



STATUTORY INSTRUMENTS.

S.I. No. 321 of 2011



SOCIAL HOUSING ASSESSMENT (AMENDMENT) (No. 2)
REGULATIONS 2011

(Prn. A11/1142)

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I, WILLIE PENROSE, Minister of State at the Department of the Environment, Community and Local Government, in exercise of the powers conferred on me by sections 3, 20 and 32 of the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009) (as adapted by the Environment, Heritage and Local Government (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 193 of 2011) and the Environment, Community and Local Government (Delegation of Ministerial Functions) Order 2011 (S.I. No. 311 of 2011), hereby make the following regulations:

1. These Regulations may be cited as the Social Housing Assessment (Amendment) (No. 2) Regulations 2011.

2. These Regulations come into operation on 1 July 2011.

3. The Social Housing Assessment Regulations 2011 (S.I. No. 84 of 2011) are amended:

(a) In Regulation 3—

(i) by substituting for the definition of “functional area” the following definition:

“‘functional area’ shall be construed within the meaning of section 23(2) of the Act of 1992, save that, where a housing authority owns dwellings in the functional area of another housing authority, the land on which such dwellings are built shall be deemed, for the purpose of areas of choice, to be in the functional area of the authority that owns them;”, and

(ii) by substituting for the definition of “housing authority of application” the following definition:

“‘housing authority of application’ means, subject to Regulation 31, the housing authority to which a household, under Regulation 5, applies for social housing support;”;

(b) in Regulation 8, by substituting for paragraph (2) the following paragraph:

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 1st July, 2011.

“(2) (a) In the case of an application under Regulation 5(a) or (b)-

- (i) where the housing authority of application is Cork County Council, Cork City Council or the town council of Clonakilty, Cobh, Fermoy, Kinsale, Macroom, Mallow, Midleton, Skibbereen or Youghal, any other area of choice specified by the household shall be in the functional areas of those housing authorities,
- (ii) where the housing authority of application is one of the county councils of Dun Laoghaire-Rathdown, Fingal or South Dublin or Dublin City Council, any other area of choice specified by the household shall be in the functional areas of those housing authorities,
- (iii) where the housing authority of application is Galway County Council, Galway City Council or Ballinasloe Town Council, any other area of choice specified by the household shall be in the functional areas of those housing authorities,
- (iv) where the housing authority of application is Limerick County Council or Limerick City Council, any other area of choice specified by the household shall be in the functional areas of those housing authorities,
- (v) where the housing authority of application is Waterford County Council, Waterford City Council or Dungarvan Town Council, any other area of choice specified by the household shall be in the functional areas of those housing authorities,
- (vi) where the housing authority of application is located in the counties of North Tipperary or South Tipperary, any other area of choice specified by the household shall be in the functional areas of the housing authorities in those counties, and
- (vii) where the housing authority of application is a housing authority other than one referred to in subparagraphs (i) to (vi), any other area of choice specified by the household shall be in the functional areas of the housing authorities in the county concerned.

(b) In the case of an application under Regulation 5(c), any other area of choice specified by the household shall be in the functional area of the housing authority of application.”;

(c) by substituting for Regulation 9 the following Regulation:

“9. (1) The total number of areas of choice specified by a household at any time shall not exceed 3.

(2) Subject to paragraph (3), a household may, not less than 12 months after the date on which it is first entered on a housing authority’s record of qualified households, notify the housing authority of application that it wishes to change one or more than one area of choice in the application area and a household may change one or more than one such area not less than 12 months after its most recent change of an area of choice.

(3) Where a household specifies an area of choice in the functional area of a housing authority from which the household does not qualify for social housing support, that area of choice shall be disregarded and the 12-month period in paragraph (2) shall not apply to the specification by the household of another area of choice in its stead.

(4) Where a household that—

(a) was included in the most recent assessment of housing need made under section 9(2) of the Act of 1988, or

(b) applied for social housing support under Regulation 5(a) or (b),

is qualified for social housing support from the housing authority of application but no longer wishes to receive such support from that authority, the household shall be deemed, on notification of the change in the household’s wishes or on review of an assessment, to fulfil the relevant requirement under the said Regulation 5(a) or (b) if the household is normally resident in, or has a local connection with, the functional area of any housing authority in the application area.

(5) Where a household that applied for social housing support under Regulation 5(c) notifies the housing authority of application that it no longer wishes to receive such support from that authority, the household shall be deemed to have withdrawn its application.”;

(d) in Regulation 12, by deleting “granted by a housing authority” in paragraph (4);

(e) by substituting for the heading to Regulation 15 and for Regulation 15 the following heading and Regulation:

“Notification of outcome of assessment

15. (1) On determining a household’s qualification for social housing support following a social housing assessment, the housing authority of application shall forthwith notify the outcome to the household and each housing authority concerned.

(2) Where the housing authority of application determines that a household does not qualify for social housing support from one or more than one authority in the application area, the notification of the outcome of the assessment shall, in each such case, set out the reason therefor.”;

(f) by substituting for Regulation 16 the following Regulation—

“16. A household shall be deemed to be entered on a housing authority’s record of qualified households on the date that the housing authority of application determines that the household is qualified for social housing support from that housing authority, except that—

(a) where the housing authority of application does not seek additional information from the household under Regulation 11 and makes its determination that the household is qualified for social housing support on a date that is subsequent to the expiry of the period of 12 weeks from the date of receipt of a properly completed application form, the household shall be deemed to be entered on an authority’s record of qualified households on the date of expiry of the said period of 12 weeks,

(b) where the housing authority of application seeks additional information from the household under Regulation 11 and makes its determination that the household is qualified for social housing support on a date that is subsequent to the expiry of the period of 6 weeks from the date of receipt of such additional information, the household shall be deemed to be entered on an authority’s record of qualified households, on the date of expiry of the said period of 6 weeks, or

(c) where, under Regulation 12(2) of the Social Housing Allocation Regulations 2011 (S. I. No. 198 of 2011), a household is not, for a 12-month period, being considered by any housing authority for the allocation of a dwelling to which section 22 of the Act of 2009 applies, that household shall not be entered on the record of qualified households of any housing authority until the said 12-month period has expired.”;

(g) in Regulation 23—

(i) by deleting the word “and” after “accommodation,” in paragraph (e),

(ii) by inserting after paragraph (e) the following paragraph:

“(ee) whether it has been concluded, under the Mortgage Arrears Resolution Process set out in the Code of Conduct for Mortgage Arrears 2011 issued under section 117 of the Central Bank Act 1989 (No. 16

of 1989), that the mortgage on the accommodation is unsustainable for the mortgagee, and”, and

- (iii) by substituting “the accommodation” for “it” in paragraph (f);
- (h) in Regulation 24, by substituting “housing authority” for “housing authority of application”;
- (i) by substituting for Regulation 25 the following Regulations:

“25. In making a determination as to the most appropriate form of social housing support for a qualified household, a housing authority shall not consider the provision of the social housing supports referred to in paragraphs (a), (c) and (d) of section 19(2) of the Act of 2009 where a household member was previously a tenant of a dwelling or site provided by a housing authority and incurred arrears of rent for an accumulated period of 12 weeks or more in any period of 3 years as such tenant, which arrears have not been paid and the household member concerned has not entered into an arrangement with the housing authority for the payment of such moneys or, having entered into such an arrangement, has not substantially complied with its terms.

25A. (1) Subject to paragraph (2), in making a determination as to the most appropriate form of social housing support for a qualified household, a housing authority shall not consider the provision of the social housing supports referred to in paragraphs (a), (c) and (d) of section 19(2) of the Act of 2009 where a household member either or both:

- (a) damaged a dwelling or site previously provided by any housing authority and neither repaired the property nor paid for the cost of repairs, and
- (b) breached the terms of the tenancy agreement for a dwelling or site provided by a housing authority, in consequence of which that authority terminated the tenancy.

(2) A housing authority may consider a household referred to in paragraph (1) for the provision of social housing support, without restriction, where the authority is satisfied that such consideration is warranted by exceptional circumstances and does not conflict with good estate management.”;

- (j) in Regulation 27—
 - (i) by substituting for paragraph (1) the following paragraph:

“(1) A review of a social housing assessment by a housing authority shall involve a determination of whether the household concerned qualifies, or continues to qualify, for social housing support from each housing authority in the application area in respect of which the household has, at the time of the review, specified an area of choice.”, and

(ii) by substituting for paragraph (3) the following paragraph:

“(3) Where, on review of a social housing assessment, a household that—

(a) was included in the most recent assessment of housing need made under section 9(2) of the Act of 1988, or

(b) applied for social housing support under Regulation 5(a) or (b),

does not fulfil either of the requirements set out in Regulation 5(a) and (b) in respect of the functional area of the housing authority of application, the household shall be deemed to fulfil the relevant requirement if it is normally resident in, or has a local connection with, the functional area of any other housing authority in the application area.”;

(k) by substituting for the heading to Regulation 30 and for Regulation 30 the following heading and Regulation:

“Notification of outcome of assessment review

30. (1) Where a housing authority determines a household’s qualification for social housing support following a review of a social housing assessment, that authority shall forthwith notify the outcome to the household and each housing authority concerned.

(2) Where a housing authority determines that a household does not qualify for social housing support from one or more than one authority in the application area, the notification of the outcome of the review shall, in each case, set out the reason therefor.”;

(l) by inserting after Regulation 30 the following heading and Regulation:

“Housing authority deemed to be housing authority of application

31. (1) Paragraph (2) shall apply in the case of-

(a) a household that was included in the most recent assessment of housing need made under section 9(2) of the Act of 1988, or

(b) a household that applied for social housing support under Regulation 5(a) or (b),

where-

(i) on assessment or on review of a social housing assessment, the household is determined by the housing authority concerned not to qualify for social housing support from the housing authority of application, but to qualify for such support from one or more than one other housing authority in the application area; or

(ii) Regulation 9(4) applies.

(2) Where a household referred to in paragraph (1) qualifies, or continues to qualify, for social housing support from—

(a) one other housing authority in the application area, that other authority shall be deemed for the purposes of these Regulations to be the housing authority of application,

(b) more than one other housing authority in the application area, the household shall specify which one of such authorities shall be deemed for the purposes of these Regulations to be its housing authority of application.”; and

(m) in the Schedule, by substituting for footnote 2 the following footnote:

“² A household applying to the housing authority for the area in which the household normally resides, or for the area with which the household has a local connection, must specify at least one area of choice in that authority’s area in which the household would accept an offer of social housing support. The household may also specify areas of choice in the areas of other housing authorities in the geographic county (including any city) concerned. Thus, a household applying to a Tipperary housing authority may specify areas of choice in the areas of other housing authorities across the geographic county.

A household applying to a housing authority on grounds other than residence or local connection may specify areas of choice in the area of the housing authority of application only.”.

GIVEN under my hand,
29 June 2011.

WILLIE PENROSE,
Minister of State at the Department of the Environment,
Community and Local Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations amend the Social Housing Assessment Regulations 2011 (S.I. No. 84 of 2011) to, among other things, provide that-

- a household applying for social housing support in the basis of residence in, or local connection with, the area of a particular local authority may specify areas of choice for the receipt of such support throughout the geographic county (including, in relevant cases, the city) concerned
- a housing authority shall, in determining a household's need for social housing support, also have regard to whether the mortgage on the household's existing accommodation is unsustainable under the terms of the Code of Conduct for Mortgage Arrears 2011 issued under section 117 of the Central Bank Act 1989
- a qualified household that applied for social housing support on the basis of residence or local connection with, the area of a particular local authority shall, on review, qualify, be deemed to fulfil that requirement where it resides in, or has a local connection with, any local authority area in the geographic county concerned
- a qualified household may not change its areas of choice more than once in any 12-month period.

The amending Regulations come into force on 1 July 2011.

S.I. No. 84 of 2011 was previously amended by the Social Housing Assessment (Amendment) Regulations 2011 (S.I. No. 136 of 2011).

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CONTAE MHAIGH EO,
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