
STATUTORY INSTRUMENTS

2000 No. 702

HOUSING, ENGLAND

The Allocation of Housing (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 160(4), 161(2) and (3), 162(4), 163(7) and 215(2) of the Housing Act 1996(1), 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 Allocation of Housing (England) Regulations 2000 and shall come into force on 3rd April 2000.

(2) These Regulations extend to England only.

Interpretation

2. In these Regulations—

“the Act” means the Housing Act 1996;

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

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

Cases where the provisions of Part VI of the Act do not apply

3.—(1) The provisions of Part VI of the Act about the allocation of housing accommodation do not apply in the following cases.

(1) 1996 c. 52; see section 215(1) for the definition of “prescribed”. The functions of the Secretary of State under sections 160 to 163 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.

(2) 1971 c. 77.

(2) They do not apply to the allocation of housing accommodation by a local housing authority to a person who is already—

- (a) a secure tenant of the Northern Ireland Housing Executive or a registered housing association within the meaning of Article 25 of the Housing (Northern Ireland) Order 1983⁽³⁾ (secure tenancies);
- (b) a secure tenant under Part III of the Housing (Scotland) Act 1987⁽⁴⁾ (rights of public sector tenants); or
- (c) an assured tenant of accommodation under Part II of the Housing (Scotland) Act 1988⁽⁵⁾ (rented accommodation) (otherwise than under a short assured tenancy within the meaning of section 32 of that Act (short assured tenancies)) where the interest of the landlord belongs to—
 - (i) a housing association registered in the register maintained by Scottish Homes under section 3 of the Housing Associations Act 1985⁽⁶⁾ (the register); or
 - (ii) a person who acquired the accommodation (otherwise than under Part III of the Housing (Scotland) Act 1987) from a district council or islands council constituted under section 2 of the Local Government (Scotland) Act 1973⁽⁷⁾ (constitution of councils of regions, islands areas and districts), a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽⁸⁾ (constitution of councils), or Scottish Homes.

(3) They do not apply where a local housing authority secures the provision of suitable alternative accommodation under section 39 of the Land Compensation Act 1973⁽⁹⁾ (duty to rehouse residential occupiers).

(4) They do not apply in relation to the grant of a secure tenancy under section 554 or 555 of the Housing Act 1985⁽¹⁰⁾ (grant of tenancy to former owner-occupier or statutory tenant of defective dwelling-house).

Classes prescribed under section 161(2) who are qualifying persons

4. The following are classes of persons subject to immigration control prescribed for the purposes of section 161(2) of the Act (allocation only to qualifying persons)—

- (a) Class A—a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951⁽¹¹⁾ as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967⁽¹²⁾;
- (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

⁽³⁾ S.I. 1983/1118 (N.I. 15).

⁽⁴⁾ 1987 c. 26.

⁽⁵⁾ 1998 c. 43.

⁽⁶⁾ 1985 c. 69; section 3 was amended by paragraph 3 of Schedule 6 to the Housing Act 1988 (c. 50); repealed in so far as it extended to England and Wales by Part I of Schedule 19 to the Act; and amended by S.I. 1996/2325.

⁽⁷⁾ 1973 c. 65.

⁽⁸⁾ 1994 c. 39.

⁽⁹⁾ 1973 c. 26; section 39 was amended by Part I of Schedule 2 to the Land Compensation (Scotland) Act 1973 (c. 56), paragraph 40 of Schedule 13 to the Housing Act 1974 (c. 44), paragraph 10 of Schedule 7 to the Development of Rural Wales Act 1976 (c. 75), Part I of Schedule 1 and paragraph 24 of Schedule 2 to the Housing (Consequential Provisions) Act 1985 (c. 71), Part II of Schedule 12 to the Local Government and Housing Act 1989 (c. 42), and paragraph 29 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11).

⁽¹⁰⁾ 1985 c. 68; section 554 was amended by paragraph 61 of Schedule 17 to the Housing Act 1988 (c. 50) and S.I. 1996/2325.

⁽¹¹⁾ Cmnd. 9171.

⁽¹²⁾ Cmnd. 3906.

- (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⁽¹³⁾ or a state which has ratified the European Social Charter done at Turin on 18th October 1961⁽¹⁴⁾ 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⁽¹⁵⁾ (housing the homeless) or Part VII of the 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.

Classes prescribed under section 161(3) who are qualifying persons

5. The following are prescribed classes of persons, other than persons who are subject to immigration control, who are qualifying persons in relation to a local housing authority for the purposes of section 161(3) of the Act (allocation only to qualifying persons)—

- (a) Class F—a person who is aged 18 years or over and who is owed a duty by that authority under—
 - (i) section 193 of the Act (duty to persons with priority need who are not homeless intentionally); or
 - (ii) subsection (2) of section 195 of the Act (duties in case of threatened homelessness) where, in pursuance of the duty under that subsection, the authority secure that accommodation (other than that occupied by that person when he made his application for assistance under Part VII of the Act) is available for occupation by him;
- (b) Class G—a person who is aged 18 years or over—

⁽¹³⁾ Cmnd. 9512.

⁽¹⁴⁾ Cmnd. 2643.

⁽¹⁵⁾ 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.

- (i) who, within the previous two years, has been owed a duty by that authority under section 192(2) or 197(2) of the Act (duty to persons not in priority need who are not homeless intentionally and duty where other suitable accommodation available); and
- (ii) who is not a person who has subsequently been owed a duty by that authority under section 190 of the Act (duties to persons becoming homeless intentionally);
- (c) Class H—a person who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption.

Classes prescribed under section 161(3) who are not qualifying persons

6. The following is a prescribed class of persons, other than persons who are subject to immigration control, who are not qualifying persons in relation to a local housing authority for the purposes of section 161(3) of the Act (allocation only to qualifying persons)—

Class I—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(16) or (EEC) No. 1251/70(17);
- (b) a person with a right to reside in the United Kingdom pursuant to the Immigration (European Economic Area) Order 1994(18) and derived from Council Directive No. 68/360/EEC(19) or No. 73/148/EEC(20);
- (c) a person who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption.

Information in the housing register

7. A local housing authority's housing register shall contain, in relation to each qualifying person,

- (a) the name of the qualifying person;
- (b) the number of other persons who normally reside with him as a member of his family or who might reasonably be expected to reside with him;
- (c) the number of persons falling within paragraphs (a) and (b) above who are—
 - (i) under the age of 10 years;
 - (ii) expecting a child; or
 - (iii) aged 60 years or over;
- (d) the address of the qualifying person;
- (e) the date on which the qualifying person was put on the register; and
- (f) the most recent date on which an entry on the register was amended.

Requirements before removing a person from the housing register

8.—(1) Before removing a person from their housing register under section 163(5) of the Act (operation of housing register) a local housing authority shall give him notice in accordance with this regulation.

(16) 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.

(17) OJ No. L 142 30.6.70, p. 24, Special Edition 1970 (II) p. 402.

(18) S.I. 1994/1895, to which there are amendments not relevant to these Regulations.

(19) 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.

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

- (2) A notice under this regulation shall—
- (a) require the person to provide the authority with such information as they reasonably require to enable them to decide whether to remove him from the register;
 - (b) specify a period of not less than 28 days beginning with the day on which the person receives the notice within which the information must be provided; and
 - (c) inform the person that the authority may decide to remove him from their register if—
 - (i) they do not receive the information within the specified period; or
 - (ii) they consider that in the light of the information they receive within that period there are reasons why he should be removed.

(3) Notice required to be given to a person under this regulation shall be given in writing and, if not received by him, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him.

Revocation

9. The following Regulations are revoked—
- (a) the Allocation of Housing Regulations 1996(21), in so far as they extend to England;
 - (b) regulations 2 and 3 of the Allocation of Housing and Homelessness (Amendment) Regulations 1997(22), in so far as they extend to England;
 - (c) the Allocation of Housing and Homelessness (Amendment) (No. 2) Regulations 1997(23), in so far as they extend to England; and
 - (d) the Allocation of Housing and Homelessness (Amendment) (England) Regulations 1999(24).

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

(21) S.I. 1996/2753; amended by S.I. 1997/631, 1997/2046 and 1999/2135.

(22) S.I. 1997/631; amended by S.I. 2000/701.

(23) S.I. 1997/2046; amended by S.I. 2000/701.

(24) S.I. 1999/2135; amended by S.I. 2000/701.

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 Regulations)

These Regulations revoke and re-enact with changes the Allocation of Housing Regulations 1996 in so far as they extend to England. These Regulations extend to England only.

Regulation 3 makes provision for cases where allocations of housing accommodation by local housing authorities are not subject to Part VI of the Housing Act 1996. Regulations 4 and 5 prescribe classes of persons who qualify, and regulation 6 prescribes a class of persons who do not qualify, to be allocated housing under that Part. Regulation 7 prescribes the information which must be contained in an authority's housing register. Regulation 8 prescribes what an authority must do before exercising their discretion to remove someone from their register. Regulation 9 revokes the Allocation of Housing Regulations 1996 and regulations which amended those Regulations.

These Regulations contain similar provisions to those in the Allocation of Housing Regulations 1996. The main change is as follows. 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 4(e) (Class E)).

There are other minor and drafting changes.

Command Papers 2643, 3906, 9171 and 9512, referred to in these Regulations, are out of print but photocopies of these documents can be obtained by The Stationery Office from the British Lending Library Division (BLLD). Customers, unless already registered with BLLD, should order photocopies from The Photocopying Unit, The Stationery Office, Nine Elms Lane, London SW8 5DR, enclosing the appropriate payment for the copies required. The current cost of each complete copy of Command Paper 2643, 3906 or 9512 is £6.00 and the current cost of each complete copy of Command Paper 9171 is £12.00. Cheques should be made payable to "The Stationery Office".