



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART VI

SUPPORT FOR ASYLUM-SEEKERS

Exclusions

115 Exclusion from benefits.

- (1) No person is entitled [^{F1}to universal credit under Part 1 of the Welfare Reform Act 2012 or] to income-based jobseeker's allowance under the ^{M1}Jobseekers Act 1995 [^{F2}or to state pension credit under the State Pension Credit Act 2002][^{F3}or to income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance)][^{F4}or to personal independence payment] or to—
- (a) attendance allowance,
 - (b) severe disablement allowance,
 - (c) [^{F5}carer's allowance],
 - (d) disability living allowance,
 - [^{F6}(e) income support,]
 - ^{F7}(f)
 - ^{F7}(g)
 - (h) a social fund payment,
 - [^{F8}(ha) health in pregnancy grant,]
 - (i) child benefit,
 - [^{F9}(j) housing benefit, or]
 - [^{F9}(k)]
- 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 [^{F10}state pension credit under the State Pension Credit Act (Northern Ireland) 2002, [^{F11} to income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support

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- allowance)]^{F12}, to universal credit under Part 2 of the Welfare Reform (Northern Ireland) Order 2015]^{F13}, to personal independence payment under Part 5 of that Order] or to]—
- (a) income-based jobseeker’s allowance under the ^{M3}Jobseekers (Northern Ireland) Order 1995, or
 - (b) [^{F14}disability living allowance or] any of the benefits mentioned in paragraphs (a) to (j) of subsection (1),
^{M4}under the 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 [^{F15}health in pregnancy grant or]^{F16}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 [^{F17}health in pregnancy grant or]^{F16}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 ^{F18} ... 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 (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 2 para. 54](#); [S.I. 2013/983](#), art. 3(1)(b)(i)
- F2** 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)
- F3** Words in s. 115(1) inserted (27.10.2008) by [Welfare Reform Act 2007 \(c. 5\)](#), s. 70(2), [Sch. 3 para. 19](#); [S.I. 2008/787](#), art. 2(4)(f)

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- F4** Words in s. 115(1) inserted (8.4.2013 for specified purposes, 10.6.2013 in so far as not already in force) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 9 para. 44(a)**; S.I. 2013/358, art. 7(1)(2)(k), Sch. 3; S.I. 2013/1250, art. 2
- F5** 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)**
- F6** S. 115(1)(e) repealed (1.4.2013 for specified purposes) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F7** S. 115(1)(f)(g) repealed (8.4.2003) by Tax Credits Act 2002 (c. 21), s. 61, **Sch. 6**; S.I. 2003/962, art. 2(4)(e), Sch. 2
- F8** S. 115(1)(ha) inserted (1.1.2009) by Health and Social Care Act 2008 (c. 14), **ss. 138(2)**, 170(3)(4); S.I. 2008/3137, art. 2
- F9** S. 115(1)(j)(k) repealed (1.4.2013 for specified purposes) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F10** 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
- F11** Words in s. 115(2) inserted (N.I.) (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), s. 60(1), **Sch. 3 para. 11**; S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2
- F12** Words in s. 115(2) inserted (2.5.2016 for specified purposes, 27.9.2017 in so far as not already in force) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 2 para. 43**; S.R. 2016/215, art. 2(2)(c)(v)(hh); S.R. 2017/190, art. 4(1)(2)(g)(i)
- F13** Words in s. 115(2) inserted (N.I.) (20.6.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 9 para. 42**; S.R. 2016/215, art. 3(2)
- F14** Words in s. 115(2)(b) inserted (8.4.2013 for specified purposes, 10.6.2013 in so far as not already in force) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 9 para. 44(b)**; S.I. 2013/358, art. 7(1)(2)(k), Sch. 3; S.I. 2013/1250, art. 2
- F15** Words in s. 115(5) inserted (1.1.2009) by Health and Social Care Act 2008 (c. 14), **ss. 138(3)**, 170(3)(4); S.I. 2008/3137, art. 2
- F16** 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
- F17** Words in s. 115(6) inserted (1.1.2009) by Health and Social Care Act 2008 (c. 14), **ss. 138(3)**, 170(3)(4); S.I. 2008/3137, art. 2
- F18** Words in s. 115(9) omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **12(6)**

Modifications etc. (not altering text)

- C1** S. 115 applied (with modifications) (N.I.) (1.4.2007) by The Rate Relief (Qualifying Age) Regulations (Northern Ireland) 2007 (S.R. 2007/203), regs. 1(1), **12**
- C2** S. 115 applied (with modifications) (N.I.) (1.4.2007) by The Rate Relief (General) Regulations (Northern Ireland) 2007 (S.R. 2007/204), regs. 1(1), **12**
- C3** S. 115 applied (5.5.2016 coming into force in accordance with reg. 1 of the affecting S.R.) by The Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016/216), **reg. 3(2)(e)**
- C4** S. 115 applied (with modifications) (31.12.2020) by The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (S.I. 2020/1209), regs. 1(1), **3(4)**, 4(5), 12(1)(i)
- C5** S. 115(9) applied (E.W.S.) (8.7.2004) by Age-Related Payments Act 2004 (c. 10), s. **4(2)(c)**

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

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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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