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STATUTORY RULES OF NORTHERN IRELAND

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**2007 No. 34**

**HOUSING**

**The Allocation of Housing and Homelessness (Eligibility)  
(Amendment) Regulations (Northern Ireland) 2007**

*Made - - - - 18th January 2007*

*To be laid before Parliament*

*Coming into operation 1st March 2007*

The Secretary of State makes the following regulations in exercise of the powers conferred on him by Article 22A(3) of the Housing (Northern Ireland) Order 1981(1) and Article 7A(2) of the Housing (Northern Ireland) Order 1988(2):

**Citation and commencement**

1. These Regulations may be cited as the Allocation of Housing and Homelessness (Eligibility) (Amendment) Regulations (Northern Ireland) 2007 and shall come into operation on 1st March 2007.

**Eligibility of accession State workers**

2.—(1) The Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006(3) are amended as follows.

(2) In regulation 2(1), for “the Accession Regulations” there shall be substituted—

““the Accession Regulations 2004” means the Accession (Immigration and Worker Registration) Regulations 2004(4);

“the Accession Regulations 2006” means the Accession (Immigration and Worker Authorisation) Regulations 2006(5);”.

(3) For regulation 3(2)(c) there shall be substituted—

“(c) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the EEA Regulations pursuant to either—

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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) [S.I. 1988/1990 \(N.I. 23\)](#); Article 7A was inserted by Article 137 of [S.I. 2003/412 \(N.I. 2\)](#)  
(3) [S.R. 2006 No. 397](#)  
(4) [S.I. 2004/1219](#); relevant amending instrument is [2006/1003](#)  
(5) [S.I. 2006/3317](#)

- (i) regulation 5 of the Accession Regulations 2004 (application of the 2006 Regulations in relation to accession State worker requiring registration), or
  - (ii) regulation 6 of the Accession Regulations 2006 (right of residence of an accession State national subject to worker authorisation);”.
- (4) For regulation 4(2)(c) there shall be substituted—
- “(c) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the EEA Regulations pursuant to either—
- (i) regulation 5 of the Accession Regulations 2004 (application of the 2006 Regulations in relation to accession State worker requiring registration), or
  - (ii) regulation 6 of the Accession Regulations 2006 (right of residence of an accession State national subject to worker authorisation);”.

**Transitional provisions**

3. The amendments made by these Regulations shall not have effect in relation to an applicant whose application for—

- (a) an allocation of housing accommodation under the Housing (Northern Ireland) Order 1981; or
- (b) housing assistance under Part II of the Housing (Northern Ireland) Order 1988,

was made before 1st March 2007.

*Peter Hain*  
One of Her Majesty’s Principal Secretaries of  
State  
Northern Ireland Office

18th January 2007

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## EXPLANATORY NOTE

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

These Regulations amend the provisions of the Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006 (“the Eligibility Regulations”) which determine which persons from abroad, other than persons subject to immigration control<sup>(6)</sup>, are ineligible for an allocation of housing accommodation under the Housing (Northern Ireland) Order 1981 (“the 1981 Order”) and for housing assistance under Part II of the Housing (Northern Ireland) Order 1988 (“the 1988 Order”).

A person who is not subject to immigration control is ineligible for an allocation or for housing assistance if he is not habitually resident in the United Kingdom, Channel Islands, Isle of Man or Republic of Ireland, unless specifically exempted from that requirement (see regulations 3(1)(a) and (2), and 4(1)(a) and (2) of the Eligibility Regulations). The effect of the amendments made by regulation 2 is to insert a new category of persons who are exempt from the habitual residence test. The category applies to nationals of Bulgaria and Romania, countries which acceded to the European Union on 1st January 2007. Those Bulgarian and Romanian nationals who are subject to the worker authorisation scheme established by the Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317) are exempt from the habitual residence test when they are treated as workers pursuant to those Regulations. The Regulations achieve this by substituting the exemption category relating to workers from eight of the ten member States which acceded to the European Union on 1st May 2004 with a wider exemption relating both to those workers and to workers from Bulgaria and Romania.

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(6) For these purposes, ‘persons subject to immigration control’ has the meaning given by section 13(2) of the Asylum and Immigration Act 1996 (c.49) (see Article 22A(1)(a) of the Housing (Northern Ireland) Order 1981 and Article 7A(1)(a) of the Housing (Northern Ireland) Order 1988). That provision defines ‘person subject to immigration control’ as a person who, under the Immigration Act 1971 (c.77), requires leave to enter or remain in the United Kingdom (whether or not such leave has been given).