
STATUTORY INSTRUMENTS

2019 No. 861

**EXITING THE EUROPEAN UNION, ENGLAND
HOUSING, ENGLAND**

**The Allocation of Housing and Homelessness (Eligibility)
(England) (Amendment) (EU Exit) Regulations 2019**

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|-------------------------------|---------|------------------------|
| <i>Made</i> | - - - - | <i>11th April 2019</i> |
| <i>Laid before Parliament</i> | | <i>16th April 2019</i> |
| <i>Coming into force</i> | - - | <i>7th May 2019</i> |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 160ZA(4), 172(4), 185(3), and 215(2) of the Housing Act 1996(1).

Citation and commencement

1. These Regulations may be cited as the Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) (EU Exit) Regulations 2019 and come into force on 7th May 2019.

Amendment of the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006

2. The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006(2) are amended as follows.

Amendments to regulation 4

3. In regulation 4 (other persons from abroad who are ineligible for an allocation of housing accommodation)—

(a) after paragraph (1) insert—

“(1A) For the purposes of determining whether the only right to reside that a person has is of the 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

(1) 1996 c. 52. Section 160ZA was inserted by section 146(1) of the Localism Act 2011 (c. 20) and amended by S.I. 2013/620. Relevant amendments to section 185 were made by paragraph 7(1) of Schedule 1 to the Homelessness Act 2002 (c. 7) and S.I. 2013/630.

(2) S.I. 2006/1294; amended by S.I. 2012/2588. There are other amending instruments but none is relevant.

Act 1971⁽³⁾ by virtue of Appendix EU to the immigration rules made under section 3 of that Act⁽⁴⁾ is to be disregarded.”;

(b) in paragraph (2)(e), for “15(c)” substitute “15(1)(c)”.

Amendments to regulation 6

4. In regulation 6 (other persons from abroad who are ineligible for housing assistance)—

(a) after paragraph (1) insert—

“(1A) For the purposes of determining whether the only right to reside that a person has is of the 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.”;

(b) in paragraph (2)(e), for “15(c)” substitute “15(1)(c)”.

Transitional provision

5. The amendments made by these Regulations do not have effect in relation to an application for—

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

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

which was made before the coming into force of these Regulations.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Kit Malthouse
Minister of State
Ministry of Housing, Communities and Local
Government

11th April 2019

(3) 1971 c. 77. The amendments to section 3 are not relevant to these Regulations.

(4) Laid before Parliament on 23rd May 1994 (HC 395), as amended. Appendix EU was laid before Parliament on 20th July 2018 (CM 9675).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the provisions of the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 (S.I. 2006/1294) (“the Eligibility Regulations”) which determine which persons from abroad, other than persons subject to immigration control, are ineligible for an allocation of housing accommodation under Part 6 of the Housing Act 1996 (c. 52) or for housing assistance under Part 7 of that Act. For these purposes, ‘person subject to immigration control’ has the meaning given in section 13(2) of the Asylum and Immigration Act 1996 (c. 49).

Under regulations 4 and 6 of the Eligibility Regulations, a person who is not subject to immigration control is ineligible for an allocation of social housing and for housing assistance respectively where they are not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland or their *only* right to reside in those places is—

- (a) as an EEA ‘jobseeker’ or as the ‘family member’ of an EEA jobseeker;
- (b) an initial right to reside for a period not exceeding three months under the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) (“the EEA Regulations”);
- (c) because they are a non-EEA national primary carer of an EEA dependant under the EEA Regulations.

Regulations 3(a) and 4(a) amend those provisions. The effect of the amendments is to maintain the status quo so that where a person with a right to reside of the type mentioned above is also granted limited leave to enter or remain in the United Kingdom pursuant to Appendix EU of the immigration rules, this does not affect their eligibility.

Regulations 3(b) and 4(b) amend an incorrect cross-reference to the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003) (“the EEA Regulations 2006”). Whilst the EEA Regulations 2006 have been revoked by the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) (“the EEA Regulations 2016”), the effect of paragraph 1 of Schedule 7 to the EEA Regulations 2016 is that references to the EEA Regulations 2006 in the Eligibility Regulations are to be read as references to the corresponding provisions of the EEA Regulations 2016.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.