

EXPLANATORY MEMORANDUM TO
THE ALLOCATION OF HOUSING AND HOMELESSNESS (ELIGIBILITY)
(ENGLAND) AND PERSONS SUBJECT TO IMMIGRATION CONTROL
(HOUSING AUTHORITY ACCOMMODATION AND HOMELESSNESS)
(AMENDMENT) (NO. 3) REGULATIONS 2022

2022 No. 626

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This Instrument amends the Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022 S.I. 2022/601, to correct a defect by providing the appropriate coming into force date.
- 2.2 The procedure for free issue of these Regulations has been applied and these Regulations are being issued free of charge to all known recipients of S.I. 2022/601.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022 were made with the coming into force date being 21 days after laying.
- 3.2 This was due to an inadvertent error in the preparation of the Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022, where although the correct timing for coming into force was contained in the header section, it was not reflected in the body of the Regulations, despite the fact that the same was intended.
- 3.3 The Department has considered how this error should be corrected and accordingly has prepared The Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 3) to insert the coming into force date as 10 June 2022, the same commencement date as these Regulations, into the Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022.
- 3.4 This instrument breaches the 21-day rule in order for the Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control

(Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022 to come into force as soon as possible. The Department regrets this breach but considers that this approach best remedies the error in the Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022. The Secretary of State believes that it is necessary for Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022 to come into force at the earliest opportunity because of the need to provide support to those unable to return to Ukraine due to the Russian invasion of 24 February 2022, who are granted leave to remain via the Appendix Ukraine Scheme of the immigration rules. Delay to the legislation coming into force will prevent those in need within this cohort from being eligible for housing and homelessness assistance.

- 3.5 The Department has considered how the error in this case occurred. It appears the error was accidental, and we are considering further checks to be implemented to ensure that the same does not occur again in future.

4. Extent and Territorial Application

- 4.1 The territorial extent of regulation 2 is England and Wales. The territorial application of this provision is England only.
- 4.2 The territorial extent of regulation 3 is England and Wales, Scotland and Northern Ireland.
- 4.3 The territorial application of regulation 3(1) and 3(2) is England, Scotland and Northern Ireland. The territorial application of regulation 3(3) is Scotland and Northern Ireland.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to the negative resolution procedure, and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 These Regulations amend The Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022 to correct a defect by inserting the appropriate coming into force date.

7. Policy background

What is being done and why?

- 7.1 The UK Government has established three new schemes to support those leaving or unable to return to Ukraine as a result of the Russian invasion beginning on 24 February 2022 in the UK:
- a) The ‘Ukraine Family Scheme’. The Home Office have established an extended family scheme for Ukrainians who left in connection with the Russian invasion to join settled family members in the UK. The Government has extended the definition of family members to include a wider bracket of people including grandparents and grandchildren. Applicants must be Ukrainian or a family

member of a Ukrainian national who is applying to the scheme and either have been residing in Ukraine on or immediately before 1 January 2022 or residing in the UK with permission on or before 18 March 2022 or if their last permission ended since 1 January 2022.

- b) The 'Homes for Ukraine' Scheme. The Home Office and Department for Levelling Up, Housing and Communities have established a sponsorship scheme which allows individuals, charities, community groups and businesses in the UK to bring Ukrainians to safety – including those with no family ties to the UK.
- c) The 'Ukraine Extension Scheme'. The Home Office have established an extension scheme for Ukrainian nationals who had permission to stay in the UK on or before 18 March 2022. Their partner and children can also apply if they're already in the UK as their 'dependants'. If they previously had permission to stay in the UK but it has expired since 1 January 2022, they will also be eligible to apply.

7.2 The Home Office has announced that those arriving in the UK under the above schemes will be granted 36 months limited leave to remain. The application will be fee-free and will not require minimum income or English language proficiency. Granting 36 months limited leave to remain provides certainty and stability to those needing to find safe harbour in the UK. The schemes provide the right to work and recourse to public funds, including eligibility for housing and homelessness assistance.

7.3 The Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022 will amend the law so that persons in the UK who have limited leave to remain granted in accordance with Appendix Ukraine Scheme of the immigration rules and who applied for that leave from within the United Kingdom can access housing and homelessness assistance. This is to bring the group in line with access to benefits and services for others from Ukraine who applied from outside the UK.

7.4 The Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022 were intended to come into force the day after laying. These Regulations insert a new coming into force date in regulation 1(1) of the Allocation of Housing and Homelessness (Eligibility) (England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) (No. 2) Regulations 2022.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 This instrument does not involve consolidation and there are no plans to consolidate the relevant legislation at this time.

10. Consultation outcome

10.1 No consultation has been carried out and the instrument has not been scrutinised by Local Authorities due to the urgency with which it needed to be made. Letters have

been exchanged with Local Authorities and members of relevant Parliamentary committees to inform them of these changes.

11. Guidance

11.1 None.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 The impact on the public sector is on local authorities where we are expecting particular pressures resulting from an influx of new arrivals. We have identified a large diaspora of settled Ukrainians in Nottingham, London, Bradford and Manchester, and so will work closely with these Local Authorities especially.

12.3 A full Regulatory Impact Assessment has not been prepared for this instrument because the impact on business is not likely to be significant.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 This legislation will be reviewed at an appropriate point in the next year to determine whether its effect is still required and proportionate.

15. Contact

15.1 Sian Pratley and Freya Cullinane at the Department for Levelling Up, Housing and Communities can be contacted with any queries regarding the instrument. Sian.Pratley@levellingup.gov.uk or Freya.Cullinane@levellingup.gov.uk

15.2 Penny Hobman Deputy Director for Homelessness and Rough Sleeping, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

15.3 Eddie Hughes MP at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.