



Department for
Communities and
Local Government

**Department for Communities and Local
Government**
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To:

All Chief Executives and Chief Housing
Officers of Local Authorities in England

21 October 2016

Dear Chief Executive and Chief Housing Officer

This letter notifies local housing authorities that The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2016 (SI 2016/965) will come into force on 30 October 2016.

These regulations (the Amendment Regulations) are made by the Secretary of State under sections 160ZA(2), 172(4), 185(2) and 215(2) of the Housing Act 1996 (the 1996 Act) and were laid before Parliament on 3 October.

They amend regulations 2, 3 and 5 of *The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006* (SI 2006 No. 1294) (the Eligibility Regulations).

Regulations 3 and 5 of the Eligibility Regulations prescribe the classes of persons subject to immigration control who are to be treated as persons from abroad who are eligible for an allocation of housing accommodation or for homelessness assistance respectively.

The Amendment Regulations amend regulations 3 and 5 to provide that the following persons are eligible for an allocation of housing accommodation or homelessness assistance: namely, persons who have leave to enter or remain in the UK on family or private life grounds under Article 8 of the European Convention on Human Rights, granted under paragraph 276 BE(1) or 276DG of, or under Appendix FM to, the Immigration Rules, where this leave is not subject to a condition of 'no recourse to public funds'.

Before 9 July 2012 leave on family or private life grounds was one of the forms of Discretionary Leave granted outside the provisions of the Immigration Rules. Persons with this form of leave were eligible for an allocation of housing accommodation and for homelessness assistance by virtue of regulations 3(b) and 5(1)(b) of the Eligibility Regulations respectively. However, under changes made to the Immigration Rules from 9 July 2012, leave on family or private life grounds has largely been granted under the Immigration Rules. These Regulations amend the Eligibility Regulations to restore the previous position, and ensure that persons granted leave under the Immigration Rules on the grounds of family or private life are

eligible for social housing and homelessness assistance, provided their leave is granted with recourse to public funds.

The Amendment Regulations also amend regulation 5 to remove redundant provisions relating to certain categories of asylum seekers whose claim for asylum was made before 3 April 2000.

Generally speaking asylum seekers are not eligible for social housing or homelessness assistance in line with the Government's wider immigration policy. Instead they are accommodated by the Home Office under the arrangements provided for in Part 6 of the Immigration and Asylum Act 1999. For a period after Part 6 of the 1999 Act came into force, transitional provisions allowed for certain categories of asylum seekers already accommodated by local authorities to continue to be supported by their local authority. These transitional provisions ceased to apply from April 2006 and, as a result, the provisions in regulation 5 are no longer required.

The Eligibility Amendment Regulations are published by the Stationery Office and are available at: <http://www.legislation.gov.uk/id/uksi/2016/965>

Enquiries about the Amendment Regulations should be addressed to:

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Yours sincerely,



Frances Walker



John Bentham