



# Housing Act 1996

## 1996 CHAPTER 52

### PART VI

#### ALLOCATION OF HOUSING ACCOMMODATION

##### Modifications etc. (not altering text)

- C1** Pt. VI excluded (20.1.1997) by [S.I. 1996/2753](#), [reg. 3](#)  
Pt. VI modified (1.4.1997) by [S.I. 1996/3205](#), art. 2, [Sch. 1](#)  
Pt. VI excluded (E.) (3.4.2000) by [S.I. 2000/702](#), [reg. 3](#)  
Pt. VI excluded (W.) (29.1.2003) by [The Allocation of Housing \(Wales\) Regulations 2003](#) (S.I. 2003/239), [reg. 3](#)  
Pt. VI excluded (E.) (31.1.2003) by [The Allocation of Housing \(England\) Regulations 2003](#) (S.I. 2002/3264), [reg. 3](#)

##### *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 registered social landlord.

*Status: Point in time view as at 01/09/1997. This version of this part contains provisions that are not valid for this point in time.*

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- (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.
- (5) The provisions of this Part do not apply to the allocation of housing accommodation by a local housing authority to a person who is already—
  - (a) a secure or introductory tenant,
  - (b) an assured tenant (otherwise than under an assured shorthold tenancy) of housing accommodation held by a registered social landlord, or
  - (c) an assured tenant of housing accommodation allocated to him by a local housing authority.
- (6) The provisions of this Part do not apply to the allocation of housing accommodation by a local housing authority to two or more persons jointly if—
  - (a) one or more of them is a person within subsection (5)(a), (b) or (c), and
  - (b) none of the others is excluded from being a qualifying person by section 161(2) or regulations under section 161(3).
- (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 <sup>M1</sup>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, or
  - (e) vests or is otherwise disposed of in pursuance of an order made under—
    - (i) section 24 of the <sup>M2</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
    - (ii) section 17(1) of the <sup>M3</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the <sup>M4</sup>Children Act 1989 (orders for financial relief against parents).
- (3) They do not apply where an introductory tenancy—
  - (a) becomes a secure tenancy on ceasing to be an introductory tenancy,

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- (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 <sup>M5</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
    - (ii) section 17(1) of the <sup>M6</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).
- (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.

#### Commencement Information

- II** S. 160 wholly in force 1.4.1997: s. 160 not in force at Royal Assent, see s. 232(1)-(3); s. 160(4)(5) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 160 in force at 1.4.1997 to the extent it is not already in force by [S.I. 1996/2959](#), [art. 3](#)

#### Marginal Citations

- M1** 1985 c. 68.  
**M2** 1973 c. 18.  
**M3** 1984 c. 42.  
**M4** 1989 c. 41.  
**M5** 1973 c. 18.  
**M6** 1984 c. 42.

VALID FROM 05/12/2002

### *<sup>F1</sup> Eligibility for allocation of housing accommodation*

#### Textual Amendments

- F1** S. 160A and cross-heading inserted (5.12.2002 for the purpose of making regulations and 31.1.2003 otherwise, E.; 27.1.2003 for W.) by [2002 c. 7, s. 14\(2\)](#) (with [s. 20\(4\)](#)); [S.I. 2002/3114](#), [arts. 2, 3](#); [S.I. 2002/1736](#), [art. 2\(2\)](#), [Sch. Pt. 2](#)

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## **F<sup>2</sup>160A Allocation only to eligible persons**

- (1) A local housing authority 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 (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 unless he is of a class prescribed by regulations made by the Secretary of State.
- (4) No person who is excluded from entitlement to 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 generally or any particular local housing authority.
- (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.
- (7) A local housing authority 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
  - (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 such a possession order.
- (9) If a local housing authority 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.

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- (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 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.]

#### Textual Amendments

- F2** S. 160A and cross-heading inserted (5.12.2002 for the purpose of making regulations and 31.1.2003 otherwise, E.; 27.1.2003 for W.) by 2002 c. 7, s. 14(2) (with s. 20(4)); S.I. 2002/3114, arts. 2, 3; S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**

### *The housing register*

#### **161 Allocation only to qualifying persons.**

- (1) A local housing authority shall allocate housing accommodation only to persons ("qualifying persons") who are qualified to be allocated housing accommodation by that authority.
- (2) A person subject to immigration control within the meaning of the <sup>M7</sup>Asylum and Immigration Act 1996 is not qualified to be allocated housing accommodation by any authority in England and Wales unless he is of a class prescribed by regulations made by the Secretary of State.
- (3) The Secretary of State may by regulations prescribe other classes of persons who are, or are not, qualifying persons in relation to local housing authorities generally or any particular local housing authority.
- (4) Subject to subsection (2) and any regulations under subsection (3) a local housing authority may decide what classes of persons are, or are not, qualifying persons.
- (5) The prohibition in subsection (1) extends to the allocation of housing accommodation to two or more persons jointly if any of them is excluded from being a qualifying person by subsection (2) or regulations under subsection (3).
- (6) The prohibition does not otherwise extend to the allocation of housing accommodation to two or more persons jointly if one or more of them are qualifying persons.

#### Commencement Information

- I2** S. 161 wholly in force 1.4.1997: s. 161 not in force at Royal Assent, see s. 232(1)-(3); s. 161(2)(3) in force for certain purposes at 1.10.1996 by S.I. 1996/2402, art. 4; s. 161 in force at 1.4.1997 to the extent it is not already in force by S.I. 1996/2959, art. 3

#### Marginal Citations

- M7** 1996 c. 49.

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## 162 The housing register.

- (1) Every local housing authority shall establish and maintain a register of qualifying persons (their “housing register”).
- (2) An authority’s housing register may be kept in such form as the authority think fit.
- (3) It may, in particular, be kept as part of a register maintained for other housing purposes or maintained in common by the authority and one or more other landlords, provided the entries constituting the authority’s housing register can be distinguished.
- (4) An authority’s housing register shall contain such information about the persons on it and other relevant matters as the Secretary of State may prescribe by regulations.
- (5) Subject to any such regulations, the authority may decide what information is to be contained in the register.

### Commencement Information

- I3** S. 162 wholly in force 1.4.1997: s. 162 not in force at Royal Assent, see s. 232(1)-(3); s. 162(4) in force for certain purposes at 1.10.1996 by S.I. 1996/2402, art. 4; s. 162 in force at 1.4.1997 to the extent it is not already in force by S.I. 1996/2959, art. 3

## 163 Operation of housing register.

- (1) A person shall be put on a local housing authority’s housing register if he applies to be put on and it appears to the authority that he is a qualifying person.
- (2) A local housing authority may put a person on their housing register without any application, if it appears to them that he is a qualifying person.
- (3) When a local housing authority put a person on their housing register (on his application or otherwise), they shall notify him that they have done so.
- (4) A local housing authority may amend an entry on their housing register in such circumstances as they think fit.  
 If they do so, they shall notify the person concerned of the amendment.
- (5) A local housing authority may remove a person from their housing register in such circumstances as they think fit.
- (6) They shall do so—
  - (a) if it appears to them that he has never been a qualifying person or is no longer such a person, or
  - (b) if he requests them to do so and he is not owed any duty under section 193 or 195(2) (main housing duties owed to persons who are homeless or threatened with homelessness).
- (7) Before removing a person from the register, a local housing authority shall comply with such requirements, as to notification or otherwise, as the Secretary of State may prescribe by regulations.

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#### Modifications etc. (not altering text)

- C2** [S. 163\(5\)](#) restricted (20.1.1997) by [S.I. 1996/2753, reg. 8](#)  
[S. 163\(5\)](#) amended (E.) (3.4.2000) by [S.I. 2000/702, art. 8\(1\)](#)

#### Commencement Information

- I4** [S. 163](#) wholly in force 1.4.1997: s. 163 not in force at Royal Assent, see [s. 232\(1\)-\(3\)](#); [s. 163\(7\)](#) in force for certain purposes at 1.10.1996 by [S.I. 1996/2402, art. 4](#); [s. 163](#) in force at 1.4.1997 to the extent it is not already in force by [S.I. 1996/2959, art. 3](#)

### 164 Notification of adverse decision and right to review.

- (1) If a local housing authority decide—
  - (a) not to put a person on their housing register who has applied to be put on, or
  - (b) to remove a person from their housing register otherwise than at his request, they shall notify him of their decision and of the reasons for it.
- (2) The notice shall also inform him of his right to request a review of the decision and of the time within which such a request must be made.
- (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 and reasons, or such longer period as the authority may in writing allow.
- (4) There is no right to request a review of the decision reached on an earlier review.
- (5) On a request being duly made to them, the authority shall review their decision.
- (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 if it is made available at the authority's office for a reasonable period for collection by him.

### 165 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 164.  

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
  - (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.
- (3) The authority shall notify the person concerned of the decision on the review.
- (4) If the decision is to confirm the original decision, they shall also notify him of the reasons for the decision.
- (5) Provision may be made by regulations as to the period within which the review must be carried out and notice given of the decision.

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- (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 if it is made available at the authority's office for a reasonable period for collection by him.

#### Commencement Information

- I5** S. 165 wholly in force 1.4.1997; s. 165 not in force at Royal Assent, see s. 232(1)-(3); s. 165(1)(2)(5) in force at 1.10.1996 by S.I. 1996/2402, art. 3 (with transitional provisions and savings in the Sch.); s. 165 in force at 1.4.1997 to the extent it is not already in force by S.I. 1996/2959, art. 3

### 166 Information about housing register.

- (1) A person on the housing register of a local housing authority is entitled—
- (a) to see the entry relating to himself and to receive a copy of it free of charge, and
  - (b) to be given such general information as will enable him to assess how long it is likely to be before housing accommodation appropriate to his needs becomes available for allocation to him.
- (2) The fact that a person is on an authority's housing register, and the information about him included in the register, shall not be divulged to any other member of the public.

#### *The allocation scheme*

### 167 Allocation in accordance with allocation scheme.

- (1) Every local housing authority 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.

- (2) As regards priorities, the scheme shall be framed so as to secure that reasonable preference is given to—
- (a) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions,
  - (b) people occupying housing accommodation which is temporary or occupied on insecure terms,
  - (c) families with dependent children,
  - (d) households consisting of or including someone who is expecting a child,
  - (e) households consisting of or including someone with a particular need for settled accommodation on medical or welfare grounds, and
  - (f) households whose social or economic circumstances are such that they have difficulty in securing settled accommodation.

The scheme shall also be framed so as to secure that additional preference is given to households within paragraph (e) consisting of someone with a particular need for settled accommodation on medical or welfare grounds who cannot reasonably be expected to find settled accommodation for themselves in the foreseeable future.

- (3) The Secretary of State may by regulations—



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- (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 shall not take into account in allocating housing accommodation.
- (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 shall—
  - (a) send a copy of the draft scheme, or proposed alteration, to every 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 shall not allocate housing accommodation except in accordance with their allocation scheme.

#### Commencement Information

**16** S. 167 wholly in force 1.4.1997: s. 167 not in force at Royal Assent, see s. 232(1)-(3); s. 167(3)-(5) in force at 1.10.1996 by S.I. 1996/2402, art. 3 (with transitional provisions and savings in the Sch.); s. 167 in force for certain purposes at 23.10.1996 by S.I. 1996/2658, art. 2 and in force at 1.4.1997 to the extent it is not already in force by S.I. 1996/2959, art. 3

#### 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 notify everyone on their housing register, explaining in general terms the effect of the change.

#### 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.

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**170 Co-operation between registered social landlords and local housing authorities.**

Where a local housing authority so request, a registered social landlord shall co-operate to such extent as is reasonable in the circumstances in offering accommodation to people with priority on the authority's housing register.

**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 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)—

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allocation (of housing)	section 159(2)
allocation scheme	section 167
assured tenancy	section 230
housing register	section 162
introductory tenancy and introductory tenant	sections 230 and 124

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local housing authority	section 230
qualifying person (in relation to housing register)	section 161
registered social landlord	sections 230 and 2
secure tenancy and secure tenant	section 230

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**Status:**

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