

2019 No. 89

EXITING THE EUROPEAN UNION

SOCIAL SECURITY

The Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations (Northern Ireland) 2019

Made - - - - 10.35 a.m. on 16th April 2019

Laid before Parliament 2.45 p.m. on 16th April 2019

Coming into operation - 7th May 2019

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by articles 9(5)(a) and 48(1) and (2) of the Welfare Reform (Northern Ireland) Order 2015(a).

These powers are exercisable by the Secretary of State by virtue of article 4(1)(a) of the Welfare Reform (Northern Ireland) Order 2015.

Citation and commencement

1. These Regulations may be cited as the Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations (Northern Ireland) 2019 and come into operation on 7th May 2019.

Amendment of the Universal Credit Regulations (Northern Ireland) 2016

2.—(1) The Universal Credit Regulations (Northern Ireland) 2016(b) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation)(c), in the definition of “the EEA Regulations” for “Immigration (European Economic Area) Regulations 2006” substitute “Immigration (European Economic Area) Regulations 2016”(d).

(3) In regulation 9 (persons treated as not being in Northern Ireland)—

(a) at the end of paragraph (3)(b)(ii) omit “or”;

(b) in paragraph (3)(c)—

(i) for “regulation 15A(1)” substitute “regulation 16”;

(ii) for “the claimant” substitute “the person”;

(a) S.I. 2015/2006 (N.I. 1).

(b) S.R. 2016 No. 216.

(c) There are amendments to regulation 2 but none is relevant.

(d) S.I. 2016/1052.

- (iii) for “regulation 15A(4A)” substitute “regulation 16(5)”**(a)**;
- (c) at the end of paragraph (3)(c) add “, or”;
- (d) after paragraph (3)(c) add—
 - “(d) a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971**(b)** by virtue of—
 - (i) Appendix EU to the immigration rules**(c)** made under section 3(2) of that Act, or
 - (ii) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act”.

Signed by authority of the Secretary of State for Work and Pensions

Alok Sharma
Minister for Employment
Department for Work and Pensions

16th April 2019 at 10.35 a.m.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) (the “Universal Credit Regulations”).

For the purposes of determining whether a person meets the basic condition of entitlement that he or she is in Northern Ireland, the Universal Credit Regulations set out circumstances in which a person is to be treated as not being in Northern Ireland. A person is a person to be treated as not being in Northern Ireland if he or she is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland. No person shall be treated as habitually resident without a relevant right to reside in the place where he or she is habitually resident. However, certain categories of people are exempt from this habitual residence test.

These Regulations amend the Universal Credit Regulations to reflect that a new right to reside has been created for nationals of European Economic Area states (“EEA nationals”) in Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971 (c. 77), in the form of limited leave to enter, or remain in, the United Kingdom. The effect of these Regulations is that this new right to reside is not a relevant right to reside for the purposes of establishing habitual residence.

These Regulations also reflect the change to the immigration rules that enables a non-EEA national carer of a British Citizen in the situation described in regulation 16(5) of the Immigration (European Economic Area) Regulations 2016 to be granted limited leave to enter, or to remain in, the United Kingdom under Appendix EU. This continues to be a right to reside that is not relevant for the purposes of establishing habitual residence.

These Regulations also update provisions in the Universal Credit Regulations that refer to the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003) so that instead they refer to the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052), as the latter revoked the former.

An impact assessment has not been produced for this instrument as it has no impact on businesses or civil society organisations.

(a) The definition of “primary carer” in regulation 16 was amended by S.I. 2018/801. There are other amendments but none is relevant.

(b) 1971 c. 77.

(c) The immigration rules were laid before Parliament on 23rd May 1994 (HC 395). Appendix EU was laid before Parliament on 20th July 2018 as part of a command paper that amended the immigration rules entitled “Statement of Changes in Immigration Rules” (Cm 9675). Appendix EU was amended in respect of the Zambrano right to reside by a further command paper entitled “Statement of Changes in Immigration Rules” laid before Parliament on 7th March 2019 (HC 1919).

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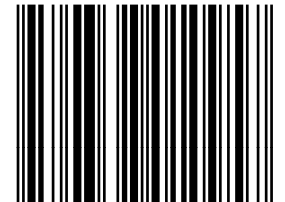
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