

2014 No. 902

SOCIAL SECURITY

**The Social Security (Habitual Residence) (Amendment)
Regulations 2014**

<i>Made</i> - - - -	<i>2nd April 2014</i>
<i>Laid before Parliament</i>	<i>8th April 2014</i>
<i>Coming into force</i> - -	<i>31st May 2014</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(a) and (d), 135(1) and (2), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(a), sections 4(5) and (12), 35(1) and 36(2) of the Jobseekers Act 1995(b), section 115(3), (4) and (7) of the Immigration and Asylum Act 1999(c), sections 1(5)(a), 17(1) and 19(1) of the State Pension Credit Act 2002(d), sections 4(3), 24 and 25(2) and (3) of the Welfare Reform Act 2007(e) and sections 30, 40, 42(1), (2) and (3) of, and paragraph 7 of Schedule 1 to, the Welfare Reform Act 2012(f).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(g), the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it.

In respect of provisions relating to housing benefit, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned(h).

Citation and Commencement

1. These Regulations may be cited as the Social Security (Habitual Residence) (Amendment) Regulations 2014 and shall come into force on 31st May 2014.

Amendment of the Income Support (General) Regulations 1987

2.—(1) In Regulation 21AA(4) of the Income Support (General) Regulations 1987(i) (special cases: supplemental – persons from abroad) for sub-paragraphs (a) – (f) substitute—

-
- (a) 1992 c.4; sections 123 and 137 are repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c.5) from a date to be appointed. Section 137(1) is cited because of the meaning given to the word “prescribed”. Section 175(1), (3) and (4) is applied to provisions of the State Pension Credit Act 2002 (c.16) by section 19(1) of that Act.
 - (b) 1995 c.18; section 35(1) is cited because of the meaning given to the words “applicable amount”, “prescribed” and “regulations”.
 - (c) 1999 c.33.
 - (d) 2002 c.16; section 17(1) is cited because of the meaning given to the words “prescribed” and “regulations”.
 - (e) 2007 c.5; section 24 is cited because of the meaning given to the words “prescribed” and “regulations”.
 - (f) 2012 c.5.
 - (g) 1992 c.5.
 - (h) See section 176(1) of the Social Security Administration Act 1992 (c.5).
 - (i) S.I. 1987/1967; regulation 21AA was inserted by S.I. 2006/1026; there are other amending instruments but none is relevant.

- “(za) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006(a) as a worker or a self-employed person;
- (zb) a family member of a person referred to in sub-paragraph (za) within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations;
- (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations;”

Amendment of the Jobseeker’s Allowance Regulations 1996

3. In Regulation 85A(4) of the Jobseeker’s Allowance Regulations 1996(b) (special cases: supplemental – persons from abroad) for sub-paragraphs (a) – (f) substitute—

- “(za) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006 as a worker or a self-employed person;
- (zb) a family member of a person referred to in sub-paragraph (za) within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations;
- (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations;”.

Amendment of the State Pension Credit Regulations 2002

4. In Regulation 2(4) of the State Pension Credit Regulations 2002(c) (persons not in Great Britain) for sub-paragraphs (a) – (f) substitute—

- “(za) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006 as a worker or a self-employed person;
- (zb) a family member of a person referred to in sub-paragraph (za) within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations;
- (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations;”.

Amendment of the Housing Benefit Regulations 2006

5. In Regulation 10(3B) of the Housing Benefit Regulations 2006(d) (persons from abroad) for sub-paragraphs (a) – (f) substitute—

- “(za) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006 as a worker or a self-employed person;
- (zb) a family member of a person referred to in sub-paragraph (za) within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations;
- (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations;”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

6. In Regulation 10(4A) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(e) (persons from abroad) for sub-paragraphs (a) – (f) substitute—

(a) S.I. 2006/1003; regulation 6 was amended by S.I. 2013/3032; there are other amending instruments but none is relevant.
 (b) S.I. 1996/207; regulation 85A was inserted by S.I. 2006/1026; there are other amending instruments but none is relevant.
 (c) S.I. 2002/1792; regulation 2 was substituted by S.I. 2006/1026; there are other amending instruments but none is relevant.
 (d) S.I. 2006/213; regulation 10 was amended by S.I. 2006/1026; there are other amending instruments but none is relevant.
 (e) S.I. 2006/214; regulation 10 was amended by S.I. 2006/1026; there are other amending instruments but none is relevant.

- “(za) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006 as a worker or a self-employed person;
- (zb) a family member of a person referred to in sub-paragraph (za) within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations;
- (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations;”.

Amendment of the Employment and Support Allowance Regulations 2008

7. In Regulation 70(4) of the Employment and Support Allowance Regulations 2008(a) (special cases: supplemental – persons from abroad) for sub-paragraphs (a) – (f) substitute—

- “(za) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006 as a worker or a self-employed person;
- (zb) a family member of a person referred to in sub-paragraph (za) within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations;
- (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations;”.

Amendment of the Universal Credit Regulations 2013

8. In Regulation 92(1) of the Universal Credit Regulations 2013(b) (claimants subject to all work-related requirements – EEA jobseekers) for sub-paragraph (b) substitute—

- “(b) a person who is treated as a worker for the purposes of regulation 6(1)(b) of the EEA Regulations by reason of satisfying the conditions set out in regulation 6(2)(b) or regulation 6(2)(ba) of those Regulations;”.

Signed by authority of the Secretary of State for Work and Pensions

Esther McVey
Minister of State

2nd April 2014

Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulation)

These Regulations amend the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207), the State Pension Credit Regulations 2002 (S.I. 2002/1792), the Housing Benefit Regulations 2006 (S.I. 2006/213), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214) and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) (“the income-related benefit Regulations”).

The income-related benefit Regulations provide that a claimant is ineligible for benefit where he or she is a “person from abroad” or, in the case of state pension credit, a “person not in Great Britain”. A person is a person from abroad or a person not in Great Britain if he or she is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland. No person shall be treated as habitually resident without a relevant right to reside in the place where he or she is habitually resident. However, certain categories of people are exempt from this habitual residence test.

These Regulations amend some of the categories of person who are exempt from the habitual residence test. They are made in consequence of amendments made to the Immigration (European

(a) S.I. 2008/794; to which there are amendments not relevant to these Regulations.
 (b) S.I. 2013/376; to which there are amendments not relevant to these Regulations.

Economic Area) Regulations 2006 (S.I. 2006/1003) by the Immigration (European Economic Area) (Amendment) (No.2) Regulations 2013 (S.I. 2013/3032) (together, “the Immigration Regulations”) which transpose Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. These Regulations ensure consistency between the income-related benefit Regulations and the Immigration Regulations.

These Regulations also amend Regulation 92 of the Universal Credit Regulations 2013 (S.I. 2013/376) in order to ensure consistency with the Immigration Regulations.

A full impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.

© Crown copyright 2014

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£4.25

UK2014040234 04/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/902>

ISBN 978-0-11-111367-7



9 780111 113677