

**2004 No. 199**

**HOUSING**

**The Homelessness Regulations (Northern Ireland) 2004**

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

*Coming into operation* *1st May 2004*

*To be laid before Parliament*

The Secretary of State, in exercise of the powers conferred upon him by Article 7A(2) of the Housing (Northern Ireland) Order 1988(a) 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 Homelessness Regulations (Northern Ireland) 2004 and shall come into operation on 1st May 2004.

**Interpretation**

2. In these Regulations “the Order” means the Housing (Northern Ireland) Order 1988.

**Descriptions of persons who are to be treated as persons from abroad ineligible for housing assistance**

3.—(1) For the purposes of paragraph (1)(b) of Article 7A of the Order, the following are descriptions of persons, other than persons who are subject to immigration control, who are to be treated as persons from abroad who are ineligible for assistance under Part II (housing the homeless) of the Order –

- (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) 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(b) or Council Directive No. 90/365/EEC(c).

(2) The following persons shall not, however, be treated as persons from abroad who are ineligible pursuant to paragraph 1(a) –

- (a) a person who is a worker for the purposes of Council Regulation (EEC) No. 1612/68(d) or (EEC) No. 1251/70(e);
- (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

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(a) S.I. 1988/1990 (N.I. 23); Article 7A was inserted by Article 137 of S.I. 2003/412 (N.I. 2)

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

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

(d) 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

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

Immigration (European Economic Area) Regulations 2000(a) pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004(b);

- (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(c), No. 73/148/EEC(d) or 75/34/EEC(e);
- (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**

**4.** These Regulations shall not have effect in relation to an applicant whose application for assistance under Part II of the Order was made before 1st May 2004.

### **Revocation and saving**

**5.—(1)** Subject to paragraph (2), the Homelessness Regulations (Northern Ireland) 2003(f) are hereby revoked.

(2) The Homelessness Regulations (Northern Ireland) 2003 shall continue to have effect in relation to an applicant whose application for assistance under Part II of the Order 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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(a) S.I. 2000/2326 as amended by S.I. 2001/865, 2003/549 and 2004/1236  
(b) S.I. 2004/1219  
(c) 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  
(d) O.J. No. L172, 28.6.73, p. 14  
(e) O.J. No. L014, 20.01.75, p.10  
(f) S.R. 2003 No. 403

## EXPLANATORY NOTE

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

Part II of the Housing (Northern Ireland) Order 1988 (“the Order”) imposes on the Northern Ireland Housing Executive duties in relation to persons who are found to be homeless or threatened with homelessness. Article 7A of the Order provides that a person is not eligible for assistance under Part II if he is a person from abroad who is ineligible for that assistance (paragraph (1)) and that the Secretary of State has power to make provision, by regulations, as to other descriptions of persons who are to be treated as persons from abroad who are ineligible for that assistance (paragraph (2)).

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

The new 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 for housing assistance under Part II of the Order. 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 assistance made before 1st May 2004 (regulation 4).

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

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