



# 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*Status: Point in time view as at 30/06/2004.*

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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.
- [<sup>F1</sup>(5) The provisions of this Part do not apply to an allocation of housing accommodation to a person who is already a secure or introductory tenant unless the allocation involves a transfer of housing accommodation for that person and is made on his application.]
- (7) Subject to the provisions of this Part, a local housing authority may allocate housing accommodation in such manner as they consider appropriate.

#### Textual Amendments

- F1** S. 159(5) substituted (27.1.2003 for W. and 31.1.2003 for E.) for s. 159(5)(6) by 2002 c. 7, s. 13 (with s. 20(4)); S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3

### 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,
  - (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—

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- (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.

### *<sup>F2</sup> Eligibility for allocation of housing accommodation*

#### 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](#)

### <sup>F3</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).

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- (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.
- (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.]

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**Textual Amendments**

- F3** 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*

<sup>F4</sup>161 .....

**Textual Amendments**

- F4** S. 161 repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, ss. 14(1), 18(2), Sch. 2 (with s. 20(4)); S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3

<sup>F5</sup>162 .....

**Textual Amendments**

- F5** S. 162 repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, ss. 14(1), 18(2), Sch. 2 (with s. 20(4)); S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3

<sup>F6</sup>163 .....

**Textual Amendments**

- F6** S. 163 repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, ss. 14(1), 18(2), Sch. 2 (with s. 20(4)); S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3

<sup>F7</sup>164 .....

**Textual Amendments**

- F7** S. 164 repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, ss. 14(1), 18(2), Sch. 2 (with s. 20(4)); S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3

<sup>F8</sup>165 .....

*Status: Point in time view as at 30/06/2004.*

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#### Textual Amendments

**F8** S. 165 repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, ss. 14(1), 18(2), **Sch. 2** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, **art. 3**

### *F<sup>9</sup> Applications for housing accommodation*

#### Textual Amendments

**F9** S. 166 and cross-heading substituted (27.1.2003 for W. and 31.1.2003 for E.) for s. 166 by 2002 c. 7, **s. 15** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, **art. 3**

## 166 <sup>F10</sup> Applications for housing accommodation

- (1) A local housing authority shall secure that—
  - (a) advice and information is available free of charge to persons in their district about the right to make an application for an allocation of housing accommodation; and
  - (b) any necessary assistance in making such an application is available free of charge to persons in their district who are likely to have difficulty in doing so without assistance.
- (2) A local housing authority shall secure that an applicant for an allocation of housing accommodation is informed that he has the rights mentioned in section 167(4A).
- (3) Every application made to a local housing authority for an allocation of housing accommodation shall (if made in accordance with the procedural requirements of the authority’s allocation scheme) be considered by the authority.
- (4) The fact that a person is an applicant for an allocation of housing accommodation shall not be divulged (without his consent) to any other member of the public.
- (5) In this Part “district” in relation to a local housing authority has the same meaning as in the Housing Act 1985 (c. 68).]

#### Textual Amendments

**F10** Cross-heading and s. 166 substituted (27.1.2003 for W. and 31.1.2003 for E.) for s. 166 by 2002 c. 7, **s. 15** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, **art. 3**

### *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.

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[<sup>F11</sup>(1A) The scheme shall include a statement of the authority’s policy on offering people who are to be allocated housing accommodation—

- (a) a choice of housing accommodation; or
- (b) the opportunity to express preferences about the housing accommodation to be allocated to them.]

[<sup>F12</sup>(2) As regards priorities, the scheme shall be framed so as to secure that reasonable preference is given to—

- (a) people who are homeless (within the meaning of Part 7);
- (b) people who are owed a duty by any local housing authority under section 190(2), 193(2) or 195(2) (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any such authority under section 192(3);
- (c) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
- (d) people who need to move on medical or welfare grounds; and
- (e) people who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

The scheme may also be framed so as to give additional preference to particular descriptions of people within this subsection (being descriptions of people with urgent housing needs).

(2A) The scheme may contain provision for determining priorities in allocating housing accommodation to people within subsection (2); and the factors which the scheme may allow to be taken into account include—

- (a) the financial resources available to a person to meet his housing costs;
- (b) any behaviour of a person (or of a member of his household) which affects his suitability to be a tenant;
- (c) any local connection (within the meaning of section 199) which exists between a person and the authority’s district.

(2B) Nothing in subsection (2) requires the scheme to provide for any preference to be given to people the authority have decided are people to whom subsection (2C) applies.

(2C) This subsection applies to a person if the authority 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 case is considered, he deserves by reason of that behaviour not to be treated as a member of a group of people who are to be given preference by virtue of subsection (2).

(2D) Subsection (8) of section 160A applies for the purposes of subsection (2C)(a) above as it applies for the purposes of subsection (7)(a) of that section.

(2E) Subject to subsection (2), the scheme may contain provision about the allocation of particular housing accommodation—

- (a) to a person who makes a specific application for that accommodation;
- (b) to persons of a particular description (whether or not they are within subsection (2)).]

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- (3) The Secretary of State may by regulations—
- (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.
- [<sup>F13</sup>(4A) The scheme shall be framed so as to secure that an applicant for an allocation of housing accommodation—
- (a) has the right to request such general information as will enable him to assess—
    - (i) how his application is likely to be treated under the scheme (including in particular whether he is likely to be regarded as a member of a group of people who are to be given preference by virtue of subsection (2)); and
    - (ii) whether housing accommodation appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available for allocation to him;
  - (b) is notified in writing of any decision that he is a person to whom subsection (2C) applies and the grounds for it;
  - (c) has the right to request the authority to inform him of any decision about the facts of his case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to him; and
  - (d) has the right to request a review of a decision mentioned in paragraph (b) or (c), or in section 160A(9), and to be informed of the decision on the review and the grounds for it.]
- (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.

#### Textual Amendments

- F11** S. 167(1A) inserted (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, s. 16(1)(2) (with s. 20(4)); S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3
- F12** S. 167(2)-(2E) substituted (27.1.2003 for W. and 31.1.2003 for E.) for s. 167(2) by 2002 c. 7, s. 16(1)(3) (with s. 20(4)); S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3
- F13** S. 167(4A) inserted (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, s. 16(1)(4) (with s. 20(4)); S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3



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#### Commencement Information

- I2** 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 [<sup>F14</sup>take such steps as they consider reasonable to bring the effect of the alteration to the attention of those likely to be affected by it].

#### Textual Amendments

- F14** Words in s. 168(3) substituted (27.1.2003 for W. and 31.1.2003 for E.) by [2002 c. 7, s. 18\(1\)](#), [Sch. 1 para. 4](#) (with [s. 20\(4\)](#)); [S.I. 2002/1736, art. 2\(2\)](#), [Sch. Pt. 2](#); [S.I. 2002/3114, art. 3](#)

#### *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.

#### 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 [<sup>F15</sup>people with priority under the authority's allocation scheme].

#### Textual Amendments

- F15** Words in s. 170 substituted (27.1.2003 for W. and 31.1.2003 for E.) by [2002 c. 7, s. 18\(1\)](#), [Sch. 1 para. 5](#) (with [s. 20\(4\)](#)); [S.I. 2002/1736, art. 2\(2\)](#), [Sch. Pt. 2](#); [S.I. 2002/3114, art. 3](#)

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### 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)—

allocation (of housing)	section 159(2)
allocation scheme	section 167
assured tenancy	section 230
[ <sup>F16</sup> district (of local housing authority)	<sup>F16</sup> section 166(5)]
<sup>F17</sup>	<sup>F17</sup>
...	...
introductory tenancy and introductory tenant	sections 230 and 124
local housing authority	section 230
<sup>F17</sup>	<sup>F17</sup>
...	...

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registered social landlord	sections 230 and 2
secure tenancy and secure tenant	section 230

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**Textual Amendments**

- F16** S. 174: entry inserted (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 6** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, art. 3
- F17** S. 174: entries repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, art. 3

**Status:**

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