(2).



include information about the likely availability in the authority's district of types of accommodation appropriate to the applicant's housing needs (including, in particular, the location and sources of such types of accommodation).

### 191. – Becoming homeless intentionally

[...] [No amendments]

### 192. – ~~Duty to persons not in priority need who are not homeless intentionally~~

- ~~(1) This section applies where the local housing authority –~~
  - ~~(a) are satisfied that an applicant is homeless and eligible for assistance, and~~
  - ~~(b) are not satisfied that he became homeless intentionally, but are satisfied that he has a priority need.~~
- ~~(2) The authority shall provide the applicant with (or secure that he is provided with) advice and assistance in any attempts he may make to secure that accommodation becomes available for his occupation.~~
- ~~(3) The authority may secure that accommodation is available for occupation by the applicant.~~
- ~~(4) The applicant's housing needs shall be assessed before advice and assistance is provided under subsection (2).~~
- ~~(5) The advice and assistance provided under subsection (2) must include information about the likely availability in the authority's district of types of accommodation appropriate to the applicant's housing needs (including, in particular, the location and sources of such types of accommodation).<sup>18</sup>~~

### 193. – Duty to persons with priority need who are not homeless intentionally

- ~~(1) This section applies where the local housing authority are satisfied that an applicant is homeless, eligible for assistance and has a priority need, and are not satisfied that he became homeless intentionally.~~
- (1) This section applies where –
  - (a) the local housing authority –
    - (i) are satisfied that an applicant is homeless and eligible for assistance, and
    - (ii) are not satisfied that the applicant became homeless intentionally,
  - (b) the authority are also satisfied that the applicant has a priority need, and

<sup>17</sup> Section 5(5)(d).

<sup>18</sup> Section 5(6).



- (c) the authority's duty to the applicant under section 189B(2) has come to an end.<sup>19</sup>
- (1A) But this section does not apply if –
  - (a) section 193A(3) disapplies this section, or
  - (b) the authority have given notice to the applicant under section 193B(2).<sup>20</sup>
- (2) Unless the authority refer the application to another local housing authority (see section 198), they shall secure that accommodation is available for occupation by the applicant.
- (3) The authority are subject to the duty under this section until it ceases by virtue of any of the following provisions of this section.
- (3B) In this section “a restricted case” means a case where the local housing authority would not be satisfied as mentioned in subsection (1) without having had regard to a restricted person.
- (5) The local housing authority shall cease to be subject to the duty under this section if –
  - (a) the applicant, having been informed by the authority of the possible consequence of refusal or acceptance and of the right to request a review of the suitability of the accommodation, refuses an offer of accommodation which the authority are satisfied is suitable for the applicant,
  - (b) that offer of accommodation is not an offer of accommodation under Part 6 or a private rented sector offer, and
  - (c) the authority notify the applicant that they regard themselves as ceasing to be subject to the duty under this section.
- (6) The local housing authority shall cease to be subject to the duty under this section if the applicant –
  - (a) ceases to be eligible for assistance,
  - (b) becomes homeless intentionally from the accommodation made available for his occupation,
  - (c) accepts an offer of accommodation under Part VI (allocation of housing), or
  - (cc) accepts an offer of an assured tenancy (other than an assured shorthold tenancy) from a private landlord,
  - (d) otherwise voluntarily ceases to occupy as his only or principal home the accommodation made available for his occupation.

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<sup>19</sup> Section 5(7).

<sup>20</sup> Section 7(2).



- (7) The local housing authority shall also cease to be subject to the duty under this section if the applicant, having been informed of the possible consequence of refusal or acceptance and of his right to request a review of the suitability of the accommodation, refuses a final offer of accommodation under Part 6
- (7A) An offer of accommodation under Part 6 is a final offer for the purposes of subsection (7) if it is made in writing and states that it is a final offer for the purposes of subsection (7).
- (7AA) The authority shall also cease to be subject to the duty under this section if the applicant, having been informed in writing of the matters mentioned in subsection (7AB) –
- (a) accepts a private rented sector offer, or
  - (b) refuses such an offer.
- (7AB) The matters are –
- (a) the possible consequences of refusal or acceptance of the offer, and
  - (b) that the applicant has the right to request a review of the suitability of the accommodation, and
  - (c) in a case which is not a restricted case, the effect under section 195A of a further application to a local housing authority within two years of acceptance of the offer.
- (7AC) For the purposes of this section an offer is a private rented sector offer if –
- (a) it is an offer of an assured shorthold tenancy made by a private landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant's occupation,
  - (b) it is made, with the approval of the authority, in pursuance of arrangements made by the authority with the landlord with a view to bringing the authority's duty under this section to an end, and
  - (c) the tenancy being offered is a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988) for a period of at least 12 months.
- (7AD) In a restricted case the authority shall, so far as reasonably practicable, bring their duty under this section to an end as mentioned in subsection (7AA).
- (7F) The local housing authority shall not –
- (a) make a final offer of accommodation under Part 6 for the purposes of subsection (7); or
  - (ab) approve a private rented sector offer;
- unless they are satisfied that the accommodation is suitable for the applicant and that subsection (8) does not apply to the applicant.
- (8) This subsection applies to an applicant if –





- (a) the applicant is under contractual or other obligations in respect of the applicant's existing accommodation, and
  - (b) the applicant is not able to bring those obligations to an end before being required to take up the offer.
- (9) A person who ceases to be owed the duty under this section may make a fresh application to the authority for accommodation or assistance in obtaining accommodation.
- (10) The Secretary of State may provide by regulations that subsection (7AC)(c) is to have effect as if it referred to a period of the length specified in the regulations.
- (11) Regulations under subsection (10) –
  - (a) may not specify a period of less than 12 months, and
  - (b) may not apply to restricted cases.

**193A. – Consequences of refusal of final accommodation offer or final Part 6 offer at the initial relief stage**

- (1) Subsections (2) and (3) apply where –
  - (a) a local housing authority owe a duty to an applicant under section 189B(2), and
  - (b) the applicant, having been informed of the consequences of refusal and of the applicant's right to request a review of the suitability of accommodation, refuses –
    - (i) a final accommodation offer, or
    - (ii) a final Part 6 offer.
- (2) The authority's duty to the applicant under section 189B(2) comes to an end.
- (3) Section 193 (the main housing duty) does not apply.
- (4) An offer is a "final accommodation offer" if –
  - (a) it is an offer of an assured shorthold tenancy made by a private landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant's occupation.
  - (b) it is made, with the approval of the authority, in pursuance of arrangements made by the authority in the discharge of their duty under section 189B(2), and
  - (c) the tenancy being offered is a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988) for a period of at least 6 months.
- (5) A "final Part 6 offer" is an offer of accommodation under Part 6 (allocation of housing) that –
  - (a) is made in writing by the authority in the discharge of their duty under



section 189B(2), and

- (b) states that it is a final offer for the purposes of this section.
- (6) The authority may not approve a final accommodation offer, or make a final Part 6 offer, unless they are satisfied that the accommodation is suitable for the applicant and that subsection (7) does not apply.
- (7) This subsection applies to an applicant if –
  - (a) the applicant is under contractual or other obligations in respect of the applicant's existing accommodation, and
  - (b) the applicant is not able to bring those obligations to an end before being required to take up the offer.

**193B. – Notices in cases of an applicant's deliberate and unreasonable refusal to co-operate**

- (1) Section 193C applies where –
  - (a) a local housing authority owe a duty to an applicant under section 189B(2) or 195(2), and
  - (b) the authority give notice to the applicant under subsection (2).
- (2) A local housing authority may give a notice to an applicant under this subsection if the authority consider that the applicant has deliberately and unreasonably refused to take any step –
  - (a) that the applicant agreed to take under subsection (4) of section 189A, or
  - (b) that was recorded by the authority under subsection (6)(b) of that section.
- (3) A notice under subsection (2) must –
  - (a) explain why the authority are giving the notice and its effect, and
  - (b) inform the applicant that the applicant has a right to request a review of the authority's decision to give the notice and of the time within which such a request must be made.
- (4) The authority may not give notice to the applicant under subsection (2) unless –
  - (a) the authority have given a relevant warning to the applicant, and
  - (b) a reasonable period has elapsed since the warning was given.
- (5) A "relevant warning" means a notice –
  - (a) given by the authority to the applicant after the applicant has deliberately and unreasonably refused to take any step –
    - (i) that the applicant agreed to take under subsection (4) of section



- 189A, or
- (ii) that was recorded by the authority under subsection (6)(b) of that section,
  - (b) that warns the applicant that, if the applicant should deliberately and unreasonably refuse to take any such step after receiving the notice, the authority intend to give notice to the applicant under subsection (2), and
  - (c) that explains the consequences of such a notice being given to the applicant.
- (6) For the purpose of subsections (2) and (5), in deciding whether a refusal by the applicant is unreasonable, the authority must have regard to the particular circumstances and needs of the applicant (whether identified in the authority's assessment of the applicant's case under section 189A or not).
  - (7) The Secretary of State may make provision by regulations as to the procedure to be followed by a local housing authority in connection with notices under this section.
  - (8) A notice under this section must be given in writing and, if not received by the applicant, is to be treated as having been given to the applicant if it is made available at the authority's office for a reasonable period for collection by or on behalf of the applicant.

**193C. – Notice under section 193B: consequences**

- (1) In the circumstances mentioned in section 193B(1), this section applies in relation to the local housing authority and an applicant.
- (2) The authority's duty to the applicant under section 189(B)(2) or 195(2) comes to an end.
- (3) Subsection (4) applies if the authority –
  - (a) are satisfied that the applicant is homeless, eligible for assistance and has a priority need, and
  - (b) are not satisfied that the applicant became homeless intentionally.
- (4) Section 193 (the main housing duty) does not apply, but the authority must secure that accommodation is available for occupation by the applicant.
- (5) The authority cease to be subject to the duty under subsection (4) if the applicant –
  - (a) ceases to be eligible for assistance,
  - (b) becomes homeless intentionally from accommodation made available for the applicant's occupation,
  - (c) accepts an offer of an assured tenancy from a private landlord, or



- (d) otherwise voluntarily ceases to occupy, as the applicant's only or principal home, the accommodation made available for the applicant's occupation.
- (6) The authority also cease to be subject to the duty under subsection (4) if the applicant, having been informed of the possible consequences of refusal or acceptance and of the applicant's right to request a review of the suitability of the accommodation, refuses or accepts –
  - (a) a final accommodation offer, or
  - (b) a final Part 6 offer.
- (7) An offer is "a final accommodation offer" if –
  - (a) it is an offer of an assured shorthold tenancy made by a private landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant's occupation,
  - (b) it is made, with the approval of the authority, in pursuance of arrangements made by the authority with a view to bringing the authority's duty under subsection (4) to an end, and
  - (c) the tenancy being offered is a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988) for a period of at least 6 months.
- (8) A "final Part 6 offer" is an offer of accommodation under Part 6 (allocation of housing) that is made in writing and states that it is a final offer for the purposes of this section.
- (9) The authority may not approve a final accommodation offer, or make a final Part 6 offer, unless they are satisfied that the accommodation is suitable for the applicant and that subsection (10) does not apply.
- (10) This subsection applies to an applicant if –
  - (a) the applicant is under contractual or other obligations in respect of the applicant's existing accommodation, and
  - (b) the applicant is not able to bring those obligations to an end before being required to take up the offer.<sup>21</sup>

#### **~~195. — Duties in case of threatened homelessness~~**

- ~~(1) This section applies where a local housing authority are satisfied that an applicant is threatened with homelessness and is eligible for assistance.~~
- ~~(2) If the authority –~~
  - ~~(a) are satisfied that he has a priority need, and~~
  - ~~(b) are not satisfied that he became threatened with homelessness intentionally,~~

<sup>21</sup> Section 7(1).



- ~~they shall take reasonable steps to secure that accommodation does not cease to be available for his occupation.~~
- (3) ~~Subsection (2) does not affect any right of the authority, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of any accommodation.~~
- (4) ~~Where, in a case which is not a restricted threatened homelessness case, in pursuance of the duty under subsection (2) the authority secure that accommodation other than that occupied by the authority when he made his application is available for occupation by him, the provisions of section 193(3) to (9) (period for which duty owed) apply, with any necessary modifications, in relation to the duty under this section as they apply in relation to the duty under section 193 in a case which is not a restricted case (within the meaning of that section).~~
- (4A) ~~Where, in a restricted threatened homelessness case, in pursuance of the duty under subsection (2) the authority secure that accommodation other than that occupied by the applicant when he made his application is available for occupation by him, the provisions of section 193(3) to (9) (period for which duty is owed) apply, with any necessary modifications, in relation to the duty under this section as they apply in relation to the duty under section 193 in a restricted case (within the meaning of that section).~~
- (4B) ~~In subsections (4) and (4A) "a restricted threatened homelessness case" means a case where the local housing authority would not be satisfied as mentioned in subsection (1) without having had regard to a restricted person.~~
- (5) ~~If the authority—~~
- ~~(a) are not satisfied that the applicant has a priority need, or~~
  - ~~(b) are satisfied that he has a priority need but are also satisfied that he became threatened with homelessness intentionally,~~
- ~~they shall provide him with (or secure that he is provided with) advice and assistance in any attempts he may make to secure that accommodation does not cease to be available for his occupation.~~
- (6) ~~The applicant's housing needs shall be assessed before advice and assistance is provided under subsection (5).~~
- (7) ~~The advice and assistance provided under subsection (5) must include information about the likely availability in the authority's district of types of accommodation appropriate to the applicant's housing needs (including, in particular, the location and sources of such types of accommodation).~~
- (8) ~~If the authority decide that they owe the applicant the duty under subsection (5) by virtue of paragraph (b) of that section, they may, pending a decision on a review of that decision—~~



- ~~(a) secure that accommodation does not cease to be available for his occupation; and~~
  - ~~(b) if he becomes homeless, secure that accommodation is so available.~~
  - ~~(9) If the authority—~~
    - ~~(a) are not satisfied that the applicant has a priority need; and~~
    - ~~(b) are not satisfied that he became threatened with homelessness intentionally,~~
- ~~the authority may take reasonable steps to secure that accommodation does not cease to be available for the applicant's occupation.~~

### **195. – Duties in cases of threatened homelessness**

- (1) This section applies where the local housing authority are satisfied that an applicant is –
  - (a) threatened with homelessness, and
  - (b) eligible for assistance.
- (2) The authority must take reasonable steps to help the applicant to secure that accommodation does not cease to be available for the applicant's occupation.
- (3) In deciding what steps they are to take, the authority must have regard to their assessment of the applicant's case under section 189A.
- (4) Subsection (2) does not affect any right of the authority, whether by virtue of contract, enactment or rule of law, to secure vacant possession of any accommodation.
- (5) If any of the circumstances mentioned in subsection (8) apply, the authority may give notice to the applicant bringing the duty under subsection (2) to an end.
- (6) But the authority may not give notice to the applicant under subsection (5) on the basis that the circumstances in subsection (8)(b) apply if a valid notice has been given to the applicant under section 21 of the Housing Act 1988 (orders for possession on expiry or termination of assured shorthold tenancy) that –
  - (a) will expire within 56 days or has expired, and
  - (b) is in respect of the only accommodation that is available for the applicant's occupation.
- (7) The notice must –
  - (a) specify which of the circumstances apply, and
  - (b) inform the applicant that the applicant has a right to request a review of the applicant's decision to bring the duty under subsection (2) to an end and of the time within which such a request must be made.



- (8) The circumstances are that the authority are satisfied that –
- (a) the applicant has –
    - (i) suitable accommodation available for occupation, and
    - (ii) a reasonable prospect of having suitable accommodation available for occupation for at least 6 months, or such longer period not exceeding 12 months as may be prescribed, from the date of the notice,
  - (b) the authority have complied with the duty under subsection (2) and the period of 56 days beginning with the day that the authority are first satisfied as mentioned in subsection (1) has ended (whether or not the applicant is still threatened with homelessness),
  - (c) the applicant has become homeless,
  - (d) the applicant has refused an offer of suitable accommodation and, on the date of refusal, there was a reasonable prospect that suitable accommodation would be available for occupation by the applicant for at least 6 months or such longer period not exceeding 12 months as may be prescribed.
  - (e) the applicant has become homeless intentionally from any accommodation that has been made available to the applicant as a result of the authority's exercise of their functions under subsection (2).
  - (f) the applicant is no longer eligible for assistance, or
  - (g) the applicant has withdrawn the application mentioned in section 183(1).
- (9) A notice under this section must be given in writing and, if not received by the applicant, is to be treated as having been given to the applicant if it is made available at the authority's office for a reasonable period for collection by or on behalf of the applicant.
- (10) The duty under subsection (2) can also be brought to an end under sections 193B and 193C (notices in cases of applicant's deliberate and unreasonable refusal to co-operate).<sup>22</sup>

#### **195A. – Re-application after private rented sector offer**

- (1) If within two years beginning with the date on which an applicant accepts an offer under section 193(7AA) (private rented sector offer), the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and the local housing authority –
- (a) is satisfied that the applicant is homeless and eligible for assistance, and

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<sup>22</sup> Section 4(2).



- (b) is not satisfied that the applicant became homeless intentionally, the duty under section 193(2) applies regardless of whether the applicant has a priority need.
- (2) For the purpose of subsection (1), an applicant in respect of whom a valid notice under section 21 of the Housing Act 1988 (orders for possession on expiry or termination of assured shorthold tenancy) has been given is to be treated as homeless from the date on which that notice expires.
- ~~(3) If within two years beginning with the date on which an applicant accepts an offer under section 193(7AA), the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and the local housing authority—~~
- ~~(a) is satisfied that the applicant is threatened with homelessness and eligible for assistance, and~~
- ~~(b) is not satisfied that the applicant became threatened with homelessness intentionally,~~
- ~~the duty under section 195(2) applies regardless of whether the applicant has a priority need.~~
- ~~(4) For the purpose of subsection (3), an applicant in respect of whom a valid notice under section 21 of the Housing Act 1988 has been given is to be treated as threatened with homelessness from the date on which the notice is given.~~<sup>23</sup>
- (5) Subsection (1) ~~or (3)~~<sup>24</sup> does not apply to a case where the local housing authority would not be satisfied as mentioned in that subsection without having regard to a restricted person.
- (6) Subsection (1) ~~or (3)~~<sup>25</sup> does not apply to a re-application by an applicant for accommodation, or for assistance in obtaining accommodation, if the immediately preceding application made by the applicant was one to which subsection (1) ~~or (3)~~<sup>26</sup> applied.

#### **196.—Becoming threatened with homelessness intentionally**

- ~~(1) 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.~~
- ~~(2) For the purposes of subsection (1) 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.~~
- ~~(3) A person shall be treated as becoming threatened with homelessness~~

<sup>23</sup> Section 4(4)(a).

<sup>24</sup> Section 4(4)(b).

<sup>25</sup> Section 4(4)(c).

<sup>26</sup> Section 4(4)(c).





~~intentionally if –~~

- ~~(a) he enters into an arrangement under which he is required to cease to occupy accommodation which it would have been reasonable for him to continue to occupy, and~~
  - ~~(b) the purpose of the arrangement is to enable him to become entitled to assistance under this Part,~~
- ~~and there is no other good reason why he is threatened with homelessness.<sup>27</sup>~~

*Referral to another local housing authority*

**198. – Referral of case to another local housing authority**

- (A1) If the local housing authority would be subject to the duty under section 189B (initial duty owed to all eligible persons who are homeless) but consider that the conditions are met for referral of the case to another local housing authority in England, they may notify that other authority of their opinion.<sup>28</sup>
- (1) If the local housing authority would be subject to the duty under section 193 (accommodation for those with priority need who are not homeless intentionally) but consider that the conditions are met for referral of the case to another local housing authority, they may notify that other authority of their opinion.
- (2) The conditions for referral of the case to another authority are met if –
- (a) neither the applicant nor any person who might reasonably be expected to reside with him has a local connection with the district of the authority to whom his application was made,
  - (b) the applicant or a person who might reasonably be expected to reside with him has a local connection with the district of that other authority, and
  - (c) neither the applicant nor any person who might reasonably be expected to reside with him will run the risk of domestic violence in that other district.
- (2ZA) The conditions for referral of the case to another authority are also met if –
- (a) the application is made within the period of two years beginning with the date on which the applicant accepted an offer from the other authority under section 193(7AA) (private rented sector offer), and
  - (b) neither the applicant nor any person who might reasonably be expected to reside with the applicant will run the risk of domestic violence in the district of the other authority.
- (2A) But the conditions for referral mentioned in subsection (2) or (2ZA) are not met

<sup>27</sup> Section 4(5).

<sup>28</sup> Section 5(8).



- if –
- (a) the applicant or any person who might reasonably be expected to reside with him has suffered violence (other than domestic violence) in the district of the other authority; and
  - (b) it is probable that the return to that district of the victim will lead to further violence of a similar kind against him.
- (3) For the purposes of subsections (2), (2ZA) and (2A) “violence” means –
- (a) violence from another person; or
  - (b) threats of violence from another person which are likely to be carried out;
- and violence is “domestic violence” if it is from a person who is associated with the victim.
- (4) The conditions for referral of the case to another authority are also met if –
- (a) the applicant was on a previous application made to that other authority placed (in pursuance of their functions under this Part) in accommodation in the district of the authority to whom his application is now made, and
  - (b) the previous application was within such period as may be prescribed of the present application.
- (4A) Subsection (4) is to be construed, in a case where the other authority is an authority in Wales, as if the reference to “the Part” were a reference to Part 2 of the Housing (Wales) Act 2014.
- (5) The question whether the conditions for referral of a case which does not involve a referral to a local housing authority in Wales are satisfied shall be decided by agreement between the notifying authority and the notified authority or, in default of agreement, in accordance with such arrangements as the Secretary of State may direct by order.
- (5A) The question whether the conditions for referral of a case involving a referral to a local housing authority in Wales shall be decided by agreement between the notifying authority and the notified authority or, in default of agreement, in accordance with such arrangements as the Secretary of State and the Welsh Ministers may jointly direct by order.
- (6) An order may direct that the arrangements shall be –
- (a) those agreed by any relevant authorities or associations of relevant authorities, or
  - (b) in default of such agreement, such arrangements as appear to the Secretary of State or, in the case of an order under subsection (5A), to the Secretary and the Welsh Ministers to be suitable, after consultation with such associations representing relevant authorities, and such other



persons, as he thinks appropriate.

- (7) An order under this section shall not be made unless a draft of the order has been approved by a resolution of each House of Parliament and, in the case of a joint order, a resolution of the National Assembly for Wales.

#### **199. – Local connection**

- (1) A person has a local connection with the district of a local housing authority if he has a connection with it –
- (a) because he is, or in the past was, normally resident there, and that residence is or was of his own choice,
  - (b) because he is employed there,
  - (c) because of family associations, or
  - (d) because of special circumstances.
- (3) Residence in a district is not of a person's own choice if –
- (b) he, or a person who might reasonably be expected to reside with him, becomes resident there because he is detained under the authority of an Act of Parliament.
- (5) The Secretary of State may by order specify circumstances in which –
- (a) a person is not to be treated as employed in a district, or
  - (b) residence in a district is not to be treated as of a person's own choice.
- (6) A person has a local connection with the district of a local housing authority if he was (at any time) provided with accommodation in that district under section 95 of the Immigration and Asylum Act 1999 (support for asylum seekers).
- (7) But subsection (6) does not apply –
- (a) to the provision of accommodation for a person in a district of a local housing authority if he was subsequently provided with accommodation in the district of another local housing authority under section 95 of that Act, or
  - (b) to the provision of accommodation in an accommodation centre by virtue of section 22 of the Nationality, Immigration and Asylum Act 2002 (c41) (use of accommodation centres for section 95 support).
- (8) While a local authority in England have a duty towards a person under section 23C of the Children Act 1989 (continuing functions in respect of former relevant children) –
- (a) if the local authority is a local housing authority, the person has a local connection with their district, and



- (b) otherwise, the person has a local connection with every district of a local housing authority that falls within the area of the local authority.
- (9) In subsection (8), “local authority” has the same meaning as in the Children Act 1989 (see section 105 of that Act).
- (10) Where, by virtue of being provided with accommodation under section 22A of the Children Act 1989 (provision of accommodation for children in care), a person is normally resident in the district of a local housing authority in England for a continuous period of at least two years, some or all of which falls before the person attains the age of 16, the person has a local connection with that district.
- (11) A person ceases to have a local connection with a district under subsection (10) upon attaining the age of 21 (but this does not affect whether the person has a local connection with that district under any other provision of this section).<sup>29</sup>

**199A. – Duties to the applicant whose case is considered for referral or referred under section 198(A1)**

- (1) Where a local housing authority (“the notifying authority”) notify an applicant that they intend to notify or have notified another local housing authority in England (“the notified authority”) under section 198(A1) of their opinion that the conditions are met for referral of the applicant’s case to the notified authority, the notifying authority –
  - (a) cease to be subject to any duty under section 188 (interim duty to accommodate in case of apparent priority need), an
  - (b) are not subject to the duty under section 189B (initial duty owed to all eligible persons who are homeless).
- (2) But, if the notifying authority have reason to believe that the applicant may have a priority need, they must secure that accommodation is available for occupation by the applicant until the applicant is notified of the decision as to whether the conditions for referral of the applicant’s case are met.
- (3) When it has been decided whether the conditions for referral are met, the notifying authority must give notice of the decision and the reasons for it to the applicant.  
 The notice must also inform the applicant of the applicant’s right to request a review of the decision and of the time within which such a request must be made.
- (4) If it is decided that the conditions for referral are not met –
  - (a) the notifying authority are subject to the duty under section 189B.
  - (b) the references in subsections (4) and (7)(b) of that section to the day

<sup>29</sup> Section 8.



that the notifying authority are first satisfied as mentioned in subsection (1) of that section are to be read as references to the day on which notice is given under subsection (3) of this section, and

- (c) if the notifying authority have reason to believe that the applicant may have a priority need, they must secure that accommodation is available for occupation by the applicant until the later of –
  - (i) the duty owed to the applicant under section 189B coming to an end, and
  - (ii) the authority deciding what other duty (if any) they owe to the applicant under this Part after the duty under section 189B comes to an end.
- (5) If it is decided that the conditions for referral are met –
  - (a) for the purposes of this Part, the applicant is to be treated as having made an application of the kind mentioned in section 183(1) to the notified authority on the date on which notice is given under subsection (3),
  - (b) from that date, the notifying authority owes no duties to the applicant under this Part,
  - (c) where the notifying authority have made a decision as to whether the applicant is eligible for assistance, is homeless or became homeless intentionally, the notified authority may only come to a different decision if they are satisfied that –
    - (i) the applicant's circumstances have changed, or further information has come to light, since the notifying authority made their decision, and
    - (ii) that change in circumstances, or further information, justifies the notified authority coming to a different decision to the notifying authority, and
  - (d) the notifying authority must give to the notified authority copies of any notifications that the notifying authority have given to the applicant under section 189A(3) or (10) (notifications of the notifying authority's assessments of the applicant's case).
- (6) A duty under subsection (2) or paragraph (c) of subsection (4) ceases as provided in the subsection or paragraph concerned even if the applicant requests a review of the authority's decision upon which the duty ceases.

The authority may secure that accommodation is available for the applicant's occupation pending the decision on review.
- (7) A notice under this section must be given in writing and, if not received by the applicant, is to be treated as having been given to the applicant if it is made



available at the authority's office for a reasonable period for collection by or on behalf of the applicant.<sup>30</sup>

**200. – Duties to applicant whose case is considered for referral or referred under section 198(1)<sup>31</sup>**

- (1) Where a local housing authority notify an applicant that they intend to notify or have notified another local housing authority under section 198(1)<sup>32</sup> of their opinion that the conditions are met for the referral of his case to that other authority –
- (a) they cease to be subject to any duty under section 188 (interim duty to accommodate in case of apparent priority need), and
  - (b) they are not subject to any duty under section 193 (the main housing duty),

but they shall secure that accommodation is available for occupation by the applicant until he is notified of the decision whether the conditions for referral of his case are met.

- (1A) A local housing authority in England may not notify an applicant as mentioned in subsection (1) until the authority's duty to the applicant under section 189B(2) (initial duty owed to all eligible persons who are homeless) has come to an end.<sup>33</sup>

- (2) When it has been decided whether the conditions for referral are met, the notifying authority shall notify the applicant of the decision and inform him of the reasons for it.

The notice shall also inform the applicant of his right to request a review of the decision and of the time within which such a request must be made.

- (3) If it is decided that the conditions for referral are not met, the notifying authority are subject to the duty under section 193 (the main housing duty).
- (4) If it is decided that those conditions are met and the notified authority is not an authority in Wales, the notified authority are subject to the duty under section 193 (the main housing duty); for provision about cases where it is decided that those conditions are met and the notified authority in Wales, see section 83 of the Housing (Wales) Act 2014 (cases referred from a local housing authority in England).
- (5) The duty under subsection (1), ceases as provided in that subsection even if the applicant requests a review of the authority's decision (see section 202).

The authority may secure that accommodation is available for the applicant's

<sup>30</sup> Section 5(9).

<sup>31</sup> Section 5(10)(a).

<sup>32</sup> Section 5(10)(b).

<sup>33</sup> Section 5(10)(c).



occupation pending the decision on a review.

- (6) Notice ~~required to be~~<sup>34</sup> given to an applicant under this section shall be given in writing and, if not received by him, shall be treated as having been given to him if it is made available at the authority's officer for a reasonable period for collection by him or on his behalf.

## **201. – Application of referral provisions to cases arising in Scotland**

[...] [No amendments]

## **201A. – Cases referred from a local housing authority in Wales**

[...] [No amendments]

### *Right to request review of decision*

## **202. – Right to request review of decision**

- (1) An applicant has the right to request a review of –
- (a) any decision of a local housing authority as to his eligibility for assistance,
  - (b) any decision of a local housing authority as to what duty (if any) is owed to him under sections ~~190 to 193~~ **189B to 193C**<sup>35</sup> and 195 ~~and 196~~<sup>36</sup> (duties to persons found to be homeless or threatened with homelessness),
  - (ba) any decision of a local housing authority –
    - (i) as to the steps they are to take under subsection (2) of section 189B, or
    - (ii) to give notice under subsection (5) of that section bringing to an end their duty to the applicant under subsection (2) of that section,
  - (bb) any decision of a local housing authority to give notice to the applicant under section 193B(2) (notice given to those who deliberately and unreasonably refuse to co-operate),
  - (bc) any decision of a local housing authority –
    - (i) as to the steps they are to take under subsection (2) of section 195, or
    - (ii) to give notice under subsection (5) of that section bringing to an end their duty to the applicant under subsection (2) of that section,<sup>37</sup>

<sup>34</sup> Section 5(10)(d).

<sup>35</sup> Section 9(2)(a)(i).

<sup>36</sup> Section 9(2)(a)(ii).

<sup>37</sup> Section 9(2)(b).



- (c) any decision of a local housing authority to notify another authority under section 198(1) (referral of cases),
  - (d) any decision under section 198(5) whether the conditions are met for the referral of his case,
  - (e) any decision under section 200(3) or (4) (decision as to duty owed to applicant whose case is considered for referral or referred),
  - (f) any decision of a local housing authority as to the suitability of accommodation offered to him in discharge of their duty under any of the provisions mentioned in paragraph (b) or (e) or as to the suitability of accommodation offered to him as mentioned in section 193(7), <sup>38</sup>
  - (g) any decision of a local housing authority as to the suitability of accommodation offered to him by way of a private rented sector offer (within the meaning of section 193), ~~or~~
  - (h) any decision of a local housing authority as to the suitability of accommodation offered to the applicant by way of a final accommodation offer or a final Part 6 offer (within the meaning of section 193A or 193C). <sup>39</sup>
- (1A) An applicant who is offered accommodation as mentioned in section 193(5), (7) or (7AA) may under subsection (1)(f) or (as the case may be) (g) request a review of the suitability of the accommodation offered to him whether or not he has accepted the offer.
- (1B) An applicant may, under subsection (1)(h), request a review of the suitability of the accommodation offered whether or not the applicant has accepted the offer. <sup>40</sup>
- (2) There is no right to request a review of the decision reached on an earlier review.
- (3) A request for review must be made before the end of the period of 21 days beginning with the day on which he is notified of the authority's decision or such longer period as the authority may in writing allow.
- (4) On a request being duly made to them, the authority or authorities concerned shall review their decision.

### 203. – Procedure on a review

[...] [No amendments]

### 204. – Right of appeal to county court on point of law

- (1) If an applicant who has requested a review under section 202 –

<sup>38</sup> Section 9(2)(c).

<sup>39</sup> Section 9(2)(d).

<sup>40</sup> Section 9(3).





- (a) is dissatisfied with the decision on the review, or
  - (b) is not notified of the decision on the review within the time prescribed under section 203,

he may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision.
- (2) An appeal must be brought within 21 days of his being notified of the decision or, as the case may be, of the date on which he should have been notified of a decision on review.
- (2A) The court may give permission for an appeal to be brought after the end of the period allowed by subsection (2), but only if it is satisfied –
  - (a) where permission is sought before the end of that period, that there is a good reason for the applicant to be unable to bring the appeal in time; or
  - (b) where permission is sought after that time, that there was a good reason for the applicant's failure to bring the appeal in time and for any delay in applying for permission.
- (3) On appeal the court may make such order confirming, quashing or varying the decision as it thinks fit.
- (4) Where the authority were under a duty under section 188, 190, 199A<sup>41</sup> or 200 to secure that accommodation is available for the applicant's occupation, ~~or had the power under section 195(8) to do so,~~<sup>42</sup> they may secure that accommodation is so available –
  - (a) during the period for appealing under this section against the authority's decision, and
  - (b) if an appeal is brought, until the appeal (and any further appeal) is finally determined.

**204A. – Section 204(4): appeals**

[...] [No amendments]

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<sup>41</sup> Section 5(11).

<sup>42</sup> Section 4(6).



*Supplementary provisions***205. – Discharge of functions: introductory**

- (1) The following sections have effect in relation to the discharge by a local housing authority of their functions under this Part to secure that accommodation is available for the occupation of a person –
- section 206 (general provisions),
  - section 208 (out-of-area placements),
  - section 209 (arrangements with private landlord).
- (2) In sections 206 and 208 those functions are referred to as the authority's "housing functions under this Part".
- (3) For the purpose of this section, a local housing authority's duty under section 189B(2) or 195(2) is a function of the authority to secure that accommodation is available for the occupation of a person only if the authority decide to discharge the duty by securing that accommodation is so available.<sup>43</sup>

**206. – Discharge of functions by local housing authorities**

[...] [No amendments]

**208. – Discharge of functions: out-of-area placements**

[...] [No amendments]

**209. – Discharge of interim duties: arrangements with private landlord**

[...] [No amendments]

**210. – Suitability of accommodation**

[...] [No amendments, but note proposed amendments under [section 12](#) to the Homelessness (Suitability of Accommodation) (England) Order 2012 No 2601]

**211. – Protection of property of homeless persons and persons threatened with homelessness**

- (1) This section applies where a local housing authority have reason to believe that –
- (a) there is danger of loss of, or damage to, any personal property of an applicant by reason of his inability to protect it or deal with it, and
  - (b) no other suitable arrangements have been or are being made.
- (2) If the authority have become subject to a duty towards the applicant under –
- section 188 (interim duty to accommodate),
  - [section 189B \(initial duty owed to all eligible persons who are homeless\)](#),<sup>44</sup>

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<sup>43</sup> Section 6.

<sup>44</sup> Section 5(12).



section 190, 193 or 195 (duties to persons found to be homeless or threatened with homelessness), or

section 200 (duties to applicant whose case is considered for referral or referred),

then, whether or not they are still subject to such a duty, they shall take reasonable steps to prevent the loss of the property or prevent or mitigate damage to it.

- (3) If they have not become subject to such a duty, they may take any steps they consider reasonable for that purpose.
- (4) The authority may decline to take action under this section except upon such conditions as they consider appropriate in the particular case, which may include conditions as to –
  - (a) the making and recovery by the authority of reasonable charges for the action taken, or
  - (b) the disposal by the authority, in such circumstances as may be specified, of property in relation to which they have taken action.
- (5) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.
- (6) Section 212 contains provisions supplementing this section.

## **212. – Protection of property: supplementary provisions**

[...] [No amendments]

## **213. – Co-operation between relevant housing authorities and bodies**

[...] [No amendments]

### **213A. – Co-operation in certain cases involving children**

- (1) This section applies where a local housing authority have reason to believe that an applicant with whom a person under the age of 18 normally resides, or might reasonably be expected to reside –
  - (a) may be ineligible for assistance; ~~or~~<sup>45</sup>
  - (b) may be homeless and may have become so intentionally; ~~or~~
  - ~~(c) may be threatened with homelessness intentionally,~~<sup>46</sup>
- (2) A local housing authority shall make arrangements for ensuring that, where this section applies –
  - (a) the applicant is invited to consent to the referral of the essential facts of

<sup>45</sup> Section 4(7)(a)(i).

<sup>46</sup> Section 4(7)(a)(ii).



- his case to the social services authority for the district of the housing authority (where that is a different authority); and
- (b) if the applicant has given that consent, the social services authority are made aware of those facts and of the subsequent decision of the housing authority in respect of his case.
- (3) Where the local housing authority and the social services authority for a district are the same authority (a “unitary authority”), that authority shall make arrangements for ensuring that, where this section applies –
- (a) the applicant is invited to consent to the referral to the social services department of the essential facts of his case; and
- (b) if the applicant has given that consent, the social services department is made aware of those facts and of the subsequent decision of the authority in respect of his case.
- (4) Nothing in subsection (2) or (3) affects any power apart from this section to disclose information relating to the applicant’s case to the social services authority or to the social services department (as the case may be) without the consent of the applicant.
- (5) Where a social services authority –
- (a) are aware of a decision of a local housing authority that the applicant is ineligible for ~~assistance, became homeless intentionally or became threatened with homelessness intentionally~~ **assistance or became homeless intentionally**<sup>47</sup>, and
- (b) request the local housing authority to provide them with advice and assistance in the exercise of their social services functions under Part 3 of the Children Act 1989 or Part 6 of the Social Services and Well-being Act 2014,
- the local housing authority shall provide them with such advice and assistance as is reasonable in the circumstances.
- (6) A unitary authority shall make arrangements for ensuring that, where they make a decision of a kind mentioned in subsection (5)(a), the housing department provide the social services department with such advice and assistance as the social services department may reasonably request.
- (7) In this section, in relation to a unitary authority –
- “the housing department” means those persons responsible for the exercise of their housing functions; and
- “the social services department” means those persons responsible for the exercise of their social services functions under Part 3 of the Children Act 1989

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<sup>47</sup> Section 4(7)(b).



or Part 6 of the Social Services and Well-being (Wales) Act 2014.

### **213B. – Duty of public authority to refer cases in England to local housing authority**

- (1) This section applies if a specified public authority considers that a person in England in relation to whom the authority exercises functions is or may be homeless or threatened with homelessness.
- (2) The specified public authority must ask the person to agree to the authority notifying a local housing authority in England of –
  - (a) the opinion mentioned in subsection (1), and
  - (b) how the person may be contacted by the local housing authority.
- (3) If the person –
  - (a) agrees to the specified public authority making the notification, and
  - (b) identifies a local housing authority in England to which the person would like the notification to be made,
 the specified public authority must notify that local housing authority of the matters mentioned in subsection (2)(a) and (b).
- (4) In this section “specified public authority” means a public authority specified, or of a description specified, in regulations made by the Secretary of State.
- (5) In subsection (4) “public authority” means a person (other than a local housing authority) who has functions of a public nature.<sup>48</sup>

#### *General provisions*

### **214. – False statements, withholding information and failure to disclose change of circumstances**

[...] [No amendments]

### **214A. – Codes of practice**

- (1) The Secretary of State may from time to time issue one or more codes of practice dealing with the functions of a local housing authority in England relating to homelessness or the prevention of homelessness.
- (2) The provision that may be made by a code of practice under this section includes, in particular, provision about –
  - (a) the exercise by a local housing authority of functions under this Part;
  - (b) the training of an authority’s staff in relation to the exercise of those functions;
  - (c) the monitoring by an authority of the exercise of those functions.
- (3) A code of practice may –

<sup>48</sup> Section 10.



- (a) apply to all local housing authorities or to the local housing authorities specified or described in the code;
  - (b) contain different provision for different kinds of local housing authority.
- (4) The Secretary of State may issue a code of practice under this section only in accordance with subsections (5) and (6).
- (5) Before issuing the code of practice, the Secretary of State must lay a draft of the code before Parliament.
- (6) If –
  - (a) the Secretary of State lays a draft of the code before Parliament, and
  - (b) no negative resolution is made within the 40-day period,the Secretary of State may issue the code in the form of the draft.
- (7) For the purposes of subsection (6) –
  - (a) a “negative resolution” means a resolution of either House of Parliament not to approve the draft of the code, and
  - (b) “the 40-day period” means the period of 40 days beginning with the day on which the draft of the code is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the two days on which it is laid).
- (8) In calculating the 40-day period, no account is to be taken of any period during which –
  - (a) Parliament is dissolved or prorogued, or
  - (b) both Houses are adjourned for more than four days.
- (9) The Secretary of State may –
  - (a) from time to time revise and reissue a code of practice under this section;
  - (b) revoke a code of practice under this section.
- (10) Subsections (4) to (6) do not apply to the reissue of a code of practice under this section.
- (11) The Secretary of State must publish the current version of each code of practice under this section in whatever manner the Secretary of State thinks fit.
- (12) A local housing authority must have regard to a code of practice under this section in exercising their functions.<sup>49</sup>

## 215. – Regulations and orders

[...] [No amendments]

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<sup>49</sup> Section 11.



**216. – Transitional and consequential matters**

[...] [No amendments]

**217. – Minor definitions: Part VII**

[...] [No amendments]

**218. – Index of defined expressions: Part VII**

The following Table shows provisions defining or otherwise explaining the expressions used in this Part (other than provisions defining or explaining an expression used in the same section) –

accommodation available for occupation	section 176
applicant	section 183(2)
assistance under this Part	section 183(2)
associated (in relation to a person)	section 178
assured tenancy and assured shorthold tenancy	section 230
district (of local housing authority)	section 217(3)
eligible for assistance	section 183(2)
homeless	section 175(1)
housing functions under this Part (in section 206 and 208)	section 205(2)
intentionally homeless	section 191
<del>intentionally threatened with homelessness</del>	<del>section 196</del> <sup>50</sup>
local connection	section 199
local housing authority –	
– in England and Wales	section 230
– in Scotland	section 217(2)(a)
prescribed	section 215(1)
priority need	section 189
private landlord	section 217(1)
reasonable to continue to occupy accommodation	section 177
registered social landlord	section 230
relevant authority	section 217(1)
restricted person	section 184(7)
social services authority	section 217(1) and (2)(b)

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<sup>50</sup> Section 4(8).



threatened with homelessness

section 175(4)







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