
STATUTORY INSTRUMENTS

2006 No. 3340

HOUSING, ENGLAND

**The Allocation of Housing and Homelessness (Eligibility)
(England) (Amendment) (No.2) Regulations 2006**

<i>Made</i>	- - - -	<i>14th December 2006</i>
<i>Laid before Parliament</i>		<i>15th December 2006</i>
<i>Coming into force</i>	- -	<i>1st January 2007</i>

The Secretary of State, in exercise of the powers conferred by sections 160A(5), 172(4), 185(3) and 215(2) of the Housing Act 1996(1), makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) (No.2) Regulations 2006 and shall come into force on 1st January 2007.

(2) These Regulations apply to England only.

Eligibility of Accession state workers

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

(2) In regulation 2(1), for “the Accession Regulations” substitute—

““the Accession Regulations 2004” means the Accession (Immigration and Worker Registration) Regulations 2004(3);

“the Accession Regulations 2006” means the Accession (Immigration and Worker Authorisation) Regulations 2006(4);”.

(3) For regulation 4(2)(c) substitute—

(1) 1996, c.52; section 160A was added by section 14(2) of the Homelessness Act 2002 (c.7). The functions of the Secretary of State under sections 160A(3), 172(4) and 215(2) of the Act are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672, to which there are amendments not relevant to these Regulations) and section 17(1) of the Homelessness Act 2002. That article and Schedule also provide that the functions of the Secretary of State under section 185 of the Act are exercisable by the National Assembly for Wales concurrently with the Secretary of State.

(2) S.I. 2006/1294; to which there are amendments not relevant to these Regulations.

(3) S.I. 2004/1219; the relevant amending instrument is S.I. 2006/1003.

(4) S.I. 2006/3317.

- “(c) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the EEA Regulations pursuant to either—
- (i) regulation 5 of the Accession Regulations 2004 (application of the 2006 Regulations in relation to accession State worker requiring registration), or
 - (ii) regulation 6 of the Accession Regulations 2006 (right of residence of an accession State national subject to worker authorisation);”.
- (4) For regulation 6(2)(c) substitute—
- “(c) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the EEA Regulations pursuant to either—
- (i) regulation 5 of the Accession Regulations 2004 (application of the 2006 Regulations in relation to accession State worker requiring registration), or
 - (ii) regulation 6 of the Accession Regulations 2006 (right of residence of an accession State national subject to worker authorisation);”.

Transitional provisions

3. The amendments made by these Regulations shall not have effect in relation to an applicant whose application for—

- (a) an allocation of housing accommodation under Part 6 of the Housing Act 1996; or
- (b) housing assistance under Part 7 of that Act,

was made before 1st January 2007.

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

Yvette Cooper
Minister of State
Department for Communities and Local
Government

14th December 2006

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 (“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 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).

A person who is not subject to immigration control is ineligible for an allocation or for housing assistance if he is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland, unless specifically exempted from that requirement (see regulations 4(1) (a) and (2) , and 6(1)(a) and (2), of the Eligibility Regulations).

The effect of the amendments made by regulation 2 is to insert a new category of persons who are exempt from the habitual residence test. The category applies to nationals of Bulgaria and Romania, countries which accede to the European Union on 1st January 2007. Those Bulgarian and Romanian nationals who are subject to the worker authorisation scheme established by the Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317) are exempt from the habitual residence test when they are treated as workers pursuant to those Regulations. The Regulations do this by substituting the exemption category in sub-paragraph (c) of regulations 4(2) and 6(2) of the Eligibility Regulations, relating to workers from eight of the ten member States which acceded to the European Union on 1st May 2004, with a wider exemption relating both to those workers and to workers from Romania and Bulgaria.

A regulatory impact assessment has not been produced for these Regulations as they have no impact on the costs of business, charities or voluntary bodies.