

2021 No. 1045

IMMIGRATION

HOUSING, ENGLAND

HOUSING, SCOTLAND

HOUSING, NORTHERN IRELAND

**The Allocation of Housing and Homelessness (Eligibility)
(England) and Persons subject to Immigration Control (Housing
Authority Accommodation and Homelessness) (Amendment)
Regulations 2021**

<i>Made</i> - - - -	<i>14th September 2021</i>
<i>Laid before Parliament</i>	<i>15th September 2021</i>
<i>Coming into force</i> - -	<i>16th September 2021</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 160ZA(2) and (4), 172(4), 185(2) and (3) and 215(2) of the Housing Act 1996(a) and sections 118(1), 119(1) and 166(3) of the Immigration and Asylum Act 1999(b).

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Allocation of Housing and Homelessness (Eligibility) (England) and Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) Regulations 2021 and come into force on 16th September 2021.

(2) Regulation 2—

- (a) extends to England and Wales;
- (b) applies in relation to England.

(3) The amendments made by regulation 3 have the same extent and application as the provisions they amend.

(a) 1996 c. 52. Section 160ZA was inserted by section 146(1) of the Localism Act 2011 (c. 20) and amended by S.I. 2013/630. Section 185 was amended by paragraph 7(1) of Schedule 1 to the Homelessness Act 2002 (c. 7), paragraph 4 of Schedule 15 to the Housing and Regeneration Act 2008 (c. 17) and S.I. 2013/630 and 2020/1309. Section 215(1) gives the meaning of “prescribed”.

(b) 1999 c. 33. Section 118(1)(b) was amended by section 43(3) of the Immigration, Asylum and Nationality Act 2006 (c. 13). Section 119 was amended by paragraph 22 of Schedule 15 to the Housing and Regeneration Act 2008 (c. 17) and S.I. 2020/1309.

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

2.—(1) The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006^(a) are amended as follows.

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

- (a) omit paragraph (e);
- (b) at the end of paragraph (j), omit “and”;
- (c) after paragraph (k) insert—
 - “(l) Class L – a person—
 - (i) who is granted leave to enter or remain in the United Kingdom in accordance with the Immigration Rules^(b), where such leave is granted by virtue of—
 - (aa) the Afghan Relocations and Assistance Policy; or
 - (bb) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme); or
 - (ii) with leave to enter or remain in the United Kingdom not coming within sub-paragraph (i), who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021, but excluding a person (P)—
 - (aa) who is subject to a condition requiring P to maintain and accommodate themselves, and any person who is dependent on P, without recourse to public funds; or
 - (bb) who has been given leave to enter or remain in the United Kingdom upon an undertaking given by P’s sponsor and 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 P’s sponsor gave the undertaking in respect of P, whichever date is the later, and whose sponsor or, where there is more than one sponsor, at least one of whose sponsors, is still alive.”

(3) In regulation 4(2) (other persons from abroad who are ineligible for an allocation of housing accommodation)—

- (a) at the end of sub-paragraph (j), omit “and”;
- (b) after sub-paragraph (k) insert—
 - “(l) a person who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021.”

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

- (a) omit sub-paragraph (f);
- (b) at the end of sub-paragraph (k), omit “and”;
- (c) after sub-paragraph (l) insert—
 - “(m)Class M – a person—
 - (i) who is granted leave to enter or remain in the United Kingdom in accordance with the Immigration Rules, where such leave is granted by virtue of—

^(a) S.I. 2006/1294. Relevant amending instrument is S.I. 2021/665.

^(b) See Part 7 of the Immigration Rules. The scheme is contained in Rules 276BA1- 276BS2.

- (aa) the Afghan Relocations and Assistance Policy; or
- (bb) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme); or
- (ii) with leave to enter or remain in the United Kingdom not coming within (i), who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021, but excluding a person (P)—
 - (aa) who is subject to a condition requiring P to maintain and accommodate themselves, and any person who is dependent on P, without recourse to public funds; or
 - (bb) who has been given leave to enter or remain in the United Kingdom upon an undertaking given by P’s sponsor and 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 P’s sponsor gave the undertaking in respect of P, whichever date is the later, and whose sponsor or, where there is more than one sponsor, at least one of whose sponsors, is still alive.”.
- (5) In regulation 6(2) (other persons from abroad who are ineligible for housing assistance)—
 - (a) at the end of sub-paragraph (j), omit “and”;
 - (b) after sub-paragraph (k) insert—
 - “(l) a person who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021.”.

Amendment of the Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000

3.—(1) The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000(a) is amended as follows.

(2) In article 3 (housing authority accommodation—England, Scotland and Northern Ireland), after paragraph (i) insert—

- “(j) Class FD – a person—
 - (i) who is granted leave to enter or remain in the United Kingdom in accordance with the immigration rules, where such leave is granted by virtue of—
 - (aa) the Afghan Relocations and Assistance Policy; or
 - (bb) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme); or
 - (ii) with leave to enter or remain in the United Kingdom not coming within sub-paragraph (i), who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021, but excluding a person (P)—
 - (aa) who is subject to a condition requiring P to maintain and accommodate themselves, and any person who is dependent on P, without recourse to public funds; or
 - (bb) who has been given leave to enter or remain in the United Kingdom upon an undertaking given by P’s sponsor and 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 P’s sponsor gave the undertaking in respect of P,

(a) S.I. 2000/706. Relevant amending instrument is S.I. 2020/825.

whichever date is the later, and whose sponsor or, where there is more than one sponsor, at least one of whose sponsors, is still alive.”.

(3) In article 7(1) (homelessness—Scotland and Northern Ireland), in sub-paragraph (a)—

(a) for “to (i)” substitute “to (j)”;

(b) for “and Class FC” substitute “, Class FC and Class FD”.

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

Eddie Hughes

Parliamentary Under Secretary of State

Ministry of Housing, Communities and Local Government

14th September 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 of these Regulations amends the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 (S.I. 2006/1294) to ensure that persons granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971, where such leave is granted by virtue of the Afghan Relocations and Assistance Policy or the previous scheme for locally-employed staff in Afghanistan (otherwise known as the ex-gratia scheme) and certain persons who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021, are eligible for an allocation of housing accommodation and for housing assistance. The amendments also exempt those persons from the habitual residence test.

Regulation 3 of these Regulations amends the Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000 (S.I. 2000/706) to enable housing authorities in Scotland and Northern Ireland to provide housing accommodation and housing authorities in England, Scotland and Northern Ireland to provide homelessness assistance to those persons referred to above that are subject to immigration control without application of the habitual residence test.

A full Regulatory Impact Assessment has not been prepared for this instrument because the impact on business is not likely to be significant.

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