

2006 No. 1294
HOUSING, ENGLAND

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

Made - - - 11th May 2006
Laid before Parliament 11th May 2006
Coming into force - - 1st June 2006

[As amended by S.I. Nos. 2006/2527; 2012/2588; 2013/1467; 2014/435, 2016/965 and 2018/730¹]

The Secretary of State, in exercise of the powers conferred by sections 160A(3) and (5), 172(4), 185(2) and (3) and 215(2) of the Housing Act 1996 makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 and shall come into force on 1st June 2006.

(2) These Regulations apply to England only.

Interpretation

2.—(1) In these Regulations—

“the 1996 Act” means the Housing Act 1996;

▶²◀

▶³◀

▶⁴“the Accession Regulations 2013” means the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013;◀

“the EEA Regulations” means the Immigration (European Economic Area) Regulations 2006;

▶⁵“the Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom;◀

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

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967; and

“sponsor” means a person who has given an undertaking in writing for the purposes of the Immigration Rules to be responsible for the maintenance and accommodation of another person.

(2) For the purposes of these Regulations—

(a) “jobseeker”, “self-employed person”, and “worker” have the same meaning as for the purposes of the definition of a ‘qualified person’ in regulation 6(1) of the EEA Regulations; and

(b) subject to paragraph (3), references to the family member of a jobseeker, self-employed person or worker shall be construed in accordance with regulation 7 of those Regulations.

¹ Amendments also made by S.I. Nos.: 2006/2007; 2006/3340; 2009/358 and 2012/1809, but none surviving subsequent amendments.

² Definition “the Accession Regulations 2004” omitted by S.I. 2013/1467 reg. 2(2)(a).

³ Definition “the Accession Regulations 2006” omitted by S.I. 2006/435 reg. 2(2)(a).

⁴ Definition substituted by S.I. 2013/1467 reg. 2(2)(b).

⁵ Definition inserted by S.I. 2016/965 reg. 2(2).

(3) For the purposes of regulations 4(2)(d) and 6(2)(d) “family member” does not include a person who is treated as a family member by virtue of regulation 7(3) of the EEA Regulations.

►⁶◄

Persons subject to immigration control who are eligible for an allocation of housing accommodation

3. The following classes of persons subject to immigration control are persons who are eligible for an allocation of housing accommodation under Part 6 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) who 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; ►⁷◄
- ⁸(d) Class D - a person who has humanitarian protection granted under the Immigration Rules◄◄⁹;
►¹⁰◄◄
- ¹¹(e) ►¹² Class E -◄ 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 enter the United Kingdom as a relevant Afghan citizen under paragraph 276BA1 of the Immigration Rules►¹³; ◄◄
- ¹⁴(f) Class F – a person 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, such leave granted—
 - (i) under paragraph 276BE(1), paragraph 276DG or Appendix FM of the Immigration Rules(2), and
 - (ii) who is not subject to a condition requiring that person to maintain and accommodate himself, and any person dependent upon him, without recourse to public funds►¹⁵; ◄◄
- ¹⁶(g) Class G – 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 been transferred to the United Kingdom under section 67 of the Immigration Act 2016(2) and has limited leave to remain under paragraph 352ZH of the Immigration Rules►¹⁷; and◄◄
- ¹⁸(h) Class H – a person who is habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and has Calais leave to remain under paragraph 352J of the Immigration Rules.►

⁶ Paragraph (4) omitted by S.I. 2014/435 reg. 2(2)(b).

⁷ Words omitted by S.I. 2014/435 reg. 2(3)(a).

⁸ Sub-paragraph (d) substituted by S.I. 2006/2527 reg. 2(2).

⁹ Semi-colon and word substituted for full stop by S.I. 2014/435 reg. 2(3)(b).

¹⁰ Word omitted by S.I. 2016/965 reg. 2(3)(a).

¹¹ Sub-paragraph (e) inserted by S.I. 2014/435 reg. 2(3)(c).

¹² Words inserted by S.I. 2016/965 reg. 2(3)(b)(i).

¹³ Word omitted by S.I. 2018/730 reg. 2(2)(a).

¹⁴ Sub-paragraph (f) inserted by S.I. 2016/965 reg. 2(3)(c).

¹⁵ Word omitted by S.I. 2018/1056 reg. 3(a).

¹⁶ Sub-paragraph (g) inserted by S.I. 2018/730 reg. 2(2)(c).

¹⁷ Full stop substituted by S.I. 2018/1056 reg. 3(b).

¹⁸ Sub-paragraph (h) inserted by S.I. 2018/1056 reg. 3(c).

Other persons from abroad who are ineligible for an allocation of housing accommodation

4.—(1) A person who is not subject to immigration control is to be treated as a person from abroad who is ineligible for an allocation of housing accommodation under Part 6 of the 1996 Act if—

- (a) subject to paragraph (2), he is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man, or the Republic of Ireland;
- (b) his only right to reside in the United Kingdom—
 - (i) is derived from his status as a jobseeker or the family member of a jobseeker; or
 - (ii) is an initial right to reside for a period not exceeding three months under regulation 13 of the EEA Regulations; or
 - ▶¹⁹(iii) is a derivative right to reside to which he is entitled under regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in regulation 15A(4A) of those Regulations; or
 - (iv) is derived from Article 20 of the Treaty on the Functioning of the European Union, in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen; or ◀
- ▶²⁰(c) his only right to reside in the Channel Islands, the Isle of Man or the Republic of Ireland—
 - (i) is a right equivalent to one of those mentioned in sub-paragraphs (b)(i),(ii) or (iii) which is derived from the Treaty on the Functioning of the European Union; or
 - (ii) is derived from Article 20 of the Treaty on the Functioning of the European Union, in a case where the right to reside —
 - (a) in the Republic of Ireland arises because an Irish citizen, or
 - (b) in the Channel Islands or the Isle of Man arises because a British citizen also entitled to reside therewould otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen. ◀

(2) The following are not to be treated as persons from abroad who are ineligible for an allocation of housing accommodation pursuant to paragraph (1)(a)—

- (a) a worker;
- (b) a self-employed person;
- ▶²¹(c) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the EEA Regulations pursuant to ▶²²◀—
 - ▶²³◀
 - (ii) regulation 5 of the Accession Regulations 2013 (right of residence of an accession State national subject to worker authorisation); ◀
- (d) a person who is the family member of a person specified in sub-paragraphs (a)-(c);
- (e) a person with a right to reside permanently in the United Kingdom by virtue of regulation 15(c), (d) or (e) of the EEA Regulations; ▶²⁴ and ◀
- ▶²⁵ ◀
- (g) a person who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom ▶²⁶. ◀
- ▶²⁷ ◀
- ▶²⁸ ◀

¹⁹ Sub-paragraphs (b)(iii) and (iv) inserted by S.I. 2012/2588 reg. 2(2).

²⁰ Paragraph (1)(c) substituted by S.I. 2012/2588 reg. 2(3).

²¹ Sub-paragraph (2)(c) substituted by S.I. 2013/1467 reg. 2(3).

²² Word omitted by S.I. 2014/435 reg. 2(4)(a)(i).

²³ Sub-paragraph (2)(c)(i) omitted by S.I. 2014/435 reg. 2(4)(a)(ii).

²⁴ Word inserted S.I. 2014/435 reg. 2(4)(b).

²⁵ Sub-paragraph (2)(f) omitted by S.I. 2014/435 reg. 2(6)(c).

²⁶ Full stop substituted for semi-colon by S.I. by 2014/435 reg. 2(6)(d).

²⁷ Sub-paragraph (2)(h) omitted by S.I. by 2014/435 reg. 2(6)(c).

²⁸ Sub-paragraph (2)(i) omitted by S.I. by 2014/435 reg. 2(6)(c).

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;
- ▶²⁹(d) Class D - a person who has humanitarian protection granted under the Immigration Rules;◀▶³⁰◀
▶³¹◀
- ▶³²(f) Class F - 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 enter the United Kingdom as a relevant Afghan citizen under paragraph 276BA1 of the Immigration Rules▶³³;◀◀
- ▶³⁴(g) Class G - a person 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, such leave granted—
 - (i) under paragraph 276BE(1), paragraph 276DG or Appendix FM of the Immigration Rules, and
 - (ii) who is not subject to a condition requiring that person to maintain and accommodate himself, and any person dependent upon him, without recourse to public funds▶³⁵;◀◀
- ▶³⁶(h) Class H – 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 been transferred to the United Kingdom under section 67 of the Immigration Act 2016(3) and has limited leave to remain under paragraph 352ZH of the Immigration Rules▶³⁷; and
- ▶³⁸(i) Class I – a person who is habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and has Calais leave to remain under paragraph 352J of the Immigration Rules.
- ▶³⁹◀

Other persons from abroad who are ineligible for housing assistance

6.—(1) A person who is not subject to immigration control is to be treated as a person from abroad who is ineligible for housing assistance under Part 7 of the 1996 Act if—

²⁹ Sub-paragraph (1)(d) substituted by S.I. 2006/2527 reg. 2(3).

³⁰ Word omitted by S.I. 2014/435 reg. 2(5)(a).

³¹ Sub-paragraph (1)(e) omitted by S.I. 2016/965 reg. 2(4)(a).

³² Sub-paragraph (1)(f) inserted by S.I. 2014/435 reg. 2(5)(c).

³³ Word omitted by S.I. 2018/730 reg. 2(3)(a).

³⁴ Sub-paragraph (g) inserted by S.I. 2016/965 reg. 2(4)(c).

³⁵ Word omitted by S.I. 2018/1056 reg. 4(a).

³⁶ Sub-paragraph (h) inserted by S.I. 2018/730 reg. 2(3)(c).

³⁷ Full stop substituted by S.I. 2018/1056 reg. 4(b).

³⁸ Sub-paragraph (i) inserted by S.I. 2018/1056 reg. 4(c).

³⁹ Paragraphs (2) and (3) omitted by S.I. 2016/965 reg. 2(4)(d).

- (a) subject to paragraph (2), he is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man, or the Republic of Ireland;
- (b) his only right to reside in the United Kingdom—
 - (i) is derived from his status as a jobseeker or the family member of a jobseeker; or
 - (ii) is an initial right to reside for a period not exceeding three months under regulation 13 of the EEA Regulations; or
 - ▶⁴⁰(iii) is a derivative right to reside to which he is entitled under regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in regulation 15A(4A) of those Regulations; or
 - (iv) is derived from Article 20 of the Treaty on the Functioning of the European Union, in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen; or◀
- ▶⁴¹(c) his only right to reside in the Channel Islands, the Isle of Man or the Republic of Ireland—
 - (i) is a right equivalent to one of those mentioned in sub-paragraphs (b)(i),(ii) or (iii) which is derived from the Treaty on the Functioning of the European Union; or
 - (ii) is derived from Article 20 of the Treaty on the Functioning of the European Union, in a case where the right to reside —
 - (a) in the Republic of Ireland arises because an Irish citizen, or
 - (b) in the Channel Islands or the Isle of Man arises because a British citizen also entitled to reside there
 would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen.◀

(2) The following are not to be treated as persons from abroad who are ineligible for housing assistance pursuant to paragraph (1)(a)—

- (a) a worker;
- (b) a self-employed person;
- ▶⁴²(c) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the EEA Regulations pursuant to ▶⁴³◀—
 - ▶⁴⁴◀
 - (ii) regulation 5 of the Accession Regulations 2013 (right of residence of an accession State national subject to worker authorisation); ◀
- (d) a person who is the family member of a person specified in sub-paragraphs (a)-(c);
- (e) a person with a right to reside permanently in the United Kingdom by virtue of regulation ⁴⁵15(1)(c), (d) or (e) of the EEA Regulations; ▶⁴⁶and◀
- ▶⁴⁷◀
- (g) a person who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom▶⁴⁸.◀
- ▶⁴⁹◀
- ▶⁵⁰◀

Revocation

7. Subject to regulation 8, the Regulations specified in column (1) of the Schedule are revoked to the extent mentioned in column (3) of the Schedule.

⁴⁰ Sub-paragraphs (1)(b)(iii) and (iv) inserted by S.I. 2012/2588 reg. 2(4).

⁴¹ Sub-paragraph (1)(c) substituted by S.I. 2012/2588 reg. 2(5)

⁴² Sub-paragraph (2)(c) substituted by S.I. 2013/1467 reg. 2(3).

⁴³ Word omitted by S.I. 2014/435 reg. 2(6)(a)(i).

⁴⁴ Sub-paragraph (2)(c)(i) omitted by S.I. 2014/435 reg. 2(6)(a)(ii).

⁴⁵ Regulation 15(1) of EEA Regulations is implied paragraph ‘(1)’ missing from original text.

⁴⁶ Word inserted by S.I. 2014/435 reg. 2(6)(b).

⁴⁷ Sub-paragraph (2)(f) omitted by S.I. 2014/435 reg. 2(6)(c).

⁴⁸ Full stop substituted by S.I. 2014/435 reg. 2(6)(d).

⁴⁹ Sub-paragraph (2)(h) omitted by S.I. 2014/435 reg. 2(6)(c).

⁵⁰ Sub-paragraph (2)(i) omitted by S.I. 2014/435 reg. 2(6)(c).

Transitional provisions

8. The revocations made by these Regulations shall not have effect in relation to an applicant whose application for—

(a) an allocation of housing accommodation under Part 6 of the 1996 Act; or

(b) housing assistance under Part 7 of the 1996 Act,

was made before 1st June 2006.

Signed by authority of the Secretary of State

11th May 2006

Yvette Cooper

Minister of State

Department for Communities and Local Government

SCHEDULE

Regulation 7

Revocation schedule

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Regulations Revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Homelessness (England) Regulations 2000	SI 2000/701	The whole Regulations
The Allocation of Housing (England) Regulations 2002	SI 2002/3264	Regulations 4 and 5
The Allocation of Housing and Homelessness (Amendment) (England) Regulations 2004	SI 2004/1235	The whole Regulations
The Allocation of Housing and Homelessness (Amendment) (England) Regulations 2006	SI 2006/1093	The whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

[Omitted]