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STATUTORY INSTRUMENTS

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**2000 No. 701**

**HOUSING, ENGLAND**

**The Homelessness (England) Regulations 2000**

*Made* - - - - *10th March 2000*  
*Laid before Parliament* *13th March 2000*  
*Coming into force* - - *3rd April 2000*

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred on him by sections 185(2) and (3), 194(6), 198(4) and 215(2) of the Housing Act 1996<sup>(1)</sup>, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Homelessness (England) Regulations 2000 and shall come into force on 3rd April 2000.

(2) These Regulations extend to England only.

**Interpretation**

2.—(1) In these Regulations—

“the 1971 Act” means the Immigration Act 1971<sup>(2)</sup>;

“the 1995 Act” means the Jobseekers Act 1995<sup>(3)</sup>;

“the 1996 Act” means the Housing Act 1996;

“asylum-seeker” means a person who is not under 18 and who made a claim for asylum which is recorded by the Secretary of State as having been made before 3rd April 2000 but which has not been determined;

“claim for asylum” means a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention for the claimant to be removed from, or required to leave, the United Kingdom;

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(1) 1996 c. 52; see section 215(1) for the definition of “prescribed”. The functions of the Secretary of State under sections 194(6), 198(4) and 215(2) are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672, to which there are amendments not relevant to these Regulations); see the entry in Schedule 1 for the Housing Act 1996. Article 2 and that entry also provide that the functions of the Secretary of State under section 185 are exercisable by the National Assembly for Wales concurrently with the Secretary of State.

(2) 1971 c. 77.

(3) 1995 c. 18.

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

“the immigration rules” means the rules laid down as mentioned in section 3(2) of the 1971 Act (general provisions for regulation and control);

“limited leave” means leave under the 1971 Act to enter or remain in the United Kingdom which is limited as to duration; and

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(4), as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(5).

(2) For the purposes of the definition of “asylum-seeker”, a claim for asylum is determined at the end of such period beginning—

- (a) on the day on which the Secretary of State notifies the claimant of his decision on the claim; or
- (b) if the claimant has appealed against the Secretary of State’s decision, on the day on which the appeal is disposed of,

as may be prescribed under section 94(3) of the Immigration and Asylum Act 1999(6).

(3) For the purposes of regulations 3(1)(i) (Class I) and 4(d)—

- (a) “an income-based jobseeker’s allowance” means a jobseeker’s allowance, payable under the 1995 Act, entitlement to which is based on the claimant satisfying conditions which include those set out in section 3 of the 1995 Act (the income-based conditions);
- (b) “income support” has the same meaning as in section 124 of the Social Security Contributions and Benefits Act 1992(7) (income support); and
- (c) a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day—
  - (i) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid in accordance with section 19 of the 1995 Act(8) (circumstances in which jobseeker’s allowance is not payable); or
  - (ii) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to the 1995 Act (waiting days) and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for section 19 of the 1995 Act.

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

3.—(1) The following are classes of persons prescribed for the purposes of section 185(2) of the 1996 Act (persons subject to immigration control who are eligible for housing assistance)—

- (a) Class A—a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Refugee Convention;
- (b) 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; and

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(4) Cmnd. 9171.

(5) Cmnd. 3906.

(6) 1999 c. 33. See section 167 of that Act for the definition of “prescribed” for the purposes of that Act.

(7) 1992 c. 4. Section 124 was amended by paragraph 30 of Schedule 2, and Schedule 3, to the 1995 Act.

(8) Section 19 was amended by paragraph 67 of Schedule 1 to the Employment Rights Act 1996 (c. 18) and paragraph 141 of Schedule 7 to the Social Security Act 1998 (c. 14).

- (ii) whose leave is not subject to a condition requiring him to maintain and accommodate himself, and any person who is dependent on him, without recourse to public funds;
- (c) Class C—a person who has current leave to enter or remain in the United Kingdom which is not subject to any limitation or condition and who is habitually resident in the Common Travel Area 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”) in writing in pursuance of the immigration rules to be responsible for his maintenance and accommodation;
  - (ii) who has been resident in the United Kingdom for less than five years beginning on 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;
- (d) Class D—a person who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption;
- (e) Class E—a person who is habitually resident in the Common Travel Area and who—
  - (i) is a national of a state which has ratified the European Convention on Social and Medical Assistance done at Paris on 11th December 1953<sup>(9)</sup> or a state which has ratified the European Social Charter done at Turin on 18th October 1961<sup>(10)</sup> and is lawfully present in the United Kingdom; or
  - (ii) before 3rd April 2000 was owed a duty by a housing authority under Part III of the Housing Act 1985<sup>(11)</sup> (housing the homeless) or Part VII of the 1996 Act (homelessness) which is extant, and who is a national of a state which is a signatory to the European Convention on Social and Medical Assistance done at Paris on 11th December 1953 or a state which is a signatory to the European Social Charter done at Turin on 18th October 1961;
- (f) Class F—a person who is an asylum-seeker and who made a claim for asylum—
  - (i) 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
  - (ii) which has not been recorded by the Secretary of State as having been either decided (other than on appeal) or abandoned;
- (g) Class G—a person who is an asylum-seeker and—
  - (i) who was in Great Britain when the Secretary of State made 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;
  - (ii) who made a claim for asylum which is recorded by the Secretary of State as having been made within a period of three months from the day on which that declaration was made; and
  - (iii) whose claim for asylum has not been recorded by the Secretary of State as having been either decided (other than on appeal) or abandoned;

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<sup>(9)</sup> Cmnd. 9512.

<sup>(10)</sup> Cmnd. 2643.

<sup>(11)</sup> 1985 c. 68. The repeal of Part III, which was commenced by the Housing Act 1996 (Commencement No. 5 and Transitional Provisions) Order 1996 (S.I. 1996/2959 (C.88)), does not, by virtue of paragraph 1 of the Schedule to that Order, apply to applicants under Part III of that Act whose applications were made before 20th January 1997.

- (h) Class H—a person who is an asylum-seeker and—
  - (i) who made a relevant claim for asylum on or before 4th February 1996; and
  - (ii) who was, on 4th February 1996, entitled to benefit under regulation 7A of the Housing Benefit (General) Regulations 1987<sup>(12)</sup> (persons from abroad); and
- (i) Class I—a person who is on an income-based jobseeker’s allowance or in receipt of income support and is eligible for that benefit other than because—
  - (i) he has limited leave to enter or remain in the United Kingdom which was given in accordance with the relevant immigration rules; and
  - (ii) he is temporarily without funds because remittances to him from abroad have been disrupted.
- (2) In paragraph (1)(h)(i) (Class H), a relevant claim for asylum is a claim for asylum which—
  - (a) has not been recorded by the Secretary of State as having been either decided (other than on appeal) or abandoned; or
  - (b) has been recorded as having been decided (other than on appeal) on or before 4th February 1996 and in respect of which an appeal is pending which—
    - (i) was pending on 5th February 1996; or
    - (ii) was made within the time limits specified in the rules of procedure made under section 22 of the 1971 Act<sup>(13)</sup> (procedure).
- (3) In paragraph (1)(i)(i) (Class I), “relevant immigration rules” means the immigration rules relating to—
  - (a) there being or there needing to be no recourse to public funds; or
  - (b) there being no charge on public funds.

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

4. The following is a description of persons, other than persons who are subject to immigration control, who are to be treated for the purposes of Part VII of the 1996 Act (homelessness) as persons from abroad who are ineligible for housing assistance—

A person who is not habitually resident in the Common Travel Area other than—

- (a) a worker for the purposes of Council Regulation (EEC) No. 1612/68<sup>(14)</sup> or (EEC) No. 1251/70<sup>(15)</sup>;
- (b) a person with a right to reside in the United Kingdom pursuant to the Immigration (European Economic Area) Order 1994<sup>(16)</sup> and derived from Council Directive No. 68/360/EEC<sup>(17)</sup> or No. 73/148/EEC<sup>(18)</sup>;
- (c) a person who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption;
- (d) a person who is on an income-based jobseeker’s allowance or in receipt of income support.

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<sup>(12)</sup> S.I. 1987/1971; relevant amending instruments are S.I. 1994/470 and 1994/1807.

<sup>(13)</sup> Section 22 was amended by S.I. 1987/465; there are other amendments not relevant to these Regulations.

<sup>(14)</sup> OJ No. L 257 19.10.68, p. 2, Special Edition 1968 (II) p. 475, to which there are amendments not relevant to these Regulations.

<sup>(15)</sup> OJ No. L 142 30.6.70, p. 24, Special Edition 1970 (II) p. 402.

<sup>(16)</sup> S.I. 1994/1895, to which there are amendments not relevant to these Regulations.

<sup>(17)</sup> OJ No. L 257 19.10.68, p. 13, Special Edition 1968 (II) p. 485, to which there are amendments not relevant to these Regulations.

<sup>(18)</sup> OJ No. L 172 28.6.73, p. 14.

### **Prescribed period of notice where an authority proposes to cease securing accommodation under section 194**

5. For the purposes of section 194(6) of the 1996 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 1996 Act (referral of case to another local housing authority), the prescribed period is the aggregate of—

- (a) five years; and
- (b) the period beginning on the date of the previous application and ending on 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.

### **Revocation**

7. The following Regulations are revoked—

- (a) the Homelessness Regulations 1996(19), in so far as they extend to England;
- (b) regulations 4 and 5 of the Allocation of Housing and Homelessness (Amendment) Regulations 1997(20), in so far as they extend to England;
- (c) regulation 3 of the Allocation of Housing and Homelessness (Amendment) (No. 2) Regulations 1997(21), in so far as they extend to England; and
- (d) regulations 4 and 5 of the Allocation of Housing and Homelessness (Amendment) (England) Regulations 1999(22).

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

*Nick Raynsford*  
Minister of State  
Department of the Environment, Transport and  
the Regions

10th March 2000

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(19) S.I. 1996/2754; amended by S.I. 1997/631, 1997/2046 and 1999/2135.

(20) S.I. 1997/631.

(21) S.I. 1997/2046.

(22) S.I. 1999/2135.

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## EXPLANATORY NOTE

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

These Regulations prescribe classes of persons subject to immigration control who are eligible for housing assistance under Part VII of the Housing Act 1996 (homelessness) and describe other persons who are not eligible. They also prescribe periods for notices and applications for the purposes of Part VII. These Regulations extend to England only. They revoke and re-enact with changes the Homelessness Regulations 1996 in so far as they extend to England.

Regulation 3 prescribes classes of persons (Classes A to I) for the purpose of section 185(2) of the Housing Act 1996. Section 185(2) provides that a person who is subject to immigration control 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.

Regulation 4 makes provision for other descriptions of persons for the purpose of section 185(3) of the Housing Act 1996. These are persons who are to be treated for the purposes of Part VII as persons from abroad who are ineligible for housing assistance.

Regulation 5 prescribes 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.

Regulation 6 prescribes the period for the purposes of section 198(4) of the Housing Act 1996. Under section 198(4) 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 7 revokes, in so far as they extend to England, the Homelessness Regulations 1996 and regulations which amended those Regulations. These Regulations contain similar provisions to those in the Homelessness Regulations 1996. The main changes are as follows:

- (a) Classes which apply to persons who have made a claim for asylum only apply where that claim was made, and recorded by the Secretary of State, before 3rd April 2000 (see the definition of “asylum-seeker” in regulation 2).
- (b) The class of persons subject to immigration control, who are eligible for housing assistance because they are nationals of states which are signatories to the European Convention on Social and Medical Assistance or the European Social Charter, has been amended. It is limited to nationals of states which have ratified that Convention or that Charter. This change does not apply to a person who is a national of a state which is a signatory to that Convention or that Charter and who was owed a duty under Part III of the Housing Act 1985 or Part VII of the Housing Act 1996 before 3rd April 2000 which is extant (regulation 3(1)(e) (Class E)).
- (c) A person who is entitled to income-based jobseeker’s allowance or income support by virtue of being temporarily without funds during a period of limited leave to enter or remain in the United Kingdom is not eligible for housing assistance (regulation 3(1)(i) (Class I)).

There are other minor and drafting changes.

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