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WELSH STATUTORY INSTRUMENTS

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**2012 No. 3144**

**The Council Tax Reduction Schemes and  
Prescribed Requirements (Wales) Regulations 2012**

**PART 4**

Prescribed classes of person who must not be included in an authority's scheme

**Persons treated as not being in Great Britain**

**26.**—(1) The class of person described in this regulation consists of any person treated as not being in Great Britain.

(2) Except where a person falls within paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(3) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

(4) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with—

- (a) regulation 13 of the EEA Regulations or Article 6 of Council Directive [2004/38/EC](#)(1); or
- (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen) (2).

(5) A person falls within this paragraph if the person is—

- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
- (b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
- (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
- (d) 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 adopted at Geneva on 28 July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees adopted at New York on 31 January 1967;

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(1) OJ No L 158, 30.4.04, p 77.

(2) A consolidated version of this Treaty was published in the Official Journal on 30.3.2010 C 83.

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

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- (e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971<sup>(3)</sup> on the rejection of their claim for asylum;
  - (f) a person who has humanitarian protection granted under those rules; or
  - (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999<sup>(4)</sup> and who is in the United Kingdom as a result of the person’s deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.
- (6) A person falls within this sub-paragraph if the person is a Crown servant or member of Her Majesty’s forces posted overseas.
- (7) A person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty’s forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.
- (8) In this regulation—
- “claim for asylum” has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999<sup>(5)</sup>;
  - “EEA Regulations” means the Immigration (European Economic Area) Regulations 2006<sup>(6)</sup>.

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(3) 1971 c. 77.

(4) 1999 c. 33.

(5) Relevant amendments to section 94(1) have been made by section 44 of the Nationality, Immigration and Asylum Act 2002 (c. 41) but those provisions are not in force. Other amendments have been made but they are not relevant to these Regulations.

(6) S.I.2006/1003; relevant amending instruments are S.I. 2011/544, 2012/1547, 2012/2560.