

Draft Regulations laid before Senedd Cymru under section 142(3)(b)(ii) of the Housing (Wales) Act 2014, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2024 No. (W.)

HOUSING, WALES

**The Allocation of Housing and
Homelessness (Eligibility) (Wales)
(Amendment) Regulations 2024**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 160A(3) of the Housing Act 1996 (c. 52) (“the 1996 Act”), a person who is subject to immigration control is ineligible for an allocation of housing accommodation by a local authority unless they come within a class of persons prescribed in regulations made by the Welsh Ministers. Under section 160A(5) the Welsh Ministers may prescribe other classes of persons from abroad who, whilst not subject to immigration control, are ineligible for an allocation of housing accommodation.

Under paragraph 1(2) of Schedule 2 to the Housing (Wales) Act 2014 (anaw 7) (“the 2014 Act”), a person who is subject to immigration control is ineligible for housing assistance under Chapter 2 of Part 2 of that Act unless they come within a class of persons prescribed in regulations made by the Welsh Ministers (or the Secretary of State). Under paragraph 1(4) the Welsh Ministers (or the Secretary of State) may by regulations provide for other descriptions of persons who, whilst not subject to immigration control, are ineligible for housing assistance.

These Regulations amend the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 (S.I. 2014/2603 (W. 257)) (“the 2014 Regulations”) which make provision for which persons subject to immigration control are eligible for an allocation of housing accommodation and for housing assistance. The 2014 Regulations also make provision in regard to persons who are not subject to immigration control but are ineligible for an allocation of housing accommodation and housing assistance.

Regulations 3, 5 and 7 omit references to the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (S.I. 2013/1460) which are redundant now that the accession period (the period beginning with 1 July 2013 and ending with 30 June 2018) has come to an end.

Regulation 4 amends regulation 3 of the 2014 Regulations which relates to the eligibility of persons subject to immigration control for an allocation of housing accommodation under the 1996 Act. It prescribes two additional classes of persons (“Class P” and “Class Q”) subject to immigration control who are eligible for an allocation of housing accommodation under the 1996 Act.

Class P applies to persons who are the victims of transnational marriage abandonment and Class Q applies to persons whose leave to enter or remain in the United Kingdom would ordinarily have a no recourse to public funds condition applied, but that condition has been lifted by the Home Office.

Regulation 6 amends regulation 5(1) of the 2014 Regulations which relates to the eligibility of persons subject to immigration control for housing assistance under the 2014 Act. It prescribes two additional classes of persons (“Class Q” and “Class R”) who are eligible for such assistance. Class Q is equivalent to Class P and Class R is equivalent to Class Q inserted by regulation 4.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff CF10 3NQ and on the Welsh Government’s website at www.gov.wales.

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2024 No. (W.)

HOUSING, WALES

**The Allocation of Housing and
Homelessness (Eligibility) (Wales)
(Amendment) Regulations 2024**

Made

Coming into force

20 December 2024

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 160A(3) and (5) and 172(4) of the Housing Act 1996⁽¹⁾ and section 142(2)(a) and (b) of, and paragraph 1(2) and (4) of Schedule 2 to, the Housing (Wales) Act 2014⁽²⁾.

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- (1) 1996 c. 52. Section 160A was inserted by section 14(2) of the Homelessness Act 2002 (c. 7); subsections (3) and (5) were amended by section 146(2)(d) and (e) respectively of the Localism Act 2011 (c. 20). The functions of the Secretary of State under sections 160A(3) and (5) and 172(4) of the Housing Act 1996 (c. 52) were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), and the entry in relation to that Act in Schedule 1 to S.I. 1999/672, as read in accordance with section 17(1) of the Homelessness Act 2002. Those functions were subsequently transferred to the Welsh Ministers by virtue of section 162(1) of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- (2) 2014 anaw 7. See section 99 for the definition of “prescribed”.

In accordance with section 142(3)(b)(ii) of the Housing (Wales) Act 2014, a draft of these Regulations has been laid before, and approved by a resolution of, Senedd Cymru⁽¹⁾.

Title and coming into force

1. The title of these Regulations is the Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2024 and they come into force on 20 December 2024.

Amendment of the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014

2. The Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014⁽²⁾ are amended as follows.

Amendment to regulation 2

3. In regulation 2(1) (interpretation), omit the definition of “the Accession Regulations 2013”.

Amendments to regulation 3

4. In regulation 3 (persons subject to immigration control who are eligible for an allocation of housing accommodation)—

(a) omit the “and” after paragraph (n);

(b) after paragraph (o) insert—

“(p) Class P – a person (P) who has indefinite leave to enter the United Kingdom by virtue of Appendix Victim

(1) The reference in section 142(3) to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006. See also section 40 of the Legislation (Wales) Act 2019 (anaw 4) for provision about the procedure that applies to this instrument.

(2) S.I. 2014/2603 (W. 257) as saved and modified by article 5 of S.I. 2015/1272 (W. 88) (C. 73) and amended by S.I. 2017/698 (W. 164), S.I. 2019/1041 (W. 183), S.I. 2019/1149 (W. 199), regulation 76 of S.I. 2020/1309, regulation 26 of S.I. 2020/1372, S.I. 2021/353 (W. 105), S.I. 2021/1147 (W. 282), S.I. 2022/485 (W. 121), S.I. 2023/76 (W. 14), S.I. 2023/611 (W. 92) and S.I. 2023/1211 (W. 214).

of Domestic Abuse of the Immigration Rules(1) in circumstances where P is a victim of transnational marriage abandonment(2); and

- (q) Class Q – a person who has limited leave to enter or limited leave to remain in the United Kingdom and who, after making a change of conditions application, has had their no recourse to public funds condition lifted by the Home Office in accordance with section 3(1)(c)(ii) of the Immigration Act 1971(3) and is not a person within Class F or Class J in this regulation.”

Amendments to regulation 4

5. In regulation 4 (other persons from abroad who are ineligible for an allocation of housing accommodation)—

- (a) omit paragraph (2)(c);
- (b) in paragraph (2)(d), for “(a)-(c)” substitute “(a) or (b)”.

Amendments to regulation 5

6. In regulation 5(1) (persons subject to immigration control who are eligible for housing assistance)—

- (a) omit the “and” after sub-paragraph (o);
- (b) after sub-paragraph (p) insert—
 - “(q) Class Q – a person (P) who has indefinite leave to enter the United Kingdom by virtue of Appendix Victim of Domestic Abuse of the Immigration Rules in circumstances where P is a victim of transnational marriage abandonment; and
 - (r) Class R – a person who has limited leave to enter or limited leave to remain in the United Kingdom and who, after making a change of conditions application, has had their no

(1) Laid before Parliament on 23 May 1994 (HC 395), as amended.

(2) The features of transnational marriage abandonment are defined and set out in pages 23-25 of Appendix Victim of Domestic Abuse published for Home Office Staff on 04 April 2024, as follows:
<https://assets.publishing.service.gov.uk/media/660eba8f63b7f8001fde18ba/Appendix+Victim+of+Domestic+Abuse.pdf>.

(3) 1971 c. 77; section 3(1)(c) was substituted by paragraph 1 of Schedule 2 to the Asylum and Immigration Act 1996 (c. 49) and sub-paragraph (ii) was subsequently amended by section 58 of, and the Schedule to, the UK Borders Act 2007 (c. 30).

recourse to public funds condition lifted by the Home Office in accordance with section 3(1)(c)(ii) of the Immigration Act 1971 and is not a person within Class G or Class K in this regulation.”

Amendments to regulation 6

7. In regulation 6 (other persons from abroad who are ineligible for housing assistance)—

- (a) omit paragraph (2)(c);
- (b) in paragraph (2)(d), for “(a)-(c)” substitute “(a) or (b)”.

Name

Cabinet Secretary for Housing, Local Government & Planning, one of the Welsh Ministers

Date