

HOUSING ACT 1996

PART 6: ALLOCATION OF HOUSING ACCOMMODATION

Introductory

159 Allocation of housing accommodation

- (1) A local housing authority shall comply with the provisions of this Part in allocating housing accommodation.
- (2) For the purposes of this Part a local housing authority allocate housing accommodation when they—
 - (a) select a person to be a secure or introductory tenant of housing accommodation held by them,
 - (b) nominate a person to be a secure or introductory tenant of housing accommodation held by another person, or
 - (c) nominate a person to be an assured tenant of housing accommodation held by a private registered provider of social housing or a registered social landlord.
- (3) The reference in subsection (2)(a) to selecting a person to be a secure tenant includes deciding to exercise any power to notify an existing tenant or licensee that his tenancy or licence is to be a secure tenancy.
- (4) The references in subsection (2)(b) and (c) to nominating a person include nominating a person in pursuance of any arrangements (whether legally enforceable or not) to require that housing accommodation, or a specified amount of housing accommodation, is made available to a person or one of a number of persons nominated by the authority.
- (4A) Subject to subsection (4B), the provisions of this Part do not apply to an allocation of housing accommodation by a local housing authority in England to a person who is already—
 - (a) a secure or introductory tenant, or
 - (b) an assured tenant of housing accommodation held by a private registered provider of social housing or a registered social landlord.
- (4B) The provisions of this Part apply to an allocation of housing accommodation by a local housing authority in England to a person who falls within subsection (4A)(a) or (b) if—
 - (a) the allocation involves a transfer of housing accommodation for that person,
 - (b) the application for the transfer is made by that person, and
 - (c) the authority is satisfied that the person is to be given reasonable preference under section 166A(3).
- (5) The provisions of this Part do not apply to an allocation of housing accommodation by a local housing authority in Wales to a person who is already a secure or introductory tenant unless the allocation involves a transfer of housing accommodation for that person and is made on his application.
- (7) Subject to the provisions of this Part, a local housing authority may allocate housing accommodation in such manner as they consider appropriate.

160 Cases where provisions about allocation do not apply

- (1) The provisions of this Part about the allocation of housing accommodation do not apply in the following cases.
- (2) They do not apply where a secure tenancy—
 - (a) vests under section 89 of the Housing Act 1985 (succession to periodic secure tenancy on death of tenant),
 - (b) remains a secure tenancy by virtue of section 90 of that Act (devolution of term certain of secure tenancy on death of tenant),
 - (c) is assigned under section 92 of that Act (assignment of secure tenancy by way of exchange),
 - (d) is assigned to a person who would be qualified to succeed the secure tenant if the secure tenant died immediately before the assignment,
 - (da) is granted in response to a request under section 158 of the Localism Act 2011 (transfer of tenancy), or
 - (e) vests or is otherwise disposed of in pursuance of an order made under—
 - (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
 - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc),
 - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents), or
 - (iv) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc).
- (3) They do not apply where an introductory tenancy—
 - (a) becomes a secure tenancy on ceasing to be an introductory tenancy,
 - (b) vests under section 133(2) (succession to introductory tenancy on death of tenant),
 - (c) is assigned to a person who would be qualified to succeed the introductory tenant if the introductory tenant died immediately before the assignment, or
 - (d) vests or is otherwise disposed of in pursuance of an order made under—
 - (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
 - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc),
 - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents), or
 - (iv) Part 2 of Schedule 5, or paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc).
- (4) They do not apply in such other cases as the Secretary of State may prescribe by regulations.
- (5) The regulations may be framed so as to make the exclusion of the provisions of this Part about the allocation of housing accommodation subject to such restrictions or conditions as may be specified.

In particular, those provisions may be excluded—

- (a) in relation to specified descriptions of persons, or
- (b) in relation to housing accommodation of a specified description or a specified proportion of housing accommodation of any specified description.

Eligibility for allocation of housing accommodation

160ZA Allocation only to eligible and qualifying persons: England

- (1) A local housing authority in England shall not allocate housing accommodation—
 - (a) to a person from abroad who is ineligible for an allocation of housing accommodation by virtue of subsection (2) or (4), or
 - (b) to two or more persons jointly if any of them is a person mentioned in paragraph (a).
- (2) A person subject to immigration control within the meaning of the Asylum and Immigration Act 1996 is ineligible for an allocation of housing accommodation by a local housing authority in England unless he is of a class prescribed by regulations made by the Secretary of State.
- (3) No person who is excluded from entitlement to universal credit or housing benefit by section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) shall be included in any class prescribed under subsection (2).
- (4) The Secretary of State may by regulations prescribe other classes of persons from abroad who are ineligible to be allocated housing accommodation by local housing authorities in England.
- (5) Nothing in subsection (2) or (4) affects the eligibility of a person who falls within section 159(4B).
- (6) Except as provided by subsection (1), a person may be allocated housing accommodation by a local housing authority in England (whether on his application or otherwise) if that person—
 - (a) is a qualifying person within the meaning of subsection (7), or
 - (b) is one of two or more persons who apply for accommodation jointly, and one or more of the other persons is a qualifying person within the meaning of subsection (7).
- (7) Subject to subsections (2) and (4) and any regulations under subsection (8), a local housing authority may decide what classes of persons are, or are not, qualifying persons.
- (8) The Secretary of State may by regulations—
 - (a) prescribe classes of persons who are, or are not, to be treated as qualifying persons by local housing authorities in England, and
 - (b) prescribe criteria that may not be used by local housing authorities in England in deciding what classes of persons are not qualifying persons.
- (9) If a local housing authority in England decide that an applicant for housing accommodation—
 - (a) is ineligible for an allocation by them by virtue of subsection (2) or (4), or
 - (b) is not a qualifying person,they shall notify the applicant of their decision and the grounds for it.
- (10) That notice shall be given in writing and, if not received by the applicant,

shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

- (11) A person who is not being treated as a qualifying person may (if he considers that he should be treated as a qualifying person) make a fresh application to the authority for an allocation of housing accommodation by them.

160A Allocation only to eligible persons: Wales

- (1) A local housing authority in Wales shall not allocate housing accommodation—
- (a) to a person from abroad who is ineligible for an allocation of housing accommodation by virtue of subsection (3) or (5);
 - (b) to a person who the authority have decided is to be treated as ineligible for such an allocation by virtue of subsection (7); or
 - (c) to two or more persons jointly if any of them is a person mentioned in paragraph (a) or (b).
- (2) Except as provided by subsection (1), any person may be allocated housing accommodation by a local housing authority in Wales (whether on his application or otherwise).
- (3) A person subject to immigration control within the meaning of the Asylum and Immigration Act 1996 (c 49) is (subject to subsection (6)) ineligible for an allocation of housing accommodation by a local housing authority in Wales unless he is of a class prescribed by regulations made by the Secretary of State.
- (4) No person who is excluded from entitlement to universal credit or housing benefit by section 115 of the Immigration and Asylum Act 1999 (c 33) (exclusion from benefits) shall be included in any class prescribed under subsection (3).
- (5) The Secretary of State may by regulations prescribe other classes of persons from abroad who are (subject to subsection (6)) ineligible for an allocation of housing accommodation, either in relation to local housing authorities in Wales generally or any particular local housing authority in Wales.
- (6) Nothing in subsection (3) or (5) affects the eligibility of a person who is already—
- (a) a secure or introductory tenant;
 - (b) an assured tenant of housing accommodation allocated to him by a local housing authority in Wales.
- (7) A local housing authority in Wales may decide that an applicant is to be treated as ineligible for an allocation of housing accommodation by them if they are satisfied that—
- (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the authority; and
 - (b) in the circumstances at the time his application is considered, he is unsuitable to be a tenant of the authority by reason of that behaviour.
- (8) The only behaviour which may be regarded by the authority as unacceptable for the purposes of subsection (7)(a) is—
- (a) behaviour of the person concerned which would (if he were a secure tenant of the authority) entitle the authority to a possession order under

- section 84 of the Housing Act 1985 (c 68) on any ground mentioned in Part 1 of Schedule 2 to that Act (other than ground 8); or
- (aa) behaviour of the person concerned which would (if he were a secure tenant of the authority) entitle the authority to a possession order under section 84A of the Housing Act 1985; or
 - (b) behaviour of a member of his household which would (if he were a person residing with a secure tenant of the authority) entitle the authority to a possession order of the type referred to in paragraph (a) or (aa).
- (9) If a local housing authority in Wales decide that an applicant for housing accommodation—
- (a) is ineligible for an allocation by them by virtue of subsection (3) or (5); or
 - (b) is to be treated as ineligible for such an allocation by virtue of subsection (7),
- they shall notify the applicant of their decision and the grounds for it.
- (10) That notice shall be given in writing and, if not received by the applicant, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.
- (11) A person who is being treated by a local housing authority in Wales as ineligible by virtue of subsection (7) may (if he considers that he should no longer be treated as ineligible by the authority) make a fresh application to the authority for an allocation of housing accommodation by them.

161–165 [Repealed].

Applications for housing accommodation

166 Applications for housing accommodation

- (1) A local housing authority shall secure that—
- (a) advice and information is available free of charge to persons in their district about the right to make an application for an allocation of housing accommodation; and
 - (b) any necessary assistance in making such an application is available free of charge to persons in their district who are likely to have difficulty in doing so without assistance.
- (1A) A local housing authority in England shall secure that an applicant for an allocation of housing accommodation is informed that he has the rights mentioned in section 166A(9).
- (2) A local housing authority in Wales shall secure that an applicant for an allocation of housing accommodation is informed that he has the rights mentioned in section 167(4A).
- (3) Every application made to a local housing authority for an allocation of housing accommodation shall (if made in accordance with the procedural requirements of the authority's allocation scheme) be considered by the authority.
- (4) The fact that a person is an applicant for an allocation of housing accommodation shall not be divulged (without his consent) to any other member of the public.
- (5) In this Part 'district' in relation to a local housing authority has the same meaning as in the Housing Act 1985 (c 68).

Allocation schemes

166A Allocation in accordance with allocation scheme: England

- (1) Every local housing authority in England must have a scheme (their 'allocation scheme') for determining priorities, and as to the procedure to be followed, in allocating housing accommodation.

For this purpose 'procedure' includes all aspects of the allocation process, including the persons or descriptions of persons by whom decisions are taken.

- (2) The scheme must include a statement of the authority's policy on offering people who are to be allocated housing accommodation—
 - (a) a choice of housing accommodation; or
 - (b) the opportunity to express preferences about the housing accommodation to be allocated to them.
- (3) As regards priorities, the scheme shall, subject to subsection (4), be framed so as to secure that reasonable preference is given to—
 - (a) people who are homeless (within the meaning of Part 7);
 - (b) people who are owed a duty by any local housing authority under section 190(2), 193(2) or 195(2) (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any such authority under section 192(3);
 - (c) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
 - (d) people who need to move on medical or welfare grounds (including any grounds relating to a disability); and
 - (e) people who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

The scheme may also be framed so as to give additional preference to particular descriptions of people within one or more of paragraphs (a) to (e) (being descriptions of people with urgent housing needs).

The scheme must be framed so as to give additional preference to a person with urgent housing needs who falls within one or more of paragraphs (a) to (e) and who—

- (i) is serving in the regular forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service,
- (ii) formerly served in the regular forces,
- (iii) has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner who has served in the regular forces and whose death was attributable (wholly or partly) to that service, or
- (iv) is serving or has served in the reserve forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service.

For this purpose 'the regular forces' and 'the reserve forces' have the meanings given by section 374 of the Armed Forces Act 2006.

- (4) People are to be disregarded for the purposes of subsection (3) if they would

not have fallen within paragraph (a) or (b) of that subsection without the local housing authority having had regard to a restricted person (within the meaning of Part 7).

- (5) The scheme may contain provision for determining priorities in allocating housing accommodation to people within subsection (3); and the factors which the scheme may allow to be taken into account include—
 - (a) the financial resources available to a person to meet his housing costs;
 - (b) any behaviour of a person (or of a member of his household) which affects his suitability to be a tenant;
 - (c) any local connection (within the meaning of section 199) which exists between a person and the authority's district.
- (6) Subject to subsection (3), the scheme may contain provision about the allocation of particular housing accommodation—
 - (a) to a person who makes a specific application for that accommodation;
 - (b) to persons of a particular description (whether or not they are within subsection (3)).
- (7) The Secretary of State may by regulations—
 - (a) specify further descriptions of people to whom preference is to be given as mentioned in subsection (3), or
 - (b) amend or repeal any part of subsection (3).
- (8) The Secretary of State may by regulations specify factors which a local housing authority in England must not take into account in allocating housing accommodation.
- (9) The scheme must be framed so as to secure that an applicant for an allocation of housing accommodation—
 - (a) has the right to request such general information as will enable him to assess—
 - (i) how his application is likely to be treated under the scheme (including in particular whether he is likely to be regarded as a member of a group of people who are to be given preference by virtue of subsection (3)); and
 - (ii) whether housing accommodation appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available for allocation to him;
 - (b) has the right to request the authority to inform him of any decision about the facts of his case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to him; and
 - (c) has the right to request a review of a decision mentioned in paragraph (b), or in section 160ZA(9), and to be informed of the decision on the review and the grounds for it.
- (10) As regards the procedure to be followed, the scheme must be framed in accordance with such principles as the Secretary of State may prescribe by regulations.
- (11) Subject to the above provisions, and to any regulations made under them, the authority may decide on what principles the scheme is to be framed.
- (12) A local housing authority in England must, in preparing or modifying their allocation scheme, have regard to—
 - (a) their current homelessness strategy under section 1 of the Homelessness Act 2002,

- (b) their current tenancy strategy under section 150 of the Localism Act 2011, and
 - (c) in the case of an authority that is a London borough council, the London housing strategy.
- (13) Before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, a local housing authority in England must—
- (a) send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlord with which they have nomination arrangements (see section 159(4)), and
 - (b) afford those persons a reasonable opportunity to comment on the proposals.
- (14) A local housing authority in England shall not allocate housing accommodation except in accordance with their allocation scheme.

167 Allocation in accordance with allocation scheme: Wales

- (1) Every local housing authority in Wales shall have a scheme (their ‘allocation scheme’) for determining priorities, and as to the procedure to be followed, in allocating housing accommodation.
For this purpose ‘procedure’ includes all aspects of the allocation process, including the persons or descriptions of persons by whom decisions are to be taken.
- (1A) The scheme shall include a statement of the authority’s policy on offering people who are to be allocated housing accommodation—
- (a) a choice of housing accommodation; or
 - (b) the opportunity to express preferences about the housing accommodation to be allocated to them.
- (2) As regards priorities, the scheme shall, subject to subsection (2ZA), be framed so as to secure that reasonable preference is given to—
- (a) people who are homeless (within the meaning of Part 2 of the Housing (Wales) Act 2014);
 - (b) people who are owed any duty by a local housing authority under section 66, 73 or 75 of the Housing (Wales) Act 2014;
 - (c) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
 - (d) people who need to move on medical or welfare grounds (including grounds relating to a disability); and
 - (e) people who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).
- The scheme may also be framed so as to give additional preference to particular descriptions of people within this subsection (being descriptions of people with urgent housing needs).
- (2ZA) People are to be disregarded for the purposes of subsection (2) if they would not have fallen within paragraph (a) or (b) of that subsection without the local housing authority having had regard to a restricted person (within the meaning of Part 2 of the Housing (Wales) Act 2014).
- (2A) The scheme may contain provision for determining priorities in allocating

housing accommodation to people within subsection (2); and the factors which the scheme may allow to be taken into account include—

- (a) the financial resources available to a person to meet his housing costs;
 - (b) any behaviour of a person (or of a member of his household) which affects his suitability to be a tenant;
 - (c) any local connection (within the meaning of section 81 of the Housing (Wales) Act 2014) which exists between a person and the authority's district.
- (2B) Nothing in subsection (2) requires the scheme to provide for any preference to be given to people the authority have decided are people to whom subsection (2C) applies.
- (2C) This subsection applies to a person if the authority are satisfied that—
- (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the authority; and
 - (b) in the circumstances at the time his case is considered, he deserves by reason of that behaviour not to be treated as a member of a group of people who are to be given preference by virtue of subsection (2).
- (2D) Subsection (8) of section 160A applies for the purposes of subsection (2C)(a) above as it applies for the purposes of subsection (7)(a) of that section.
- (2E) Subject to subsection (2), the scheme may contain provision about the allocation of particular housing accommodation—
- (a) to a person who makes a specific application for that accommodation;
 - (b) to persons of a particular description (whether or not they are within subsection (2)).
- (3) The Secretary of State may by regulations—
- (a) specify further descriptions of people to whom preference is to be given as mentioned in subsection (2), or
 - (b) amend or repeal any part of subsection (2).
- (4) The Secretary of State may by regulations specify factors which a local housing authority in Wales shall not take into account in allocating housing accommodation.
- (4A) The scheme shall be framed so as to secure that an applicant for an allocation of housing accommodation—
- (a) has the right to request such general information as will enable him to assess—
 - (i) how his application is likely to be treated under the scheme (including in particular whether he is likely to be regarded as a member of a group of people who are to be given preference by virtue of subsection (2)); and
 - (ii) whether housing accommodation appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available for allocation to him;
 - (b) is notified in writing of any decision that he is a person to whom subsection (2C) applies and the grounds for it;
 - (c) has the right to request the authority to inform him of any decision about the facts of his case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to him; and
 - (d) has the right to request a review of a decision mentioned in paragraph

- (b) or (c), or in section 160A(9), and to be informed of the decision on the review and the grounds for it.
- (5) As regards the procedure to be followed, the scheme shall be framed in accordance with such principles as the Secretary of State may prescribe by regulations.
 - (6) Subject to the above provisions, and to any regulations made under them, the authority may decide on what principles the scheme is to be framed.
 - (7) Before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, a local housing authority in Wales shall—
 - (a) send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlord with which they have nomination arrangements (see section 159(4)), and
 - (b) afford those persons a reasonable opportunity to comment on the proposals.
 - (8) A local housing authority in Wales shall not allocate housing accommodation except in accordance with their allocation scheme.

168 Information about allocation scheme

- (1) A local housing authority shall publish a summary of their allocation scheme and provide a copy of the summary free of charge to any member of the public who asks for one.
- (2) The authority shall make the scheme available for inspection at their principal office and shall provide a copy of the scheme, on payment of a reasonable fee, to any member of the public who asks for one.
- (3) When the authority make an alteration to their scheme reflecting a major change of policy, they shall within a reasonable period of time take such steps as they consider reasonable to bring the effect of the alteration to the attention of those likely to be affected by it.

Supplementary

169 Guidance to authorities by the Secretary of State

- (1) In the exercise of their functions under this Part, local housing authorities shall have regard to such guidance as may from time to time be given by the Secretary of State.
- (2) The Secretary of State may give guidance generally or to specified descriptions of authorities.

170 Co-operation between certain social landlords and local housing authorities

Where a local housing authority so request, a private registered provider of social housing or registered social landlord shall co-operate to such extent as is reasonable in the circumstances in offering accommodation to people with priority under the authority's allocation scheme.

171 False statements and withholding information

- (1) A person commits an offence if, in connection with the exercise by a local housing authority of their functions under this Part—
 - (a) he knowingly or recklessly makes a statement which is false in a material particular, or

- (b) he knowingly withholds information which the authority have reasonably required him to give in connection with the exercise of those functions.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

172 Regulations

- (1) Regulations under this Part shall be made by statutory instrument.
- (2) No regulations shall be made under section 166A(7) or 167(3) (regulations amending provisions about priorities in allocating housing accommodation) unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (3) Any other regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations under this Part may contain such incidental, supplementary and transitional provisions as appear to the Secretary of State appropriate, and may make different provision for different cases including different provision for different areas.

173 Consequential amendments: Part VI

The enactments mentioned in Schedule 16 have effect with the amendments specified there which are consequential on the provisions of this Part.

174 Index of defined expressions: Part VI

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

allocation (of housing)	section 159(2)
allocation scheme	Section 166A and 167
assured tenancy	section 230
district (of local housing authority)	section 166(5)
introductory tenancy and introductory tenant	section 230 and 124
local housing authority	section 230
registered social landlord	section 230 and 2
secure tenancy and secure tenant	section 230

PART 7: HOMELESSNESS: ENGLAND

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] 56² 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*
 - (b) *that notice will expire within 56 days.*³

176 Meaning of accommodation available for occupation

Accommodation shall be regarded as available for a person's occupation only if it is available for occupation by him together with—

- (a) any other person who normally resides with him as a member of his family, or
- (b) any other person who might reasonably be expected to reside with him.

References in this Part to securing that accommodation is available for a person's occupation shall be construed accordingly.

177 Whether it is reasonable to continue to occupy accommodation

- (1) It is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to domestic violence or other violence against him, or against—
 - (a) a person who normally resides with him as a member of his family, or
 - (b) any other person who might reasonably be expected to reside with him.
- (1A) For this purpose '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.
- (2) In determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation, regard may be had to the general circumstances prevailing in relation to housing in the district of the local housing authority to whom he has applied for accommodation or for assistance in obtaining accommodation.
- (3) The Secretary of State may by order specify—
 - (a) other circumstances in which it is to be regarded as reasonable or not reasonable for a person to continue to occupy accommodation, and

2 Reference to '28' repealed and '56' substituted by Homelessness Reduction Act 2017 s1(1), (2). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

3 Inserted by Homelessness Reduction Act 2017 s1(1), (3). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (b) other matters to be taken into account or disregarded in determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation.

178 Meaning of associated person

- (1) For the purposes of this Part, a person is associated with another person if—
 - (a) they are or have been married to each other;
 - (aa) they are or have been civil partners of each other;
 - (b) they are cohabitants or former cohabitants;
 - (c) they live or have lived in the same household;
 - (d) they are relatives;
 - (e) they have agreed to marry one another (whether or not that agreement has been terminated);
 - (ea) they have entered into a civil partnership agreement between them (whether or not that agreement has been terminated);
 - (f) in relation to a child, each of them is a parent of the child or has, or has had, parental responsibility for the child.
- (2) If a child has been adopted or falls within subsection (2A), two persons are also associated with each other for the purposes of this Part if—
 - (a) one is a natural parent of the child or a parent of such a natural parent, and
 - (b) the other is the child or a person—
 - (i) who has become a parent of the child by virtue of an adoption order or who has applied for an adoption order, or
 - (ii) with whom the child has at any time been placed for adoption.
- (2A) A child falls within this subsection if—
 - (a) an adoption agency, within the meaning of section 2 of the Adoption and Children Act 2002, is authorised to place him for adoption under section 19 of that Act (placing children with parental consent) or he has become the subject of an order under section 21 of that Act (placement orders), or
 - (b) he is freed for adoption by virtue of an order made—
 - (i) in England and Wales, under section 18 of the Adoption Act 1976,
 - (ii) in Scotland, under section 18 of the Adoption (Scotland) Act 1978, or
 - (iii) in Northern Ireland, under Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987.
- (3) In this section—
 - ‘adoption order’ means an adoption order within the meaning of section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002;
 - ‘child’ means a person under the age of 18 years;
 - ‘civil partnership agreement’ has the meaning given by section 73 of the Civil Partnership Act 2004;
 - ‘cohabitants’ means—
 - (a) a man and a woman who, although not married to each other, are living together as husband and wife, or
 - (b) two people of the same sex who, although not civil partners of each other, are living together as if they were civil partners;and ‘former cohabitants’ shall be construed accordingly;

‘parental responsibility’ has the same meaning as in the Children Act 1989; and

‘relative’, in relation to a person, means—

- (a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that person or of that person’s spouse, civil partner, former spouse or former civil partner, or
- (b) the brother, sister, uncle, aunt, niece or nephew (whether of the full blood or of the half blood or by marriage or civil partnership) of that person or of that person’s spouse, civil partner, former spouse or former civil partner,

and includes, in relation to a person who is living or has lived with another person as husband and wife, a person who would fall within paragraph

(a) or (b) if the parties were married to each other.

General functions in relation to homelessness or threatened homelessness

179 Duty of local housing authority to provide advisory services⁴

- [(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.]
- (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—*
 - (a) *persons released from prison or youth detention accommodation,*
 - (b) *care leavers,*
 - (c) *former members of the regular armed forces,*

4 Subsections (1)-(3) in square brackets repealed and subsections (1)-(5) in italics substituted by Homelessness Reduction Act 2017 s2. Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (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).

180 Assistance for voluntary organisations

- (1) The Secretary of State or a local housing authority in England may give assistance by way of grant or loan to voluntary organisations concerned with homelessness or matters relating to homelessness.
- (2) A local housing authority may also assist any such organisation—
- (a) by permitting them 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.
- (3) A 'voluntary organisation' means a body (other than a public or local authority) whose activities are not carried on for profit.

181 Terms and conditions of assistance

- (1) This section has effect as to the terms and conditions on which assistance is given under section 179 or 180.
- (2) Assistance shall be on such terms, and subject to such conditions, as the person giving the assistance may determine.
- (3) No assistance shall be given unless the person to whom it is given undertakes—
 - (a) to use the money, furniture or other goods or premises for a specified purpose, and
 - (b) to provide such information as may reasonably be required as to the manner in which the assistance is being used.The person giving the assistance may require such information by notice in writing, which shall be complied with within 21 days beginning with the date on which the notice is served.
- (4) The conditions subject to which assistance is given shall in all cases include conditions requiring the person to whom the assistance is given—
 - (a) to keep proper books of account and have them audited in such manner as may be specified,
 - (b) to keep records indicating how he has used the money, furniture or other goods or premises, and
 - (c) to submit the books of account and records for inspection by the person giving the assistance.
- (5) If it appears to the person giving the assistance that the person to whom it was given has failed to carry out his undertaking as to the purpose for which the assistance was to be used, he shall take all reasonable steps to recover from that person an amount equal to the amount of the assistance.
- (6) He must first serve on the person to whom the assistance was given a notice specifying the amount which in his opinion is recoverable and the basis on which that amount has been calculated.

182 Guidance by the Secretary of State

- (1) In the exercise of their functions relating to homelessness and the prevention of homelessness, a local housing authority or social services authority in England shall have regard to such guidance as may from time to time be given by the Secretary of State.
- (2) The Secretary of State may give guidance either generally or to specified descriptions of authorities.

Application for assistance in case of homelessness or threatened homelessness

183 Application for assistance

- (1) The following provisions of this Part apply where a person applies to a local housing authority in England for accommodation, or for assistance in

obtaining accommodation, and the authority have reason to believe that he is or may be homeless or threatened with homelessness.

- (2) In this Part—
 ‘applicant’ means a person making such an application,
 ‘assistance under this Part’ means the benefit of any function under the following provisions of this Part relating to accommodation or assistance in obtaining accommodation, and
 ‘eligible for assistance’ means not excluded from such assistance by section 185 (persons from abroad not eligible for housing assistance) [or section 186 (asylum seekers and their dependants)].⁵
- (3) Nothing in this section or the following provisions of this Part affects a person’s entitlement to advice and information under section 179 (duty to provide advisory services).

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 authority 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.
- (3A)⁶ 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,*⁷ owed to the applicant under section 193(2) [or 195(2)]⁸ 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)].⁹
- (4) If the authority have notified or intend to notify another local housing

5 Words ‘or section 186 (asylum seekers and their dependants)’ in square brackets repealed by Immigration and Asylum Act 1999 s169(1), (3), Sch 14, para 116, Sch 16. Not yet in force: see Immigration and Asylum Act 1999 s170(4).

6 Subs (3A) in force except in relation to applications for an allocation of social housing or housing assistance (homelessness) or for accommodation made before that date): see SI 2009/415 art 2.

7 Word in italics inserted by Homelessness Reduction Act 2017 s5(1), (3)(a). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

8 Words ‘or 195(2)’ in square brackets repealed by Homelessness Reduction Act 2017 s 4(1), (3)(a). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

9 Words ‘or (as the case may be) section 195(4A)’ in square brackets repealed by Homelessness Reduction Act 2017 s4(1), (3)(b). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

authority [under section 198 (referral of cases)] *in England under section 198(A1) (referral of cases where section 189B applies)*,¹⁰ 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 received 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 dependants, without recourse to public funds.

Eligibility for assistance

185 Persons from abroad not eligible for housing assistance

- (1) A person is not eligible for assistance under this Part if he is a person from abroad who is ineligible for housing assistance.
- (2) A person who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996 is not eligible for housing assistance unless he is of a class prescribed by regulations made by the Secretary of State.
- (2A) No person who is excluded from entitlement to universal credit or housing benefit by section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) shall be included in any class prescribed under subsection (2).
- (3) The Secretary of State may make provision by regulations as to other descriptions of persons who are to be treated for the purposes of this Part as persons from abroad who are ineligible for housing assistance.
- (4) A person from abroad who is not eligible for housing assistance shall be disregarded in determining for the purposes of this Part whether a person falling within subsection (5)—
 - (a) is homeless or threatened with homelessness, or
 - (b) has a priority need for accommodation.
- (5) A person falls within this subsection if the person—
 - (a) falls within a class prescribed by regulations made under subsection (2);
but
 - (b) is not a national of an EEA State or Switzerland.

¹⁰ Words 'under section 198 (referral of cases)' in square brackets repealed and subsequent words in italics substituted by Homelessness Reduction Act 2017 s5(1), (3)(b). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

[186 Asylum-seekers and their dependants]

- (1) An asylum-seeker, or a dependant of an asylum-seeker who is not by virtue of section 185 a person from abroad who is ineligible for housing assistance, is not eligible for assistance under this Part if he has any accommodation in the United Kingdom, however temporary, available for his occupation.
- (2) For the purposes of this section a person who makes a claim for asylum—
- (a) becomes an asylum-seeker at the time when his claim is recorded by the Secretary of State as having been made, and
 - (b) ceases to be an asylum-seeker at the time when his claim is recorded by the Secretary of State as having been finally determined or abandoned.
- (3) For the purposes of this section a person—
- (a) becomes a dependant of an asylum-seeker at the time when he is recorded by the Secretary of State as being a dependant of the asylum-seeker, and
 - (b) ceases to be a dependant of an asylum-seeker at the time when the person whose dependant he is ceases to be an asylum-seeker or, if it is earlier, at the time when he is recorded by the Secretary of State as ceasing to be a dependant of the asylum-seeker.
- (4) In relation to an asylum-seeker, ‘dependant’ means a person—
- (a) who is his spouse or a child of his under the age of eighteen, and
 - (b) who has neither a right of abode in the United Kingdom nor indefinite leave under the Immigration Act 1971 to enter or remain in the United Kingdom.
- (5) In this section a ‘claim for asylum’ means a claim made by a person that it would be contrary to the United Kingdom’s obligations under the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to that Convention for him to be removed from, or required to leave, the United Kingdom.¹¹

187 Provision of information by Secretary of State

- (1) The Secretary of State shall, at the request of a local housing authority in England, provide the authority with such information as they may require—
- (a) as to whether a person is a person to whom section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) applies, and
 - (b) to enable them to determine whether such a person is eligible for assistance under this Part under section 185 (persons from abroad not eligible for housing assistance).
- (2) Where that information is given otherwise than in writing, the Secretary of State shall confirm it in writing if a written request is made to him by the authority.
- (3) If it appears to the Secretary of State that any application, decision or other change of circumstances has affected the status of a person about whom information was previously provided by him to a local housing authority under this section, he shall inform the authority in writing of that fact, the reason for it and the date on which the previous information became inaccurate.

11 Section 186 repealed by the Immigration and Asylum Act 1999 ss117(5), 169(3), Sch 16. Not yet in force: see Immigration and Asylum Act 1999 s170(4).

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.¹²
- (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 189B(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.*
- (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 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) regardless of whether the applicant has a priority need.*¹³
- (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.¹⁴

12 Subs (1) substituted, by subsequent subss (1), (1ZA), (1ZB) in italics by Homelessness Reduction Act 2017 s5(1), (4)(a). Not yet in force: see the Homelessness Reduction Act 2017 s13(3).

13 Subs (1A) not in force in relation to Wales. Words 'pending a decision of the kind referred to in subsection (1)' in square brackets repealed and subsequent words in italics substituted by Homelessness Reduction Act 2017 s5(1), (4)(b). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

14 Subs (3) substituted, by subsequent subss (2A), (3), by Homelessness Reduction Act 2017 s5(1), (4)(c). Not yet in force: see the Homelessness Reduction Act 2017 s13(3).

- (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 the 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.*

189 Priority need for accommodation

- (1) The following have a priority need for accommodation—
- (a) a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
 - (b) a person with whom dependent children reside or might reasonably be expected to reside;
 - (c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
 - (d) a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.
- (2) The Secretary of State may by order—
- (a) specify further descriptions of persons as having a priority need for accommodation, and
 - (b) amend or repeal any part of subsection (1).
- (3) Before making such an order the Secretary of State shall consult such associations representing relevant authorities, and such other persons, as he considers appropriate.
- (4) No such order shall be made unless a draft of it has been approved by resolution of each House of Parliament.

***Duty to assess every eligible applicant's case and agree a plan*¹⁵**

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 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

¹⁵ Inserted by Homelessness Reduction Act 2017 s3(1). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (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.¹⁶

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 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,

16 Inserted by the Homelessness Reduction Act 2017 s3(1). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (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).¹⁷*

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.]¹⁸
 - (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.*
 - (2) [If the authority are satisfied that the applicant has a priority need, they shall—] *The authority must—*¹⁹
 - (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 attempts 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.]²⁰

17 Section 189B inserted by Homelessness Reduction Act 2017 s5(1), (2). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

18 Subs (1) in square brackets substituted by words in italics by Homelessness Reduction Act 2017 s5(1), (5)(a). Not yet in force: to be appointed: see Homelessness Reduction Act 2017 s13(3).

19 Words from 'If the authority' to 'need, they shall-' in square brackets repealed and subsequent words in italics substituted by Homelessness Reduction Act 2017 s5(1), (5)(b). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

20 Repealed by Homelessness Reduction Act 2017 s 5(1), (5)(c). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- [(4) The applicant's housing needs shall be assessed before advice and assistance is provided under subsection (2)(b) or (3).]²¹
- (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.*
- (5) The advice and assistance provided under subsection (2)(b) [or (3)] 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).²²

191 Becoming homeless intentionally

- (1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy 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 homeless 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 homeless.
- (4) [Repealed.]

[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 not 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

21 Subs (4) in square brackets substituted by words in italics by Homelessness Reduction Act 2017 s3(2). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

22 Words 'or (3)' in square brackets repealed by Homelessness Reduction Act 2017 s5(1), (5)(d). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

accommodation appropriate to the applicant's housing needs (including, in particular, the location and sources of such types of accommodation).]²³

193 Duty to persons with priority need who are not homeless intentionally²⁴

[(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.]²⁵

(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*

(c) *the authority's duty to the applicant under section 189B(2) has come to an end.*

(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).*

(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,

23 Repealed by Homelessness Reduction Act 2017 s 5(1), (6). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

24 Reproduced as relates to England only.

25 Subs (1) words in square brackets substituted by subsequent (1) and (1A) in italics by Homelessness Reduction Act 2017 s 5(1), (7). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (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.
- (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 consequence 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 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.
- (12) In subsection (10) ‘the appropriate authority’–
 - (a) in relation to local housing authorities in England, means the Secretary of State;
 - (b) in relation to local housing authorities in Wales, means the Welsh Ministers.

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 the 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.²⁶

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 purposes 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.

26 Sections 193A–193C inserted by Homelessness Reduction Act 2017 s7(1). Not yet in force: see the Homelessness Reduction Act 2017 s13(3).

- (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.²⁷

193C Notice under section 193B: consequences

- (1) In the circumstances mentioned in section 193B(1), this section applies in relation to a local housing authority and an applicant.
- (2) The authority's duty to the applicant under section 189B(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.

²⁷ Inserted by Homelessness Reduction Act 2017 s7(1). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (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.²⁸

194 [Repealed.]

[195 Duties in case of threatened homelessness

- (1) This section applies where the 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,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 applicant 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 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

28 Inserted by Homelessness Reduction Act 2017 s7(1). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (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 subsection, 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.]²⁹
- (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.*

²⁹ Section 195 substituted by the subsequent words in italics by Homelessness Reduction Act 2017 s4(1), (2). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (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 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.
- (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).

195A Re-application after private rented sector offer³⁰

- (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
 - (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.

30 Not in force in Wales.

- (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 that notice is given.³¹
- (5) Subsection (1) [or (3)] 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)] 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 that applicant was one to which subsection (1) [or (3)] applied.³²

[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 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.
- (4) [Repealed.]³³

197 [Repealed.]

31 Subss (3), (4) repealed by Homelessness Reduction Act 2017 s4(1), (4)(a). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

32 Words 'or (3)' in square brackets in subs (5), (6) repealed by Homelessness Reduction Act 2017 s4(1), (4)(b), (c). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

33 Section 196 repealed by Homelessness Reduction Act 2017 s4(1), (5). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

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.*³⁴

- (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.³⁵
- (2A) But the conditions for referral mentioned in subsection (2) or (2ZA) are not met 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.

34 Inserted by Homelessness Reduction Act 2017, s 5(1), (8). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

35 Not in force in Wales.

- (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 ‘this 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 of State 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 (c 41) (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).³⁶*

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), and*
- (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.*

36 Inserted by Homelessness Reduction Act 2017 s8. Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (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 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.³⁷

37 Inserted by Homelessness Reduction Act 2017 s5(1), (9). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

200 Duties to the applicant whose case is considered for referral or referred under section 198(1)³⁸

- (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)*³⁹ 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.*⁴⁰
- (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 is an 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 occupation pending the decision on a review.
- (6) Notice [required to be]⁴¹ 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 office for a reasonable period for collection by him or on his behalf.

38 Words 'under section 198(1)' in italics inserted by Homelessness Reduction Act 2017 s5(1), (10)(a).

39 Words 'under section 198(1)' in italics inserted by Homelessness Reduction Act 2017 s5(1), (10)(b). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

40 Inserted by Homelessness Reduction Act 2017 s5(1), (10)(c). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

41 Words 'required to be' in square brackets repealed by Homelessness Reduction Act 2017 s5(1), (10)(d). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

201 Application of referral provisions to cases arising in Scotland

Sections 198 and 200 (referral of application to another local housing authority and duties to applicant whose case is considered for referral or referred) apply—

- (a) to applications referred by a local authority in Scotland in pursuance of sections 33 and 34 of the Housing (Scotland) Act 1987, and
- (b) to persons whose applications are so transferred, as they apply to cases arising under this Part (the reference in section 198 to this Part being construed as a reference to Part II of that Act).

201A Cases referred from a local housing authority in Wales

- (1) This section applies where an application has been referred by a local housing authority in Wales to a local housing authority in England under section 80 of the Housing (Wales) Act 2014 (referral of case to another local housing authority).
- (2) If it is decided that the conditions in that section for referral of the case are met, the notified authority are subject to the duty under section 193 of this Act in respect of the person whose case is referred (the main housing duty); for provision about cases where it is decided that the conditions for referral are not met, see section 82 of the Housing (Wales) Act 2014 (duties to applicant whose case is considered for referral or referred).
- (3) References in this Part to an applicant include a reference to a person to whom a duty is owed by virtue of subsection (2).

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]⁴² 189B to 193C and 195 [and 196]⁴³ (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

42 Words '190 to 193' in square brackets repealed and subsequent words in italics substituted by Homelessness Reduction Act 2017 s9(1), (2)(a)(i). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

43 Words 'and 196' in square brackets repealed by Homelessness Reduction Act 2017 s9(1), (2)(a)(ii). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (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,⁴⁴
- (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), [or]⁴⁵
- (g) any decision of a local housing authority as to the suitability of accommodation offered to him by way of a private rented sector offer⁴⁶ (within the meaning of section 193),² 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).⁴⁷
- (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.⁴⁸
- (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

- (1) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under section 202. Nothing in the following provisions affects the generality of this power.
- (2) Provision may be made by regulations—
- (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and

44 Paras (ba)–(bc) inserted by Homelessness Reduction Act 2017 s9(1), (2)(b). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

45 Word 'or' in square brackets repealed by Homelessness Reduction Act 2017 s9(1), (2)(c). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

46 Not in force in Wales.

47 Para (h) and word ' , or ' preceding it inserted by Homelessness Reduction Act 2017 s9(1), (2)(d). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

48 Inserted by Homelessness Reduction Act 2017 s9(1), (3). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (b) as to the circumstances in which the applicant is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.
- (3) The authority, or as the case may be either of the authorities, concerned shall notify the applicant of the decision on the review.
- (4) If the decision is—
 - (a) to confirm the original decision on any issue against the interests of the applicant, or
 - (b) to confirm a previous decision—
 - (i) to notify another authority under section 198 (referral of cases), or
 - (ii) that the conditions are met for the referral of his case,they shall also notify him of the reasons for the decision.
- (5) In any case they shall inform the applicant of his right to appeal to the county court on a point of law, and of the period within which such an appeal must be made (see section 204).
- (6) Notice of the decision shall not be treated as given unless and until subsection (5), and where applicable subsection (4), is complied with.
- (7) Provision may be made by regulations as to the period within which the review must be carried out and notice given of the decision.
- (8) Notice required to be given to a person under this section shall be given in writing and, if not received by him, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

204 Right of appeal to county court on point of law

- (1) If an applicant who has requested a review under section 202—
 - (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, 199A⁴⁹ or 200 to secure that accommodation is available for the applicant's occupation, [or

⁴⁹ Words in italics inserted by Homelessness Reduction Act 2017 s5(1), (11). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

had the power under section 195(8) to do so,⁵⁰ 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

- (1) This section applies where an applicant has the right to appeal to the county court against a local housing authority's decision on a review.
- (2) If the applicant is dissatisfied with a decision by the authority—
 - (a) not to exercise their power under section 204(4) ('the section 204(4) power') in his case;
 - (b) to exercise that power for a limited period ending before the final determination by the county court of his appeal under section 204(1) ('the main appeal'); or
 - (c) to cease exercising that power before that time, he may appeal to the county court against the decision.
- (3) An appeal under this section may not be brought after the final determination by the county court of the main appeal.
- (4) On an appeal under this section the court—
 - (a) may order the authority to secure that accommodation is available for the applicant's occupation until the determination of the appeal (or such earlier time as the court may specify); and
 - (b) shall confirm or quash the decision appealed against, and in considering whether to confirm or quash the decision the court shall apply the principles applied by the High Court on an application for judicial review.
- (5) If the court quashes the decision it may order the authority to exercise the section 204(4) power in the applicant's case for such period as may be specified in the order.
- (6) An order under subsection (5)—
 - (a) may only be made if the court is satisfied that failure to exercise the section 204(4) power in accordance with the order would substantially prejudice the applicant's ability to pursue the main appeal;
 - (b) may not specify any period ending after the final determination by the county court of the main appeal.

50 Words 'or had the power under section 195(8) to do so,' in square brackets repealed by Homelessness Reduction Act 2017 s4(1), (6). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

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 purposes 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.*⁵¹

206 Discharge of functions by local housing authorities

- (1) A local housing authority may discharge their housing functions under this Part only in the following ways—
 - (a) by securing that suitable accommodation provided by them is available,
 - (b) by securing that he obtains suitable accommodation from some other person, or
 - (c) by giving him such advice and assistance as will secure that suitable accommodation is available from some other person.
- (2) A local housing authority may require a person in relation to whom they are discharging such functions—
 - (a) to pay such reasonable charges as they may determine in respect of accommodation which they secure for his occupation (either by making it available themselves or otherwise), or
 - (b) to pay such reasonable amount as they may determine in respect of sums payable by them for accommodation made available by another person.

207 [Repealed].

208 Discharge of functions: out-of-area placements

- (1) So far as reasonably practicable a local housing authority shall in discharging their housing functions under this Part secure that accommodation is available for the occupation of the applicant in their district.
- (2) If they secure that accommodation is available for the occupation of the applicant outside their district, they shall give notice to the local housing authority in whose district the accommodation is situated.
- (3) The notice shall state—
 - (a) the name of the applicant,
 - (b) the number and description of other persons who normally reside with him as a member of his family or might reasonably be expected to reside with him,

⁵¹ Inserted by Homelessness Reduction Act 2017 s6. Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (c) the address of the accommodation,
 - (d) the date on which the accommodation was made available to him, and
 - (e) which function under this Part the authority was discharging in securing that the accommodation is available for his occupation.
- (4) The notice must be in writing, and must be given before the end of the period of 14 days beginning with the day on which the accommodation was made available to the applicant.

209 Discharge of interim duties: arrangements with private landlord

- (1) This section applies where in pursuance of any of their housing functions under section 188, 190, 200 or 204(4) (interim duties) a local housing authority make arrangements with a private landlord to provide accommodation.
- (2) A tenancy granted to the applicant in pursuance of the arrangements cannot be an assured tenancy before the end of the period of twelve months beginning with—
- (a) the date on which the applicant was notified of the authority's decision under section 184(3) or 198(5); or
 - (b) if there is a review of that decision under section 202 or an appeal to the court under section 204, the date on which he is notified of the decision on review or the appeal is finally determined,
- unless, before or during that period, the tenant is notified by the landlord (or in the case of joint landlords, at least one of them) that the tenancy is to be regarded as an assured shorthold tenancy or an assured tenancy other than an assured shorthold tenancy.

210 Suitability of accommodation

- (1) In determining for the purposes of this Part whether accommodation is suitable for a person, the local housing authority shall have regard to Parts 9 and 10 of the Housing Act 1985 (slum clearance and overcrowding) and Parts 1 to 4 of the Housing Act 2004).
- (2) The Secretary of State may by order specify—
- (a) circumstances in which accommodation is or is not to be regarded as suitable for a person, and
 - (b) matters to be taken into account or disregarded in determining whether accommodation is suitable for a person.

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),⁵²*

⁵² Inserted by Homelessness Reduction Act 2017 s5(12). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

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

- (1) The authority may for the purposes of section 211 (protection of property of homeless persons or persons threatened with homelessness)—
 - (a) enter, at all reasonable times, any premises which are the usual place of residence of the applicant or which were his last usual place of residence, and
 - (b) deal with any personal property of his in any way which is reasonably necessary, in particular by storing it or arranging for its storage.
- (2) Where the applicant asks the authority to move his property to a particular location nominated by him, the authority—
 - (a) may, if it appears to them that his request is reasonable, discharge their responsibilities under section 211 by doing as he asks, and
 - (b) having done so, have no further duty or power to take action under that section in relation to that property.

If such a request is made, the authority shall before complying with it inform the applicant of the consequence of their doing so.
- (3) If no such request is made (or, if made, is not acted upon) the authority cease to have any duty or power to take action under section 211 when, in their opinion, there is no longer any reason to believe that there is a danger of loss of or damage to a person's personal property by reason of his inability to protect it or deal with it.
But property stored by virtue of their having taken such action may be kept in store and any conditions upon which it was taken into store continue to have effect, with any necessary modifications.
- (4) Where the authority—
 - (a) cease to be subject to a duty to take action under section 211 in respect of an applicant's property, or

- (b) cease to have power to take such action, having previously taken such action,
they shall notify the applicant of that fact and of the reason for it.
- (5) The notification shall be given to the applicant—
- (a) by delivering it to him, or
 - (b) by leaving it, or sending it to him, at his last known address.
- (6) 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.

213 Co-operation between relevant housing authorities and bodies

- (1) Where a local housing authority in England—
- (a) request another relevant housing authority or body, in England, Wales or Scotland, to assist them in the discharge of their functions under this Part, or
 - (b) request a social services authority, in England, Wales or Scotland, to exercise any of their functions in relation to a case which the local housing authority are dealing with under this Part,
- the authority or body to whom the request is made shall co-operate in rendering such assistance in the discharge of the functions to which the request relates as is reasonable in the circumstances.
- (2) In subsection (1)(a) ‘relevant housing authority or body’ means—
- (a) in relation to England and Wales, a local housing authority, a new town corporation, a private registered provider of social housing a registered social landlord or a housing action trust;
 - (b) in relation to Scotland, a local authority, a development corporation, a registered housing association or Scottish Homes.
- Expressions used in paragraph (a) have the same meaning as in the Housing Act 1985; and expressions used in paragraph (b) have the same meaning as in the Housing (Scotland) Act 1987.
- (3) Subsection (1) above applies to a request by a local authority in Scotland under section 38 of the Housing (Scotland) Act 1987 as it applies to a request by a local housing authority in England and Wales (the references to this Part being construed, in relation to such a request, as references to Part II of that Act).

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*⁵³
 - (b) may be homeless and may have become so intentionally; [or
 - (c) may be threatened with homelessness intentionally.]⁵⁴
- (2) A local housing authority shall make arrangements for ensuring that, where this section applies—

53 Word ‘or’ in italics inserted by Homelessness Reduction Act 2017 s4(1), (7)(a)(i). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

54 Words in square brackets repealed by Homelessness Reduction Act 2017 s4(1), (7)(a)(ii). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (a) the applicant is invited to consent to the referral of the essential facts of 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*,⁵⁵ 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 (Wales) 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 or Part 6 of the Social Services and Well-being (Wales) Act 2014.

55 Words 'assistance, became homeless intentionally or became threatened with homelessness intentionally' in square brackets repealed and subsequent words in italics substituted by Homelessness Reduction Act 2017 s4(1), (7)(b). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

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.⁵⁶

General provisions

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

- (1) It is an offence for a person, with intent to induce a local housing authority to believe in connection with the exercise of their functions under this Part that he or another person is entitled to accommodation or assistance in accordance with the provisions of this Part, or is entitled to accommodation or assistance of a particular description—
 - (a) knowingly or recklessly to make a statement which is false in a material particular, or
 - (b) knowingly to withhold information which the authority have reasonably required him to give in connection with the exercise of those functions.
- (2) If before an applicant receives notification of the local housing authority’s decision on his application there is any change of facts material to his case, he shall notify the authority as soon as possible.
The authority shall explain to every applicant, in ordinary language, the duty imposed on him by this subsection and the effect of subsection (3).
- (3) A person who fails to comply with subsection (2) commits an offence unless he shows that he was not given the explanation required by that subsection or that he had some other reasonable excuse for non-compliance.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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.

⁵⁶ Inserted by Homelessness Reduction Act 2017 s10. Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (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—
 - (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.⁵⁷

215 Regulations and orders

- (1) In this Part 'prescribed' means prescribed by regulations of the Secretary of State.
- (2) Regulations or an order under this Part may make different provision for different purposes, including different provision for different areas.
- (3) Regulations or an order under this Part shall be made by statutory instrument.

⁵⁷ Repealed by Homelessness Reduction Act 2017 s4(1), (8). Not yet in force: see Homelessness Reduction Act 2017 s13(3).

- (4) Unless required to be approved in draft, regulations or an order under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

216 Transitional and consequential matters

- (1) The provisions of this Part have effect in place of the provisions of Part III of the Housing Act 1985 (housing the homeless) and shall be construed as one with that Act.
- (2) Subject to any transitional provision contained in an order under section 232(4) (power to include transitional provision in commencement order), the provisions of this Part do not apply in relation to an applicant whose application for accommodation or assistance in obtaining accommodation was made before the commencement of this Part.
- (3) The enactments mentioned in Schedule 17 have effect with the amendments specified there which are consequential on the provisions of this Part.

217 Minor definitions: Part VII

- (1) In this Part, subject to subsection (2)–
 ‘private landlord’ means a landlord who is not within section 80(1) of the Housing Act 1985 (c 68) (the landlord condition for secure tenancies);
 ‘relevant authority’ means a local housing authority or a social services authority; and
 ‘social services authority’ means–
 (a) in relation to England, a local authority for the purposes of the Local Authority Social Services Act 1970, as defined in section 1 of that Act;
 (b) in relation to Wales, a local authority exercising social services functions for the purposes of the Social Services and Well-being (Wales) Act 2014.
- (2) In this Part, in relation to Scotland–
 (a) ‘local housing authority’ means a local authority within the meaning of the Housing (Scotland) Act 1988, and
 (b) ‘social services authority’ means a local authority for the purposes of the Social Work (Scotland) Act 1968.
- (3) References in this Part to the district of a local housing authority–
 (a) have the same meaning in relation to an authority in England or Wales as in the Housing Act 1985, and
 (b) in relation to an authority in Scotland, mean the area of the local authority concerned.

218 Index of defined expressions: Part VII

The following Table shows provisions defining or otherwise explaining 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 sections 206 and 208)	section 205(2)
intentionally homeless	section 191
[intentionally threatened with homelessness]	[section 196] ⁵⁸
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)
threatened with homelessness	section 175(4)

