

## **EXPLANATORY MEMORANDUM TO THE ALLOCATION OF HOUSING AND HOMELESSNESS (ELIGIBILITY) (WALES) REGULATIONS 2009**

This Explanatory Memorandum has been prepared by the Housing Directorate and is laid before the National Assembly for Wales in accordance with SO 24.1.

### **Description**

1. This instrument amends the Allocation of Housing (Wales) Regulations 2003 and the Homelessness (Wales) Regulations 2006, in respect of British people arriving in Wales from Zimbabwe, having accepted an offer by the UK Government to assist them to settle in the United Kingdom. For these individuals, it waives the usual requirement that British people arriving or returning from abroad must be 'habitually resident' in the United Kingdom, Channel Islands, Isle of Man or Republic of Ireland in order to be eligible for an allocation of local authority housing or homelessness assistance.

### **Matters of special interest to the Subordinate Legislation Committee**

2. None.

### **Legislative background**

3. Sections 160A, 172, 185 and 215 of the Housing Act 1996 provide the powers to amend the provisions of the Allocation of Housing (Wales) Regulations 2003 and the Homelessness (Wales) Regulations. The powers were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 and are now vested in the Welsh Ministers by virtue of Schedule 11 to the Government of Wales Act 2006.
4. These Regulations follow the negative resolution procedure.

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

5. In light of the severe economic, social and health care problems in Zimbabwe, the Government has decided to offer support to eligible British people to return to the UK. This offer is for British citizens and British nationals who have the right of abode in the UK and will be open to people aged 70 and over and to those below this age who are vulnerable due to health and social care needs that mean that they are not able to look after themselves. The spouses or partners and any dependants of eligible applicants will be able to apply to accompany them and will be considered on a case by case basis.
6. The UK Government estimates that there are 3,000 people in Zimbabwe who may be eligible for this planned resettlement programme. Of these, the British Embassy in Harare advises that approximately 750 people over an 18 month period might decide to take up the offer to relocate to the UK. On a pro rata basis the Welsh Assembly Government anticipates that the number of households coming to Wales is unlikely to exceed 50.

7. The UK and Welsh Assembly Governments are putting in place reception arrangements and are in discussion with housing associations and local authorities for the provision of suitable settled accommodation, with associated support, for individuals on the programme to move into within a few days of their arrival in the United Kingdom.
8. Certain groups of people from abroad are not eligible to be allocated housing by a local authority or eligible for homelessness assistance (except advice and information). Generally, people will be ineligible if they are not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland (although there are some exceptions to this rule). This includes British citizens who are not habitually resident; they will not be eligible unless they fall within an excepted group, for example, if they are in the UK as a result of deportation or expulsion from another country.
9. These Regulations provide for a further exception to the general rule that people must be habitually resident in order to be eligible for an allocation of housing by a local authority or eligible for homelessness assistance. This exception will enable local authorities to provide accommodation for people being assisted by the British Government to leave Zimbabwe and (if they wish) settle in Wales immediately they arrive, before they have established habitual residence in the UK.
10. The Secretary of State for Work and Pensions is making similar regulations in order to ensure that individuals on the programme, who may have no resources of their own, are immediately eligible on arrival for income related benefits.

### **Implementation**

11. The coming into force date for these Regulations is 20 March 2009.
12. Should this legislation be annulled, vulnerable people from Zimbabwe who wish to return to live in Wales will not be eligible for local authority housing or homelessness assistance. This would conflict with the Cabinet's written statement on 23 February that, "the Assembly Government will provide the support necessary to those vulnerable people who choose to settle here".

### **Consultation**

13. No consultation has been undertaken on this Instrument. Had the UK and Welsh Assembly Governments undertaken a consultation, it is likely that process would have created publicity for the Zimbabwe planned resettlement programme at an earlier stage, with potentially unhelpful consequences. Given the very specific effect of this Instrument and the exceptional circumstances to which it relates, the Welsh Ministers believe that the absence of a formal consultation process is justified in this instance. The Welsh Local Government Association and other key stakeholders have been made aware of and foresee no difficulties with the decision to waive the habitual residence test for individuals on the programme.

14. A letter will be sent to all chief housing officers of local authorities in Wales advising them that this Instrument has been laid and of its practical effect.

### **Regulatory Impact Assessment**

15. A Regulatory Impact Assessment has not been produced for this instrument.
16. The impact on the public sector is that local authorities will be able to accommodate individuals on the programme, in circumstances where they previously may have been unable to do so. For people who wish to settle in Wales, the Welsh Assembly Government will manage individuals' moves into settled accommodation in partnership with local authorities and housing associations. The Welsh Assembly Government does not therefore expect them therefore to apply independently for an allocation of housing or homelessness assistance during the period which, but for this Instrument, they would be ineligible.