

STATUTORY INSTRUMENTS

2000 No. 706

IMMIGRATION

[...]

HOUSING, SCOTLAND

HOUSING, NORTHERN IRELAND

The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000

Made	7th March 2000
Laid before Parliament	13th March 2000
Coming into force	3rd April 2000

[As amended by SI 2005 No 1379¹, SI 2006 No 2521, SI 2008 No 1768, and SI 2018 No 729]

In exercise of the powers conferred on him by sections 118, 119 and 166(3) of the Immigration and Asylum Act 1999, the Secretary of State hereby makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000 and shall come into force on 3rd April 2000.

(2) This Order does not extend to Wales.

(3) Article 4 extends to England only.

(4) Articles 5 and 8 extend to Northern Ireland only.

(5) Articles 6 and 9 extend to Scotland only.

(6) Article 7 extends to Scotland and Northern Ireland only.

Interpretation

2. In this Order—

“the 1971 Act” means the Immigration Act 1971;

“the 1985 Act” means the Housing Act 1985;



¹ No amendments from SI 2005/1379 surviving subsequent changes.

“the 1999 Act” means the Immigration and Asylum Act 1999;

“asylum-seeker” means a person who is not under 18 and who made a claim for asylum which is recorded by the Secretary of State as having been made on or before 2nd April 2000 but which has not been determined;

“child in need” means a child–

- (a) who is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under Part III of the Children Act 1989 (local authority support for children and families);
- (b) whose health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) who is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed by regulations made under section 17 of the Children Act 1989 (provision of services for children in need, their families and others);

“claim for asylum” means a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention for the claimant to be removed from, or required to leave, the United Kingdom;

“Common Travel Area” means the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively;

“designated course” means a course of any kind designated by regulations made by the Secretary of State for the purposes of paragraph 10 of Schedule 1 to the 1985 Act (student lettings which are not secure tenancies);

“development” means physical, intellectual, emotional, social or behavioural development;

“educational establishment” means a university or institution which provides further education or higher education (or both); and for the purposes of this definition “further education” has the same meaning as in section 2 of the Education Act 1996 (definition of further education) and “higher education” means education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988 (courses of higher education);

“family”, in relation to a child in need, includes any person who has parental responsibility for the child and any other person with whom he has been living;

“full-time course” means a course normally involving not less than 15 hours attendance a week in term time for the organised day-time study of a single subject or related subjects;

“health” means physical or mental health;

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



² Definition of “the 1995 Act” omitted by art. 2(2) of S.I. 2008/1768.

³ Definition of “limited leave” omitted by art. 2(2) of S.I. 2008/1768.

“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;

“specified education institution” means—

- (d) a university or other institution within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992 (interpretation of Education Acts), in respect of a university or other institution in England, or section 56(2) of the Further and Higher Education (Scotland) Act 1992 (interpretation of Part II), in respect of a university or other institution in Scotland;
- (e) an institution in England within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992;
- (f) a college of further education in Scotland which is under the management of an education authority or which is managed by a board of management in terms of Part I of the Further and Higher Education (Scotland) Act 1992 (further education in Scotland);
- (g) a central institution in Scotland within the meaning of section 135(1) of the Education (Scotland) Act 1980 (interpretation);
- (h) an institution in England which provides a course qualifying for funding under Part I of the Education Act 1994 (teaching training);
- (i) a higher education institution in Northern Ireland within the meaning of Article 30(3) of the Education and Libraries (Northern Ireland) Order 1993 (funding by Department of higher education); or
- (j) an institution of further education in Northern Ireland within the meaning of Article 3 of the Further Education (Northern Ireland) Order 1997 (definition of “further education”).

Housing authority accommodation—England, Scotland and Northern Ireland

3. The following are classes of persons specified for the purposes of section 118(1) of the 1999 Act (housing authority accommodation) in respect of England, Scotland and Northern Ireland—

- (a) Class A—a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Refugee Convention;
- ▶⁴ (b) Class B—a person—
 - (i) who has leave to enter or remain in the United Kingdom granted outside the provisions of the immigration rules; and ◀
 - (ii) whose leave 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;
- ▶⁵ (bb) Class BA—a person who has humanitarian protection granted under the immigration rules ◀;

⁴ Sub-paragraph (b)(i) substituted by art. 2(2) of S.I. 2006/2521.

⁵ Paragraph (bb) inserted by art. 2(2) of SI 2006/2521.

(c) Class C—a person who has current leave to enter or remain in the United Kingdom which is not subject to any limitation or condition and who is habitually resident in the Common Travel Area other than a person—

(i) who has been given leave to enter or remain in the United Kingdom upon an undertaking given by another person (his “sponsor”) in writing in pursuance of the immigration rules to be responsible for his maintenance and accommodation;

(ii) who has been resident in the United Kingdom for less than five years beginning on the date of entry or the date on which the undertaking was given 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;

(d) Class D—a person who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption;

▶⁶◀

(f) Class F—a person who is attending a full-time course at a specified education institution in a case where the housing accommodation which is or may be provided to him—

(i) is let by a housing authority to that specified education institution for the purposes of enabling that institution to provide accommodation for students attending a full-time course at that institution; and

(ii) would otherwise be difficult for that housing authority to let on terms which, in the opinion of the housing authority, are satisfactory▶⁷; ◀

▶⁸(g) Class FA – a person 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. ◀

4. [Omitted – not Scotland]

5. [Omitted – not Scotland]

Housing authority accommodation—Scotland

6. The following are classes of persons specified for the purposes of section 118(1) of the 1999 Act in respect of Scotland—

(a) Class O—a person who is a secure tenant within the meaning of Part III of the Housing (Scotland) Act 1987 (rights of public sector tenants);

(b) Class P—a person who is owed a duty under section 29 (interim duty to accommodate in case of apparent priority need), 31 (duties to persons found to be homeless), 32 (duties to persons found to be threatened with homelessness) or 34 (duties to persons whose applications are referred to another local authority) of the Housing (Scotland) Act 1987.

⁶ Paragraph (e) (Class E) omitted by art. 2(3) of SI 2008/1768.

⁷ Full stop substitution implied by art. 2(2) of SI 2018/729.

⁸ Paragraph (g) inserted by art. 2(2)(a) of SI 2018/729.

Homelessness—Scotland and Northern Ireland

7.—(1) The following are classes of persons specified for the purposes of section 119(1) of the 1999 Act (homelessness: Scotland and Northern Ireland) in respect of Scotland and Northern Ireland—►⁹

- (a) the classes specified in article 3(a) to (d) and the class specified in article 3(g) (Class A, Class B, Class BA, Class C, Class D and Class FA)◄;
- (b) Class Q—a person who is an asylum-seeker and who made a claim for asylum—
 - i. which is recorded by the Secretary of State as having been made on his arrival (other than on re-entry) in the United Kingdom from a country outside the Common Travel Area; and
 - ii. which has not been recorded by the Secretary of State as having been either decided (other than on appeal) or abandoned;
- (c) Class R—a person who is an asylum-seeker and—
 - i. who made a relevant claim for asylum on or before 4th February 1996; and
 - ii. who was, on 4th February 1996, entitled to benefit under regulation 7A of the Housing Benefit (General) Regulations 1987(1) (persons from abroad) or regulation 7A of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (persons from abroad).

(2) In paragraph (1)(c)(i), a relevant claim for asylum is a claim for asylum which—

- (a) has not been recorded by the Secretary of State as having been either decided (other than on appeal) or abandoned; or
- (b) has been recorded as having been decided (other than on appeal) on or before 4th February 1996 and in respect of which an appeal is pending which—
 - i. was pending on 5th February 1996; or
 - ii. was made within the time limits specified in the rules of procedure made under section 22 of the 1971 Act (procedure).

8. [Omitted – not Scotland]

Homelessness—Scotland

9. ►¹⁰ The following is a class of person specified for the purposes of section 119(1) of the 1999 Act in respect of Scotland—

Class V—a person who is an asylum-seeker and—

- (a) who was in Great Britain when the Secretary of State made a declaration to the effect that the country of which that person is a national is subject to such a fundamental change in circumstances that he would not normally order the return of a person to that country;
- (b) who made a claim for asylum which is recorded by the Secretary of State as having been made within a period of three months from the day on which that declaration was made; and

⁹ Sub-paragraph (1)(a) substituted by art. 2(3) of S.I. 2018/729 (replacing previous substitution made by SI 2008/1768).

¹⁰ Art. 9 substituted by art. 2(6) of S.I. 2008/1768 (replacing previous substitution made by SI 2005/1379).

(c) whose claim for asylum has not been recorded by the Secretary of State as having been either decided (other than on appeal) or abandoned. ◀

10. [*Omitted – revocations*]