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STATUTORY INSTRUMENTS

2020 No. 667

HOUSING, ENGLAND

**The Allocation of Housing and Homelessness (Eligibility)
(England) (Amendment) Regulations 2020**

<i>Made</i>	- - - -	<i>1st July 2020</i>
<i>Laid before Parliament</i>		<i>2nd July 2020</i>
<i>Coming into force</i>	- -	<i>24th August 2020</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 160ZA(2) and 185(2) of the Housing Act 1996(a).

Citation and commencement

1. These Regulations may be cited as the Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2020 and come into force on 24th August 2020.

Amendment of the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006

2. The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006(b) are amended as follows.

Amendments to regulation 2

3. In regulation 2(1) (interpretation)—

(a) in the definition of “the Refugee Convention”, at the end omit “and”;

(b) after the definition of “the Refugee Convention” insert—

““relevant person of Northern Ireland” means a person who—

(a) is—

(i) a British citizen;

(ii) an Irish citizen; or

(iii) a British citizen and an Irish citizen; and

(a) 1996 c. 52. Section 160ZA was inserted by section 146(1) of the Localism Act 2011 (c. 20) and was amended by S.I. 2013/630.

(b) S.I. 2006/1294; relevant amending instruments are S.I. 2006/2527, 2014/435, 2016/965, 2018/730 and 2018/1056; there are other amending instruments but none is relevant.

- (b) was born in Northern Ireland and, at the time of the person’s birth, at least one of their parents was—
 - (i) a British citizen;
 - (ii) an Irish citizen;
 - (iii) a British citizen and an Irish citizen; or
 - (iv) otherwise entitled to reside in Northern Ireland without any restriction on their period of residence; and”.

Amendments to regulation 3

4. In regulation 3 (persons subject to immigration control who are eligible for an allocation of housing accommodation)—

- (a) for paragraph (f) substitute—
 - “(f) Class F – a person—
 - (i) who has limited leave to enter or remain in the United Kingdom on family or private life grounds under Article 8 of the Human Rights Convention that is granted under paragraph 276BE(1), paragraph 276DG or Appendix FM of the Immigration Rules^(a); and
 - (ii) who is not subject to a condition requiring the person to maintain and accommodate himself, and any person dependent upon him, without recourse to public funds;”;
- (b) at the end of paragraph (g), omit “and”;
- (c) at the end of paragraph (h), for “.” substitute “;”;
- (d) after paragraph (h) insert—
 - “(i) Class I – a person (P) who has limited leave to enter or remain in the United Kingdom by virtue of Appendix EU of the Immigration Rules^(b) in circumstances where—
 - (i) P is a family member of a relevant person of Northern Ireland (“RP”) in accordance with those rules; and
 - (ii) P would have been considered eligible under regulation 4(2)(d) if RP were a person specified in regulation 4(2)(a) to (c); and
 - (j) Class J – a person who is habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and who has limited leave to remain in the United Kingdom as a stateless person under paragraph 405 of the Immigration Rules^(c).”.

Amendments to regulation 5

5. In regulation 5(1) (persons subject to immigration control who are eligible for housing assistance)—

- (a) for sub-paragraph (g) substitute—
 - “(g) Class G – a person who—
 - (i) has limited leave to enter or remain in the United Kingdom on family or private life grounds under Article 8 of the Human Rights Convention that is

(a) Rules laid down as mentioned in section 3(2) of the Immigration Act 1971.
 (b) Laid before Parliament on 23rd May 1994 (HC 395), as amended. Appendix EU was laid before Parliament on 20th July 2018 (CM 9675).
 (c) Laid before Parliament on 23rd May 1994 (HC 395), as amended. The rules in relation to stateless persons were introduced in 2013 by the statement of changes to the Immigration Rules: HC1039 which was laid before Parliament on 14th March 2013.

granted under paragraph 276BE(1), paragraph 276DG or Appendix FM of the Immigration Rules; and

- (ii) who is not subject to a condition requiring the person to maintain and accommodate himself, and any person dependent upon him, without recourse to public funds;”;
- (b) at the end of sub-paragraph (h), omit “and”;
- (c) at the end of sub-paragraph (i), for “.” substitute “;”;
- (d) after sub-paragraph (i) insert—
 - “(j) Class J – a person (P) who has limited leave to enter or remain in the United Kingdom by virtue of Appendix EU of the Immigration Rules in circumstances where—
 - (i) P is a family member of a relevant person of Northern Ireland (RP) in accordance with those rules; and
 - (ii) P would have been considered eligible under regulation 6(2)(d) if RP were a person specified in regulation 6(2)(a) to (c); and
 - (k) Class K – a person who is habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and who has limited leave to remain in the United Kingdom as a stateless person under paragraph 405 of the Immigration Rules.”.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Christopher Pincher

Minister of State for Housing and Planning

Ministry of Housing, Communities and Local Government

1st July 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under sections 160ZA(2) and 185(2) of the Housing Act 1996 (c. 52) (“the 1996 Act”), a person who is subject to immigration control is ineligible for an allocation of housing by a local authority or for housing assistance unless they come within a class of persons prescribed in regulations by the Secretary of State.

These Regulations amend the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 (“the Eligibility Regulations”) which make such provision.

Regulation 3 amends regulation 2 of the Eligibility Regulations to add “relevant person of Northern Ireland” to the list of defined terms.

Regulation 4 amends regulation 3 of the Eligibility Regulations which relates to the eligibility of persons subject to immigration control for an allocation of housing accommodation under the 1996 Act. It prescribes two additional classes of persons subject to immigration control who are eligible for an allocation of housing under the 1996 Act.

Class I applies to persons who have been given limited leave to enter or remain in the United Kingdom, on the basis that they are the family member of a ‘relevant person of Northern Ireland’. This change is being made in order to align with the changes made to the Immigration Rules on 14th May 2020 which are contained in Appendix EU of the Immigration Rules. Such a person is eligible for an allocation of housing on the same basis upon which they would have been eligible if they had been the family member of an EEA national worker or self-employed person eligible in accordance with regulation 4 of the Eligibility Regulations.

Class J applies to those who are habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and who have been given limited leave to remain in the United Kingdom under paragraph 405 of the Immigration Rules on the basis that they are a stateless person.

Regulation 4 also corrects a drafting error in regulation 3(f) of the Eligibility Regulations by substituting the provision containing Class F.

Regulation 5 amends regulation 5(1) of the Eligibility Regulations which relates to the eligibility of persons subject to immigration control for homelessness assistance under the 1996 Act. It prescribes two additional classes of person who are eligible for such assistance; Class J - family members of a person of Northern Ireland and Class K - stateless persons (equivalent to Classes I and J, inserted by regulation 4, respectively). It also corrects a drafting error in regulation 5(1)(g) by substituting the provision containing Class G.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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