

Draft Order laid before Parliament under section 189(4) of the Housing Act 1996, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2002 No.

HOUSING, ENGLAND

**The Homelessness (Priority Need for
Accommodation) (England) Order 2002**

Made - - - - 2002

Coming into force in accordance with article 1(1)

The Secretary of State for Transport, Local Government and the Regions, in exercise of the powers conferred on him by section 189(2) of the Housing Act 1996⁽¹⁾, having consulted such associations representing relevant authorities, and such other persons as he considers appropriate, in accordance with section 189(3) of that Act, hereby makes the following Order—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Homelessness (Priority Need for Accommodation) (England) Order 2002 and shall come into force on the day after the day on which it is made.

(2) This Order extends to England only.

(3) In this Order—

“looked after, accommodated or fostered” has the meaning given by section 24(2) of the Children Act 1989⁽²⁾; and

“relevant student” means a person to whom section 24B(3) of that Act applies—

(a) who is in full-time further or higher education; and

(b) whose term-time accommodation is not available to him during a vacation.

Priority need for accommodation

2. The descriptions of person specified in the following articles have a priority need for accommodation for the purposes of Part 7 of the Housing Act 1996.

(1) 1996 c. 52. The functions of the Secretary of State under section 189 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), article 2, *see* the entry in Schedule 1 for the Housing Act 1996.

(2) 1989 c. 41. Section 4(1) of the Children (Leaving Care) Act 2000 (c. 35) substituted new sections 24 to 24C, and section 2(4) of that Act inserted section 23A, in the Children Act 1989.

Children aged 16 or 17

3.—(1) A person (other than a person to whom paragraph (2) below applies) aged sixteen or seventeen who is not a relevant child for the purposes of section 23A of the Children Act 1989.

(2) This paragraph applies to a person to whom a local authority owe a duty to provide accommodation under section 20 of that Act (provision of accommodation for children in need).

Young people under 21

4.—(1) A person (other than a relevant student) who—

- (a) is under twenty-one; and
- (b) at any time after reaching the age of sixteen, but while still under eighteen, was, but is no longer, looked after, accommodated or fostered.

Vulnerability: institutional backgrounds

5.—(1) A person (other than a relevant student) who has reached the age of twenty-one and who is vulnerable as a result of having been looked after, accommodated or fostered.

(2) A person who is vulnerable as a result of having been a member of Her Majesty’s regular naval, military or air forces.

(3) A person who is vulnerable as a result of—

- (a) having served a custodial sentence (within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000)(3);
- (b) having been committed for contempt of court or any other kindred offence;
- (c) having been remanded in custody (within the meaning of paragraph (b), (c) or (d) of section 88(1) of that Act).

Vulnerability: fleeing violence or threats of violence

6. A person who is vulnerable as a result of ceasing to occupy accommodation by reason of violence from another person or threats of violence from another person which are likely to be carried out.

Signed by authority of the First Secretary of State, Local Government and the Regions

2002

Minister of State,
Office of the Deputy Prime Minister

(3) 2000 c. 6.

EXPLANATORY NOTE

(This note is not part of the Order)

Persons who are homeless or threatened with homelessness may apply to a local housing authority for accommodation under Part 7 of the Housing Act 1996. In considering what duty (if any) is owed to applicants, authorities have to reach decisions on whether applicants have a priority need for accommodation. Section 189(1) of the 1996 Act sets out descriptions of persons who have such a need and this Order adds the following further descriptions in relation to England.

Article 3:	16 and 17 year olds other than two categories for whom local social services authorities have responsibility, namely, “relevant children” for the purposes of the Children Act 1989 or children in need to whom a duty is owed under section 20 of that Act. “Relevant children” are 16 and 17 year olds who have been in care but who have left care.
Article 4:	those under 21 who were in care between the ages of 16 and 18 but who have left care. An exception is made for “relevant students”, defined in article 1(3). These are care leavers who qualify for advice and assistance from local social services authorities, including assistance with accommodation during vacations.
Article 5:	the following who are vulnerable as a result of their backgrounds in institutions— <ul style="list-style-type: none">• those over 21 who have been in care (other than “relevant students”)• those who have served in the armed forces• those who have been in prison, detention or custody
Article 6:	those who are vulnerable as a result of leaving accommodation on account of violence or threats of violence.
