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DRAFT STATUTORY INSTRUMENTS

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**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<sup>(1)</sup>; or
- (b) regulation 15A(1) of the EEA Regulations<sup>(2)</sup>, 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;

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(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<sup>(3)</sup>;
- (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 their deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

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<sup>(3)</sup> 1971 c.77.  
<sup>(4)</sup> 1999 c.33.