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STATUTORY INSTRUMENTS

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**2006 No. 1294**

**The Allocation of Housing and Homelessness  
(Eligibility) (England) Regulations 2006**

**Persons subject to immigration control who are eligible for housing assistance**

5.—(1) The following classes of persons subject to immigration control are persons who are eligible for housing assistance under Part 7 of the 1996 Act—

- (a) Class A – a person who is recorded by the Secretary of State as a refugee within the definition in Article 1 of the Refugee Convention and who has leave to enter or remain in the United Kingdom;
- (b) Class B – a person—
  - (i) who has exceptional leave to enter or remain in the United Kingdom granted outside the provisions of the Immigration Rules; and
  - (ii) whose leave to enter or remain 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 is habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and whose leave to enter or remain in the United Kingdom 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 his sponsor;
  - (ii) who has been resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland for less than five years beginning on the date of entry or the date on which his sponsor gave the undertaking 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; and
- (e) Class E – a person who is an asylum-seeker whose claim for asylum is recorded by the Secretary of State as having been made before 3rd April 2000 and in the circumstances mentioned in one of the following paragraphs—
  - (i) on arrival (other than on his re-entry) in the United Kingdom from a country outside the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland;
  - (ii) within three months from the day on which the Secretary of State made a relevant declaration, and the applicant was in Great Britain on the day on which the declaration was made; or

(iii) on or before 4th February 1996 by an applicant who was on 4th February 1996 entitled to benefit under regulation 7A of the Housing Benefit (General) Regulations 1987<sup>(1)</sup> (persons from abroad).

(2) For the purpose of paragraph (1)(e)—

- (a) “asylum-seeker” means a person who is at least 18 years old, who is in the United Kingdom, and who has made a claim for asylum;
- (b) “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;
- (c) “relevant declaration” means a declaration to the effect that the country of which the applicant is a national is subject to such a fundamental change of circumstances that the Secretary of State would not normally order the return of a person to that country; and
- (d) subject to paragraph (3), a person ceases to be an asylum-seeker when his claim for asylum is recorded by the Secretary of State as having been decided (other than on appeal) or abandoned.

(3) For the purposes of paragraph (1)(e)(iii), a person does not cease to be an asylum-seeker as mentioned in paragraph (2)(d) while he is eligible for housing benefit by virtue of—

- (a) regulation 10(6) of the Housing Benefit Regulations 2006<sup>(2)</sup>; or
- (b) regulation 10(6) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(3)</sup>,

as modified in both cases by paragraph 6 of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006<sup>(4)</sup>.

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(1) S.I.1987/1971; amended by S.I. 1996/30; there are other amending instruments, but none is relevant.  
(2) S.I. 2006/213.  
(3) S.I. 2006/214.  
(4) S.I. 2006/217.