
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations ensure the social security assistance entitlement of certain persons arriving in Scotland from Ukraine.

Regulations 2, 3, 7 and 8 amend the Social Security (Invalid Care Allowance) Regulations 1976 (S.I. 1976/409), the Social Security (Attendance Allowance) Regulations 1991 (S.I. 1991/2740), the Social Security (Disability Living Allowance) Regulations 1991 (S.I. 1991/2890), the Social Security (Personal Independence Payment) Regulations 2013 (S.I. 2013/377), the Disability Assistance for Children and Young People (Scotland) Regulations 2021 (S.S.I. 2021/174) and the Disability Assistance for Working Age People (Scotland) Regulation 2022 (S.S.I. 2022/54) respectively, to insert a new category of person into the list of persons who are exempt from having to satisfy the past presence test and habitual residence test. The new category is a person with leave to enter or remain in the United Kingdom granted under or outside the immigration rules, or a right of abode in the United Kingdom, where they were residing in Ukraine immediately before 1 January 2022 and left Ukraine in connection with the Russian invasion which took place on 24 February 2022. Regulations 2 and 3 also amend the aforementioned legislation, excluding the latter two instruments, to exempt refugees and individuals with humanitarian protection from having to satisfy the habitual residence test.

Regulations 4, 5 and 6 amend the Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 (S.S.I. 2018/370), the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019 (S.S.I. 2019/193) and the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 (S.S.I. 2019/324) respectively, to insert a new category of person into the list of persons who are exempt from having to satisfy the habitual residence test. The new category is a person with leave to enter or remain in the United Kingdom granted under or outside the immigration rules, or a right of abode in the United Kingdom, where they were residing in Ukraine immediately before 1 January 2022 and left Ukraine in connection with the Russian invasion which took place on 24 February 2022. These regulations also make amendments so as to provide that any person who has leave outside the immigration rules is to be treated as exempted from having to satisfy the habitual residence test.

These Regulations also amend the Council Tax Reduction (Scotland) Regulations 2012 (“the Working Age Regulations”) and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (“the Pension Age Regulations”) by extending the classes of persons who do not need to meet residence criteria in the United Kingdom in order to qualify for a council tax reduction.

Regulation 9 inserts new categories into the list of persons who are not to be treated as not being in Great Britain for the purpose of the residence criteria set out in regulation 16 of the 2012 Working Age Regulations. The new categories are certain persons who were residing in Ukraine immediately before 1 January 2022 and left Ukraine in connection with the Russian invasion which took place on 24 February 2022. The persons must have either been granted leave to remain under the immigration rules made under section 3(2) of the Immigration Act 1971, or have a right of abode in the United Kingdom. The effect of the change at regulation 9(2)(a) is that the general exemption from the need to satisfy the requirement to be in Great Britain will apply to any person who has been granted leave to remain outside the immigration rules, not just people who have been granted such leave in certain specified circumstances. Regulation 9(2)(c) makes a change consequential on the change at regulation 9(2)(a).

Regulation 10 makes similar amendments to regulation 16 of the Pension Age Regulations.