

**2009 No. 68**

**HOUSING; RATES; SOCIAL SECURITY**

**The Social Security (Habitual Residence) (Amendment)  
Regulations (Northern Ireland) 2009**

*Made* - - - - - *25th February 2009*

*Coming into operation* - - - - - *18th March 2009*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 131(1) and (2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and Articles 6(5) and (12) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(b), and now vested in it(c), sections 1(5)(a) and 19(1), (2)(a) and (3) of the State Pension Credit Act (Northern Ireland) 2002(d) and sections 4(3) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(e).

Regulations 5 and 6 are made with the consent of the Department of Finance and Personnel(f).

It appears to the Department for Social Development that by reason of the urgency of the matter it is inexpedient to refer proposals in respect of these Regulations to the Social Security Advisory Committee(g).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Habitual Residence) (Amendment) Regulations (Northern Ireland) 2009 and shall come into operation on 18th March 2009.

(2) The Interpretation Act (Northern Ireland) 1954(h) shall apply to these Regulations as it applies to an Act of the Assembly.

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- (a) 1992 c. 7; section 133(2)(d) was substituted by paragraph 18(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)); section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
- (b) S.I. 1995/2705 (N.I. 15); Article 36(2)(a) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
- (c) See Article 8(b) of S.R. 1999 No. 481
- (d) 2002 c. 14 (N.I.)
- (e) 2007 c. 2 (N.I.)
- (f) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481
- (g) See sections 149(2) and 150(1)(a) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
- (h) 1954 c. 33 (N.I.)

### **Amendment of the Income Support (General) Regulations**

2. In regulation 21AA(4) of the Income Support (General) Regulations (Northern Ireland) 1987(a) (special cases: supplemental – persons from abroad)—

- (a) at the end of sub-paragraph (i) omit “or”;
- (b) at the end of sub-paragraph (j) add “; or” and the following sub-paragraph—
  - “(k) a person who—
    - (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
    - (ii) immediately before arriving there had been resident in Zimbabwe; and
    - (iii) before leaving Zimbabwe had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom.”.

### **Amendment of the Jobseeker’s Allowance Regulations**

3. In regulation 85A(4) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(b) (special cases: supplemental – persons from abroad)—

- (a) at the end of sub-paragraph (i) omit “or”;
- (b) at the end of sub-paragraph (j) add “; or” and the following sub-paragraph—
  - “(k) a person who—
    - (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
    - (ii) immediately before arriving there had been resident in Zimbabwe; and
    - (iii) before leaving Zimbabwe had accepted an offer, made by the Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom.”.

### **Amendment of the State Pension Credit Regulations**

4. In regulation 2(4) of the State Pension Credit Regulations (Northern Ireland) 2003(c) (persons not in Northern Ireland)—

- (a) at the end of sub-paragraph (i) omit “or”;
- (b) at the end of sub-paragraph (j) add “; or” and the following sub-paragraph—
  - “(k) a person who—
    - (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
    - (ii) immediately before arriving there had been resident in Zimbabwe; and
    - (iii) before leaving Zimbabwe had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom.”.

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(a) S.R. 1987 No. 459; regulation 21AA was inserted by regulation 2(3) of S.R. 2006 No. 178 and amended by regulation 2 of S.R. 2006 No. 379 and regulation 2 of S.R. 2006 No. 523  
(b) S.R. 1996 No. 198; regulation 85A was inserted by regulation 4(3) of S.R. 2006 No. 178 and amended by regulation 4 of S.R. 2006 No. 379 and regulation 3 of S.R. 2006 No. 523  
(c) S.R. 2003 No. 28; regulation 2 was substituted by regulation 5 of S.R. 2006 No. 178 and amended by regulation 5 of S.R. 2006 No. 379 and regulation 4 of S.R. 2006 No. 523

### **Amendment of Housing Benefit Regulations**

5. In regulation 10(5) of the Housing Benefit Regulations (Northern Ireland) 2006(a) (persons from abroad), at the end of sub-paragraph (k) omit “or” and insert the following sub-paragraph—

“(kk) a person who—

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom; or”.

### **Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations**

6. In regulation 10(5) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(b) (persons from abroad), at the end of sub-paragraph (k) omit “or” and insert the following sub-paragraph—

“(kk) a person who—

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom; or”.

### **Amendment of the Employment and Support Allowance Regulations**

7. In regulation 70(4) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(c) (special cases: supplemental – persons from abroad)—

- (a) at the end of sub-paragraph (j) omit “or”;
- (b) at the end of sub-paragraph (k) add “; or” and the following sub-paragraph—

“(l) a person who—

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom.”.

Sealed with the Official Seal of the Department for Social Development on 25th February 2009

(L.S.)

*John O’Neill*  
A senior officer of the Department for Social Development

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(a) S.R. 2006 No. 405; regulation 10 was amended by regulation 5 of S.R. 2006 No. 523 and regulation 3(6) of S.R. 2008 No. 378  
(b) S.R. 2006 No. 406; regulation 10 was amended by regulation 6 of S.R. 2006 No. 523  
(c) S.R. 2008 No. 280

The Department of Finance and Personnel consents to regulations 5 and 6.

Sealed with the Official Seal of the Department of Finance and Personnel on 26th February 2009

(L.S.)

*Adrian Arbuthnot*

A senior officer of the Department of Finance and Personnel

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Income Support (General) Regulations (Northern Ireland) 1987, the Jobseeker's Allowance Regulations (Northern Ireland) 1996, the State Pension Credit Regulations (Northern Ireland) 2003, the Housing Benefit Regulations (Northern Ireland) 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 and the Employment and Support Allowance Regulations (Northern Ireland) 2008 ("the income-related benefit regulations").

The income-related benefit regulations provide that a person is ineligible for benefit where he or she is a "person from abroad", or a "person not in Northern Ireland" for the purposes of the State Pension Credit Regulations (Northern Ireland) 2003, that is to say where he or she is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland. This is subject to a list of exceptions. The amendments made by these Regulations insert a new category into the list of persons who are exempt from having to satisfy the habitual residence test. The amendments exempt persons who arrived in Great Britain on or after 28th February 2009 but before 18th March 2011; and immediately before arriving there had been resident in Zimbabwe; and before leaving Zimbabwe had accepted an offer, made by Her Majesty's Government, to assist them to move to and settle in the United Kingdom.

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