

**EXPLANATORY MEMORANDUM TO**  
**THE ALLOCATION OF HOUSING AND HOMELESSNESS (ELIGIBILITY)**  
**(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2025**

**S.R. 2025 No.135**

**1. Introduction**

- 1.1. This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government (MHCLG) and is laid before Parliament by Command of His Majesty.
- 1.2. This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Declaration**

- 2.1. Rushanara Ali MP, Parliamentary Under-Secretary of State for Homelessness and Democracy at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 2.2. James Rogers, Deputy Director for Homelessness and Rough Sleeping and Rebecca Perks, Deputy Director for Local Authority Housing at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

**3. Contact**

- 3.1. Lucy Rees and Daniel Ollerton at the Ministry of Housing, Communities and Local Government can be contacted with any queries regarding the instrument.  
[Lucy.rees@communities.gov.uk](mailto:Lucy.rees@communities.gov.uk) or [daniel.ollerton@communities.gov.uk](mailto:daniel.ollerton@communities.gov.uk).

**Part One: Explanation, and context, of the Instrument**

**4. Overview of the Instrument**

***What does the legislation do?***

- 4.1. This legislation is made under emergency procedures (see paragraph 11.1) and amends the Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006 (S.R. 2006/397) (“the Eligibility Regulations”) to provide an exemption from the habitual residence test (“HRT”) for British nationals and other persons not subject to immigration control, who apply for housing or homelessness assistance in Northern Ireland and who are arriving from Israel or the Occupied Palestinian Territories (“OPTs”) as a result of His Majesty’s Government’s (“HMG”) evacuation operation from 23 June 2025, so long as that application is made within 6 months and therefore on or before 22 December 2025. This will mean that such persons are eligible for housing and homelessness assistance in Northern Ireland from arrival and will receive assistance subject to meeting any other conditions that apply to all eligible persons.
- 4.2. This exemption is being made under a general class which provides that any person not subject to immigration control will be eligible for housing or homelessness assistance in Northern Ireland, if they leave a country or territory when His Majesty’s

Government (“HMG”) provides public information to advise British nationals to leave that country or territory or arranges an evacuation of British nationals from that country or territory, so long as the person makes their application for assistance within the period of 6 months, beginning with the date that HMG first provided that advice or the first day of an HMG evacuation operation, whichever is later (the 6-month window). This will prevent MHCLG needing to lay emergency regulations for future such crises.

***Where does the legislation extend to, and apply?***

- 4.3. The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Northern Ireland.
- 4.4. The territorial application of this instrument (that is, where the instrument produces a practical effect) is Northern Ireland.

**5. Policy Context**

***What is being done and why?***

- 5.1. Under current eligibility rules in Northern Ireland, unless exempt, British nationals and other persons not subject to immigration control need to meet the HRT before they can be eligible for an allocation of housing accommodation and homelessness assistance.
- 5.2. A person is considered habitually resident for the purposes of housing and homelessness assistance in Northern Ireland if they have resided in the United Kingdom (“UK”), the Channel Islands, the Isle of Man or the Republic of Ireland (collectively the common travel area or “CTA”) for an “appreciable period”, which is typically 1-3 months. This requirement is sometimes referred to as the habitual residence test (HRT).
- 5.3. It is HMG’s longstanding position that all migrants (including British nationals) should plan how they will support themselves before they arrive in the UK rather than move to the UK with the intention of accessing housing or homelessness assistance or other services immediately. It is therefore reasonable for the HRT to require that people live in the UK for an appreciable period before they can access social assistance here.
- 5.4. However, HMG recognises that some groups of people, such as British nationals abroad, may need to flee to the UK urgently due to a crisis or conflict with little or no time to plan, and for whom it would be appropriate to waive the HRT.
- 5.5. To date, HMG has provided an exemption from the HRT for such persons by laying emergency legislation for each particular crisis or conflict. Emergency legislation is now required to ensure that the circa 400 persons already evacuated from Israel and the OPTs between 23 and 29 June 2025 are eligible for housing and homelessness assistance in Northern Ireland without delay.
- 5.6. Previous legislation<sup>1</sup> providing an HRT waiver for otherwise eligible persons fleeing Israel and the OPTs only covers persons who were residing there immediately before the Hamas terrorist attack on 7 October 2023 and who fled as a consequence of that or the immediate escalation that followed. Therefore, persons arriving in the UK as a

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<sup>1</sup> <https://www.legislation.gov.uk/nisr/2023/182/contents>

result of HMG's evacuation operation from 23 June 2025 would not necessarily be covered by that exemption and will rely on the new general class.

- 5.7. This new general class will prevent the need for MHCLG to legislate for any such future emergency separately. The general provision will waive the HRT for all applications for social or housing assistance in Northern Ireland which are made on or after the regulations come into force on 18 July 2025, for any person not subject to immigration control who was residing in and fled a country or territory in the circumstances set out in paragraph 4.2, if that application is made within the 6-month window. Where an evacuation is the trigger point, a person need not have been evacuated to rely on the exemption.
- 5.8. The general class will therefore apply to any person who meets the criteria arriving from Israel or the OPTs so long as they apply for assistance on or before 22 December 2025. It will also apply to any person who meets the criteria arriving from South Sudan, so long as they apply for assistance on or before 26 September 2025 (HMG first published advice to British nationals to leave South Sudan on 27 March 2025). MHCLG chose not to legislate for South Sudan at the time it provided public information to advise British nationals to leave as the number of British nationals arriving from the country was very low.
- 5.9. Unlike crisis-specific classes, the general class must strike a balance between responsiveness and control and cannot be left open-ended as this can risk disproportionate or unnecessary application. The 6-month window therefore places a time limit on the application of the HRT waiver to each emergency.
- 5.10. The policy intention is to support such persons that have fled to the UK in response to the first published advice for British nationals to leave or actions of HMG to first evacuate British nationals, with little time to plan how they will support themselves on arrival. The general class is therefore designed to facilitate MHCLG's immediate response to emergencies arising overseas as part of HMG's broader response for the persons in scope. Once an emergency falls under the general class, MHCLG will work with other relevant areas of Government to identify whether any further legislation is needed to provide a more tailored approach to the situation in the longer term. The general class is not intended to support anyone arriving due to a specific emergency indefinitely.
- 5.11. British nationals should make every effort to leave a country or territory quickly if HMG has advised them to do this or has arranged an evacuation. If a person decides to remain in the country or territory and leave at a later stage, they have acted against HMG's advice.
- 5.12. Where advice to leave is the trigger event, the general class will apply only if HMG has published advice to British nationals to leave an entire country or territory. It will not apply if HMG has published advice to leave part of a country or territory because the expectation is that British nationals will move to a safer area within a country or territory rather than returning to the UK. If HMG considers an exemption should be provided in those instances separate legislative provision will be made.
- 5.13. A consistent initial response is essential to ensure immediate support can be provided in the wake of sudden and unexpected crises, enabling HMG and local agencies to then develop a proportionate, longer-term response where necessary, tailored to the specific context and needs of those affected.

- 5.14. The need for a general class to respond to future emergencies is supported by evidence in the National Risk Register 2025<sup>2</sup>. The Register assesses that in the next five years there is a 5-25% likelihood of a crisis overseas necessitating the arrival and reception of a large number of destitute or vulnerable British nationals, and a higher likelihood of lower impact emergencies. This generalised legislation improves on MHCLG's previous approach by enabling MHCLG to provide an immediate initial response. It will not be exhaustive for all scenarios which may require a longer-term crisis response tailored to the specific context and needs of those affected.
- 5.15. The general class will not make more people eligible for an allocation of social housing or for homelessness assistance in Northern Ireland. It will only make persons not subject to immigration control eligible sooner. As noted above, this typically means 1-3 months sooner as that is typically the amount of time taken to meet the HRT. Where a person is made eligible as a result of the general crisis class, they will still need to meet any other criteria that ordinarily apply for particular entitlements.
- 5.16. Separate provision will be made to disapply the HRT in England and in limited respects for Scotland and Northern Ireland. In respect of Wales, the Secretary of State's powers have been transferred to the Senedd which is legislating separately.
- 5.17. The Department for Work and Pensions has laid equivalent legislation amending the entitlement conditions for income-related, disability, and carer benefits.

***What was the previous policy, how is this different?***

- 5.18. As set out above, previously, MHCLG enacted emergency statutory legislation for each emergency or crisis, which involved avoidable administrative burden and procedural delays. This slows the Northern Ireland Housing Executive's capacity to deliver timely assistance to those fleeing the crisis as some may arrive and need support before the legislation comes into force.

## **6. Legislative and Legal Context**

***How has the law changed?***

- 6.1. This instrument makes amendments to the Eligibility Regulations.
- 6.2. Article 22A of the Housing (Northern Ireland) Order 1981 ("1981 Order") provides that the Northern Ireland Housing Executive shall not allocate social housing to, amongst other groups, any person from abroad not subject to immigration control specified in regulations by the Secretary of State under article 22A(3).
- 6.3. Similarly, article 7A of the Housing (Northern Ireland) Order 1988 ("1988 Order") provides that, amongst other groups, any person from abroad not subject to immigration control specified in regulations by the Secretary of State under article 7A(2) is not eligible for homelessness assistance.
- 6.4. Regulations 3(2) and 4(2) of the Eligibility Regulations make provision under article 22A(3) of the 1981 Order and article 7A(2) of the 1988 Order respectively. They provide that a person not subject to immigration control is ineligible for an allocation of housing and homelessness assistance if, among other things, the person is not

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<sup>2</sup> [https://assets.publishing.service.gov.uk/media/67b5f85732b2aab18314bbe4/National\\_Risk\\_Register\\_2025.pdf](https://assets.publishing.service.gov.uk/media/67b5f85732b2aab18314bbe4/National_Risk_Register_2025.pdf)

habitually resident in the CTA. Articles 3(2) and 4(2) of the Eligibility Regulations set out exceptions to those provisions.

- 6.5. To establish ‘habitual residence’ an applicant must demonstrate a degree of permanence in their residence in one of those places. Habitual residence implies an association between the individual and the place of residence and relies substantially on fact.
- 6.6. Regulation 2(2) and (3) of this instrument amends regulations 3(2) and 4(2) respectively of the Eligibility Regulations. They provide that a person who (a) was residing in a country or territory, (b) left that country or territory when HMG provided public information to advise British nationals to leave that country or territory or arranged an evacuation of British nationals from that country or territory, and (c) applied for an allocation of social housing or homelessness assistance within a 6 month period beginning with the day HMG first provided public information to advise British nationals to leave that country or the first day of an HMG evacuation operation of British nationals from that country or territory, whichever is later, irrespective of whether they satisfy the habitual residence test, is in a class eligible for an allocation of housing accommodation and homelessness assistance respectively.

#### ***Why was this approach taken to change the law?***

- 6.7. The existing eligibility requirements are set out in statute. There is no existing class which provides an HRT exemption for persons evacuated from Israel and the OPTs between 23 and 29 June 2025 and others who might return as a result. A new class is therefore required and is made as a general class to meet policy requirements to avoid the need to lay emergency regulations each time such a crisis or emergency occurs.

## **7. Consultation**

### ***Summary of consultation outcome and methodology***

- 7.1. Due to the urgency of the Regulations, no consultation has been carried out and the instrument has not been scrutinised by the Northern Ireland Housing Executive. The legislation generalises the approach we have taken to previous scenarios where we have introduced emergency legislation on a case-by-case basis.
- 7.2. We have liaised with the Northern Ireland Executive.

## **8. Applicable Guidance**

- 8.1. Guidance will be issued to Northern Ireland Housing Executive staff and decision makers to ensure that they are aware of this new exception and how to apply it.

## **Part Two: Impact and the Better Regulation Framework**

### **9. Impact Assessment**

- 9.1. A full Impact Assessment has not been prepared for this instrument because there is no impact on businesses.

#### ***Impact on businesses, charities and voluntary bodies***

- 9.2. There is no significant impact on business, charities or voluntary bodies.
- 9.3. The legislation does not impact small or micro businesses.
- 9.4. This legislation does not have a significant impact on the public sector.

## **10. Monitoring and review**

### ***What is the approach to monitoring and reviewing this legislation?***

- 10.1. MHCLG is firmly committed to evaluating and monitoring the impact of its policies. These are emergency measures intended to help those returning or evacuated from Israel and the OPTs and will also apply for future such crises. This legislation is designed to facilitate MHCLG's immediate response to a crisis that causes the HMG to advise British nationals to leave a country or territory or evacuate British nationals from it. Once a crisis falls within scope of the legislation, MHCLG will work with other relevant areas of HMG identify whether any longer-term legislative framework is needed to enable affected persons to access additional support.
- 10.2. The instrument does not include a statutory review clause.

### **Part Three: Statements and Matters of Particular Interest to Parliament**

#### **11. Matters of special interest to Parliament**

- 11.1. This instrument is being made under emergency procedures and breaches the 21-day rule. This is necessary because the evacuations of British nationals from Israel and the OPTs that started on 23 June 2025, and the immediate need to provide support to those arriving. Delay in the legislation coming into force will cause potential delays in access to housing or homelessness support for those who need it.

#### **12. European Convention on Human Rights**

- 12.1. The Parliamentary Under-Secretary of State for Homelessness and Democracy has made the following statement regarding Human Rights:
- 12.2. “In my view the provisions of The Allocation of Housing and Homelessness (Eligibility) (Northern Ireland) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) Regulations 2025 are compatible with the Convention rights.”

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **13. The Relevant European Union Acts**

- 13.1. This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).