
STATUTORY INSTRUMENTS

1998 No. 1004

HOUSING, NORTHERN IRELAND

The Housing Accommodation and Homelessness (Persons subject to Immigration Control) (Northern Ireland) Order 1998

<i>Made</i>	- - - -	<i>7th April 1998</i>
<i>Laid before Parliament</i>		<i>8th April 1998</i>
<i>Coming into operation</i>		<i>1st May 1998</i>

The Secretary of State, in exercise of the powers conferred upon her by section 9 of the Asylum and Immigration Act 1996(1) and all other powers enabling her in that behalf, hereby makes the following Order—

Citation, commencement and extent

1. (1) This Order may be cited as the Housing Accommodation and Homelessness (Persons subject to Immigration Control) (Northern Ireland) Order 1998 and shall come into operation on 1st May 1998.

(2) This Order extends only to Northern Ireland.

Revocation

2. The Housing Accommodation and Homelessness (Persons subject to Immigration Control) Order (Northern Ireland) 1996(2) is hereby revoked.

Interpretation

3. In this Order—

“the Act” means the Asylum and Immigration Act 1996;

“the 1971 Act”(3) means the Immigration Act 1971;

“claim for asylum” means a claim made by a person that it would be contrary to the United Kingdom’s obligations under the Convention for him to be removed from or required to leave the United Kingdom;

(1) 1996 c. 49. Section 9 was amended by Schedule 19 to the Housing Act 1996 (c. 52) but by virtue of section 231(4)(c) of that Act, those amendments do not extend to Northern Ireland.

(2) S.I.1996/3274.

(3) 1971 c. 77.

“Common Travel Area” means the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively;

“the Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951⁽⁴⁾, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967⁽⁵⁾;

“the Executive” means the Northern Ireland Housing Executive;

“full-time course” means a course normally involving not less than 15 hours attendance a week in term time for the organised day-time study of a single subject or related subjects;

“the immigration rules” means the immigration rules within the meaning of the Immigration Act 1971;

“overseas student” means a person who is attending a full-time course at a specified education institution;

“specified education institution” means—

- (a) a higher education institution within the meaning given by Article 30(3) of the Education and Libraries (Northern Ireland) Order 1993⁽⁶⁾;
- (b) an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997⁽⁷⁾.

Classes specified under section 9(1)

4. The following are the classes of persons specified for the purposes of section 9(1) of the Act—

Class A—a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention;

Class B—a person

- (i) who has been granted by the Secretary of State exceptional leave to enter or remain in the United Kingdom outside the provisions of the immigration rules; and
- (ii) whose leave is not subject to a condition requiring him to maintain and accommodate himself and any dependants of his without recourse to public funds;

Class C—a person who has current leave to enter or remain in the United Kingdom which is not subject to any limitation or condition and who is habitually resident in the Common Travel Area other than a person—

- (i) who has been given leave to enter or remain in the United Kingdom upon an undertaking given by another person (his “sponsor”) or persons in writing in pursuance of the immigration rules to be responsible for his maintenance and accommodation;
- (ii) who has been resident in the United Kingdom for less than 5 years beginning from the date of entry or the date on which the undertaking was given in respect of him, whichever date is the later; and
- (iii) whose sponsor or, where there is more than one sponsor, at least one of whose sponsors, is still alive;

Class D—a person who is—

- (i) a national of a state which is a signatory to the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953)⁽⁸⁾ or a state which is a

⁽⁴⁾ Cmnd. 9171.

⁽⁵⁾ Cmnd. 3906.

⁽⁶⁾ S.I. 1993/2810 (NI 12).

⁽⁷⁾ S.I. 1997/1772 (NI 15).

⁽⁸⁾ Cmnd. 9512.

signatory to the Council of Europe Social Charter (signed in Turin on 18th October 1961); and

- (ii) habitually resident in the Common Travel Area;

Class E—an overseas student in a case where the housing accommodation which is or may be provided to him—

- (i) is let by the Executive to a specified education institution for the purpose of enabling that institution to provide accommodation for students attending a full-time course at that institution; and
- (ii) would otherwise be difficult for the Executive to let on satisfactory terms.

Class F—a person who is a secure tenant of the Executive or a registered housing association within the meaning of Article 25 of the Housing (Northern Ireland) Order 1983⁽⁹⁾.

Classes specified under section 9(2)

5. (1) The classes of persons specified for the purposes of section 9(2) of the Act are those specified in Classes A to D of article 4 and—

Class G—a person who has made a claim for asylum which is recorded by the Secretary of State as having been made on his arrival (other than on re-entry) in the United Kingdom from a country outside the Common Travel Area and which has not been recorded by the Secretary of State as having been determined or abandoned;

Class H—a person who becomes an asylum seeker, that is to say—

- (i) whilst that person is present in Northern Ireland the Secretary of State makes a declaration to the effect that the country of which that person is a national is subject to such a fundamental change in circumstances that he would not normally order the return of a person to that country; and
- (ii) that person makes a claim for asylum which is recorded by the Secretary of State as having been made within 3 months from the day on which that declaration was made, provided that the claim for asylum has not been recorded by the Secretary of State as having been determined or abandoned.

Class I—a person (other than a person falling within Class G)—

- (i) who on or before 4th February 1996 made a claim for asylum;
- (ii) who was on that date entitled to benefit under the Housing Benefit (General) Regulations (Northern Ireland) 1987⁽¹⁰⁾; and
- (iii) either—
 - (a) whose claim has not been recorded by the Secretary of State as having been determined or abandoned; or
 - (b) whose claim has been recorded as determined on or before 4th February 1996; and
 - (aa) whose appeal in respect of that claim was pending on 5th February 1996 or was made within the time limits specified in the rules of procedure made under section 22 of the 1971 Act; and
 - (bb) whose appeal in respect of that claim has not been determined or abandoned;

Class J—a person who is on an income-based jobseeker's allowance or in receipt of income support.

(2) For the purposes of the description of Class J—

⁽⁹⁾ S.I. 1983/156 (NI 3).

⁽¹⁰⁾ S.R. 1987 No. 461; relevant amending regulations are S.R. 1994 No. 80 and S.R. 1994 No. 266.

- (i) “an income-based jobseeker’s allowance” means an income-based jobseeker’s allowance within Article 3(4) of the Jobseekers (Northern Ireland) Order 1995⁽¹¹⁾;
- (ii) “income support” has the same meaning as in the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽¹²⁾; and
- (iii) a person is on an income-based jobseeker’s allowance—
 - (a) on any day in respect of which an income-based jobseeker’s allowance is payable to him; and
 - (b) on any day—
 - (aa) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid in accordance with Article 21 of the Jobseekers (Northern Ireland) Order 1995 (circumstances in which a jobseeker’s allowance is not payable); or
 - (bb) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Order and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for Article 21 of that Order.

Northern Ireland Office
7th April 1998

Marjorie Mowlan
One of Her Majesty’s Principal Secretaries of
State

⁽¹¹⁾ S.I. 1995/2705 (NI 15).
⁽¹²⁾ 1992 c. 7.

EXPLANATORY NOTE

(This note is not part of the Order)

Under section 9 of the Asylum and Immigration Act 1996, the Secretary of State has power to specify classes of persons subject to immigration control for whom the Housing Executive may provide housing accommodation (subsection (1)) or assistance under the homelessness legislation (subsection (2)).

This Order, which applies only to Northern Ireland, specifies certain classes for the purposes of section 9 and revokes the Housing Accommodation and Homelessness (Persons subject to Immigration Control) Order (Northern Ireland) 1996.