
EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2 of these Regulations enables certain persons to access income-related benefits upon arrival in Great Britain from Ukraine provided they meet the other relevant entitlement conditions.

That Part amends 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), the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) and the Universal Credit Regulations 2013 (S.I. 2013/376) ("the income-related benefit regulations").

The income-related benefit regulations provide that a person is ineligible for benefit where they are a "person from abroad", "a person not in Great Britain" (for the purposes of the State Pension Credit Regulations 2002) or "a person treated as not being in Great Britain" (for the purposes of the Universal Credit Regulations 2013)". That is to say where the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland, subject to a list of exemptions.

Regulations 2(3) and 3(3) insert a new category into the list of persons who are exempted from having to satisfy the habitual residence test. Those persons are those in Great Britain who were residing in Ukraine immediately before 1st January 2022 and left Ukraine in connection with the Russian invasion which took place on 24th February 2022 and have either been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 (c. 77) or who have a right of abode in the United Kingdom within the meaning given in section 2 of that Act.

Regulations 2(4) and 3(4) make amendments so as to provide that any person who has leave outside the immigration rules is to be treated as exempted from having to satisfy the habitual residence test. Regulations 2(2) and 3(2) make amendments which are consequential to those amendments.

Part 3 of these Regulations enables certain persons to access disability and carers benefits upon arrival in England and Wales from Ukraine where they have left Ukraine for the reasons given above, provided they meet the other relevant entitlement conditions.

That Part amends the Social Security (Invalid Care Allowance) Regulations 1976 (S.I. 1976/409), the Social Security (Attendance Allowance) Regulations 1991 (S.I. 1991/2740), the Social Security (Disability Living Allowance) Regulations 1991 (S.I. 1991/2890) and the Social Security (Personal Independence Payment) Regulations 2013 (S.I. 2013/377) respectively, to exempt the same group of people from the past presence test. This is the test which normally has to be fulfilled in order to claim Carer's Allowance, Attendance Allowance, Disability Living Allowance and Personal Independence Payment respectively. The past presence test normally requires that an individual has been present in Great Britain for a specified period of time to be eligible for those benefits. These amendments also remove the habitual residence requirement for entitlement to disability benefits which would otherwise apply to refugees and those who have humanitarian protection or their dependants.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.