

POLICY NOTE

THE HOMELESS PERSONS (UNSUITABLE ACCOMMODATION) (SCOTLAND) (MODIFICATION AND REVOCATION) (CORONAVIRUS) AMENDMENT ORDER 2021

SSI 2021/222

The above instrument was made in exercise of the powers conferred by section 29(3) and (4) of the Housing (Scotland) Act 1978(1) and all other powers enabling them to do so. The instrument is subject to negative procedure.

The purpose of this Order is to extend the coronavirus related exceptions to the definition of unsuitable accommodation in the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014. These exceptions were initially created via the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020, then were extended in the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020 and were further extended in the Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) 2021. The Order will extend these exceptions for a further three months (until 30 September 2021), given the continuing impact and repercussions to the housing and homelessness system of the continuing pandemic.

Policy Objectives

1. The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020/139 was laid on 5 May 2020 and came into immediate effect. This legislation included temporary exceptions to allow local authorities to use certain type of temporary accommodation for people experiencing homelessness in response to the coronavirus epidemic. The temporary exceptions expired on 30 September 2020.
2. On 1 September 2020, the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020/268 was laid which extended the temporary exceptions set out in the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 for a further four months until 31 January 2021.
3. As the coronavirus pandemic continued, and Ministers proposed extension of the two Scottish Coronavirus Acts in response to the ongoing impact and effects to the housing and homelessness system, it was decided to extend the temporary exceptions for at least a further five months. The Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) Order 2021/10 came into force on 31 January and extended the temporary exceptions until 30 June 2021.
4. Extending the temporary exceptions of the 2020/268 Order until 30 June 2021 allowed local authorities to continue to use certain types of temporary accommodation to ensure that homeless households can physically distance and self-isolate where this is required due to the continuing coronavirus pandemic. This also permits local authorities to place households in accommodation that would otherwise be deemed as unsuitable where there was a lack of

availability of suitable temporary accommodation or settled accommodation, as a result of the indirect impacts of Covid-19 on accommodation supply in the area.

5. Although the vaccination programme is well underway, and it can now be seen that it is having a significant impact on reducing the number of deaths, nevertheless there is still a significant challenge ahead. Although each local authority has Covid-19 recovery plans in place, there are still a number of areas causing local authorities concern such as: a shortage of available suitable accommodation; an expected surge of presentations once the eviction ban has ended; and the back log of turning around empty properties because this process has slowed down due to lockdown restrictions.

6. Therefore the Scottish Ministers consider it necessary to extend the temporary exceptions for a further three months until 30 September 2021.

7. The changes in legislation will affect local authorities and people experiencing homelessness and the amendment contributes to the following outcomes within the National Performance Framework which are fundamental to the ambition to end homelessness in Scotland:

- We respect, protect and fulfil human rights and live free from discrimination.
- We tackle poverty by sharing opportunities, wealth and power more equality.
- We live in communities that are inclusive, empowered, resilient and safe.
- We grow up loved, safe and respected so we can realise our full potential.
- We are well educated, skilled and able to contribute to society

8. This Order comes into force on 29 June 2021.

Background

9. Responding to the coronavirus emergency has meant that services have had to adjust and adapt and hundreds of people previously sleeping rough or in unsuitable Bed and Breakfast accommodation (B&Bs) are now being supported in hotels, short term lets and other forms of temporary accommodation.

10. However, it was necessary to extend the temporary exceptions of the 2020/268 Order to ensure that local authorities could continue to use certain types of accommodation to ensure that homeless households are able to self-isolate or physically distance where this is required because of the continuing coronavirus pandemic.

11. In addition SSI 2020/268 broadened the exceptions to the definition of unsuitable accommodation as it had been identified that the coronavirus pandemic was causing an impact on being able to move households from temporary accommodation into settled accommodation. Restrictions have meant that repairs and the processing of settled accommodation have taken longer, so local authorities were having to place households in accommodation that would normally be classed as unsuitable due to the lack of supply in their area caused by Covid-19.

12. Extension of the coronavirus exceptions set out in SSI 2020/268 Order via SSI 2021/10 had intended to allow local authorities more time to accomplish moving households from temporary accommodation into settled accommodation with the hope that, as the pandemic

subsidised and became more manageable, local authorities would be in a position to fully deliver their Covid-19 recovery exit plan and be in a position to reduce the use of unsuitable temporary accommodation.

13. However, despite progress, the delays to house moves caused by the important public health measures and legislation put in place in the early stages of the pandemic to minimise the spread of Covid-19 impacted on supply of local authority accommodation. The restricted working practices necessary for empty properties mean that the processing and repair programme for empty homes was slower than normal, and the extensive period of time that Scotland has been living with high levels of restriction has had a significant impact on service delivery.

14. Staff absence due to illness or self-isolation also had an impact as vacant accommodation could not be processed or repairs carried out and so accommodation was not in a suitable condition to rent out. Since Registered Social Landlords (RSLs) had furloughed staff this meant that transferring available rented accommodation to local authorities could not be completed, which impacted on those councils who are working with RSLs to provide accommodation to homeless households.

15. In December, with the positive news regarding vaccination approval and lower levels of Covid-19 circulating, local authorities were optimistic that service delivery would begin to return to more normal levels and work towards recovery would accelerate. The period from December 2020 was expected to be an opportunity for service recovery, despite the usual winter pressures. This was not the case however with the new variants emerging and public health measures and restrictions strengthened. Despite this, local authorities and partners continue to focus their efforts on supporting the most vulnerable in our communities

16. As the pandemic has yet to become manageable, a further extension of the temporary exceptions (due to end 30 June 2021) will be needed to help support recovery from Covid-19. The risks of higher levels of homeless presentation at the end of the restrictions on eviction presents a further challenge to the system.

Impact Assessments

17. As this is an extension to the exceptions created in SSI 2020/139, and subsequently extended by SSIs 2020/268 and 2021/10, the impact assessments previously submitted still apply.

Financial Effects

18. A full Business and Regulatory Impact Assessment (BRIA) was completed for SSI 2020/139 and still applies to this further extension.

Scottish Government, Directorate for Housing and Social Justice
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