

**Explanatory Memorandum to The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) (No 2) Regulations 2019.**

This Explanatory Memorandum has been prepared by Education and Public Services Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Minister/Deputy Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) (No 2) Regulations 2019. I am satisfied that the benefits justify the likely costs.

Julie James AM

**Minister for Housing and Local Government**

25 June 2019

## **1. Description**

- 1.1 The Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 (“the 2014 Regulations”) provide for certain categories of persons from abroad to be eligible or ineligible for an allocation of housing accommodation and/or for housing assistance (in the case of the latter in relation to homelessness).

### Eligibility for Housing Assistance

- 1.2 Paragraph 1(2) of Schedule 2 to the Housing (Wales) Act 2014 (“the 2014 Act”) provides that a person who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996 is not eligible for housing assistance unless the person falls within a class of persons prescribed by regulations made by the Welsh Ministers or the Secretary of State.
- 1.3 Paragraph 1(4) of Schedule 2 to the 2014 Act provides that the Welsh Ministers or the Secretary of State may by regulations provide for other descriptions of persons who are to be treated as persons from abroad who are ineligible for housing assistance.

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

- 2.1 None.

## **3. Legislative background**

- 3.1 These regulations, made under the 2014 Act will amend the 2014 Regulations. The regulations to be amended are regulations 5 and 6.

## **4. Purpose and intended effect of the legislation**

- 4.1 These Regulations amend the provisions of the 2014 Regulations, which prescribe groups of people from abroad, who are to be considered eligible/ineligible for housing assistance.
- 4.2 Regulation 5 of the 2014 Regulations prescribes classes of persons subject to immigration control who are eligible for housing assistance under the 2014 Act. The effect of the amendment to regulation 5 is to make the following groups of people eligible for housing assistance:
- unaccompanied refugee children who are entitled to relocation and support, who have limited leave to remain under paragraph 352ZH of the Immigration Rules and who are habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland; and
  - those granted Calais leave to remain under paragraph 352J of the Immigration Rules and who are habitually resident in the United

Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

- 4.3 Regulation 6 of the 2014 Regulations provides for which other persons from abroad are to be ineligible for housing assistance under the 2014 Act.
- 4.4 Under regulation 6 of the 2014 Regulations, a person who is not subject to immigration control is ineligible for housing assistance where they are not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland or their only right to reside in those places is derived from one of a list of circumstances set out in regulation 6 of the 2014 Regulations. –
- 4.5 The effect of the amendment to regulation 6 is to maintain the status quo so that where a person with a right to reside of the type mentioned above is also granted limited leave to enter or remain in the United Kingdom pursuant to Appendix EU of the immigration rules, under the European Union Settlement Scheme (EUSS), this does not affect their eligibility, that is, they are not made eligible for housing assistance by virtue of having obtained limited leave to remain under the EUSS.

## **5. Consultation**

- 5.1 As the Regulations provide a technical amendment which does not reflect a change in the Welsh Government's policy, a formal public consultation did not take place.

## **6. Regulatory Impact Assessment (RIA)**

- 6.1 As a result of the negligible impact the amendment to the 2014 Regulations on services in Wales, a regulatory impact assessment has not been undertaken.

## **7. Competition Assessment**

- 7.1 Not applicable

## **8. Post implementation review**

- 8.1 Not applicable.