

2023 No. 530

HOUSING, ENGLAND

HOUSING, SCOTLAND

HOUSING, NORTHERN IRELAND

IMMIGRATION

**The Allocation of Housing and Homelessness (Eligibility)
(England) and Persons Subject to Immigration Control (Housing
Authority Accommodation and Homelessness) (Amendment)
Regulations 2023**

<i>Made</i> - - - -	<i>11th May 2023</i>
<i>Laid before Parliament</i>	<i>12th May 2023</i>
<i>Coming into force</i> - -	<i>15th May 2023</i>

The Secretary of State makes these 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)(a), 119(1) and 166(3) of the Immigration and Asylum Act 1999(b).

Citation, commencement and extent

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 2023 and come into force on 15th May 2023.

(2) This regulation extends to England and Wales, Scotland and Northern Ireland.

(3) The amendments made by regulations 2 and 3 have the same extent as the provisions which 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 section 117(4) of the Immigration and Asylum Act 1999 (c. 33), 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. See section 215(1) for the meaning of “prescribed” in section 185(2) and (3).

(b) 1999 c. 33. Section 119(1) was amended by paragraph 22 of Schedule 15 to the Housing and Regeneration Act 2008.

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), after paragraph (o) insert—

- “(p) Class P — a person who—
- (i) was residing in Sudan before 15th April 2023;
 - (ii) left Sudan in connection with the violence which rapidly escalated on 15th April 2023 in Khartoum and across Sudan;
 - (iii) has leave to enter or remain in the United Kingdom given in accordance with the Immigration Rules^(b);
 - (iv) is not a person whose leave is subject to a condition requiring that person to maintain and accommodate themselves, and any person who is dependent on that person, without recourse to public funds; and
 - (v) is not a person (“P”)—
 - (aa) who has been given leave upon an undertaking given by P’s sponsor;
 - (bb) 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 P’s sponsor gave the undertaking in respect of P, whichever date is later; and
 - (cc) whose sponsor, or where there is more than one sponsor, at least one of whose sponsors, is still alive.”.

(3) In regulation 4(2) (persons not to be treated as persons from abroad who are ineligible for an allocation of housing accommodation), after sub-paragraph (m) insert—

- “(n) a person who was residing in Sudan before 15th April 2023 and left Sudan in connection with the violence which rapidly escalated on 15th April 2023 in Khartoum and across Sudan.”.

(4) In regulation 5(1) (persons subject to immigration control who are eligible for housing assistance), after sub-paragraph (p) insert—

- “(q) Class Q — a person who—
- (i) was residing in Sudan before 15th April 2023;
 - (ii) left Sudan in connection with the violence which rapidly escalated on 15th April 2023 in Khartoum and across Sudan;
 - (iii) has leave to enter or remain in the United Kingdom given in accordance with the Immigration Rules;
 - (iv) is not a person whose leave is subject to a condition requiring that person to maintain and accommodate themselves, and any person who is dependent on that person, without recourse to public funds; and
 - (v) is not a person (“P”)—

^(a) S.I. 2006/1294. Relevant amending instruments are S.I. 2022/339 and 1371.

^(b) See regulation 2(1) of S.I. 2006/1294 for the meaning of “the Immigration Rules”.

- (aa) who has been given leave upon an undertaking given by P’s sponsor;
- (bb) 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 P’s sponsor gave the undertaking in respect of P, whichever date is the later; and
- (cc) whose sponsor or, where there is more than one sponsor, at least one of whose sponsors, is still alive.”.

(5) In regulation 6(2) (persons not to be treated as persons from abroad who are ineligible for housing assistance), after sub-paragraph (m) insert—

“(n) a person who was residing in Sudan before 15th April 2023 and left Sudan in connection with the violence which rapidly escalated on 15th April 2023 in Khartoum and across Sudan.”.

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 (m) insert—

- “(n) Class FH — a person who—
- (i) was residing in Sudan before 15th April 2023;
 - (ii) left Sudan in connection with the violence which rapidly escalated on 15th April 2023 in Khartoum and across Sudan;
 - (iii) has leave to enter or remain in the United Kingdom given in accordance with the immigration rules(b);
 - (iv) is not a person whose leave is subject to a condition requiring that person to maintain and accommodate themselves, and any person who is dependent on that person, without recourse to public funds; and
 - (v) is not a person (“P”)—
 - (aa) who has been given leave upon an undertaking given by P’s sponsor;
 - (bb) 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 P’s sponsor gave the undertaking in respect of P, whichever date is the later; and
 - (cc) whose sponsor or, where there is more than one sponsor, at least one of whose sponsors, is still alive.”.

(a) S.I. 2000/706. Relevant amending instrument is S.I. 2022/242.
 (b) See article 2 of S.I. 2000/706 for the meaning of “the immigration rules”.

- (3) In article 7(1) (homelessness — Scotland and Northern Ireland), in sub-paragraph (a)—
- (a) for “3(g) to (m)” substitute “3(g) to (n)”;
 - (b) for “and Class FG” substitute “, Class FG and Class FH”.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

11th May 2023

Felicity Buchan
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

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). The amendments ensure that certain persons who were residing in Sudan before 15th April 2023 and left Sudan in connection with the violence which rapidly escalated in Khartoum and across Sudan on that date are eligible for an allocation of housing accommodation and for housing assistance in England. Such a person subject to immigration control will be eligible if they have been given leave to enter or remain in the United Kingdom in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971 (c. 77), provided that their leave is not subject to the condition that there must be ‘no recourse to public funds’ and that their leave was not granted because of a maintenance undertaking which is still applicable. The amendments also exempt persons leaving Sudan in those circumstances who are not subject to immigration control, but are usually subject to the habitual residence test, from that test.

Regulation 3 of these Regulations amends the Persons subject to Immigration Control (Housing Authority and Accommodation and Homelessness) Order 2000 (S.I. 2000/706). Those amendments enable housing authorities in England, Scotland and Northern Ireland to provide housing accommodation under the accommodation provisions in s. 118 of the Immigration and Asylum Act 1999 (c. 33) to those persons subject to immigration control referred to above. They also enable housing authorities in Scotland and Northern Ireland to provide homelessness assistance to those persons.

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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