
DRAFT STATUTORY INSTRUMENTS

2013 No.

The Universal Credit Regulations 2013

PART 2

ENTITLEMENT

In Great Britain

Persons treated as not being in Great Britain

9.—(1) For the purposes of determining whether a person meets the basic condition to be in Great Britain, except where a person falls within paragraph (4), 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.

(2) 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.

(3) For the purposes of paragraph (2), 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 No.2004/38/EC⁽¹⁾; or
- (b) regulation 15A(1) of the EEA Regulations⁽²⁾, but only in cases where the right exists under that regulation because the claimant satisfies the criteria in regulation 15A(4A) of those Regulations 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 citizen).

(4) 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 refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;

(1) OJL 158,30.4.04, p.77.

(2) Regulation 15A was inserted by S.I. 2012/1547 and paragraph (4A) of that regulation was inserted by S.I.2012/2560.

- (e) a person who has exceptional leave to enter or remain in the United Kingdom granted outside the rules made under section 3(2) of the Immigration Act 1971⁽³⁾;
- (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⁽⁴⁾ and who is in the United Kingdom as a result of their deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

Crown servants and members of Her Majesty's forces posted overseas

10.—(1) The following persons do not have to meet the basic condition to be in Great Britain—

- (a) a Crown servant or member of Her Majesty's forces posted overseas;
- (b) in the case of joint claimants, the partner of a person mentioned in sub-paragraph (a) while they are accompanying the person on that posting.

(2) A person mentioned in paragraph (1)(a) 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 their posting or the first of consecutive postings, habitually resident in the United Kingdom.

(3) In this regulation—

“Crown servant” means a person holding an office or employment under the Crown; and

“Her Majesty's forces” has the meaning in the Armed Forces Act 2006⁽⁵⁾.

Temporary absence from Great Britain

11.—(1) A person's temporary absence from Great Britain is disregarded in determining whether they meet the basic condition to be in Great Britain if—

- (a) the person is entitled to universal credit immediately before the beginning of the period of temporary absence; and
- (b) either—
 - (i) the absence is not expected to exceed, and does not exceed, one month, or
 - (ii) paragraph (3) or (4) applies.

(2) The period of one month in paragraph (1)(b) may be extended by up to a further month if the temporary absence is in connection with the death of—

- (a) the person's partner or a child or qualifying young person for whom the person was responsible; or
- (b) a close relative of the person, or of their partner or of a child or qualifying young person for whom the person or their partner was responsible,

and the Secretary of State considers that it would be unreasonable to expect the person to return to Great Britain within the first month.

(3) This paragraph applies where the absence is not expected to exceed, and does not exceed, 6 months and is solely in connection with—

- (a) the person undergoing—
 - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner, or

(3) 1971 c.77.

(4) 1999 c.33.

(5) 2006 c.52.

- (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the person had that illness or impairment before leaving Great Britain; or
 - (b) the person accompanying their partner or a child or qualifying young person for whom they are responsible for treatment or convalescence or care as mentioned in sub-paragraph (a).
- (4) This paragraph applies where the absence is not expected to exceed, and does not exceed, 6 months and the person is—
 - (a) a mariner; or
 - (b) a continental shelf worker who is in a designated area or a prescribed area.
- (5) In this regulation—
 - “continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998⁽⁶⁾;
 - “designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964⁽⁷⁾ as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;
 - “mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—
 - (a) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
 - (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;
 - “medically approved” means certified by a registered medical practitioner;
 - “prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;
 - “qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

⁽⁶⁾ 1998 c.17.
⁽⁷⁾ 1964 c.29.