



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART VI

SUPPORT FOR ASYLUM-SEEKERS

Exclusions

115 Exclusion from benefits.

- (1) No person is entitled to income-based jobseeker's allowance under the ^{M1}Jobseekers Act 1995 [^{F1}or to state pension credit under the State Pension Credit Act 2002] or to—
- (a) attendance allowance,
 - (b) severe disablement allowance,
 - (c) [^{F2}carer's allowance],
 - (d) disability living allowance,
 - (e) income support,
 - (f) working families' tax credit,
 - (g) disabled person's tax credit,
 - (h) a social fund payment,
 - (i) child benefit,
 - (j) housing benefit, or
 - (k) council tax benefit,
- under the ^{M2}Social Security Contributions and Benefits Act 1992 while he is a person to whom this section applies.
- (2) No person in Northern Ireland is entitled to [^{F3}state pension credit under the State Pension Credit Act (Northern Ireland) 2002, or to]—
- (a) income-based jobseeker's allowance under the ^{M3}Jobseekers (Northern Ireland) Order 1995, or
 - (b) any of the benefits mentioned in paragraphs (a) to (j) of subsection (1),

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Changes to legislation: Immigration and Asylum Act 1999, Section 115 is up to date with all changes known to be in force on or before 23 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

under the ^{M4}Social Security Contributions and Benefits (Northern Ireland) Act 1992 while he is a person to whom this section applies.

- (3) This section applies to a person subject to immigration control unless he falls within such category or description, or satisfies such conditions, as may be prescribed.
- (4) Regulations under subsection (3) may provide for a person to be treated for prescribed purposes only as not being a person to whom this section applies.
- (5) In relation to [^{F4}child benefit], “prescribed” means prescribed by regulations made by the Treasury.
- (6) In relation to the matters mentioned in subsection (2) (except so far as it relates to [^{F4}child benefit]), “prescribed” means prescribed by regulations made by the Department.
- (7) Section 175(3) to (5) of the Social Security Contributions and Benefits Act 1992 (supplemental powers in relation to regulations) applies to regulations made by the Secretary of State or the Treasury under subsection (3) as it applies to regulations made under that Act.
- (8) Sections 133(2), 171(2) and 172(4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 apply to regulations made by the Department under subsection (3) as they apply to regulations made by the Department under that Act.
- (9) “A person subject to immigration control” means a person who is not a national of an EEA State and who—
 - (a) requires leave to enter or remain in the United Kingdom but does not have it;
 - (b) has leave to enter or remain in the United Kingdom which is subject to a condition that he does not have recourse to public funds;
 - (c) has leave to enter or remain in the United Kingdom given as a result of a maintenance undertaking; or
 - (d) has leave to enter or remain in the United Kingdom only as a result of paragraph 17 of Schedule 4.
- (10) “Maintenance undertaking”, in relation to any person, means a written undertaking given by another person in pursuance of the immigration rules to be responsible for that person’s maintenance and accommodation.

Textual Amendments

- F1** Words in s. 115(1) inserted (2.7.2002 for certain purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act 2002 \(c. 16\)](#), **ss. 4(2), 22(3)**; [S.I. 2002/1691](#), **art. 2(d)**; [S.I. 2003/1766](#), **art. 2(a)**
- F2** Words in s. 115(1)(c) substituted (1.9.2002 for certain purposes, otherwise 1.4.2003) by [The Regulatory Reform \(Carer's Allowance\) Order 2002 \(S.I. 2002/1457\)](#), **arts. 1(b), 2(2), Sch. paras. 1, 3(c)**
- F3** Words in s. 115(2) inserted (N.I.) (2.12.2002 for certain purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14 \(N.I.\)\)](#), **ss. 4(2), 21(2)**; [S.R. 2002/366](#), **art. 2(1)(d)**; [S.R. 2003/373](#), **art. 2**
- F4** Words in s. 115(5)(6) substituted (26.2.2003 for specified purposes, 1.4.2003 for specified purposes, 7.4.2003 in so far as not already in force) by [Tax Credits Act 2002 \(c. 21\)](#), **s. 61, Sch. 4 para. 21**; [S.I. 2003/392](#), **art. 2**

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Commencement Information

- I1** S. 115 wholly in force at 3.4.2000; s. 115 not in force at Royal Assent see s. 170(2)(4); s. 115 in force for certain purposes at 1.1.2000 by [S.I. 1999/3190](#), [art. 2](#), [Sch.](#); s. 115(1)(2) in force at 3.4.2000 by virtue of [S.I. 2000/704](#) (see [s. 170\(2\)](#)); s. 115 in force at 3.4.2000 insofar as not already in force by [S.I. 2000/464](#), [art. 2](#), [Sch.](#)

Marginal Citations

- M1** 1995 c. 18.
M2 1992 c. 4.
M3 [S.I. 1995/2705](#) (N.I. 15).
M4 1992 c. 7.

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