WELSH STATUTORY INSTRUMENTS

2003 No. 239 (W.36)

HOUSING, WALES

The Allocation of Housing (Wales) Regulations 2003

Made - - - -	*28th January 2003*
Coming into force - -	*29 January 2003*

The National Assembly for Wales makes the following Regulations in exercise of the powers given to the Secretary of State by sections 160(4), 160A(3) and (5) and 215(2) of the Housing Act 1996(**1**) which powers are now vested in the National Assembly for Wales so far as exercisable in relation to Wales:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Allocation of Housing (Wales) Regulations 2003 and shall come into force on 29 January 2003.

(2) These Regulations apply to Wales only.

Interpretation

2. In these Regulations—

"the Act" ("*y Ddeddf*") means the Housing Act 1996;

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

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

Cases where the provisions of Part VI of the Act do not apply

3. The provisions of Part VI of the Act about the allocation of housing accommodation do not apply in the following cases—

(**1**) 1996 c. 52; section 160A was added by section 14(2) of the Homelessness Act 2002 (c. 7); *see* section 215(1) for the definition of "prescribed". The functions of the Secretary of State under sections 160, 160A, 172(4) and 215(2) are, 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, (to which there are amendments not relevant to these Regulations)) and section 17(1) of the Homelessness Act 2002.;

(**2**) 1971 c. 77.

(a) where a local housing authority secures the provision of suitable alternative accommodation under section 39 of the Land Compensation Act 1973(**3**) (duty to rehouse residential occupiers);

(b) in relation to the grant of a secure tenancy under section 554 and 555 of the Housing Act 1985(**4**) (grant of tenancy to former owner-occupier or statutory tenant of defective dwelling-house).

Classes prescribed under section 160A(3) who are eligible persons

4. The following are classes of persons subject to immigration control prescribed for the purposes of section 160A(3) of the Act (persons prescribed as eligible for an allocation of housing accommodation by a local housing authority)—

(a) Class A-a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(**5**) as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(**6**);

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

(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 above-mentioned undertaking was given in respect of that person, whichever date is the later; and

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

(d) Class D-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 11th December 1953(**7**) or a state which has ratified the European Social Charter done at Turin on 18th October 1961(**8**) and is lawfully present in the United Kingdom; or

(**3**) 1973 c. 26; section 39 was amended by Part 1 of Schedule 2 to the Land Compensation (Scotland) Act 1973 (c. 56), paragraph 40 of Schedule 13 to the Housing Act 1974 (c. 44), paragraph 10 of Schedule 7 to the Development of Rural Wales Act 1976 (c. 75), Part 1 of Schedule 1 and paragraph 24 of Schedule 2 to the Housing (Consequential Provisions) Act 1985 (c. 71), Part 2 of Schedule 12 to the Local Government and Housing Act 1989 (c. 42), and paragraph 29 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11).
(**4**) 1985 c. 68; section 554 was amended by paragraph 61 of Schedule 17 to the Housing Act 1988 (c. 50) and S.I. 1996/2325.
(**5**) Cmnd.9171.
(**6**) Cmnd.3906.
(**7**) Cmnd.9512.
(**8**) Cmnd.2643.