
STATUTORY INSTRUMENTS

1996 No. 1982

HOUSING, ENGLAND AND WALES
HOUSING, SCOTLAND

The Housing Accommodation and Homelessness
(Persons subject to Immigration Control) Order 1996

<i>Made</i>	- - - -	<i>29th July 1996</i>
<i>Laid before Parliament</i>		<i>29th July 1996</i>
<i>Coming into force</i>	- -	<i>19th August 1996</i>

The Secretary of State, in exercise of the powers conferred on him by section 9 of the Asylum and Immigration Act 1996⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order—

Citation, commencement and extent

1.—(1) This Order may be cited as the Housing Accommodation and Homelessness (Persons subject to Immigration Control) Order 1996 and shall come into force on 19th August 1996.

(2) This Order does not extend to Northern Ireland.

Interpretation

2. In this Order—

“the Act” means the Asylum and Immigration Act 1996;

“the 1971 Act⁽²⁾” means the Immigration Act 1971;

“claim for asylum” means a claim made by a person that it would be contrary to the United Kingdom’s obligations under the Convention for him to be removed from or required to leave the United Kingdom;

“Common Travel Area” means the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively;

(1) 1996 c. 49.
(2) 1971 c. 77.

“the Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951⁽³⁾, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967⁽⁴⁾;

“full time course” means a course normally involving not less than 15 hours attendance a week in term time for the organised day-time study of a single subject or related subjects;

“overseas student” means a person who is attending a full-time course at a specified education institution;

“specified education institution” means—

- (a) a university or other institution within the higher education sector within the meaning given by section 91(5) of the Further and Higher Education Act 1992⁽⁵⁾ or by section 56(2) of the Further and Higher Education (Scotland) Act 1992⁽⁶⁾;
- (b) an institution within the further education sector within the meaning given by section 91(3) of the Further and Higher Education Act 1992;
- (c) a college of further education in Scotland which is under the management of an education authority or which is managed by a board of management in terms of Part I of the Further and Higher Education (Scotland) Act 1992;
- (d) a central institution within the meaning of section 135(1) of the Education (Scotland) Act 1980⁽⁷⁾;
- (e) an institution which provides a course qualifying for funding under Part I of the Education Act 1994⁽⁸⁾.

Classes specified under section 9(1)

3. The following are the classes of persons specified for the purposes of section 9(1) of the Act—

Class A—a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention;

Class B—a person—

- (i) who has been granted by the Secretary of State exceptional leave to enter or remain in the United Kingdom outside the provisions of the immigration rules within the meaning of the 1971 Act; and
- (ii) whose leave is not subject to a condition requiring him to maintain and accommodate himself and any dependants of his without recourse to public funds;

Class C—a person who has a current leave to enter or remain in the United Kingdom which is not subject to any limitation or condition;

Class D—an overseas student in a case where the housing accommodation which is or may be provided to him—

- (a) is let by a housing authority to a specified education institution for the purposes of enabling that institution to provide accommodation for students attending a full time course at that institution; and
- (b) would otherwise be difficult for that authority to let on satisfactory terms.

(3) Cmd 9171.
 (4) Cmd 3906.
 (5) 1992 c. 13.
 (6) 1992 c. 37.
 (7) 1980 c. 44.
 (8) 1994 c. 30.

Classes specified under section 9(2)

4. The classes of persons specified for the purposes of section 9(2) of the Act are those specified in classes A to C of article 3 and—

Class E—a person who has made a claim for asylum which is recorded by the Secretary of State as having been made either—

- (i) on his arrival (other than on his re-entry) in the United Kingdom from a country outside the Common Travel Area; or
- (ii) within 3 months from the day on which the Secretary of State makes a declaration to the effect that the country of which he is a national is subject to such a fundamental change in circumstances that he would not normally order the return of a person to that country, and which in either case, has not been recorded by the Secretary of State as having been determined or abandoned;

Class F—a person (other than a person falling within Class E) who on or before 4th February 1996 has made a claim for asylum and who was on that date entitled to benefit under the Housing Benefit (General) Regulations 1987(9) in a case where—

- (i) his claim has not been recorded by the Secretary of State as having been determined or abandoned; or
- (ii) there was on that date an appeal pending in respect of that claim or such an appeal is made within the time limits specified in rules of procedure made under section 22 of the 1971 Act,

and, in either case, no determination or abandoning of the appeal in question has been recorded by the Secretary of State since that date.

Signed by authority of the Secretary of State

29th July 1996

Paul Beresford
Parliamentary Under-Secretary of State,
Department of the Environment

(9) S.I.1987/1971: relevant amending instruments are S.I. 1994/470 and S.I. 1994/1807.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

Under section 9 of the Asylum and Immigration Act, the Secretary of State has power to specify classes of persons subject to immigration control for whom local housing authorities may provide housing accommodation (subsection (1)) or assistance under the homelessness legislation (subsection (2)). This Order specifies the following classes for the purposes of section 9(1) (article 3)—

Class A—a person recorded as a refugee;

Class B—a person who has been granted exceptional leave to enter or remain in the UK;

Class C—a person whose leave to enter or remain is not subject to any restriction;

Class D—an overseas student, in difficult to let accommodation let by a local housing authority to an education institution.

The classes specified for the purposes of section 9(2) are classes A to C above and (article 4)—

Class E—a person who claims asylum on arrival in this country or within 3 months of a declaration by the Secretary of State as to a fundamental change of status in his country of nationality if no determination has yet been made of the claim;

Class F—an asylum seeker in receipt of housing benefit on 4th February 1996 until the next decision on his claim is made.