

**EXPLANATORY MEMORANDUM TO  
THE JOBSEEKER'S ALLOWANCE (HABITUAL RESIDENCE)  
AMENDMENT REGULATIONS 2014**

**2014 No. 2735**

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

**2. Purpose of the instrument**

This instrument introduces exemption categories from the three month residence requirement to be served by people who have recently arrived in the UK, seek to claim Jobseeker's Allowance and are not classed as European Economic Area (EEA) workers or other category deemed to be habitually resident. The new provisions clarify and strengthen the existing provisions relating to persons from abroad.

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

None.

**4. Legislative Context**

The Jobseeker's Allowance Regulations 1996 <http://lawvolumes.dwp.gov.uk/docs/a11-4001.pdf> contain a general rule that claimants must have a right to reside in the UK, the Channel Islands, Isle of Man or the Republic of Ireland (the Common Travel Area) and must be habitually resident to qualify for income related benefits known as the Habitual Residence Test. An additional residence requirement was added to The Jobseeker's Allowance Regulations <http://www.legislation.gov.uk/cy/uksi/2013/3196/made?view=plain> which required claimants to have lived in the Common Travel Area for 3 months prior to the claim. This instrument sets out exemption criteria from 3 month residence requirement.

**5. Territorial Extent and Application**

This instrument applies to Great Britain.

**6. European Convention on Human Rights**

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

**7. Policy background**

**• What is being done and why**

7.1 Currently, a person needs to serve a three month period of residence in the UK or the rest of the Common Travel Area to be able to qualify for Jobseeker's Allowance. This means that a claimant cannot be treated as being habitually resident until they have lived in the UK or the Common Travel Area for three months.

7.2 Following this amendment a person returning to the UK or the Common Travel Area will be exempted from the three month residence requirement if they have paid National Insurance contributions whilst abroad at some point during this three month period, for example if they have been posted to work abroad by a UK-based employer. This exemption will also apply to returning members of HM forces and crown servants, covering the same time period.

7.3 This policy is being introduced to safeguard people who recently contributed to the UK economy whilst being posted to work abroad, thus maintaining their connection to the UK. This policy continues to protect the benefit system by discouraging people who seek to migrate to the UK to claim Jobseekers Allowance immediately.

#### **• Consolidation**

7.4 Informal consolidated text of instruments is available to the public free of charge via ‘The Law Relating to Social Security’ (Blue Volumes) on the Department for Work and Pensions website at <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> or the National Archive website [legislation.gov.uk](http://legislation.gov.uk) . An explanation as to which instruments are maintained on each site is available [here](#).

### **8. Consultation outcome**

The instrument has been scrutinised by the Social Security Advisory Committee. It has given consent to proceed to laying these regulations.

### **9. Guidance**

The Jobseeker’s Allowance procedural guidance will be amended and further guidance will be provided to Decision Makers.

### **10. Impact**

10.1 As this amendment is minor and beneficial, there is no impact on business or civil society organisations. Therefore a full Impact Assessment is not required.

10.2 The impact on the public sector is negligible.

### **11. Regulating small business**

The legislation does not apply to small business.

### **12. Monitoring & review**

The Government will monitor and evaluate the three month residence condition as part of its regular review of policies on access to benefits by migrants.

### **13. Contact**

Adrian Richards at the Department for Work and Pensions Tel: 020 7340 4025 or email: [adrian.richards3@dwp.gsi.gov.uk](mailto:adrian.richards3@dwp.gsi.gov.uk) can answer any queries regarding the instrument.