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## EXPLANATORY NOTE

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

These Regulations make provision for persons, not subject to immigration control, to be treated as persons from abroad and ineligible for an allocation of housing accommodation under the Housing (Northern Ireland) Order 1981 (“the 1981 Order”) and for housing assistance under Part II of the Housing (Northern Ireland) Order 1988 (“the 1988 Order”).

Article 22 of the 1981 Order provides that the Northern Ireland Housing Executive (“the Executive”) shall comply with a scheme, approved by the Department for Social Development, for the allocation of housing accommodation. Article 22A of the 1981 Order provides that the Executive shall not allocate housing accommodation to a person from abroad who is ineligible for such an allocation (paragraph (1), sub-paragraph (b)) and that the Secretary of State has power to specify, by regulations, classes of persons who are ineligible (paragraph (3)).

Part II of the 1988 Order imposes on the Executive duties in relation to persons who are found to be homeless or threatened with homelessness. Article 7A of the 1988 Order provides that a person is not eligible for assistance under Part II if he is a person from abroad who is ineligible for that assistance (paragraph (1)) and that the Secretary of State has power to make provision, by regulations, as to other descriptions of persons who are to be treated as persons from abroad who are ineligible for that assistance (paragraph (2)).

These Regulations, which come into operation on, contain provisions similar to those of the Allocation of Housing Regulations (Northern Ireland) 2004 and the Homelessness Regulations (Northern Ireland) 2004 which are revoked by these Regulations. The main changes take account of the implementation of Directive [2004/38/EC](#) of the European Parliament and Council of 29th April 2004 by the Immigration (European Economic Area) Regulations 2006. Directive 2004/38 makes some changes to the rights of free movement of citizens of the European Union (EU) and their family members, in particular by:

- the introduction of an initial right of residence of 3 months in a host member State for EU citizens and their family members provided they do not become an unreasonable burden on the social assistance system of the host member State— this right of residence is not conditional on the EU citizen being, for example, a worker or self-employed, as was previously the case under EU law; and
- the introduction of a permanent right of residence in a host member State for some EU citizens.

Regulations 3 and 4 of these Regulations prescribe those classes of persons who are not subject to immigration control but are to be treated as persons from abroad who are ineligible for an allocation of housing accommodation and for housing assistance respectively. These classes relate principally to British nationals and to those EU citizens and nationals of Norway, Iceland, Liechtenstein and Switzerland who are not subject to immigration control. Under regulations 3(1) and 4(1), such persons will be ineligible for an allocation of social housing or for homelessness assistance if:

- they are not habitually resident in the United Kingdom, Channel Islands, Isle of Man or Republic of Ireland (unless exempted from the requirement to be habitually resident by regulations 3(2) and 4(2)); or
- their only right to reside in the United Kingdom, Channel Islands, Isle of Man or Republic of Ireland is a right derived from the Treaty establishing the European Community to reside in another member State for an initial period of up to 3 months after arrival or as a jobseeker.

**Changes to legislation:** *There are currently no known outstanding effects for the The Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006. (See end of Document for details)*

Regulation 5 revokes the provisions which are replaced by these Regulations and regulation 6 makes transitional provisions in relation to applications for an allocation of housing accommodation or housing assistance before 1st November 2006.

**Changes to legislation:**

There are currently no known outstanding effects for the The Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006.