EXPLANATORY MEMORANDUM TO

THE ALLOCATION OF HOUSING AND HOMELESSNESS (ELIGIBILITY) (ENGLAND) (AMENDMENT)) REGULATIONS 2009

2009 No. 358

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument amends The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006, in respect of British people arriving in Great Britain from Zimbabwe, having accepted an offer by the 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 being resident 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

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 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.

4.2 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. The Regulations will exempt from the habitual residence requirement British people who arrive in Great Britain on or after 28th February 2009 who have been resident in Zimbabwe before they left for the UK and who accepted an offer of assistance from her Majesty's Government to move and settle in the UK. The exemption will only apply to people who arrive in the UK on or after the 28th February but before the 18th March 2011.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 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.

The 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.

The Government is putting in place reception arrangements and is 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.

This instrument ensures that local authorities as well as housing associations are legally able to accommodate individuals on the programme from the date of their arrival in the United Kingdom, rather than having to wait until they are habitually resident in order to do so. The Department of Work and Pensions is making parallel 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.

- ***Consolidation***

7.2 The Department for Communities and Local Government does not intend to consolidate The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006, which this instrument amends, until such point as more significant amendments are required.

8. Consultation outcome

8.1 No consultation has been undertaken on this Instrument. Had the Department of Communities and Local Government 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. Since 18 February the programme has been in the public domain and we are now therefore making this Instrument. There is however at this stage insufficient time for a consultation process if the regulations are to be in force in time for the first arrivals on the programme.

Given the very specific effect of this Instrument and the exceptional circumstances to which it relates, the Secretary of State believes that the absence of a formal consultation process is justified in this instance. The Local Government Association and other key stakeholders have been made aware of and have not objected to the decision to waive the habitual residence test for individuals on the programme.

9. Guidance

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

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 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. The Government will manage individuals' moves into settled accommodation in partnership with local authorities and housing associations. We do not therefore expect them to apply independently for an allocation of housing or homelessness assistance during the period which, but for this Instrument, they would be ineligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This instrument will only apply to individuals resident in Zimbabwe who arrive in the United Kingdom on the planned resettlement programme on or after 28 February 2009 but before 18 March 2011. The Department for Communities and Local Government will maintain a record of the accommodation in which individuals are placed through the programme and whether this is with a housing association or local authority landlord.

13. Contact

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