
WELSH STATUTORY INSTRUMENTS

2015 No. 1268

The Homelessness (Suitability of Accommodation) (Wales) Order 2015

Title and commencement

1.—(1) The title of this Order is the Homelessness (Suitability of Accommodation) (Wales) Order 2015.

(2) This Order comes into force on 27 April 2015.

Interpretation

2. In this Order—

“the 2014 Act” (“*Deddf 2014*”) means the Housing (Wales) Act 2014; and any reference to a numbered section is a reference to a section of that Act;

“authority” (“*awdurdod*”) means the relevant local housing authority⁽¹⁾ which owes a duty to a homeless person under sections 68, 75 or 82;

“B&B accommodation” (“*llety Gwely a Brecwast*”) means commercially provided accommodation (whether or not breakfast is included)—

- (a) which is not separate and self-contained premises;
- (b) in which any of the following amenities is not available to the applicant or is shared by more than one household—
 - (i) a toilet;
 - (ii) personal washing facilities;
 - (iii) cooking facilities;
- (c) which is not accommodation which is owned or managed by a local housing authority, a registered social landlord or a voluntary organisation; or
- (d) which is not an establishment registered under the provisions of the Care Standards Act 2000⁽²⁾;

and “B&B” (“*Gwely a Brecwast*”) is to be construed accordingly;

“basic standard accommodation” (“*llety o safon sylfaenol*”) means accommodation that—

- (a) complies with all statutory requirements (such as, where applicable, requirements relating to fire, gas, electrical, and other safety; planning; and licences for houses in multiple occupation); and
- (b) has a manager deemed by the authority to be a fit and proper person with the ability to manage B&B accommodation;

and “basic standard” (“*safon sylfaenol*”) is to be construed accordingly;

“higher standard accommodation” (“*llety o safon uwch*”) means accommodation that meets—

(1) See the definition of “local housing authority” in section 99 of the Housing (Wales) Act 2014.

(2) 2000 c. 14.

- (a) the basic standard; and
 - (b) the standards contained in the Schedule to this Order,
- and “higher standard” (“*safon uwch*”) is to be construed accordingly;
- “member of a person’s household” (“*aelod o aelwyd y person*”) bears the same meaning as in section 57(2), and “household” (“*aelwyd*”) is to be construed accordingly;
- “shared accommodation” (“*llety a rennir*”) means accommodation—
- (a) which is not separate and self-contained premises; or
 - (b) in which any of the following amenities is not available to the applicant or is shared by more than one household—
 - (i) a toilet;
 - (ii) personal washing facilities;
 - (iii) cooking facilities; or
 - (c) which is not an establishment registered under the provisions of the Care Standards Act 2000;
- “small B&B” (“*llety Gwely a Brecwast bach*”) means—
- B&B accommodation—
- (i) where the manager resides on the premises; and
 - (ii) which has fewer than 7 bedrooms available for letting.

PART 1

Matters to be taken into account in determining whether accommodation is suitable for persons who are, or may be in priority need

3. In determining for the purposes of Part 2 of the 2014 Act whether accommodation is suitable for a person who is, or may be in priority need⁽³⁾, there must be taken into account, where appropriate, the following matters relating to a person who is either the applicant, or who is a member of the applicant’s household—

- (a) the specific health needs of the person;
- (b) the proximity and accessibility of family support;
- (c) any disability of the person;
- (d) the proximity and accessibility of medical facilities, and other support services which—
 - (i) are currently used by or provided to the person; and
 - (ii) are essential to the well-being of the person;
- (e) where the accommodation is situated outside the area of the authority, the distance of the accommodation from the area of the authority;
- (f) the significance of any disruption which would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person; and
- (g) the proximity of alleged perpetrators and victims of domestic abuse.

(3) See the definition of “priority need” in section 70 of the Housing (Wales) Act 2014.

PART 2

Circumstances in which B&B and shared accommodation is not to be regarded as suitable for persons who are, or may be in priority need

B&B accommodation unsuitable unless an exception applies

4. For the purposes of Part 2 of the 2014 Act, B&B accommodation is not to be regarded as suitable for a person who is, or may be in priority need unless at least one of the exceptions in article 6 or article 7(1) applies.

Shared accommodation unsuitable unless it meets the higher standard or an exception applies

5. For the purposes of Part 2 of the 2014 Act and subject to the exceptions contained in articles 6 and 7(2), shared accommodation is not to be regarded as suitable for a person who is, or may be in priority need unless it meets the higher standard.

Exceptions to articles 4 and 5 for all types of accommodation

6. Articles 4 and 5 do not apply where—
- (a) the authority believes that the applicant may be homeless or threatened with homelessness as a result of an emergency such as fire, flood or other disaster, and no other accommodation is reasonably available to the authority; or
 - (b) the authority has offered suitable accommodation to the applicant, but the applicant wishes to be accommodated in other accommodation.

Exceptions to articles 4 and 5 where accommodation meets a standard

- 7.—(1) Article 4 does not apply where—
- (a) the person occupies a basic standard B&B for a period, or a total of periods, which does not exceed 2 weeks;
 - (b) the person occupies a higher standard B&B for a period, or a total of periods which does not exceed 6 weeks;
 - (c) the person occupies a basic standard small B&B for a period, or a total of periods, which does not exceed 6 weeks, and the authority has, before the expiry of the two-week period referred to in sub-paragraph (a), offered suitable alternative accommodation, but the person has chosen to remain in the said B&B;
 - (d) the person occupies a basic standard small B&B after exercising the choice referred to in sub-paragraph (c), and the authority has offered suitable alternative accommodation before the end of the six-week period referred to in sub-paragraph (c), but the person has chosen to remain in the said B&B;
 - (e) the person occupies a higher standard small B&B, and the authority has offered suitable alternative accommodation, before the expiry of the six-week period referred to in sub-paragraph (b), but the person has chosen to remain in the said B&B.
- (2) Article 5 does not apply where—
- (a) the person occupies basic standard shared accommodation for a period, or a total of periods, which does not exceed 2 weeks;
 - (b) the person occupies, for a period, or a total of periods, which does not exceed 6 weeks, basic standard shared accommodation owned or managed by a local housing

authority or registered social landlord, and the authority has offered suitable alternative accommodation before the expiry of the two-week period referred to in sub-paragraph (a), but the person has chosen to remain in the said accommodation; or

- (c) (i) the person occupies basic standard shared accommodation which is used wholly or mainly to provide temporary accommodation to persons who have left their homes as a result of domestic abuse, and is managed by an organisation which—
 - (aa) is not a local housing authority; and
 - (bb) does not trade for profit; and
- (ii) the authority has offered suitable alternative accommodation before the end of the six-week period referred to in sub-paragraph (b), but the person has chosen to remain in the said accommodation.

(3) If the suitable alternative accommodation offered for the purposes of paragraphs (1) or (2) is shared, it must meet the higher standard.

(4) In the case of households with dependant children or a pregnant woman, the offer made under paragraph (1)(d) or (e), or paragraph (2)(c) must be of suitable self-contained accommodation. In the case of an applicant who is a minor, the offer must be of suitable accommodation with support.

(5) In calculating a period, or total period, of a person's occupation of shared accommodation for the purposes of paragraphs (1) or (2), there must be disregarded any period before an authority became subject to the duty under section 73 by virtue of sections 82(4) or 83(2) (local connection referrals).

PART 3

Suitability of private rented sector accommodation for ending the section 75 duty to homeless applicants

8. For the purposes of a private rented sector offer under section 76 (circumstances when the duty to secure accommodation for applicants in priority need ends), accommodation must not be regarded as suitable where one or more of the following apply—

- (a) the authority is of the view that the accommodation is not in a reasonable physical condition;
- (b) the authority is of the view that the accommodation does not comply with all statutory requirements (such as, where applicable, requirements relating to fire, gas, electrical, carbon monoxide and other safety; planning; and licences for houses in multiple occupation); or
- (c) the authority is of the view that the landlord is not a fit and proper person within the meaning of section 20 to act in the capacity of landlord.

Revocation, transitional and saving provisions

9.—(1) Subject to paragraph (2), the following Orders are revoked—

- (a) the Homelessness (Suitability of Accommodation) Order 1996⁽⁴⁾ insofar as it applies to Wales;
- (b) the Homelessness (Suitability of Accommodation) (Amendment) Order 1997⁽⁵⁾ insofar as it applies to Wales; and

⁽⁴⁾ S.I. 1996/3204.

⁽⁵⁾ S.I. 1997/1741.

(c) the Homelessness (Suitability of Accommodation) (Wales) Order 2006⁽⁶⁾.

(2) The Orders revoked under paragraph (1) continue in force in respect of any application made under section 183 of the Housing Act 1996 prior to the date this Order comes into force.

21 April 2015

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one of the Welsh Ministers

⁽⁶⁾ S.I. 2006/650 (W. 71).