

2020 No. 419

HOUSING

**The Homeless Persons (Unsuitable Accommodation) (Scotland)
Amendment (No. 2) Order 2020**

Made - - - - - *9th December 2020*

Laid before the Scottish Parliament *11th December 2020*

Coming into force - - - *31st January 2021*

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) Amendment (No. 2) Order 2020 and comes into force on 31 January 2021.

Amendment of the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014

2.—(1) The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014(b) is amended in accordance with paragraphs (2) to (6).

(2) In article 2—

(a) for the definition of “rapid access accommodation”, substitute—

““rapid access accommodation” means emergency temporary accommodation for rough sleepers, or those at risk of rough sleeping, which—

(a) contains a bedroom which is—

(i) safe, private and lockable;

(ii) furnished; and

(iii) of a good standard; and

(b) provides support to a person using that accommodation to—

(i) access benefits or other services through provision of on-site homelessness and support assessments; and

(ii) access ongoing support services, including specialist support services; and”

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

(b) S.S.I. 2014/243. The Order is amended by S.S.I. 2017/273, S.S.I. 2020/139, and S.S.I. 2020/268.

- (b) for the definition of “shared tenancy accommodation”, substitute—
 - ““shared tenancy accommodation” means accommodation which—
 - (a) is shared by no more than 5 people;
 - (b) is of a good standard;
 - (c) is provided to residents who agree to share accommodation on a temporary basis pending placement in settled accommodation; and
 - (d) in which each resident has a private and lockable bedroom.”.
- (3) In article 4(b), after “household” insert “, taking into account the needs of the household”.
- (4) In article 5—
 - (a) for paragraph (a) substitute—
 - “(a) is both—
 - (i) outwith the area of the local authority which is subject to the duty to accommodate under section 29 of the 1987 Act; and
 - (ii) accommodation in which the household has not agreed to be placed;”,
 - (b) in paragraph (c), after “household” insert “which meet the accessibility needs of the household”,
 - (c) in paragraph (d), after “adequate” insert “and accessible”, and
 - (d) in paragraph (e), after “adequate” insert “and accessible”.
- (5) In article 6—
 - (a) in paragraph (c)(ii), after “profit;” insert “or”,
 - (b) omit paragraph (e)(a).
- (6) After article 7, insert—

“Additional exemptions from Article 5

7A.—(1) Where paragraph (4) applies, accommodation in the form of community hosting is not unsuitable by virtue of article 5 despite that accommodation—

- (a) lacking adequate toilet and personal washing facilities for the exclusive use of the household; or
- (b) not being usable by the household for 24 hours a day.

(2) Where paragraph (4) applies, rapid access accommodation is not unsuitable by virtue of article 5 despite lacking adequate toilet and personal washing facilities for the exclusive use of the household.

(3) Where paragraph (4) applies, accommodation which is shared tenancy accommodation is not unsuitable by virtue of article 5 despite lacking adequate toilet and personal washing facilities for the exclusive use of the household.

(4) This paragraph applies where—

- (a) a household does not include either—
 - (i) a pregnant woman;
 - (ii) a dependent child; or
 - (iii) a person who exercises parental rights in respect of a dependent child who is not part of the household; and

(a) Article 6(e) is inserted by S.S.I. 2020/139 (article 2(6)(c)).

(b) the household has agreed to be placed in the accommodation referred to in paragraph (1), (2) or (3).”.

St Andrew's House,
Edinburgh
9th December 2020

KEVIN STEWART
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 (“the 2014 Order”).

Article 2(2) inserts new definitions of “rapid access accommodation” and “shared tenancy accommodation” into article 2 of the 2014 Order.

Article 2(3) amends article 4(b) of the 2014 Order so that the needs of a household are considered in determining whether accommodation is suitable for occupation by them.

Article 2(4) amends article 5 of the 2014 Order so that accommodation outwith the area of the local authority is not unsuitable if the household agrees to be placed there. It also amends article 5(c) of the 2014 Order so that the accessibility needs of the household are considered when determining whether the toilet and washing facilities in accommodation are adequate.

Article 2(5) omits article 6(e) from the 2014 Order, so that shared tenancy accommodation, community hosting, and rapid access accommodation are no longer excluded from the scope of article 5 of the 2014 Order.

Article 2(6) inserts a new article 7A into the 2014 Order which sets out circumstances where community hosting, rapid access accommodation and shared tenancy accommodation is not unsuitable accommodation provided that the household does not include a pregnant woman, a child or a person who exercises parental rights in respect of a child who does not form part of the household.

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