

1999 No. 71

HOUSING, ENGLAND AND WALES

**The Allocation of Housing and Homelessness
(Review Procedures) Regulations 1999**

<i>Made</i> - - - -	<i>14th January 1999</i>
<i>Laid before Parliament</i>	<i>21st January 1999</i>
<i>Coming into force</i>	<i>11th February 1999</i>

The Secretary of State for the Environment, Transport and the Regions, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 165(1), (2) and (5) and 203(1), (2) and (7) of the Housing Act 1996^(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Allocation of Housing and Homelessness (Review Procedures) Regulations 1999 and shall come into force on 14th February 1999.

(2) In these Regulations—

“the authority” means the local housing authority which has made the decision whose review under section 164 or 202 has been requested;

“the Decisions on Referrals Order” means the Homelessness (Decisions on Referrals) Order 1998^(b);

“the reviewer” means—

- (a) where the original decision falls within section 202(1)(a), (b), (c), (e) or (f), the authority;
- (b) where the original decision falls within section 202(1)(d) (a decision under section 198(5) whether the conditions are met for referral of a case)—
 - (i) the notifying authority and the notified authority, where the review is carried out by those authorities;
 - (ii) the person appointed to carry out the review in accordance with regulation 7, where the case falls within that regulation.

(3) In these Regulations, references to sections are references to sections of the Housing Act 1996.

^(a) 1996 c. 52.
^(b) S.I. 1998/1578.

Who is to make the decision on the review

2. Where the decision of the authority on a review of an original decision made by an officer of the authority is also to be made by an officer, that officer shall be someone who was not involved in the original decision and who is senior to the officer who made the original decision.

PART II

The Housing Register

Notification of review procedure

3. Following a duly made request for a review under section 164, the authority shall—
- (a) notify the person concerned that he, or someone acting on his behalf, may make representations in writing to the authority in connection with the review; and
 - (b) if they have not already done so, notify the person concerned of the procedure to be followed in connection with the review.

Procedure on a review

4. The authority shall, subject to compliance with the provisions of regulation 5, consider any representations made under regulation 3.

Notification of the decision on a review

5. The period within which the authority shall notify the person concerned of the decision on a review under section 164 is eight weeks from the day on which the request for a review is made to the authority or such longer period as the authority and the person concerned may agree in writing.

PART III

Homelessness

Request for a review and notification of review procedure

- 6.—(1) A request for a review under section 202 shall be made—
- (a) to the authority, where the original decision falls within section 202(1)(a), (b), (c), (e) or (f);
 - (b) to the notifying authority, where the original decision falls within section 202(1)(d) (a decision under section 198(5) whether the conditions are met for referral of a case).
- (2) Except where a case falls within regulation 7, the authority to whom a request for a review under section 202 has been made shall—
- (a) notify the applicant that he, or someone acting on his behalf, may make representations in writing to the authority in connection with the review; and
 - (b) if they have not already done so, notify the applicant of the procedure to be followed in connection with the review.
- (3) Where a case falls within regulation 7, the person appointed in accordance with that regulation shall—
- (a) notify the applicant that he, or someone acting on his behalf, may make representations in writing to that person in connection with the review; and
 - (b) notify the applicant of the procedure to be followed in connection with the review.

Initial procedure where the original decision was made under the Decisions on Referrals Order

7.—(1) Where the original decision under section 198(5) (whether the conditions are met for the referral of the case) was made under the Decisions on Referrals Order, a review of that decision shall, subject to paragraph (2), be carried out by a person appointed by the notifying authority and the notified authority.

(2) If a person is not appointed in accordance with paragraph (1) within five working days from the day on which the request for a review is made, the review shall be carried out by a person—

- (a) from the panel constituted in accordance with paragraph 3 of the Schedule to the Decisions on Referrals Order (“the panel”), and
- (b) appointed in accordance with paragraph (3) below.

(3) The notifying authority shall within five working days from the end of the period specified in paragraph (2) request the chairman of the Local Government Association or his nominee (“the proper officer”) to appoint a person from the panel and the proper officer shall do so within seven days of the request.

(4) The notifying authority and the notified authority shall within five working days of the appointment of the person appointed (“the appointed person”) provide him with the reasons for the original decision and the information and evidence on which that decision was based.

(5) The appointed person shall—

- (a) send to the notifying authority and the notified authority any representations made under regulation 6; and
- (b) invite those authorities to respond to those representations.

(6) The appointed person shall not be the same person as the person who made the original decision.

(7) For the purposes of this regulation a working day is a day other than Saturday, Sunday, Christmas Day, Good Friday or a bank holiday^(a).

Procedure on a review

8.—(1) The reviewer shall, subject to compliance with the provisions of regulation 9, consider—

- (a) any representations made under regulation 6 and, in a case falling within regulation 7, any responses to them; and
- (b) any representations made under paragraph (2) below.

(2) If the reviewer considers that there is a deficiency or irregularity in the original decision, or in the manner in which it was made, but is minded nonetheless to make a decision which is against the interests of the applicant on one or more issues, the reviewer shall notify the applicant—

- (a) that the reviewer is so minded and the reasons why; and
- (b) that the applicant, or someone acting on his behalf, may make representations to the reviewer orally or in writing or both orally and in writing.

Notification of the decision on a review

9.—(1) The period within which notice of the decision on a review under section 202 shall be given under section 203(3) to the applicant shall be—

- (a) eight weeks from the day on which the request for the review is made, where the original decision falls within section 202(1)(a), (b), (c), (e) or (f);
- (b) ten weeks from the day on which the request for the review is made, where the original decision falls within section 202(1)(d) and the review is carried out by the notifying authority and the notified authority;
- (c) twelve weeks from the day on which the request for the review is made in a case falling within regulation 7.

(2) The period specified in paragraph (1) may be such longer period as the applicant and the reviewer may agree in writing.

(3) In a case falling within paragraph (1)(c), the appointed person shall notify his decision on the review, and his reasons for it, in writing to the notifying authority and the notified authority

(a) See section 1 of and Schedule 1 to the Banking and Financial Dealings Act 1971 (c. 80).

within a period of eleven weeks from the day on which the request for the review is made, or within a period commencing on that day which is one week shorter than that agreed in accordance with paragraph (2).

PART IV

Revocation

Revocation and transitional provisions

10.—(1) Subject to paragraph (2), the following provisions are hereby revoked—

- (a) regulations 2 to 8 of the Allocation of Housing and Homelessness (Review Procedures and Amendment) Regulations 1996**(a)**;
- (b) the definition of “the Review Regulations” in regulation 1(3) of the Allocation of Housing and Homelessness (Amendment) Regulations 1997**(b)** and regulation 6 of those Regulations.

(2) The provisions revoked by paragraph (1) shall continue in force in any case where a request for a review under section 164 or 202 is made prior to the date these Regulations come into force.

Signed by authority of the Secretary of State
for the Environment,
Transport and the Regions

Hilary Armstrong
Minister of State,
Department of the Environment,
Transport and the Regions

12th January 1999

Signed by authority of the Secretary of State for Wales

Jon Owen Jones
Parliamentary Under Secretary of State,
Welsh Office

14th January 1999

(a) S.I. 1996/3122. The Regulations were amended by S.I. 1997/631.
(b) S.I. 1997/63.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Allocation of Housing and Homelessness (Review Procedures and Amendment) Regulations 1996, with a saving for outstanding requests for a review, and replace them with amended provisions for reviews under section 164 of the Housing Act 1996 (“the Act”) (review of an adverse decision in relation to a local housing authority’s housing register) and section 202 of the Act (review of a decision following a homelessness application under Part VII of the Act).

The principal change made by these Regulations is that Part III (homelessness) includes specific provision for reviews of a decision under section 198(5) of the Act (whether, following an application made under Part VII of the Act, the conditions are met for referral of a case to another local housing authority), following the coming into force of the Homelessness (Decisions on Referrals) Order 1998.

1999 No. 71

HOUSING, ENGLAND AND WALES

**The Allocation of Housing and Homelessness
(Review Procedures) Regulations 1999**

£2.00

© Crown copyright 1998

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo,
Controller of Her Majesty's Stationery Office and Queen's Printer of
Acts of Parliament

WO 3971 1/99 ON (MFK)