WELSH STATUTORY INSTRUMENTS

2006 No. 2646 (W.227)

HOUSING, WALES

Homelessness (Wales) Regulations 2006

Made - - - -	*3 October 2006*
Coming into force - -	*9 October 2006*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred upon the Secretary of State by sections 185(2) and (3) of the Housing Act 1996(**1**) which are now vested in the National Assembly so far as exercisable in Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Homelessness (Wales) Regulations 2006 and they come into force on 9 October 2006.

(2) These Regulations apply to Wales.

Interpretation

2.—(1) In these Regulations—

"the 1971 Act" ("*Deddf 1971*") means the Immigration Act 1971(**2**);

"the 1995 Act" ("*Deddf 1995*") means the Jobseekers Act 1995(**3**);

"the 1996 Act" ("*Deddf 1996*") means the Housing Act 1996;

"asylum-seeker" ("*ceisydd lloches*") means a person who is not under 18 and who made a claim for asylum which is recorded by the Secretary of State as having been made before 3 April 2000 but which has not been determined;

"claim for asylum" ("*hawliad lloches*") means a claim that it would be contrary to the United Kingdom's obligations under the Refugee Convention for the claimant to be removed from, or required to leave, the United Kingdom;

"the Common Travel Area" ("*Ardal Deithio Gyffredin*") means the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively;

"the immigration rules" ("*y rheolau mewnfudo*") means the rules laid down as mentioned in section 3(2) of the 1971 Act (general provisions for regulation and control);

(**1**) 1996 c. 52.
(**2**) 1971 c. 77.
(**3**) 1995 c. 18.

"limited leave" ("*caniatâd cyfyngedig*") means leave under the 1971 Act to enter or remain in the United Kingdom which is limited as to duration; and

"the Refugee Convention" ("*y Confensiwn ynglŷn â Ffoaduriaid*") means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951(**4**), as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31 January 1967(**5**).

(2) For the purposes of the definition of "asylum-seeker", a claim for asylum is determined at the end of such period beginning—

(a) on the day on which the Secretary of State notifies the claimant of the decision on the claim; or

(b) if the claimant has appealed against the Secretary of State's decision, on the day on which the appeal is disposed of,

as may be prescribed under section 94(3) of the Immigration and Asylum Act 1999(**6**).

(3) For the purposes of regulations 3(1)(i) (Class I)—

(a) "an income-based jobseeker's allowance" ("*lwfans ceisio gwaith ar sail incwm*")means a jobseeker's allowance, payable under the 1995 Act, entitlement to which is based on the claimant satisfying conditions which include those set out in section 3 of the 1995 Act (the income-based conditions);

(b) "income support" ("*cymhorthdal incwm*") has the same meaning as in section 124 of the Social Security Contributions and Benefits Act 1992(**7**) (income support); and

(c) a person is on an income-based jobseeker's allowance on any day in respect of which an income-based jobseeker's allowance is payable to that person and on any day—

(i) in respect of which that person satisfies the conditions for entitlement to an income-based jobseeker's allowance but where the allowance is not paid in accordance with section 19 of the 1995 Act(**8**) (circumstances in which jobseeker's allowance is not payable); or

(ii) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to the 1995 Act (waiting days) and which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to that person or would be payable to that person but for section 19 of the 1995 Act.

Classes of persons subject to immigration control who are eligible for housing assistance

3.—(1) The following are classes of persons prescribed for the purposes of section 185(2) of the 1996 Act (persons subject to immigration control who are eligible for housing assistance)-

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

(b) 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 that person to maintain and accommodate themselves, and any person who is dependent on that person, without recourse to public funds;

(**4**) Cmnd. 9171.
(**5**) Cmnd. 3906.
(**6**) 1999 c. 33. *See* section 167 of that Act for the definition of "prescribed" for the purposes of that Act.
(**7**) 1992 c. 4. Section 124 was amended by paragraph 30 of Schedule 2, and Schedule 3, to the 1995 Act.
(**8**) Section 19 was amended by paragraph 67 of Schedule 1 to the Employment Rights Act (c.18) and paragraph 141 of Schedule 7 to the Social Security Act 1998 (c. 14).

(c) 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 (that person's "sponsor") in writing in pursuance of the immigration rules to be responsible for that person's maintenance and accommodation;

(ii) who has been resident in the United Kingdom for less than five years beginning on the date of entry or the date on which the undertaking was given in respect of that person, whichever date is the later; and

(iii) whose sponsor or, where there more than one sponsor, at least one of whose sponsors, is still alive;

(d) Class D—a person who left the territory of Montserrat after 1 November 1995 because of the effect on that territory of a volcanic eruption;

(e) Class E—a person who is habitually resident in the Common Travel Area and who—

(i) is a national of a state which has ratified the European Convention on Social and Medical Assistance done at Paris on 11 December 1953(**9**) or a state which has ratified the European Social Charter done at Turin on 18 October 1961(**10**) and is lawfully present in the United Kingdom; or

(ii) before 3 April 2000 was owed a duty by a housing authority under Part III of the Housing Act 1985(**11**) (housing and homeless) or Part VII of the 1996 Act (homelessness) which is extant, and who is a national of a state which is a signatory to the European Convention on Social and Medical Assistance done at Paris on 11 December 1953 or a state which is a signatory to the European Social Charter done at Turin on 18 October 1961;

(f) Class F—a person who is an asylum-seeker and who made a claim for asylum—

(i) which is recorded by the Secretary of State as having been made on his arrival (other than on his re-entry) in the United Kingdom from a country outside the Common Travel Area; and

(ii) which has not been recorded by the Secretary of State as having been either decided (other than on appeal) or abandoned;

(g) Class G—a person who is an asylum-seeker and—

(i) who was in Great Britain when the Secretary of State made 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 the Secretary of State would not normally order the return of a person to that country;

(ii) who made a claim for asylum which is recorded by the Secretary of State as having been made within a period of three months from the day on which that declaration was made; and

(iii) whose claim for asylum has not been recorded by the Secretary of State as having been either decided (other than on appeal) or abandoned;

(h) Class H—a person who is an asylum-seeker and—

(i) who made a relevant claim for asylum on or before 4 February 1996; and

(**9**) Cmnd. 9512.

(**10**) Cmnd. 2643.

(**11**) 1985 c. 68. The repeal of Part III, which was commenced by the Housing Act 1996 (Commencement No. 5 and Transitional Provisions) Order 1996 (S.I.1996/2959 (c.88)), does not, by virtue of paragraph 1 of the Schedule to that Order, apply to applicants under Part III of that Act whose applications were made before 20 January 1997.