

EXPLANATORY MEMORANDUM TO
THE HOMELESSNESS (SUITABILITY OF ACCOMMODATION) (ENGLAND)
(AMENDMENT) ORDER 2024

2024 No. 371

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. Declaration

2.1 Felicity Buchan, Parliamentary Under Secretary of State for Housing and Homelessness at the Department for Levelling Up, Housing and Communities confirms that this Explanatory Memorandum meets the required standard.

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

3. Contact

3.1 Judith Tovey or Cathy Steeghs at the Department for Levelling Up, Housing and Communities email: homelessnesspolicy@levellingup.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument extends, for 12 months, the temporary changes made to requirements relating to the suitability of accommodation by the Homelessness (Suitability of Accommodation) (Amendment) (England) Order 2022 ('2022 Order') extended by the Homelessness (Suitability of Accommodation) (Amendment) (England) Order 2023 ('2023 Order'), which gave local authorities greater flexibilities when they place homeless households, who have arrived in the UK within the two years prior to making a homelessness application, out of area. Its purpose is to help local authorities manage an increase in homelessness pressures as a result of humanitarian crises in Afghanistan and Ukraine and broader migration pressures including the significant numbers claiming asylum.

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

- 5.1 The Government remains committed to supporting those in need of safety and housing in the face of war and humanitarian crisis. Over the past few years, the Government has responded to several international humanitarian crises, and processed a high number of asylum applications. This has resulted in increased pressures on local authority homelessness services. In some areas, local authorities are unable to source accommodation locally for all homeless applicants, meaning households remain in temporary accommodation for long periods of time.
- 5.2 Through the Government's Ukraine Family Scheme and Homes for Ukraine Scheme over 200,000 Ukrainians have been helped since the Russian invasion of Ukraine began on 24 February 2022. Households who arrive in the UK under these schemes are eligible for homelessness assistance should the need arise. 820 Ukrainian households were in temporary accommodation on 31 Jan 2024.
- 5.3 The Government also continues to play a pivotal role in Afghan Resettlement, having established the Afghan Citizens Resettlement Scheme and the Afghan Relocations and Assistance Policy, as a response to the crisis in Afghanistan. So far over 25,000 people have arrived under the ARAP and ACRS schemes, with more arrivals expected.
- 5.4 Further pressures may arise as a result of the significant numbers claiming asylum.
- 5.5 This instrument will continue to give local authorities additional flexibility in how they fulfil their homelessness duties for households who have arrived in the 2 years prior to making their homelessness application ("new arrivals"). It does this by removing most of the factors a local authority must consider before making a placement out of the area, where there is not accommodation available locally, including disruption to education and work. This is justified as those who have recently arrived in the country are less likely to have connections to the local area, compared to households who have lived there for longer.
- 5.6 This will enable local authorities to continue to access a broader range of accommodation for homeless families who have recently arrived and help to move them out of temporary accommodation. 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.

What was the previous policy, how is this different?

- 5.7 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 for new arrivals and make it easier for local authorities to support households that become homeless. Those temporary changes were extended in 2023 and were due to expire on 1st June 2024.
- 5.8 The Government is now extending the temporary changes made to the Homelessness (Suitability of Accommodation) (England) Order 2012 ("2012 Order") for a further 12 months, and allowing the temporary changes made to the Homelessness (Suitability of Accommodation) (England) Order 2003 ("2003 Order") to expire on 1st June 2024.

6. Legislative and Legal Context

How has the law changed?

- 6.1 The 2022 Order made temporary modifications to the 2012 Order and the 2003 Order which 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 in the 3 years prior to arrival. Those temporary modifications were initially made for a year expiring 1st June 2023, but were extended until 1st June 2024 by the 2023 Order.
- 6.2 The temporary changes were i) to provide that the maximum period set out in the 2003 Order (6 weeks) during which a local housing authority can accommodate a person with family commitments in B&B accommodation is not applicable in relation to newly arrived households; and (ii) to reduce the factors that local authorities are required by the 2012 Order to consider relating to location when placing newly arrived households 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.
- 6.3 This Order extends the temporary modifications to the 2012 Order for a further 12 months. It does not extend the temporary modifications to the 2003 Order which will expire on 1st June 2024.

Why was this approach taken to change the law?

- 6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 A formal consultation was not carried out as these changes are temporary. We undertook targeted engagement with local authorities reporting high pressures to understand the use of the existing flexibilities to inform our approach. Letters will be sent to local authorities to inform them of these changes.

8. Applicable Guidance

- 8.1 Guidance is already available to local authority staff on the flexibilities currently in place and is published in the Homelessness Code of Guidance. We will ensure the Homelessness Code of Guidance is updated ahead of this SI coming into force with the new expiry date.¹

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because this SI does not impact upon business activity. The SI extends existing legislation.

¹ Chapter 17 - Homelessness Code of Guidance for Local Authorities:
<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-17-suitability-of-accommodation>

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument affects local authority statutory duties.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 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 in high pressure areas such as London, Manchester and other metropolitan areas. No significant additional burden is placed on the taxpayer or the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 This legislation is temporary and will be reviewed ahead of the expiry on 1st June 2025 to determine whether its effect is still required and proportionate through local authority engagement.
- 10.2 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.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).