

2006 No. 214

SOCIAL SECURITY

The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

*Made - - - 2nd February 2006
Laid before Parliament 10th February 2006
Coming into force - - 6th March 2006*

[...]

Persons from abroad

10.—(1) A person from abroad who is liable to make payments in respect of a dwelling shall be treated as if he were not so liable ►¹◄.

►²(2) In paragraph (1), “person from abroad” means, subject to the following provisions of this regulation, a person who is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(3) No person shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless he has a right to reside in (as the case may be) the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland other than a right to reside which falls within paragraph (4) ►³or (4ZA)◄.

(4) A right to reside falls within this paragraph if it is one which exists by virtue of, or in accordance with, one or more of the following—

(a) regulation 13 of the ►⁴Immigration (European Economic Area) Regulations 2016◄;

(b) regulation 14 of those Regulations, but only in a case where the right exists under that regulation because the person is—

(i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or

(ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker; ►⁵or◄

►⁶(bb) regulation 16 of those Regulations, but only in a case where the right exists under that regulation because the person satisfies the criteria in paragraph (5) of that regulation;◄

►⁷◄

►⁸(4ZA) A right to reside falls within this paragraph if it exists by virtue of a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of—

¹ Words omitted due to implied repeal by Asylum and Immigration (Treatment of Claimants etc.) Act 2004 s12(2)(e) and, art., 2(1) of S.I. 2007/1602 from 14.06.07; see also S.I. 2006/217 reg. 7 and schedule 4.

² Regs. 10(2), (3), (4)(a)-(d) & (4A)(a)-(k) substituted for regs 10(2) & (3) by reg. 5(2)(a) of S.I. 2006/1026 from 30.4.06.

³ Words inserted by reg. 6(2)(a) of S.I. 2019/872 from 7.5.19.

⁴ Words substituted by reg. 6(2)(b) of S.I. 2019/872 from 7.5.19.

⁵ Word inserted by reg. 65(2)(a)(i) of S.I. 2020/1309 from 1.1.21

⁶ Sub-paragraph (bb) substituted by reg. 6(2)(c) of S.I. 2019/872 from 7.5.19.

⁷ Sub-paragraphs (c) to (e) omitted by reg. 65(2)(a)(ii) of S.I. 2020/1309 from 1.1.21

⁸ Paragraph (4ZA) inserted by reg. 6(2)(d) of S.I. 2019/872 from 7.5.19.

- (a) Appendix EU to the immigration rules made under section 3(2) of that Act;►⁹◄
 - (b) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act◄►¹⁰; or
 - (c) having arrived in the United Kingdom with an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules made under section 3(2) of that Act.◄
- ¹¹ (4ZB) Paragraph (4ZA)(a) does not apply to a person who—
- (d) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and
 - (e) would have a right to reside under the Immigration (European Economic Area) Regulations 2016 if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (4). ◄
- (4A) A person is not a person from abroad if he is—
- ¹²(zza) a person granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971(1), where such leave is granted by virtue of—
- (i) the Afghan Relocations and Assistance Policy; or
 - (ii) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme);
- (zzb) a person in Great Britain not coming within sub-paragraph (zza) or ►¹³(h)◄ who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021;◄
- ¹⁴(zzc) a person in Great Britain who was residing in Ukraine immediately before 1st January 2022, left Ukraine in connection with the Russian invasion which took place on 24th February 2022 and—
- (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971; ►¹⁵◄
 - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; ►¹⁶ or ◄◄
- ¹⁷(iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;◄
- ¹⁸(zzd) a person who was residing in Sudan before 15th April 2023, left Sudan in connection with the violence which rapidly escalated on 15th April 2023 in Khartoum and across Sudan and—
- (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971;
 - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; or
 - (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;◄

⁹ Word omitted by reg. 18(2)(a) of S.I. 2020/1372 from 1.1.21

¹⁰ Sub-paragraph (c) inserted by reg. 18(2)(b) of S.I. 2020/1372 from 1.1.21

¹¹ Paragraph (4ZB), inserted by reg. 6(2)(a) of S.I. 2020/683 from 24.8.20.

¹² Sub-paragraphs (zza)-(zzb) inserted by reg. 2(2) of S.I. 2021/1034 from 15.09.21.

¹³ Words substituted by reg. 2(2) of S.I. 2022/344 from 22.03.22.

¹⁴ Sub-paragraph (zzc) inserted by reg. 2(3) of S.I. 2022/344 from 22.03.22.

¹⁵ Word omitted by reg. 2(1) of S.I. 2022/990 from 18.10.22.

¹⁶ Word inserted by reg. 2(1) of S.I. 2022/990 from 18.10.22.

¹⁷ Sub-paragraph (iii) inserted by reg. 2(1)(c),(2)(e) of S.I. 2022/990 from 18.10.22.

¹⁸ Sub-paragraph (zzd) inserted by reg. 2(1),(2)(e) of S.I. 2023/532 from 15.05.23.

- ¹⁹ (zze) a person who was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7th October 2023, who left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7th October 2023 or the violence which rapidly escalated in the region following the attack and—
 - (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971;
 - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; or
 - (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act; ◀
- ²⁰(za) a qualified person for the purposes of regulation 6 of the ►²¹Immigration (European Economic Area) Regulations 2016 ◀ as a worker or self-employed person;
- (zb) a family member of a person referred to in sub-paragraph (za) ►²²◀;
- (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations; ◀
- ²³(zd) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (3AA)(a), provided that the relevant person of Northern Ireland falls within sub-paragraph (za), or would do so but for the fact that they are not an EEA national; ◀
- ²⁴(ze) a frontier worker within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020;
- (zf) a family member, of a person referred to in sub-paragraph (ze), who has been granted limited leave to enter, or remain in, the United Kingdom by virtue of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971; ◀
- (g) a refugee;
- ²⁵(h) a person who has been granted leave or who is deemed to have been granted leave outside the rules made under section 3(2) of the Immigration Act 1971 ►²⁶◀;
- ²⁷(hh) a person who has humanitarian protection granted under those rules; ◀
 - (i) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom; ►²⁸or◀
- (j)-(jj) ►²⁹◀
- (k) on state pension credit. ◀³⁰
- (5) ►³¹◀
- (6) In this regulation—

¹⁹ Sub-paragraph (zze) inserted by reg. 2(2)(e) of S.I. 2023/1144 from 27.10.23.

²⁰ Regulation 10(4A)(a)-(f) substituted for sub-paragraphs (za)-(zc) by reg. 6 of S.I. 2014/902 from 31.5.14.

²¹ Words substituted by reg. 6(2)(e) of S.I. 2019/872 from 7.5.19.

²² Words omitted by reg. 6(2)(b) of S.I. 2020/683 from 24.8.20

²³ Sub-paragraph (zd) inserted by reg. 6(2)(c) of S.I. 2020/683 from 24.8.20.

²⁴ Sub-paragraphs (ze) to (zf) inserted by reg. 65(2)(b) of S.I. 2020/1309 from 1.1.21.

²⁵ Sub-paragraph (h) substituted by reg. 12(3)(a) of S.I. 2013/2536 from 29.10.13.

²⁶ Words omitted by reg. 2(4) of S.I. 2022/344 from 22.03.22.

²⁷ Sub-paragraph (hh) inserted by reg. 6(2) of S.I. 2006/2528 from 9.10.06.

²⁸ Word inserted by reg. 12(3)(b) of S.I. 2013/2536 from 29.10.13.

²⁹ Sub-paragraphs (j) and (jj) omitted by reg. 12(3)(c) of S.I. 2013/2536 from 29.10.13.

³⁰ See footnote 2 above.

³¹ Paragraph (5) omitted by reg. 12(3)(c) of S.I. 2013/2536 from 29.10.13.

- ³³ “EEA national” has the meaning given in regulation 2(1) of the Immigration (European Economic Area) Regulations 2016;
 “family member” has the meaning given in regulation 7(1)(a), (b) or (c) of the Immigration (European Economic Area) Regulations 2016 except that regulation 7(4) of those Regulations does not apply for the purposes of paragraphs (4ZB) and (4A)(zd);◄
- “refugee” means 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.
- ³⁴ “relevant person of Northern Ireland” has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971. ◄
- ³⁵ (7) References in this regulation to the Immigration (European Economic Area) Regulations 2016 are to be read with Schedule 4 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) Regulations 2020.◄

³² Definition of “a European Economic Area State” omitted by reg. 5(2)(b) of S.I. 2006/1026 from 30.4.06.

³³ Definitions of “EEA national” and “family member” inserted by reg. 6(2)(d)(i) of S.I. 2020/683 from 24.8.20.

³⁴ Definition of “relevant person of Northern Ireland” inserted by reg. 6(2)(d)(ii) of S.I. 2020/683 from 24.8.20.

³⁵ Paragraph (7) inserted by reg. 65(2)(c) of S.I. 2020/1309 from 1.1.21.