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WELSH STATUTORY INSTRUMENTS

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**2021 No. 353 (W. 105)**

**HOUSING, WALES**

**The Allocation of Housing and Homelessness  
(Eligibility) (Wales) (Amendment) Regulations 2021**

*Made* - - - - 18 March 2021

*Coming into force* - - 19 March 2021

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by section 160A(3)(1) of the Housing Act 1996(2) and paragraph 1(2) of Schedule 2 to the Housing (Wales) Act 2014(3).

In accordance with section 142(3)(b)(ii) of the Housing (Wales) Act 2014, a draft of these Regulations has been laid before and approved by a resolution of Senedd Cymru(4).

**Title and commencement**

1. The title of these Regulations is the Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2021 and they come into force on 19 March 2021.

**Amendment of the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014**

2. The Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014(5) are amended as follows.

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- (1) The functions of the Secretary of State under section 160A(3) of the Housing Act 1996 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and the entry in relation to that Act in Schedule 1, as read in accordance with section 17(1) of the Homelessness Act 2002. Those functions were subsequently transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (2) 1996 c. 52. Section 160A inserted by the Homelessness Act 2002, section 14(2); subsection (3) amended by the Localism Act 2011, section 146(2).
- (3) 2014 anaw 7.
- (4) See also section 40 of the Legislation (Wales) Act 2019 (anaw 4) for provision about the procedure that applies to this instrument.
- (5) S.I. 2014/2603 (W. 257) (as saved and modified by S.I. 2015/1272, article 5), amended by S.I. 2017/698 (W. 164), 2019/1041 (W.183), 2019/1149 (W. 199), 2020/1209, 2020/1309 and 2020/1372.

### **Amendments to regulation 3**

**3.** In regulation 3 (persons subject to immigration control who are eligible for an allocation of housing accommodation)—

- (a) omit the “and” after sub-paragraph (f);
- (b) omit the “and” after sub-paragraph (g);
- (c) at the end of sub-paragraph (h), for “.” substitute “; and”;
- (d) after sub-paragraph (h) insert—

“(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 who has limited leave to remain in the United Kingdom as a stateless person under paragraph 405 of the Immigration Rules<sup>(6)</sup>.”.

### **Amendments to regulation 5**

**4.** In regulation 5(1) (persons subject to immigration control who are eligible for housing assistance)—

- (a) omit the “and” after sub-paragraph (g);
- (b) omit the “and” after sub-paragraph (h);
- (c) at the end of sub-paragraph (i), for “.” substitute “; and”;
- (d) after sub-paragraph (i) insert—

“(j) Class J – 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 remain in the United Kingdom as a stateless person under paragraph 405 of the Immigration Rules.”.

18 March 2021

*Julie James*  
Minister for Housing and Local Government,  
one of the Welsh Ministers

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(6) Laid before Parliament on 23 May 1994 (HC 395), as amended. The rules in relation to stateless persons were introduced in 2013 by the statement of changes to the Immigration Rules: HC1039 which was laid before Parliament on 14 March 2013.

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## EXPLANATORY NOTE

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

Under section 160A(3) of the Housing Act 1996 (c. 52) (“the 1996 Act”), a person who is subject to immigration control is ineligible for an allocation of housing accommodation by a local authority unless they come within a class of persons prescribed in regulations made by the Welsh Ministers.

Under paragraph (1)2 of Schedule 2 to the Housing (Wales) Act 2014 (2014 anaw 7) (“the 2014 Act”), a person who is subject to immigration control is ineligible for housing assistance under Chapter 2 of Part 2 of that Act unless they come within a class of persons prescribed in regulations by the Welsh Ministers (or the Secretary of State).

These Regulations amend the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 (S.I. 2014/2603 (W. 257)) (“the 2014 Regulations”) which make provision for which persons who are subject to immigration control are eligible for an allocation of housing accommodation and for housing assistance.

Regulation 3 amends regulation 3 of the 2014 Regulations which relates to the eligibility of persons subject to immigration control for an allocation of housing accommodation under the 1996 Act. It prescribes an additional class of persons subject to immigration control who are eligible for an allocation of housing accommodation under the 1996 Act.

Class I applies to persons who are habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and who have been given limited leave to remain in the United Kingdom under paragraph 405 of the Immigration Rules on the basis that they are a stateless person.

Regulation 4 amends regulation 5(1) of the 2014 Regulations which relates to the eligibility of persons subject to immigration control for housing assistance under the 2014 Act. It prescribes an additional class of persons who are eligible for such assistance: Class J - stateless persons (equivalent to Class I inserted by regulation 3).

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff CF10 3NQ and on the Welsh Government’s website at [www.gov.wales](http://www.gov.wales).