
STATUTORY INSTRUMENTS

2023 No. 1144

**The Social Security (Habitual Residence and Past Presence,
and Capital Disregards) (Amendment) Regulations 2023**

PART 2

**AMENDMENTS TO BENEFIT LEGISLATION EXTENDING
TO ENGLAND AND WALES AND SCOTLAND**

Amendment of the habitual residence test in income-related benefits

- 2.—**(1) In the provisions specified in paragraph (2), after sub-paragraph (zzd) insert—
- “(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⁽¹⁾;
 - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act⁽²⁾; or
 - (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act⁽³⁾”.
- (2) Those provisions are—
- (a) regulation 21AA(4) of the Income Support (General) Regulations 1987 (special cases: supplemental – persons from abroad)⁽⁴⁾;
 - (b) regulation 85A(4) of the Jobseeker’s Allowance Regulations 1996 (special cases: supplemental — persons from abroad)⁽⁵⁾;
 - (c) regulation 2(4) of the State Pension Credit Regulations 2002 (persons not in Great Britain)⁽⁶⁾;
 - (d) regulation 10(3B) of the Housing Benefit Regulations 2006 (persons from abroad)⁽⁷⁾;

(1) 1971 c. 77.

(2) Section 2 is substituted by section 39(2) of the British Nationality Act 1981 (c. 61) and amended by S.I. 2019/745.

(3) Section 3ZA is inserted by section 2(2) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20).

(4) S.I. 1987/1967. Regulation 21AA is inserted by S.I. 2006/1026. Relevant amendments are made by S.I. 2006/2528, 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(5) S.I. 1996/207. Regulation 85A is inserted by S.I. 2006/1026. Relevant amendments are made by S.I. 2006/2528, 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(6) S.I. 2002/1792. Regulation 2 is substituted by S.I. 2006/1026. Relevant amendments are made by S.I. 2006/2528, 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(7) S.I. 2006/213. Relevant amendments are made by S.I. 2006/1026 and 2528, 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

- (e) regulation 10(4A) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (persons from abroad)(8); and
 - (f) regulation 70(4) of the Employment and Support Allowance Regulations 2008 (special cases: supplemental — persons from abroad)(9).
- (3) In the Universal Credit Regulations 2013(10), in regulation 9(4) (persons treated as not being in Great Britain), after sub-paragraph (zd) insert—
- “(ze) 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;”.

(8) S.I. 2006/214. Relevant amendments are made by S.I. 2006/1026 and 2528, 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(9) S.I. 2008/794. Relevant amendments are made by S.I. 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(10) S.I. 2013/376. Relevant amendments are made by S.I. 2013/1508, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.