
STATUTORY INSTRUMENTS

1996 No. 3274

HOUSING, NORTHERN IRELAND

The Housing Accommodation and Homelessness(Persons subject to Immigration Control) Order(Northern Ireland) 1996

<i>Made</i>	- - - -	<i>20th December 1996</i>
<i>Laid before Parliament</i>		<i>13th January 1997</i>
<i>Coming into operation</i>		<i>1st March 1997</i>

The Secretary of State, in exercise of the powers conferred upon him by section 9 of the Asylum and Immigration Act 1996⁽¹⁾ and of all other powers enabling him 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) Order (Northern Ireland) 1996 and shall come into operation on 1st March 1997.

(2) This Order extends only to Northern Ireland.

Interpretation

2. In this Order—

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

“the 1971 Act”⁽²⁾ 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;

“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⁽³⁾, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967⁽⁴⁾;

(1) 1996 c. 49.

(2) 1971 c. 77.

(3) Cmnd. 9171.

“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;

“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⁽⁵⁾
- (b) an institution which provides further education within the meaning given by Article 100(2) of the Education Reform (Northern Ireland) Order 1989⁽⁶⁾, including any such institution which also provides a course of higher education to which Article 101 of that Order applies.

Classes specified under section 9(1)

3. 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 within the meaning of the 1971 Act; 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;

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

- (a) 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
- (b) would otherwise be difficult for the Executive to let on satisfactory terms.

Classes specified under section 9(2)

4. The classes of persons specified for the purposes of section 9(2) of the Act are those specified in classes A to C of article 3 and—

Class E — a person who has made a claim for asylum which is recorded by the Secretary of State as having been made either—

- (i) on his arrival (other than on his re-entry) in the United Kingdom from a country outside the Common Travel Area; or
- (ii) within 3 months from the day on which the Secretary of State makes a declaration to the effect that the country of which he 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.

(4) Cmnd. 3906.

(5) S.I. 1993/2810 (NI 12).

(6) S.I. 1989/2406 (NI 20).

and which in either case, has not been recorded by the Secretary of State as having been determined or abandoned;

Class F — a person (other than a person falling within Class E) who on or before 4th February 1996 has made a claim for asylum and who was on that date entitled to benefit under the Housing Benefit (General) Regulations (Northern Ireland) 1987(7) in a case where—

- (i) his claim has not been recorded by the Secretary of State as having been determined or abandoned; or
- (ii) there was on that date an appeal pending in respect of that claim or such an appeal is made within the time limits specified in rules of procedure made under section 22 of the 1971 Act,

and, in either case, no determination or abandoning of the appeal in question has been recorded by the Secretary of State since that date.

Northern Ireland Office

20th December 1996

P. B. B. Mayhew
One of Her Majesty's Principal Secretaries of
State

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

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 a housing authority may provide housing accommodation (subsection (1)) or assistance under the homelessness legislation (subsection (2)). The Housing Accommodation and Homelessness (Persons subject to Immigration Control) Order 1996 (S.I.1996/1982), which did not extend to Northern Ireland, specified certain classes for the purposes of section 9. This Order makes equivalent provision for Northern Ireland.

This Order specifies the following classes for the purposes of section 9(1) (article 3)—

Class A — a person recorded as a refugee;

Class B — a person who has been granted exceptional leave to enter or remain in the UK;

Class C — a person whose leave to enter or remain is not subject to any restriction;

Class D — an overseas student, in difficult to let accommodation let by the Northern Ireland Housing Executive to an education institution.

The classes specified for the purposes of section 9(2) are classes A to C above and (article 4)—

Class E — a person who claims asylum on arrival in this country or within 3 months of a declaration by the Secretary of State as to a fundamental change of status in his country of nationality if no determination has yet been made of the claim;

Class F — an asylum seeker in receipt of housing benefit on 4th February 1996 until the next decision on his claim is made.