

**EXPLANATORY MEMORANDUM TO**  
**THE HOMELESSNESS (SUITABILITY OF ACCOMMODATION) (ENGLAND)**  
**(AMENDMENT) 2023**

**2023 No. 509**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

**2. Purpose of the instrument**

2.1 The purpose of this instrument is to help local authorities manage an increase in homelessness pressures as a result of the two recent humanitarian crises in Afghanistan and Ukraine and broader migration pressures. It does this by extending for one year the temporary modifications of the requirements relating to suitability of homelessness accommodation made by the Homelessness (Suitability of Accommodation) (Amendment) (England) Order 2022 ('2022 Order').

2.2 These regulations also amend the definition of B&B accommodation in the Homelessness (Suitability of Accommodation) (England) Order 2003 ('2003 Order') to include accommodation in which no cooking facilities are provided as well as where shared facilities are provided.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments.*

3.1 None.

**4. Extent and Territorial Application**

4.1 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

**5. European Convention on Human Rights**

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**6. Legislative Context**

6.1 These Regulations amend the Homelessness (Suitability of Accommodation) (England) Order 2003.

6.2 They also amend the Homelessness (Suitability of Accommodation) (Amendment) (England) Order 2022 which has the effect of extending temporary modifications that Order made to the 2003 Order and the Homelessness (Suitability of Accommodation) (England) Order 2012 ('2012 Order').

## 7. Policy background

### *What is being done and why?*

- 7.1 The Government is committed to supporting those in need of safety and housing in the face of war and humanitarian crisis. Over the past two years, the Government has responded to two humanitarian crises in quick succession as well as wider migration pressures.
- 7.2 Through the Government's Ukraine Family Scheme, Ukraine Extension Scheme and Homes for Ukraine Scheme over 170,000 Ukrainians have been helped since the Russian invasion of Ukraine began on 24 February 2022.<sup>1</sup>
- 7.3 The Government also continues to play a pivotal role in Afghan Resettlement, having established the Afghan Resettlement Scheme and the Afghan Relocations and Assistance Policy, as a response to the crisis in Afghanistan. So far around 24,500 people have arrived following the evacuation,<sup>2</sup> with more arrivals expected.
- 7.4 Households who arrive in the UK under these schemes are eligible for homelessness assistance should the need arise. For example, on 24 March 2023 there are 655 Ukrainian households recorded in temporary accommodation.<sup>3</sup>
- 7.5 To enable local authorities to respond to these additional pressures, two temporary changes to homelessness legislation were made from June 2022 to June 2023 to open-up a greater supply of temporary accommodation and make it easier for local authorities to support households that become homeless.
- 7.6 The two temporary changes apply to households that have arrived in the UK in the 2 years prior to their homelessness application, and who have not had settled accommodation in the UK 3 years prior to arrival. The temporary changes are i) to provide that the maximum period set out in the 2003 Order during which a local housing authority can accommodate a person with family commitments in B&B accommodation is not applicable in relation to households in the affected cohort; and (ii) to amend the 2012 Order by reducing the factors that local authorities have to consider relating to location when placing households in the affected cohort out of the local authority area. The factors which a local authority must take into account are limited to the significance of any disruption which would be caused by the location of the accommodation to any caring responsibilities of the person or members of the person's household for persons with whom there are family associations.
- 7.7 Both of these changes were due to expire on 1 June 2023. The Government is now extending these changes for a further year.
- 7.8 This will enable local authorities to continue to access a broader range of temporary accommodation for accommodating homeless families recently arrived under the schemes identified in paragraphs 7.2 and 7.3 and other new arrivals, including returning British nationals. It will also reduce the factors that local authorities have to consider

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<sup>1</sup> <https://www.gov.uk/government/publications/ukraine-family-scheme-application-data/ukraine-family-scheme-and-ukraine-sponsorship-scheme-homes-for-ukraine-visa-data--2>

<sup>2</sup> [https://www.gov.uk/government/publications/afghan-resettlement-programme-operational-data/afghan-resettlement-programme-operational-data#:~:text=Arrivals%20in%20the%20UK%20from%20Afghanistan%3A,further%20details%20on%20scheme%20breakdowns\).](https://www.gov.uk/government/publications/afghan-resettlement-programme-operational-data/afghan-resettlement-programme-operational-data#:~:text=Arrivals%20in%20the%20UK%20from%20Afghanistan%3A,further%20details%20on%20scheme%20breakdowns).)

<sup>3</sup> <https://www.gov.uk/government/publications/homelessness-management-information-ukrainian-nationals-england>

relating to location when placing newly arrived households out of area. This is necessary to ease pressures on local authorities particularly in areas of high demand such as London, the South East and other metropolitan areas.

- 7.9 In addition, this Order amends the definition of “B&B” accommodation in the 2003 Order. The definition of “B&B” accommodation will now include accommodation where no cooking facilities are provided, as well as accommodation where there are shared facilities. This is to ensure consistency of approach in how hotels are classified when used as temporary accommodation under homelessness duties. This amendment is not time limited.

### ***Explanations***

#### *What did any law do before the changes to be made by this instrument?*

- 7.10 The 2003 Order makes it unlawful for local authorities to place families and pregnant women in B&B accommodation under specified homelessness duties, unless there is no other accommodation available, and in those cases for a maximum of 6 weeks. The Order defines B&B accommodation as privately owned/managed accommodation which is not self-contained in which a toilet, washing facilities or cooking facilities are shared by more than one household.
- 7.11 The 2012 Order sets out the matters a local authority must take into account in determining whether accommodation is suitable for a person before making a placement out of area. This includes a number of factors in respect of location including education and work.
- 7.12 The 2022 Order modifies the 2012 Order and 2003 Order. In practice this means that local authorities can place newly arrived households in B&B accommodation for more than 6 weeks and place such households out of area without having to take into account the impact of the location of the accommodation on various factors such as education and work. These modifications are due to expire on 1 June 2023.

#### *Why is it being changed?*

- 7.13 We are extending the modifications made to the 2012 and 2003 Orders to ease pressures on local authorities and allow them to continue with the temporary accommodation arrangements they currently have in place, and to amend the definition of B&B accommodation.

#### *What will it now do?*

- 7.14 The modifications to the 2003 and 2012 Orders will not expire on 1 June 2023 and will instead expire on 1 June 2024.
- 7.15 The instrument also amends the definition of “B&B” in the 2003 Order to make it clear that it includes accommodation where no cooking facilities are provided as well as where there are shared facilities to bring hotels more clearly into scope.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union/ trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

9.1 This instrument does not involve consolidation and there are no plans to consolidate the relevant legislation at this time.

## **10. Consultation outcome**

10.1 No consultation has been carried out. Letters will be exchanged with local authorities and members of relevant Parliamentary committees to inform them of these changes.

## **11. Guidance**

11.1 Guidance will be issued to local authority staff and local authority decision makers to ensure that they are aware of these changes and how to apply them through updates to the Homelessness Code of Guidance.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 This instrument will have an impact on the public sector by reducing burdens on local authorities. We expect this instrument will have the biggest impact on local authorities experiencing particular pressures resulting from an influx of new arrivals. These are areas which already have settled communities from Ukraine and Afghanistan; those with high levels of Homes for Ukraine sponsorship; and those with existing high levels of homelessness. No significant additional burden is placed on the taxpayer or the public sector.

12.3 A Regulatory Impact Assessment has not been published for this instrument because the impact on business is not likely to be significant. This impact on the public sector is set out above. However, these measures do not have any significant financial or resource implications for the public bodies listed.

## **13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

14.1 This legislation will be reviewed ahead of the expiry of the temporary measures on 1 June 2024 to determine whether its effect is still required and proportionate.

14.2 The instrument does not include a statutory review clause as the instrument does not make or amend regulatory provision in relation to any qualifying activity.

## **15. Contact**

15.1 Judith Tovey or Cathy Steeghs at the Department for Levelling Up, Housing and Communities can be contacted with any queries regarding the instrument.  
Judith.Tovey@levellingup.gov.uk; [Cathy.Steeghs@levellingup.gov.uk](mailto:Cathy.Steeghs@levellingup.gov.uk)

15.2 Richard Chapman, Deputy Director for Homelessness and Rough Sleeping, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

15.3 Felicity Buchan, Minister for Housing and Homelessness, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.