
STATUTORY INSTRUMENTS

1996 No. 2754

HOUSING, ENGLAND AND WALES

The Homelessness Regulations 1996

<i>Made</i>	- - - -	<i>30th October 1996</i>
<i>Laid before Parliament</i>		<i>31st October 1996</i>
<i>Coming into force</i>	- -	<i>20th January 1997</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 185(2) and (3), 194(6) and 198(4) of the Housing Act 1996(1), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Homelessness Regulations 1996 and shall come into force on 20th January 1997.

Interpretation

2. In these Regulations —

“the Act” means the Housing Act 1996;

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

“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;

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

“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)

(1) 1996 c. 52; see section 215 for the definition of prescribed .
(2) 1971 c. 77.
(3) Cmd 9171.
(4) Cmd 3906.

“EEA national” means a national of a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993; and

“the immigration rules” means the immigration rules within the meaning of the 1971 Act.

Classes of persons subject to immigration control who are eligible for housing assistance

3. The following are the classes of persons prescribed for the purposes of section 185(2) of the Act (persons subject to immigration control who are eligible for housing assistance) —

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 who has made a claim for asylum which is recorded by the Secretary of State as having been made on his arrival (other than on his re-entry) in the United Kingdom from a country outside the Common Travel Area and which has not been recorded by the Secretary of State as having been determined or abandoned;

Class C — a person who becomes an asylum seeker, that is to say —

(i) whilst that person is present in Great Britain the Secretary of State makes a declaration to the effect that the country of which that person 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

(ii) that person makes a claim for asylum which is recorded by the Secretary of State as having been made within three months from the day on which that declaration was made, provided that the claim for asylum has not been recorded by the Secretary of State as having been determined or abandoned;

Class D — a person (other than a person falling within Class B) who —

(i) on or before 4th February 1996 made a claim for asylum; and

(ii) was on that date entitled to benefit under the Housing Benefit (General) Regulations 1987;⁽⁵⁾

where either —

(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 the 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;

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

(i) who has been given leave to enter or remain in the United Kingdom upon an undertaking given by another person (his “sponsor”) or persons in writing in pursuance of the immigration rules to be responsible for his maintenance and accommodation;

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

- (ii) who has been resident in the United Kingdom for less than five years beginning from the date of entry or the date on which the undertaking was given in respect of him, whichever date is the later; and
- (iii) whose sponsor or, where there is more than one sponsor, at least one of whose sponsors, is still alive.

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

4. The following are the descriptions of persons who are to be treated for the purposes of Part VII of the Act as persons from abroad who are ineligible for housing assistance —

- (a) a person who is not habitually resident in the Common Travel Area other than —
 - (i) a person who falls within Class A, B, C, D or E of regulation 3;
 - (ii) a worker for the purposes of Council Regulation (EEC) No. 1612/68(6) or (EEC) No. 1251/70;(7)
 - (iii) a person with a right to reside in the United Kingdom pursuant to Council Directive No. 68/360/EEC(8) or No. 73/148/EEC;(9)
- (b) a person who is an EEA national and is required by the Secretary of State to leave the United Kingdom.

Prescribed period of notice where an authority give notice that they propose to cease exercising power to secure accommodation under section 194

5. For the purposes of section 194(6) of the Act (notice of ceasing to exercise power to secure accommodation under section 194), the prescribed period is 28 days.

Period prescribed for the purpose of conditions for referral of an application

6. For the purposes of section 198(4)(b) of the Act (referral of case to another local housing authority), the prescribed period is the aggregate of —

- (i) five years; and
- (ii) the period between the date of the previous application and the date on which the applicant was first placed in pursuance of that application in accommodation in the district of the authority to whom the application is now made.

Signed by authority of the Secretary of State

Department of the Environment
29th October 1996

David Curry
Minister of State,

(6) OJ No. L 254 18.10.68, p. 2, Special Edition 1968 (II) p. 475.

(7) OJ No. L 142 1.7.70, p. 24, Special Edition 1970 (II) p. 402.

(8) OJ No. L 257 18.10.68, p. 13, Special Edition 1968 (II) p. 485.

(9) OJ No. L 172 28.6.73, p. 14.

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

Signed by authority of the Secretary of State for Wales

Welsh Office
30th October 1996

Jonathan Evans
Parliamentary Under-Secretary of State,

EXPLANATORY NOTE

(This note is not part of the Regulations)

A person who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996 is not eligible for housing assistance under Part VII of the Housing Act 1996 (homelessness) unless he is of a class prescribed by the Secretary of State (section 185(2)). The Secretary of State may make provision as to other descriptions of persons who are to be treated as persons from abroad who are ineligible for housing assistance (section 185(3)). These Regulations prescribe classes of persons for the purpose of section 185(2) (regulation 3) and make provision as to other descriptions of persons of the purpose of section 185(3) (regulation 4).

These Regulations, in regulation 5, also prescribe the minimum period of notice which a local housing authority must give of their ceasing to exercise the power to secure accommodation under section 194 of the Housing Act 1996.

Under section 198 of the Housing Act 1996 one of the conditions for referral of a homelessness case to another authority is that the applicant was placed in accommodation in the district of the authority to whom his application is now made pursuant to a previous application made within a prescribed period to that other authority. Regulation 6 of these Regulations prescribes that period.