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STATUTORY INSTRUMENTS

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**2003 No. 412**

**The Housing (Northern Ireland) Order 2003**

**PART IV**

**MISCELLANEOUS AMENDMENTS**

**CHAPTER II**

**AMENDMENTS OF THE ORDER OF 1981**

**Allocation of housing accommodation**

**124.**—(1) Article 22 of the Order of 1981 (house allocation scheme) shall be amended as follows.

(2) For paragraph (1) there shall be substituted—

“(1) The Executive shall submit to the Department a scheme for the allocation of housing accommodation held by the Executive to prospective tenants or occupiers.”.

(3) In paragraph (3), at the end there shall be added the words “and with the provisions of Article 22A when allocating housing accommodation held by it”.

(4) After paragraph (6) there shall be inserted—

“(7) For the purposes of this Article and Article 22A the Executive allocates housing accommodation when it selects a person to be a secure or introductory tenant of housing accommodation held by it.

(8) The reference in paragraph (7) to selecting a person to be a secure tenant includes deciding to exercise any power to notify an existing tenant or licensee that his tenancy or licence is to be a secure tenancy.”.

(5) After Article 22 of the Order of 1981 there shall be inserted —

**“Allocation only to eligible persons**

**22A.**—(1) The Executive shall not allocate housing accommodation—

- (a) to a person from abroad, if he is a person subject to immigration control who is ineligible for an allocation of housing accommodation by virtue of section 118 of the Immigration and Asylum Act 1999 (c. 33);
- (b) to any other person from abroad, if he is a person who is ineligible for such an allocation by virtue of regulations made under paragraph (3);
- (c) to a person who the Executive has decided is to be treated as ineligible for such an allocation by virtue of paragraph (6); or
- (d) to two or more persons jointly if any of them is a person mentioned in subparagraph (a), (b) or (c).

(2) Subject to paragraph (1), any person may be allocated housing accommodation by the Executive (whether on his application or otherwise).

(3) The Secretary of State may, for the purposes of paragraph (1)(b), by regulations specify classes of persons from abroad who are ineligible for an allocation of housing accommodation by the Executive.

(4) Regulations made under paragraph (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

(5) Nothing in paragraph (1)(a) or (b) affects the eligibility of a person who is already a secure or introductory tenant of the Executive.

(6) The Executive may decide that an applicant is to be treated as ineligible for an allocation of housing accommodation by it if it is satisfied that—

- (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the Executive; and
- (b) in the circumstances at the time his application is considered, he is unsuitable to be a tenant of the Executive by reason of that behaviour.

(7) The only behaviour which may be regarded by the Executive as unacceptable for the purposes of paragraph (6)(a) is—

- (a) behaviour of the person concerned which would (if he were a secure tenant of the Executive) entitle the Executive to a possession order under Article 29 of the [Housing \(Northern Ireland\) Order 1983 \(NI 15\)](#) on Ground 2 or Ground 3 in Schedule 3 to that Order; or
- (b) behaviour of a member of his household which would (if he were a person residing with a secure tenant of the Executive) entitle the Executive to such a possession order.

(8) If the Executive decides that an applicant for housing accommodation—

- (a) is ineligible for an allocation by virtue of paragraph (1)(a) or (b); or
- (b) is to be treated as ineligible for such an allocation by virtue of paragraph (6),

the Executive shall notify the applicant of its decision and the grounds for it.

(9) That notice shall be given in writing and, if not received by the applicant, shall be treated as having been given if it is made available at the Executive's district office for a reasonable period for collection by him or on his behalf.

(10) A person who is being treated by the Executive as ineligible by virtue of paragraph (6) may (if he considers that he should no longer be treated as ineligible) make a fresh application to the Executive for an allocation of housing accommodation by it.”