

2014 No. 243

HOUSING

**The Homeless Persons (Unsuitable Accommodation) (Scotland)
Order 2014**

Made - - - - *8th September 2014*

Laid before the Scottish Parliament *12th September 2014*

Coming into force - - *21st November 2014*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 29(3) and (4) of the Housing (Scotland) Act 1987(a) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 and comes into force on 21st November 2014.

Interpretation

2. In this Order—

“the 1987 Act” means the Housing (Scotland) Act 1987; and

“household” means the applicant and any person who resides, or might reasonably be expected to reside, with the applicant.

Application of this Order

3. This Order applies to accommodation provided to an applicant under section 29 of the 1987 Act (interim duty to accommodate an applicant who may be homeless), but only where the applicant is—

- (a) pregnant;
- (b) a person whose household includes a pregnant woman; or
- (c) a person whose household includes dependent children.

Unsuitable accommodation

4. In all circumstances, accommodation is unsuitable if it is—

- (a) not wind and watertight; or
- (b) not suitable for occupation by children.

(a) 1987 c.26. Subsections (3) and (4) of section 29 were inserted by section 9 of the Homelessness etc. (Scotland) Act 2003 (asp 10), section 9(1)(b). There are amendments to section 29 that are not relevant to this Order.

5. Unless any of the circumstances in article 6 apply, accommodation is also unsuitable if it—
- (a) is outwith the area of the local authority which is subject to the duty to accommodate under section 29 of the 1987 Act;
 - (b) is not in the locality of facilities and services for the purposes of health and education which are being used, or might reasonably be expected to be used, by members of the household, unless those facilities are reasonably accessible from the accommodation, taking into account the distance of travel by public transport or transport provided by a local authority;
 - (c) lacks within the accommodation adequate toilet and personal washing facilities for the exclusive use of the household;
 - (d) lacks adequate bedrooms for the exclusive use of the household;
 - (e) is accommodation within which the household does not have the use of adequate cooking facilities and the use of a living room; or
 - (f) is not usable by the household for 24 hours a day.
6. Article 5 does not apply where—
- (a) the local authority believes that the applicant may be homeless or threatened with homelessness as a result of an emergency, such as flood, fire or other disaster;
 - (b) the local authority has offered the applicant accommodation that meets the requirements of article 5, but the applicant wishes to be accommodated in other accommodation that does not meet those requirements;
 - (c) the accommodation is used wholly or mainly to provide temporary accommodation to persons who have left their homes as a result of domestic abuse and is managed by an organisation which—
 - (i) is not a public authority or a local authority; and
 - (ii) does not trade for profit; or
 - (d) the accommodation is owned by a local authority and services relating to health, child care or family welfare are provided to persons accommodated there.

Temporary accommodation

7.—(1) Paragraph (2) applies where—

- (a) an applicant who is a person referred to in article 3 seeks accommodation from the local authority, or assistance in obtaining accommodation, outwith normal business hours; or
- (b) the local authority has no accommodation suitable for such an applicant.

(2) The local authority may provide that applicant with accommodation which does not meet the requirements of article 5, but (unless article 6 disapplies article 5) for no longer than 14 days in total in respect of that person's application.

Revocation

8. The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004(a) is revoked.

M J BURGESS

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
8th September 2014

(a) S.S.I. 2004/489.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 29(1) of the Housing (Scotland) Act 1987 places a duty on local authorities to provide interim accommodation to certain applicants who present as homeless.

This Order describes accommodation that may not be used to fulfil this duty, for the applicants described in article 3.

In all cases accommodation must meet the standard required by article 4, of being wind and watertight and suitable for occupation by children.

Article 5 sets out further requirements, though these can be disapplied in the circumstances set out in article 6, which include emergency accommodation or where the applicant chooses accommodation that does not meet the requirements. Article 6 also allows use of some non-compliant accommodation provided by voluntary organisations, such as women's refuges, or local authorities.

Article 7 provides two further situations where the article 5 requirements do not apply, but only for a time-limited period. These are where assistance is sought outwith normal hours or where the local authority cannot provide compliant accommodation immediately.

Article 8 revokes an earlier Order that defines unsuitable accommodation for the purposes of section 29.

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