

SCHEDULE

Regulation 2

**Persons not excluded from certain benefits under section 115 of the Immigration and Asylum Act 1999**

Part I

*Persons not excluded under section 115 of the Immigration and Asylum Act from entitlement to income-based jobseeker's allowance, income support, a social fund payment or housing benefit*

1. A person who—
  - (a) has limited leave (as defined in section 33(1) of the Immigration Act 1971<sup>(1)</sup>) to enter or remain in the United Kingdom which was given in accordance with the immigration rules (as defined in that section) relating to—
    - (i) there being or there needing to be, no recourse to public funds, or
    - (ii) there being no charge on public funds,during that period of limited leave; and
  - (b) having, during any one period of limited leave (including any such period as extended), supported himself without recourse to public funds, other than any such recourse by reason of the previous application of this sub-paragraph, is temporarily without funds during that period of leave because remittances to him from abroad have been disrupted, provided there is a reasonable expectation that his supply of funds will be resumed.
2. A person who has been given leave to enter, or remain in, the United Kingdom by the Secretary of State upon an undertaking by another person or persons pursuant to the immigration rules within the meaning of the Immigration Act 1971, to be responsible for his maintenance and accommodation and who has not been resident in the United Kingdom for a period of at least five years beginning on the date of entry or the date on which the undertaking was given in respect of him, whichever date is the later and the person or persons who gave the undertaking to provide for his maintenance and accommodation has, or as the case may be, have died.
3. A person who—
  - (a) has been given leave to enter, or remain in, the United Kingdom by the Secretary of State upon an undertaking by another person or persons pursuant to the immigration rules within the meaning of the Immigration Act 1971, to be responsible for his maintenance and accommodation; and
  - (b) has been resident in the United Kingdom for a period of at least five years beginning on the date of entry or the date on which the undertaking was given in respect of him, whichever date is the later.
4. A person who is a national of a state which has ratified the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953<sup>(2)</sup>) or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18th October 1961<sup>(3)</sup>) and who is lawfully present in the United Kingdom.

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(1) 1971 c. 77  
(2) Cmnd. 9512  
(3) Cmnd. 2643

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## Part II

*Persons not excluded under section 115 of the Immigration and Asylum Act from entitlement to attendance allowance, severe disablement allowance, invalid care allowance, disability living allowance, a social fund payment or child benefit*

1. A member of a family of a national of a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993<sup>(4)</sup>.
2. A person who is lawfully working in Northern Ireland and is a national of a State with which the Community has concluded an agreement under Article 310<sup>(5)</sup> of the Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts<sup>(6)</sup> providing, in the field of social security, for the equal treatment of workers who are nationals of the signatory State and their families.
3. A person who is a member of a family of, and living with, a person specified in paragraph 2.
4. A person who has been given leave to enter, or remain in, the United Kingdom by the Secretary of State upon an undertaking by another person or persons pursuant to the immigration rules within the meaning of the Immigration Act 1971, to be responsible for his maintenance and accommodation.

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<sup>(4)</sup> O.J. No. L1, 3.1.1994, p. 3

<sup>(5)</sup> Article 310 EC (ex Article 238)

<sup>(6)</sup> O.J. No. 340, 10.11.97, p. 1