

Explanatory Memorandum to The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2019.

This Explanatory Memorandum has been prepared by Education and Public Services Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2019. I am satisfied that the benefits justify the likely costs.

Julie James AM

Minister for Housing and Local Government

25 June 2019

1. Description

- 1.1 The Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 (“the 2014 Regulations”) provide for certain categories of persons from abroad to be eligible or ineligible for an allocation of housing accommodation and/or for housing assistance (essentially, support for homelessness).

Eligibility for Allocation of Housing

- 1.2 Subject to certain exceptions, section 160A of the Housing Act 1996 (“the 1996 Act”) provides that a local authority in Wales shall not allocate housing accommodation to a person from abroad who is ineligible for such an allocation because he/she is subject to immigration control within the meaning of the Asylum and Immigration Act 1996, unless he is of a class prescribed by regulations made by the Secretary of State.
- 1.3 The Secretary of State may by regulations prescribe other classes of persons from abroad who are to be ineligible for an allocation of housing accommodation, either in relation to local housing authorities in Wales generally, or any particular local authority in Wales.
- 1.4 Section 160A (3) and (5) of the 1996 Act provide the powers for the above regulations to be made to make provision regarding eligibility for an allocation of housing. These powers to make regulations now rest in the Welsh Ministers.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 None.

3. Legislative background

- 3.1 These regulations amend regulations 3 and 4 of the 2014 Regulations and are made under Part 6 of the 1996 Act.

4. Purpose and intended effect of the legislation

- 4.1 Regulation 3 of the 2014 Regulations prescribes classes of persons subject to immigration control who are eligible for an allocation of housing accommodation under Part 6 of the 1996 Act. The effect of the amendment to regulation 3 is to make the following groups of people eligible for an allocation of housing accommodation:
- unaccompanied refugee children who are entitled to relocation and support, who have limited leave to remain under paragraph 352ZH of the Immigration Rules and who are habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland; and
 - those granted Calais leave to remain under paragraph 352J of the Immigration Rules and who are habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- 4.2 Regulation 4 of the 2014 Regulations provides for which other persons from abroad are to be ineligible for an allocation of housing accommodation under Part 6 of the 1996 Act
- 4.3 Under regulation 4 of the 2014 Regulations, a person who is not subject to immigration control is ineligible for an allocation of social housing where they are not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland or their only right to reside in those places is derived from one of a list of circumstances set out in regulation 4 of the 2014 Regulations. –
- 4.4 The effect of the amendment to regulation 4 is to maintain the status quo so that where a person with a right to reside of the type mentioned above is also granted limited leave to enter or remain in the United Kingdom pursuant to Appendix EU of the immigration rules, under the European Union Settlement Scheme (EUSS), this does not affect their eligibility, that is, they are not made eligible for an allocation of housing by virtue of having obtained limited leave to remain under the EUSS..

5. Consultation

- 5.1 As the Regulations provide a technical amendment which does not reflect a change in the Welsh Government's policy, a formal public consultation did not take place.

6. Regulatory Impact Assessment (RIA)

- 6.1 As a result of the negligible impact the amendment to the 2014 Regulations on services in Wales, a regulatory impact assessment has not been undertaken.

7. Competition Assessment

7.1 Not applicable

8. Post implementation review

8.1 Not applicable.