The Welsh Ministers make the following Regulations in exercise of the powers conferred on the Secretary of State by sections 160A(3) and (5), 172(4), 185(2) and (3) and 215(2) of the Housing Act 1996(1), and which are now vested in the Welsh Ministers:

Title, commencement and application
1.—(1) The title of these Regulations is the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 and they come into force on 31 October 2014.

(2) These Regulations apply to Wales.

Interpretation
2.—(1) In these Regulations—

“the 1996 Act” means the Housing Act 1996;
“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;
“the Human Rights Convention” (“y Confensiwn Hawliau Dynol”) 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; and
“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.

(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.

---

1 Definition “the Human Rights Convention” inserted by S.I. 2017/698 reg. 2(2) as from 22/06/2017.
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) whose leave to enter or remain is not 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;

(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 the person’s 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 the undertaking was given in respect of the person, 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 has humanitarian protection granted under the Immigration Rules;

(e) 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;

(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 under paragraph 276BE(1), paragraph 276DG or Appendix FM of the Immigration Rules, and who is not 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;

(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 relocated to the United Kingdom under section 67 of the Immigration Act 2016 and has limited leave to remain under paragraph 352ZH of the immigration rules; and

(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 granted Calais leave to remain in the United Kingdom under paragraph 352J of the immigration rules.

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), the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man, or the Republic of Ireland;

(b) the person’s only right to reside in the United Kingdom—
   (i) is derived from the person’s 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

---

2 Word omitted by S.I. 2017/698 reg. 2(3)(a) as from 22/06/2017.
4 Paragraph (f) inserted by S.I. 2017/698 reg. 2(3)(c) as from 22/06/2017.
6 Paragraphs (g) and (h) inserted by S.I. 2019/1041 reg. 2(2)(c) as from 19/07/2019.
(iii) is a derivative right to reside to which the person 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 of 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

(c) the person’s 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 —

(aa) in the Republic of Ireland arises because an Irish citizen, or

(bb) 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.

7 (1A) For the purposes of determining whether the only right to reside that a person has is of a kind mentioned in paragraph (1)(b) or (c), a right to reside by virtue of having been granted limited leave to enter or remain in the United Kingdom under the Immigration Act 1971 by virtue of Appendix EU to the immigration rules made under section 3 of that Act is to be disregarded.

(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;

(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 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(1)(c), (d) or (e) of the EEA Regulations; and

(f) a person who is in the United Kingdom as a result of the person’s deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

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 that person to maintain and accommodate themselves, and any person who is dependent on that person, 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 the person’s sponsor;

Paragraph (1A) inserted by S.I. 2019/1041 reg. 2(3) as from 19/07/2019.
(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 on the date on which the undertaking was in respect of the person, 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 has humanitarian protection granted under the Immigration Rules;

(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;

(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 under paragraph 276BE(1), paragraph 276DG or Appendix FM of the Immigration Rules, and who is not 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;

(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 relocated to the United Kingdom under section 67 of the Immigration Act 2016 and has limited leave to remain under paragraph 352ZH of the immigration rules; and

(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.

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—

(a) subject to paragraph (2), the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man, or the Republic of Ireland;

(b) the person’s only right to reside in the United Kingdom—

(i) is derived from the person’s 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

(iii) is a derivative right to reside to which the person 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

(c) the person’s 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 —

(aa) in the Republic of Ireland arises because an Irish citizen, or

Paragraphs (2) and (3) omitted by S.I. 2017/698 reg. 2(4)(d) as from 22/06/2017.

Paragraph (1)(g) inserted by S.I. 2017/698 reg. 2(4)(c) as from 22/06/2017.


Paragraphs (1)(h) and (1)(i) inserted by S.I. 2019/1149 reg. 2(2)(c) as from 19/07/2019.

Paragraph (1)(c) omitted by S.I. 2017/698 reg. 2(4)(a) as from 22/06/2017.

(bb) 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.

14 (1A) For the purposes of determining whether the only right to reside that a person has is of a kind mentioned in paragraph (1)(b) or (c), a right to reside by virtue of having been granted limited leave to enter or remain in the United Kingdom under the Immigration Act 1971 by virtue of Appendix EU to the immigration rules made under section 3 of that Act is to be disregarded.

(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;
(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 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(1)(c), (d) or (e) of the EEA Regulations; and
(f) a person who is in the United Kingdom as a result of the person’s deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

Revocation

7. Subject to regulation 8, the following are revoked—

(a) regulations 4 and 5 of the Allocation of Housing (Wales) Regulations 2003;
(b) the Homelessness (Wales) Regulations 2006;
(c) the Allocation of Housing (Wales) (Amendment) Regulations 2006; and
(d) the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2009.

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 the coming into force of these Regulations.

Lesley Griffiths

24 September 2014
Minister for Communities and Tackling Poverty, one of the Welsh Ministers

14 Paragraph (1A) inserted by S.I. 2019/1149 reg. 2(3) as from 19/07/2019.
15 Words substituted by S.I. 2017/698 reg. 2(5) as from 22/06/2017 (and prior to that the words “housing assistance” were implied because the original words “an allocation of housing accommodation” did not make sense).