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STATUTORY INSTRUMENTS

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**1996 No. 2753**

**HOUSING, ENGLAND AND WALES**

**The Allocation of Housing Regulations 1996**

<i>Made</i>	- - - -	<i>30th October 1996</i>
<i>Laid before Parliament</i>		<i>31st October 1996</i>
<i>Coming into force</i>	- -	<i>20th January 1997</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 160(4), 161(2) and (3), 162(4) and 163(7) of the Housing Act 1996<sup>(1)</sup>, and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Allocation of Housing Regulations 1996 and shall come into force on 20th January 1997.

**Interpretation**

2. In these Regulations—

“the Act” means the Housing Act 1996;

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

“the Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951<sup>(2)</sup>, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967<sup>(3)</sup>;

“EEA national” means a national of a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993; and

“the immigration rules” means the immigration rules within the meaning of the Immigration Act 1971<sup>(4)</sup>.

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(1) 1996 c. 52.  
(2) Cmd. 9171.  
(3) Cmd. 3906.  
(4) 1971 c. 77.

### Cases where the provisions of Part VI of the Act do not apply

3.—(1) The provisions of Part VI of the Act about the allocation of housing accommodation do not apply in the following cases.

(2) They do not apply to the allocation of housing accommodation by a local housing authority to a person who is already—

- (a) a secure tenant under Part II of the Housing (Northern Ireland) Order 1983<sup>(5)</sup> (secure tenants) where the estate of the landlord belongs to the Northern Ireland Housing Executive,
- (b) a secure tenant under Part III of the Housing (Scotland) Act 1987<sup>(6)</sup> (rights of public sector tenants), or
- (c) an assured tenant of accommodation under Part II of the Housing (Scotland) Act 1988<sup>(7)</sup> (rented accommodation) (otherwise than under a short assured tenancy within the meaning given by section 32 of that Act) where the interest of the landlord belongs to—
  - (i) a housing association registered in the register maintained by Scottish Homes under section 3 of the Housing Associations Act 1985<sup>(8)</sup> (the register), or
  - (ii) a person who acquired the accommodation (otherwise than under Part III of the Housing (Scotland) Act 1987) from a district council or islands council constituted under section 2 of the Local Government (Scotland) Act 1973<sup>(9)</sup> (constitution of councils of regions, islands areas and districts), a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(10)</sup> (constitution of councils), or Scottish Homes.

(3) They do not apply where a local housing authority secures the provision of suitable alternative accommodation under section 39 of the Land Compensation Act 1973<sup>(11)</sup> (duty to rehouse residential occupiers).

(4) They do not apply in relation to the grant of a secure tenancy under section 554 or 555 of the Housing Act 1985<sup>(12)</sup> (grant of tenancy to former owner-occupier or statutory tenant of defective dwelling-house).

### Classes prescribed under section 161(2) who are qualifying persons

4. The following are the classes of persons prescribed for the purposes of section 161(2) of the Act (allocation only to qualifying persons)—

Class A—a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention;

Class B—a person—

- (i) who has been granted by the Secretary of State exceptional leave to enter or remain in the United Kingdom outside the provisions of the immigration rules; and

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(5) S.I.1983/1118 (N.I. 15).

(6) 1987 c. 26.

(7) 1988 c. 43.

(8) 1985 c. 69; section 3 was amended by the Housing Act 1988 (c. 50), Schedule 6, paragraph 3; repealed in so far as it extended to England and Wales by the Act, Schedule 19, Part I; and amended by S.I. 1996/2325.

(9) 1973 c. 65.

(10) 1994 c. 39.

(11) 1973 c. 26; section 39 was amended by the Land Compensation (Scotland) Act 1973 (c. 56), Schedule 2, Part I, the Housing Act 1974 (c. 44), Schedule 13, paragraph 40, the Development of Rural Wales Act 1976 (c. 75), Schedule 7, paragraph 10, the Housing (Consequential Provisions) Act 1985 (c. 71), Schedule 1, Part I and Schedule 2, paragraph 24, the Local Government and Housing Act 1989 (c. 42), Schedule 12, Part II, the Planning (Consequential Provisions) Act 1990 (c. 11), Schedule 2, paragraph 29.

(12) 1985 c. 68; section 554 was amended by the Housing Act 1988 (c. 50), Schedule 17, paragraph 61.

- (ii) whose leave is not subject to a condition requiring him to maintain and accommodate himself and any dependants of his without recourse to public funds;

Class C—a person who has a current leave to enter or remain in the United Kingdom which 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 another person (his “sponsor”) or persons 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 from 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.

### **Classes prescribed under section 161(3) who are qualifying persons**

5. The following prescribed classes of persons are qualifying persons in relation to a local housing authority for the purposes of section 161(3) of the Act (allocation only to qualifying persons)—

Class D—a person over the age of 18 years who is owed a duty by that authority under—

- (i) section 193 (duty to persons with priority need who are not homeless intentionally), or
- (ii) subsection (2) of section 195 of that Act (duties in case of threatened homelessness) where, in pursuance of the duty under that subsection, the authority secure that accommodation other than that occupied by that person when he made his application for assistance under Part VII of that Act is available for occupation by him;

Class E—a person over the age of 18 years who has within the previous two years been owed a duty by that authority under section 192(2) or 197(2) of the Act (duty to persons not in priority need who are not homeless intentionally and duty where other suitable accommodation available), except a person who has subsequently been owed a duty by that authority under section 190 of that Act (duties to persons becoming homeless intentionally).

### **Classes prescribed under section 161(3) who are not qualifying persons**

6. The following prescribed classes of persons are not qualifying persons in relation to a local housing authority for the purposes of section 161(3) of the Act (allocation only to qualifying persons)

Class F—a person who is not habitually resident in the Common Travel Area other than—

- (i) a person who falls within Class A or B of regulation 4;
- (ii) a worker for the purposes of Council Regulation (EEC) No. 1612/68(13) or (EEC) No. 1251/70(14);
- (iii) a person with a right to reside in the United Kingdom pursuant to Council Directive No. 68/360/EEC(15) or No. 73/148/EEC(16);

Class G—a person who is an EEA national and is required by the Secretary of State to leave the United Kingdom.

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(13) OJ No. L 254 18.10.68, p.2, Special Edition 1968 (II) p.475.

(14) OJ No. L 142 1.7.70, p.24, Special Edition 1970 (II) p.402.

(15) OJ No. L 257 18.10.68, p.13, Special Edition 1968 (II) p.485.

(16) OJ No. L 172 28.6.73, p.14.

### **Information in the housing register**

7. A local housing authority's housing register shall contain, in relation to each qualifying person,

- (a) the name of the qualifying person,
- (b) the number of other persons who normally reside with him as a member of his family or who might reasonably be expected to reside with him,
- (c) the number of persons falling within paragraphs (a) and (b) above who are—
  - (i) under the age of 10 years,
  - (ii) expecting a child, or
  - (iii) over the age of 60 years,
- (d) the address of the qualifying person,
- (e) the date on which the qualifying person was put on the register, and
- (f) the most recent date on which an entry on the register was amended.

### **Requirements before removing a person from the housing register**

8.—(1) Before removing a person from their housing register under section 163(5) of the Act (operation of housing register) a local housing authority shall give him notice in accordance with this regulation.

- (2) A notice under this regulation shall—
  - (a) require the person to provide the authority with such information as they reasonably require to enable them to decide whether to remove him from the register,
  - (b) specify a period of not less than 28 days beginning with the day on which the person receives the notice within which the information must be provided, and
  - (c) inform the person that the authority may decide to remove him from their register if—
    - (i) they do not receive the information within the specified period, or
    - (ii) they consider that in the light of the information they receive within that period there are reasons why he should be removed.

(3) Notice required to be given to a person under this regulation shall be given in writing and, if not received by him, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him.

Signed by authority of the Secretary of State for the Environment

Department of the Environment  
29th October 1996

*David Curry*  
Minister of State,

Signed by authority of the Secretary of State for Wales

Welsh Office  
30th October 1996

*Jonathan Evans*  
Parliamentary Under Secretary of State,

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Part VI of the Housing Act 1996 is concerned with the allocation of housing accommodation by local housing authorities in England and Wales. These Regulations make provision for cases where allocations are not subject to Part VI (regulation 3) and prescribe classes of person who qualify (regulations 4 and 5) or do not qualify (regulation 6) to be allocated housing under that Part. The Regulations also prescribe the information which must be contained in an authority's housing register (regulation 7) and what an authority must do before exercising their discretion to remove someone from their register (regulation 8).