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STATUTORY RULES OF NORTHERN IRELAND

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**2004 No. 198**

**HOUSING**

**The Allocation of Housing Regulations (Northern Ireland) 2004**

*Made* - - - - - *29th April 2004*

*To be laid before Parliament*

*Coming into operation* *1st May 2004*

The Secretary of State, in exercise of the powers conferred upon him by Article 22A(3) of the Housing (Northern Ireland) Order 1981(1) and of every other power enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Allocation of Housing Regulations (Northern Ireland) 2004 and shall come into operation on 1st May 2004.

**Classes of persons from abroad prescribed under Article 22A(3) who are ineligible persons**

2.—(1) The following classes of persons from abroad (not being persons subject to immigration control) are ineligible for the purposes of Article 22A of the Housing (Northern Ireland) Order 1981 (allocation only to eligible persons) –

- (a) Class A – subject to paragraphs (2) and (3), a person who is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland;
- (b) Class B – a person whose right to reside in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland is derived solely from Council Directive No. 90/364/EEC(2) or Council Directive No. 90/365/EEC(3).

(2) The following persons shall not, however, be ineligible pursuant to paragraph 1(a) –

- (a) a person who is a worker for the purposes of Council Regulation (EEC) No. 1612/68(4) or (EEC) No. 1251/70(5);
- (b) a person who is an accession state worker requiring registration who is treated as a worker for the purpose of the definition of “qualified person” in regulation 5(1) of the Immigration

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(1) S.I. 1981/156 (N.I. 3); Article 22A was inserted by Article 124 of S.I. 2003/412 (N.I. 2)

(2) O.J. No. L180, 13.7.90, p. 26

(3) O.J. No. L180, 13.7.90, p. 28

(4) O.J. No. L257, 19.10.68, p. 2, Special Edition 1968 (II) p. 475, to which there are amendments not relevant to these Regulations

(5) O.J. No. L142, 30.6.70, p. 24, Special Edition 1970 (II) p. 402

(European Economic Area) Regulations 2000<sup>(6)</sup> pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004<sup>(7)</sup>;

- (c) a person with a right to reside pursuant to the Immigration (European Economic Area) Regulations 2000, which is derived from Council Directive No. 68/360/EEC<sup>(8)</sup>, No. 73/148/EEC<sup>(9)</sup> or No. 75/34/EEC<sup>(10)</sup>;
- (d) a person who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption.

(3) A person shall not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland for the purposes of paragraph (1)(a) if he does not have a right to reside in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

### **Transitional**

3. These Regulations shall not have effect in relation to an applicant whose application for an allocation of housing accommodation was made before 1st May 2004.

### **Revocation and saving**

4.—(1) Subject to paragraph (2), the Allocation of Housing Regulations (Northern Ireland) 2003<sup>(11)</sup> are hereby revoked.

(2) The Allocation of Housing Regulations (Northern Ireland) 2003 shall continue to have effect in relation to an applicant whose application for an allocation of housing accommodation was made before 1st May 2004.

Northern Ireland Office  
29th April 2004

*Paul Murphy*  
One of Her Majesty's Principal Secretaries of  
State

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<sup>(6)</sup> S.I. 2000/2326 as amended by S.I. 2001/865, 2003/549 and 2004/1236

<sup>(7)</sup> S.I. 2004/1219

<sup>(8)</sup> O.J. No. L257, 19.10.68, p. 13, Special Edition 1968 (II) p. 485, to which there are amendments not relevant to these Regulations

<sup>(9)</sup> O.J. No. L172, 28.6.73, p. 14

<sup>(10)</sup> O.J. No. L014, 20.01.75, p. 10

<sup>(11)</sup> S.R. 2003 No. 402

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

Article 22 of the Housing (Northern Ireland) Order 1981 (“the Order”) provides that the Northern Ireland Housing Executive (“the Executive”) shall comply with a scheme for the allocation of housing accommodation approved by the Department for Social Development. Article 22A of the Order provides that the Executive shall not allocate housing accommodation to a person from abroad who is ineligible for such an allocation (paragraph (1), sub-paragraph (b)) and that the Secretary of State has power to specify, by regulations, classes of persons who are ineligible (paragraph (3)).

These Regulations, which come into operation on 1st May 2004, revoke the Allocation of Housing Regulations (Northern Ireland) 2003.

The Regulations provide that, with certain specified exceptions, a person who is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland is not eligible to be allocated housing accommodation. They further provide that a person shall not be treated as habitually resident if he has no right to reside in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland. In addition, they provide that a person is ineligible if his right to reside in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland derives solely from Council Directive [90/364/EEC](#) (on the right of residence of nationals of Member States who do not enjoy this right under other provisions of Community law) or [90/365/EEC](#) (on the right of residence for employees and self-employed persons who have ceased their occupational activity).

These Regulations do not have effect in the case of any application for housing accommodation made before 1st May 2004 (regulation 3).

A full regulatory impact assessment has not been produced for these Regulations as they have no impact on the costs of business.