WELSH STATUTORY INSTRUMENTS

2006 No. 650 (W.71)

HOUSING, WALES

The Homelessness (Suitability of Accommodation) (Wales) Order 2006

Made - - - -	*8 March 2006*
Coming into force	
Articles 1 — 3	*3 April 2006*
Articles 4 — 6	*2 April 2007*
Articles 7 — 10	*7 April 2008*

The National Assembly for Wales, in exercise of the powers conferred on the Secretary of State by sections 210(2) and 215(2) of the Housing Act 1996(**1**), and now vested in the National Assembly for Wales(**2**), hereby makes the following Order:

Title, commencement and application

1.—(1) The title of this Order is the Homelessness (Suitability of Accommodation) (Wales) Order 2006.

(2) Save as provided in paragraphs (3) and (4) of this Article, this Order comes into force on 3 April 2006.

(3) Articles 4, 5 and 6 of, and the Schedule to this Order come into force on 2 April 2007.

(4) Articles 7, 8, 9 and 10 of this Order come into force on 7 April 2008.

(5) This Order applies in relation to the duties of local housing authorities in Wales under Part 7 of the Housing Act 1996 (homelessness).

Interpretation

2. In this Order—

"the 1996 Act" ("*Deddf 1996*") means the Housing Act 1996; and any reference to a numbered section is a reference to a section of the Housing Act 1996;

(**1**) 1996 c. 52

(**2**) *See* S.I. 1999/672. The functions of the Secretary of State under sections 210 and 215 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999. See the entry in Schedule 1 for the Housing Act 1996.

"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 as defined in section 180(3) of the Housing Act 1996; or

(d) which is not an establishment registered under the provisions of the Care Standards Act 2000(**3**);

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 requirements relating to fire and gas safety, planning and licences for houses in multiple occupation, where applicable); and

(b) has a manager deemed by the local housing 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—

(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;

"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.

(**3**) 2000 c. 14

PART 1(4)

Additional matters to be taken into account in determining suitability

3. In determining for the purposes of Part 7 of the 1996 Act whether accommodation is suitable for a person in priority need(**5**) there must be taken into account the following matters—

(a) the specific health needs of the person;

(b) the proximity and accessibility of social services;

(c) the proximity and accessibility of the support of the family or other support services; or

(d) any disability of the person.

PART 2(6)

Circumstances applying from 2 April 2007 in which accommodation is not to be regarded as suitable

B&B accommodation used for housing a homeless person to meet the basic standard

4. For the purposes of Part 7 of the 1996 Act, B&B accommodation is not to be regarded as suitable unless it meets at least the basic standard.

B&B accommodation not to be regarded as suitable for a minor or a pregnant woman

5. For the purposes of Part 7 of the 1996 Act and subject to the exceptions contained in Article 6, B&B accommodation is not to be regarded as suitable for a person who is a minor or a pregnant woman.

Exceptions

6.—(1) Article 5 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 local housing 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) above, and the local housing authority has offered suitable alternative accommodation before the end of the six-week period referred to in sub-paragraph (c) above, but the person has chosen to remain in the said B&B; or

(e) the person occupies a higher standard small B&B, and the local housing authority has offered suitable alternative accommodation, before the expiry of the six-week period referred to in sub-paragraph (b) above, but the person has chosen to remain in the said B&B.

(**4**) *Cif*: 3 April 2006.
(**5**) *See* the definition of "priority need" in section 189(1) Housing Act 1996 and S.I. 2001/607.
(**6**) *Cif*: 2 April 2007.

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

(3) In the case of households with dependant children or a pregnant woman, the offer made under sub-paragraphs (d) or (e) 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.

(4) In calculating a period, or total period, of a person's occupation of B&B accommodation for the purposes of paragraph (1), there must be disregarded—

(a) any period before 2 April 2007; and

(b) where a local housing authority(**7**) is subject to the duty under section 193 by virtue of section 200(4)(**8**), any period before that authority became subject to that duty.

PART 3(**9**)

Extension from 7 April 2008 to all accommodation provided in discharge of homelessness functions

B&B accommodation not to be regarded as suitable for a homeless person in priority need

7. For the purposes of Part 7 of the 1996 Act and subject to the exceptions contained in article 9, B&B accommodation is not to be regarded as suitable for a person who is in priority need.

Shared accommodation to meet the higher standard

8. For the purposes of Part 7 of the 1996 Act and subject to the exceptions contained in articles 9 and 10, shared accommodation is not to be regarded as suitable for a person who is in priority need unless it meets the higher standard.

Exceptions

9.—(1) Articles 7 and 8 do not apply where—

(a) the person occupies 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 local housing 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 local housing authority has offered suitable alternative accommodation before the end of the six-week period referred to in sub-paragraph (c) above, but the person has chosen to remain in the said B&B;

(e) the person occupies a higher standard small B&B, the local housing 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: or

(**7**) *See* the definition of local housing authority in section 230 Housing Act 1996
(**8**) Section 200(4) was substituted by paragraph 15 of Schedule 1 to the Homelessness Act 2002.
(**9**) *Cif*: 7 April 2008.

(f) the person occupies basic standard shared accommodation for a period, or a total of periods, which does not exceed 2 weeks;

(g) the person occupies, for a period or a total of periods which does not exceed 6 weeks, basic standard shared accommodation owned by a local housing authority or registered social landlord, and the local housing authority has offered suitable alternative accommodation before the expiry of the two-week period referred to in sub-paragraph (f), but the person has chosen to remain in the said accommodation.

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

(3) In the case of households with dependant children or a pregnant woman, the offer made under sub-paragraphs (d) or (e) 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.

(4) In calculating a period, or total period, of a person's occupation of shared accommodation for the purposes of paragraph (1), there must be disregarded —

(a) any period before 7 April 2008; and

(b) where a local housing authority is subject to the duty under section 193 by virtue of section 200(4), any period before that authority became subject to that duty.

Delayed application to Social Housing

10. Article 7 is not to apply until 4 April 2011 to any property owned or managed by a local authority or registered social landlord and used for the purposes of Part 7 of the 1996 Act on 7 April 2008.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**10**)

D. Elis-Thomas
8 March 2006 The Presiding Officer of the National Assembly

(**10**) 1998 c. 38.