

2005 No. 2412

IMMIGRATION, SCOTLAND

IMMIGRATION, NORTHERN IRELAND

The Immigration (Eligibility for Assistance) (Scotland and Northern Ireland) (Revocation) Regulations 2005

Made - - - - - *26th August 2005*

Laid before Parliament *1st September 2005*

Coming into force in accordance with regulation 2

The Secretary of State, in exercise of the powers conferred upon him by sections 115(3) and (4), 122(11) and 166(3) of the Immigration and Asylum Act 1999 (a) and having regard to the definition of “prescribed” in section 167(1) of that Act, hereby makes the following Regulations:

Citation, interpretation and extent

1.—(1) These Regulations may be cited as the Immigration (Eligibility for Assistance) (Scotland and Northern Ireland) (Revocation) Regulations 2005.

(2) In these Regulations, “the 2000 Regulations” means the Immigration (Eligibility for Assistance) (Scotland and Northern Ireland) Regulations 2000 (b).

(3) These Regulations extend to Scotland and Northern Ireland only.

Commencement

2.—(1) Regulation 3 shall come into force on—

(a) 5th October 2005 in the case of a person who is provided with social assistance under sections 7 and 8 of the Mental Health (Scotland) Act 1984 (c);

(b) 12th December 2005 in the case of—

(i) a person who is provided with social assistance under sections 12, 13A and 13B of the Social Work (Scotland) Act 1968 (a); or

(a) 1999 c.33. Section 122(11) will be repealed when the Nationality, Immigration and Asylum Act 2002 (c.41), section 47 comes into force.

(b) S.I. 2000/705.

(c) 1984 c.36. Sections 7 and 8 were amended by subsections (4) and (5) of section 120 of the Immigration and Asylum Act 1999. Sections 7 and 8 will be repealed, along with the rest of the Mental Health (Scotland) Act and subsections (4) and (5) of section 120 of the Immigration and Asylum Act 1999 by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), section 331 and Schedule 5. Section 331 and Schedule 5 will come into force on 5th October 2005 by virtue of Article 3 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Commencement No.4) Order 2005 (S.S.I. 2005/161). Article 3 was substituted by Article 2 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Commencement No.4) Amendment Order 2005 (S.S.I. 2005/375) but the date of the repeal of sections 7 and 8 of the Mental Health (Scotland) Act and subsections (4) and (5) of section 120 of the Immigration and Asylum Act 1999 was not altered.

- (ii) a person or family who or which is provided with assistance under section 22 of the Children (Scotland) Act 1995 (local authority support in Scotland for children and their families) **(b)**; or
 - (c) 3rd October 2005 in the case of–
 - (i) a person who is provided with services under Articles 7 and 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 **(c)**; or
 - (ii) a person or family who or which is provided with assistance under Article 18 of the Children (Northern Ireland) Order 1995 (equivalent provision in Northern Ireland) **(d)**.
- (2) Regulation 4 shall come into force on 12th December 2005.

Eligibility for social assistance and eligibility for support for children-Scotland and Northern Ireland: Revocation

3. Regulations 2, 3, 4 and 5 of the 2000 Regulations are hereby revoked.

Regulation 1 of the 2000 Regulations: Revocation

4. Regulation 1 of the 2000 Regulations (citation, commencement, interpretation and extent) is hereby revoked.

Home Office
26th August 2005

Tony McNulty
Minister of State

(a) 1968 c.49. Sections 12, 13A and 13B were amended by subsections (1) to (3) of section 120 of the Immigration and Asylum Act 1999. Sections 13A and 13B were inserted by section 56 of the National Health Service and Community Care Act 1990 (c.19). Sections 12 and 13A have been subsequently amended but not in a way material to these Regulations.

(b) 1995 c.36.

(c) S.I. 1972/1265 (N.I. 14). Articles 7 and 15 were amended by subsections (1) and (2) of section 121 of the Immigration and Asylum Act 1999.

(d) S.I. 1995/755 (N.I. 2).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Immigration (Eligibility for Assistance) (Scotland and Northern Ireland) Regulations 2000 (“the 2000 Regulations”).

These Regulations provide that the disapplication of (i) section 115 (exclusion from benefits) and (ii) section 122(5) (support for children) of the Immigration and Asylum Act 1999 (“the 1999 Act”) will come to an end.

Regulation 1 provides for the citation, interpretation and extent of the instrument.

Regulation 2 provides for the commencement of the instrument. As a consequence, the 2000 Regulations will effectively be revoked on 3rd October 2005 in respect of Northern Ireland. They will be revoked on 12th December 2005 in respect of Scotland except in relation to a person who is provided with social assistance under sections 7 and 8 of the Mental Health (Scotland) Act 1984, in which case they will be revoked on 5th October 2005.

Regulation 3 revokes regulations 2, 3, 4 and 5 of the 2000 Regulations. Before their revocation, regulations 2, 3 and 4 had provided that, for specified purposes, section 115 of the 1999 Act did not apply in Scotland or Northern Ireland on and after 3rd April 2000 to certain people who, until that date, were not eligible for certain social security benefits but were eligible for assistance under certain social assistance provisions. Regulations 2, 3, and 4 had preserved that eligibility on and after that date.

Before being revoked, regulation 5 of the 2000 Regulations had provided that section 122(5) of the 1999 Act did not apply in relation to a person or family who or which was provided with assistance under certain child welfare provisions immediately before 3rd April 2000.

Regulation 4 revokes regulation 1 of the 2000 Regulations, which had provided for the citation, commencement, interpretation and extent of that instrument.

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