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STATUTORY INSTRUMENTS

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**2000 No. 706**

**IMMIGRATION  
HOUSING, ENGLAND  
HOUSING, SCOTLAND  
HOUSING, NORTHERN IRELAND**

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

<i>Made</i>	- - - -	<i>7th March 2000</i>
<i>Laid before Parliament</i>		<i>13th March 2000</i>
<i>Coming into force</i>	- -	<i>3rd April 2000</i>

In exercise of the powers conferred on him by sections 118, 119 and 166(3) of the Immigration and Asylum Act 1999<sup>(1)</sup>, 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.

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(1) 1999 c. 33. The Secretary of State can exercise the power under section 118 in relation to England, Scotland and Northern Ireland but not Wales: *see* article 2 of and the entry for section 9 of the Asylum and Immigration Act 1996 (c. 49) in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672). *See* also section 17 of the Interpretation Act 1978 (c. 30) (sections 118 and 119 re-enact, with modifications, section 9 of the 1996 Act). Section 9 of the 1996 Act, in so far as it extended to England and Wales, was amended by paragraph 3 of Schedule 16, and Parts VII and VIII of Schedule 19, to the Housing Act 1996 (c. 52).

*Status: Point in time view as at 03/04/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000. (See end of Document for details)*

## Commencement Information

**II** Art. 1 in force at 3.4.2000, see [art. 1\(1\)](#)

## Interpretation

### 2. In this Order–

“the 1971 Act” means the Immigration Act 1971(2);

“the 1985 Act” means the Housing Act 1985(3);

“the 1995 Act” means the Jobseekers Act 1995(4);

“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(5) (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(6) (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(7) (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(8) (definition of further education)

(2) 1971 c. 77.

(3) 1985 c. 68.

(4) 1995 c. 18.

(5) 1989 c. 41.

(6) See section 105(1) of the Children Act 1989 for definition of “prescribed”. Section 17 was amended by paragraph 13 of Schedule 3 to the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21), section 4 of, and paragraph 108 of Schedule 2 to, the Social Security (Consequential Provisions) Act 1992 (c. 6) and paragraph 19 of Schedule 2 to the 1995 Act.

(7) Paragraph 10 was amended by paragraph 2 of Schedule 16 to the Housing Act 1996 (c. 52).

(8) 1996 c. 56.

and “higher education” means education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988<sup>(9)</sup> (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);

“limited leave” means leave under the 1971 Act to enter or remain in the United Kingdom which is limited as to duration;

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951<sup>(10)</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>(11)</sup>;

“specified education institution” means—

- (a) 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<sup>(12)</sup> (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<sup>(13)</sup> (interpretation of Part II), in respect of a university or other institution in Scotland;
- (b) an institution in England within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992;
- (c) 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);
- (d) a central institution in Scotland within the meaning of section 135(1) of the Education (Scotland) Act 1980<sup>(14)</sup> (interpretation);
- (e) an institution in England which provides a course qualifying for funding under Part I of the Education Act 1994<sup>(15)</sup> (teaching training);
- (f) a higher education institution in Northern Ireland within the meaning of Article 30(3) of the Education and Libraries (Northern Ireland) Order 1993<sup>(16)</sup> (funding by Department of higher education); or
- (g) an institution of further education in Northern Ireland within the meaning of Article 3 of the Further Education (Northern Ireland) Order 1997<sup>(17)</sup> (definition of “further education”).

#### Commencement Information

**I2** Art. 2 in force at 3.4.2000, see [art. 1\(1\)](#)

<sup>(9)</sup> 1988 c. 40.

<sup>(10)</sup> Cmnd. 9171.

<sup>(11)</sup> Cmnd. 3906.

<sup>(12)</sup> 1992 c. 13.

<sup>(13)</sup> 1992 c. 37.

<sup>(14)</sup> 1980 c. 44.

<sup>(15)</sup> 1994 c. 30.

<sup>(16)</sup> S.I. 1993/2810 (N.I. 12).

<sup>(17)</sup> S.I. 1997/1772 (N.I. 15).

*Status: Point in time view as at 03/04/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000. (See end of Document for details)*

### **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;
- (b) 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
  - (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;
- (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;
- (e) Class E—a person who is—
  - (i) a national of a state which has ratified the European Convention on Social and Medical Assistance done at Paris on 11th December 1953<sup>(18)</sup> or a state which has ratified the European Social Charter done at Turin on 18th October 1961<sup>(19)</sup>;
  - (ii) lawfully present in the United Kingdom; and
  - (iii) habitually resident in the Common Travel Area;
- (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.

#### **Commencement Information**

**I3** Art. 3 in force at 3.4.2000, see [art. 1\(1\)](#)

<sup>(18)</sup> Cmnd. 9512.

<sup>(19)</sup> Cmnd. 2643.

## Housing authority accommodation—England

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

- (a) Class G—a person who is owed a duty under section 21 of the National Assistance Act 1948<sup>(20)</sup> (duty of local authorities to provide accommodation);
- (b) Class H—a person who is either a child in need or a member of the family of a child in need;
- (c) Class I—a person—
  - (i) who is owed a duty under section 63(1) (interim duty to accommodate in case of apparent priority need), 65(2) or (3) (duties to persons found to be homeless) or 68(1) or (2) (duties to persons whose applications are referred) of the 1985 Act<sup>(21)</sup>;
  - (ii) who is owed a duty under section 188(1) (interim duty to accommodate in case of apparent priority need), 190(2) (duties to persons becoming homeless intentionally), 193(2) (duty to persons with priority need who are not homeless intentionally), 195(2) (duties in case of threatened homelessness) or 200(1), (3) or (4) (duties to applicant whose case is considered for referral or referred) of the Housing Act 1996<sup>(22)</sup>; or
  - (iii) in respect of whom a local housing authority are exercising their power under section 194(1) (power exercisable after minimum period of duty under section 193) of the Housing Act 1996;
- (d) Class J—an asylum-seeker to whom, or a dependant of an asylum-seeker to whom, a local authority is required to provide support in accordance with regulations made under Schedule 9 to the 1999 Act (asylum support: interim provisions);
- (e) Class K—a person who is attending a designated course, which is a full-time course, at an educational establishment in a case where the housing accommodation which is or may be provided to him by a local housing authority—
  - (i) is not and will not be let to him as a secure tenancy by virtue of paragraph 10 of Schedule 1 to the 1985 Act<sup>(23)</sup> (student lettings which are not secure tenancies); and
  - (ii) would otherwise be difficult for that local housing authority to let on terms which, in the opinion of the local housing authority, are satisfactory;
- (f) Class L—a person who has a secure tenancy within the meaning of section 79 of the 1985 Act (secure tenancies).

(2) “Dependant”, in relation to an asylum-seeker within paragraph (1)(d) (Class J), means a person in the United Kingdom who—

- (a) is his spouse;
- (b) is a child of his, or of his spouse, who is under 18 and dependent on him; or

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(20) 1948 c. 29; section 21 was amended by sections 195(6) and 272(1) of, and paragraph 2(1) of Schedule 23 and Schedule 30 to, the Local Government Act 1972 (c. 70), paragraph 11(1) of Schedule 13 to the Children Act 1989 (c. 41), section 42(1) of, and paragraph 5(1) to (3) of Schedule 9 and Schedule 10 to, the National Health Service and Community Care Act 1990 (c. 19), section 20(4) of, and the Schedule to, the Housing (Homeless Persons) Act 1977 (c. 48), section 57(1) and (2) of, and paragraph 44 of Schedule 4 and Schedule 5 to, the National Health Service Reorganisation Act 1973 (c. 32), and section 116 of the 1999 Act.

(21) The repeal of Part III of the Housing Act 1985, which includes sections 63, 65 and 68 and which was commenced by the Housing Act 1996 (Commencement No. 5 and Transitional Provisions) Order 1996 (S.I. 1996/2959 (C. 88)), does not, by virtue of paragraph 1 of the Schedule to that Order, apply to applicants under Part III of that Act whose applications were made before 20th January 1997.

(22) 1996 c. 52.

(23) Paragraph 10 was amended by paragraph 2 of Schedule 16 to the Housing Act 1996.

*Status: Point in time view as at 03/04/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000. (See end of Document for details)*

- (c) falls within such additional category as may be prescribed under section 94(1) of the 1999 Act (interpretation of Part VI—support for asylum-seekers), for the purposes of regulations made under Schedule 9 to the 1999 Act (asylum support: interim provisions), in relation to an asylum-seeker.

#### Commencement Information

**I4** Art. 4 in force at 3.4.2000, see [art. 1\(1\)](#)

### Housing authority accommodation—Northern Ireland

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

- (a) Class M—a person who is a secure tenant of the Northern Ireland Housing Executive or a registered housing association within the meaning of Article 25 of the Housing (Northern Ireland) Order 1983(24) (secure tenancies);
- (b) Class N—a person who is owed a duty under Article 8 (interim duty to accommodate in case of apparent priority need), 10(2) or (3) (duties to persons found to be homeless) or 11(2) (duties to persons found to be threatened with homelessness) of the Housing (Northern Ireland) Order 1988(25).

#### Commencement Information

**I5** Art. 5 in force at 3.4.2000, see [art. 1\(1\)](#)

### 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(26) (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.

#### Commencement Information

**I6** Art. 6 in force at 3.4.2000, see [art. 1\(1\)](#)

### 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—

- (a) the classes specified in article 3(a) to (e) (Class A, Class B, Class C, Class D and Class E);

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

(25) S.I. 1988/1990 (N.I. 23).

(26) 1987 c. 26.

- (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<sup>(27)</sup> (persons from abroad) or regulation 7A of the Housing Benefit (General) Regulations (Northern Ireland) 1987<sup>(28)</sup> (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)<sup>(29)</sup>.

#### Commencement Information

17 Art. 7 in force at 3.4.2000, see [art. 1\(1\)](#)

#### Homelessness—Northern Ireland

8.—(1) The following are classes of persons specified for the purposes of section 119(1) of the 1999 Act in respect of Northern Ireland—

- (a) Class S—a person who is on an income-based jobseeker’s allowance or in receipt of income support and is eligible for that benefit other than because—
  - (i) he has limited leave to enter or remain in the United Kingdom which was given in accordance with the relevant immigration rules; and
  - (ii) he is temporarily without funds because remittances to him from abroad have been disrupted;
- (b) Class T—a person who is an asylum-seeker and—
  - (i) who was in Northern Ireland 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;
  - (ii) 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

<sup>(27)</sup> S.I. 1987/1971; relevant amending instruments are S.I. 1994/470 and 1994/1807.

<sup>(28)</sup> S.R. 1987 No. 461; relevant amending regulations are S.R. 1994 No. 80 and S.R. 1994 No. 266.

<sup>(29)</sup> Section 22 was amended by S.I. 1987/465; there are other amendments not relevant to this Order.

*Status: Point in time view as at 03/04/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000. (See end of Document for details)*

- (iii) whose claim for asylum has not been recorded by the Secretary of State as having been either decided (other than on appeal) or abandoned.
- (2) For the purposes of paragraph (1)(a) (Class S)–
- (a) “an income-based jobseeker’s allowance” means a jobseeker’s allowance which is payable under the Jobseekers (Northern Ireland) Order 1995<sup>(30)</sup> and entitlement to which is based on the claimant satisfying conditions which include those set out in Article 5 of that Order (the income-based conditions);
- (b) “income support” has the same meaning as in section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(31)</sup> (income support);
- (c) “relevant immigration rules” means the immigration rules relating to–
- (i) there being or there needing to be no recourse to public funds; or
  - (ii) there being no charge on public funds; and
- (d) a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day–
- (i) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid in accordance with Article 21 of the Jobseekers (Northern Ireland) Order 1995 (circumstances in which a jobseeker’s allowance is not payable); or
  - (ii) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Order (waiting days) and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for Article 21 of that Order.

#### Commencement Information

**I8** Art. 8 in force at 3.4.2000, see [art. 1\(1\)](#)

#### Homelessness—Scotland

**9.**—(1) The following are classes of persons specified for the purposes of section 119(1) of the 1999 Act in respect of Scotland–

- (a) Class U—a person who is on an income-based jobseeker’s allowance or in receipt of income support and is eligible for that benefit other than because–
- (i) he has limited leave to enter or remain in the United Kingdom which was given in accordance with the relevant immigration rules; and
  - (ii) he is temporarily without funds because remittances to him from abroad have been disrupted;
- (b) Class V—a person who is an asylum-seeker and–
- (i) 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;

<sup>(30)</sup> S.I. 1995/2705 (N.I. 15).

<sup>(31)</sup> 1992 c. 7.



- (ii) 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
  - (iii) whose claim for asylum has not been recorded by the Secretary of State as having been either decided (other than on appeal) or abandoned.
- (2) For the purposes of paragraph (1)(a) (Class U)–
- (a) “an income-based jobseeker’s allowance” means a jobseeker’s allowance which is payable under the 1995 Act and entitlement to which is based on the claimant satisfying conditions which include those set out in section 3 of the 1995 Act (the income-based conditions);
  - (b) “income support” has the same meaning as in section 124 of the Social Security Contributions and Benefits Act 1992(32) (income support);
  - (c) “relevant immigration rules” means the immigration rules relating to–
    - (i) there being or there needing to be no recourse to public funds; or
    - (ii) there being no charge on public funds; and
  - (d) a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day–
    - (i) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid in accordance with section 19 of the 1995 Act(33) (circumstances in which jobseeker’s allowance is not payable); or
    - (ii) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to the 1995 Act (waiting days) and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for section 19 of the 1995 Act.

#### Commencement Information

19 Art. 9 in force at 3.4.2000, see [art. 1\(1\)](#)

#### Revocation

10. The following Orders are revoked–
- (a) the Housing Accommodation and Homelessness (Persons subject to Immigration Control) Order 1996(34), in so far as it extends to England and Scotland;
  - (b) the Homelessness (Persons subject to Immigration Control) (Amendment) Order 1997(35), in so far as it extends to England and Scotland;
  - (c) the Housing Accommodation and Homelessness (Persons subject to Immigration Control) (Amendment) Order 1998(36), in so far as it extends to England;
  - (d) the Housing Accommodation and Homelessness (Persons subject to Immigration Control) (Northern Ireland) Order 1998(37);

(32) 1992 c. 4. Section 124 was amended by paragraph 30 of Schedule 2, and Schedule 3, to the Jobseekers Act 1995.

(33) Section 19 was amended by paragraph 67 of Schedule 1 to the Employment Rights Act 1996 (c. 18) and paragraph 141 of Schedule 7 to the Social Security Act 1998 (c. 14).

(34) S.I. 1996/1982; relevant amending instruments are S.I. 1997/628, 1998/139, 1999/723 (S. 48) and 1999/3057.

(35) S.I. 1997/628.

(36) S.I. 1998/139.

(37) S.I. 1998/1004.

**Status:** Point in time view as at 03/04/2000.

**Changes to legislation:** There are currently no known outstanding effects for the *The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000*. (See end of Document for details)

- (e) the Housing Accommodation and Homelessness (Persons subject to Immigration Control) (Amendment) (Scotland) Order 1999(**38**); and
- (f) the Housing Accommodation (Persons subject to Immigration Control) (Amendment) (England) Order 1999(**39**).

**Commencement Information**

**I10** Art. 10 in force at 3.4.2000, see [art. 1\(1\)](#)

Home Office  
7th March 2000

*Barbara Roche*  
Minister of State

(38) S.I. 1999/723 (S. 48).  
(39) S.I. 1999/3057.

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## EXPLANATORY NOTE

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

This Order revokes, in so far as they extend to England, Scotland or Northern Ireland, all extant Orders made under section 9 of the Asylum and Immigration Act 1996 (article 10). Sections 118 and 119 of the Immigration and Asylum Act 1999 replace section 9 of the 1996 Act. This Order specifies classes of persons subject to immigration control for the purposes of section 118 (articles 3 to 6) and section 119 (articles 7 to 9).

Section 118 of the Immigration and Asylum Act 1999 requires a housing authority, so far as practicable, to secure that a tenancy of, or licence to occupy, housing accommodation provided under the accommodation provisions is not granted to a person subject to immigration control unless he is of a class specified in an order made by the Secretary of State. The accommodation provisions are, in relation to England, Part II of the Housing Act 1985, in relation to Scotland, Part I of the Housing (Scotland) Act 1987 and, in relation to Northern Ireland, Part II of the Housing (Northern Ireland) Order 1981. There is an exception in the case of a tenancy of, or licence to occupy, such accommodation granted in accordance with arrangements made under section 95 of the 1999 Act (support for asylum-seekers: persons for whom support may be provided).

Section 119 of the 1999 Act provides that a person who is subject to immigration control is not eligible for accommodation or homelessness assistance, in Scotland or Northern Ireland, unless he is of a class specified in an order made by the Secretary of State.

The classes in this Order are similar to those in the Orders made under section 9 of the 1996 Act. The main changes are as follows:

- (a) The class of persons, who may be granted housing authority accommodation in England and Scotland and who are eligible for homelessness assistance in Scotland, concerning persons who have current unconditional leave to enter or remain in the United Kingdom, has been amended. Those persons must be habitually resident in the Common Travel Area and certain sponsored immigrants are excluded (articles 3(c) and 7(1)(a)). These qualifications continue to apply to Northern Ireland.
- (b) There is a new class of persons, who may be granted housing authority accommodation in England, Scotland and Northern Ireland and who are eligible for homelessness assistance in Scotland and Northern Ireland, comprising persons who left Montserrat because of the volcanic eruption (articles 3(d) and 7(1)(a)).
- (c) There are new classes of persons, who may be granted housing authority accommodation, concerning students in England (article 4(1)(e)), secure tenants in Scotland (article 6(a)) and persons owed certain duties under homelessness legislation in Scotland and Northern Ireland (articles 5(b) and 6(b)).
- (d) The class of persons, who may be granted housing authority accommodation in England, Scotland and Northern Ireland and who are eligible for homelessness assistance in Scotland and Northern Ireland, concerning nationals of states which are signatories to the European Convention on Social and Medical Assistance or the European Social Charter, has been amended. It is limited to only nationals of states which have ratified that Convention or that Charter (articles 3(e) and 7(1)(a)).
- (e) The class of persons, who are eligible for homelessness assistance in Scotland and Northern Ireland, concerning persons entitled to income-based jobseeker's allowance or income support, has been amended to exclude those who are so entitled by virtue of being

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temporarily without funds during a period of limited leave to enter or remain in the United Kingdom (articles 8(1)(a) and 9(1)(a)).

- (f) The class of persons, who are eligible for homelessness assistance in Scotland, concerning persons who claimed asylum within three months of a declaration by the Secretary of State concerning their country of origin, has been amended so that it is limited to those who were in Great Britain at the time the declaration was made (article 9(1)(b)).
- (g) The class of persons, who are eligible for homelessness assistance in Scotland and Northern Ireland, concerning asylum-seekers, has been amended so that it applies only to those whose asylum claim was made, and recorded by the Secretary of State, on or before 2nd April 2000 (see the definition of “asylum-seeker” in article 2).

There are other minor and drafting changes.

This Order does not extend to Wales. Article 4 extends to England only. Articles 5 and 8 extend to Northern Ireland only. Articles 6 and 9 extend to Scotland only. Article 7 extends to Scotland and Northern Ireland only.

Command Papers 2643, 3906, 9171 and 9512, referred to in this Order, are out of print but photocopies of these documents can be obtained by The Stationery Office from the British Lending Library Division (BLLD). Customers, unless already registered with BLLD, should order photocopies from The Photocopying Unit, The Stationery Office, 9 Elms Lane, London SW8 5DR, enclosing the appropriate payment for the copies required. The current cost of each complete copy of Command Paper 2643, 3906 or 9512 is £6.00 and the current cost of each complete copy of Command Paper 9171 is £12.00. Cheques should be made payable to “The Stationery Office”.

**Status:**

Point in time view as at 03/04/2000.

**Changes to legislation:**

There are currently no known outstanding effects for the The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000.