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STATUTORY INSTRUMENTS

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**2013 No. 376**

**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<sup>F1</sup> ...; <sup>F2</sup>...
- <sup>F3</sup>(aa) regulation 14 of the EEA Regulations, but only in cases where the right exists under that regulation because the person is—
  - (i) a qualified person for the purposes of regulation 6(1) of those Regulations as a jobseeker; or
  - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker; <sup>F4</sup> ...]
- (b) [<sup>F5</sup>regulation 16] of the EEA Regulations<sup>M1</sup>, but only in cases where the right exists under that regulation because [<sup>F6</sup>the person] satisfies the criteria in [<sup>F7</sup>regulation 16(5)] of those Regulations <sup>F8</sup> ...[<sup>F9</sup>; or]
- <sup>F10</sup>(c) a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of—
  - (i) Appendix EU to the immigration rules made under section 3(2) of that Act; <sup>F11</sup> ...
  - (ii) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act][<sup>F12</sup>; or
  - (iii) having arrived in the United Kingdom with an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules made under section 3(2) of that Act.]
- <sup>F13</sup>(3A) Paragraph (3)(c)(i) does not apply to a person who—

- (a) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and
  - (b) would have a right to reside under the EEA Regulations if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (3)(a) or (b)]
- (4) A person falls within this paragraph if the person is—
- [<sup>F14</sup>(za) a person granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971, where such leave is granted by virtue of—
    - (i) the Afghan Relocations and Assistance Policy; or
    - (ii) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme);
  - (zb) a person in Great Britain not coming within sub-paragraph (za) or [<sup>F15</sup>(e)] who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021;]
  - [<sup>F16</sup>(zc) a person in Great Britain who was residing in Ukraine immediately before 1st January 2022, left Ukraine in connection with the Russian invasion which took place on 24th February 2022 and—
    - (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971; <sup>F17</sup>...
    - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act [<sup>F18</sup>or];

[ does not require leave to enter or remain in the United Kingdom in accordance with <sup>F19</sup>(iii) section 3ZA of that Act;]
  - [<sup>F20</sup>(zd) a person who was residing in Sudan before 15th April 2023, left Sudan in connection with the violence which rapidly escalated on 15th April 2023 in Khartoum and across Sudan and—
    - (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971;
    - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; or
    - (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;]
  - [<sup>F21</sup>(ze) a person who was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7th October 2023, who left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7th October 2023 or the violence which rapidly escalated in the region following the attack and—
    - (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971;
    - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; or
    - (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;]
  - (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)<sup>F22</sup> ...;
  - (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;
  - [<sup>F23</sup>(ca) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (3)(c)(i), provided that the relevant person of Northern Ireland falls within paragraph (4)(a), or would do so but for the fact that they are not an EEA national;]
  - [<sup>F24</sup>(cb) a frontier worker within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020;
  - (cc) a family member of a person referred to in sub-paragraph (cb), who has been granted limited leave to enter, or remain in, the United Kingdom by virtue of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971;]
  - (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;
  - [<sup>F25</sup>(e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971<sup>M2F26</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>M3</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.
- [<sup>F27</sup>(5) In this regulation—
- “*EEA national*” has the meaning given in regulation 2(1) of the EEA Regulations;
  - “*family member*” has the meaning given in regulation 7(1)(a), (b) or (c) of the EEA Regulations, except that regulation 7(4) of the EEA Regulations does not apply for the purposes of paragraphs (3A) and (4)(ca);
  - “*relevant person of Northern Ireland*” has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971.]

#### Textual Amendments

- F1** Words in reg. 9(3)(a) 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 \(S.I. 2020/1309\)](#), [reg. 75\(3\)\(a\)\(i\)](#)
- F2** Word in reg. 9(3) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Universal Credit \(EEA Jobseekers\) Amendment Regulations 2015 \(S.I. 2015/546\)](#), regs. 1(1), [2\(a\)](#)
- F3** Reg. 9(3)(aa) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Universal Credit \(EEA Jobseekers\) Amendment Regulations 2015 \(S.I. 2015/546\)](#), regs. 1(1), [2\(b\)](#)
- F4** Word in reg. 9(3)(aa)(ii) omitted (7.5.2019) by virtue of [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, [8\(3\)\(a\)](#)
- F5** Words in reg. 9(3)(b) substituted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, [8\(3\)\(b\)\(i\)](#)
- F6** Words in reg. 9(3)(b) substituted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, [8\(3\)\(b\)\(ii\)](#)
- F7** Words in reg. 9(3)(b) substituted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, [8\(3\)\(b\)\(iii\)](#)

- F8** Words in reg. 9(3)(b) 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), **75(3)(a)(ii)**
- F9** Word in reg. 9(3)(b) inserted (7.5.2019) by The Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/872), regs. 1, **8(3)(c)**
- F10** Reg. 9(3)(c) inserted (7.5.2019) by The Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/872), regs. 1, **8(3)(d)**
- F11** Word in reg. 9(3)(c)(i) omitted (31.12.2020 immediately after IP completion day) by virtue of The Immigration (Citizens' Rights etc.) (EU Exit) Regulations 2020 (S.I. 2020/1372), regs., 1(2)(a)(3)(d), 25(2)(a)
- F12** Reg. 9(3)(c)(iii) and word inserted (31.12.2020 immediately after IP completion day) by The Immigration (Citizens' Rights etc.) (EU Exit) Regulations 2020 (S.I. 2020/1372), regs., 1(2)(a)(3)(d), 25(2)(b)
- F13** Reg. 9(3A) inserted (24.8.2020) by The Social Security (Income-Related Benefits) (Persons of Northern Ireland - Family Members) (Amendment) Regulations 2020 (S.I. 2020/683), regs. 1, **8(2)(a)**
- F14** Reg. 9(4)(za)(zb) inserted (16.9.2021) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2021 (S.I. 2021/1034), regs. 1(1), **3(2)**
- F15** Word in reg. 9(4)(zb) substituted (22.3.2022) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022 (S.I. 2022/344), regs. 1(1), **3(2)**
- F16** Reg. 9(4)(zc) inserted (22.3.2022) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022 (S.I. 2022/344), regs. 1(1), **3(3)**
- F17** Word in reg. 9(4)(zc)(i) omitted (18.10.2022) by virtue of The Social Security (Habitual Residence and Past Presence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/990), regs. 1(1), **2(1)(a)(2)(g)**
- F18** Word in reg. 9(4)(zc)(ii) inserted (18.10.2022) by The Social Security (Habitual Residence and Past Presence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/990), regs. 1(1), **2(1)(b)(2)(g)**
- F19** Reg. 9(4)(zc)(iii) inserted (18.10.2022) by The Social Security (Habitual Residence and Past Presence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/990), regs. 1(1), **2(1)(c)(2)(g)**
- F20** Reg. 9(4)(zd) inserted (E.W.S.) (15.5.2023) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2023 (S.I. 2023/532), regs. 1(1), **3**
- F21** Reg. 9(4)(ze) inserted (27.10.2023) by The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations 2023 (S.I. 2023/1144), regs. 1(1), **2(3)**
- F22** Words in reg. 9(4)(b) omitted (24.8.2020) by virtue of The Social Security (Income-Related Benefits) (Persons of Northern Ireland - Family Members) (Amendment) Regulations 2020 (S.I. 2020/683), regs. 1, **8(2)(b)**
- F23** Reg. 9(4)(ca) inserted (24.8.2020) by The Social Security (Income-Related Benefits) (Persons of Northern Ireland - Family Members) (Amendment) Regulations 2020 (S.I. 2020/683), regs. 1, **8(2)(c)**
- F24** Reg. 9(4)(cb)(cc) inserted (31.12.2020) by 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), **75(3)(b)**
- F25** Reg. 9(4)(e) substituted (29.10.2013) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2013 (S.I. 2013/1508), regs. 1(2)(b), **3(5)**
- F26** Words in reg. 9(4)(e) omitted (22.3.2022) by virtue of The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022 (S.I. 2022/344), regs. 1(1), **3(4)**
- F27** Reg. 9(5) inserted (24.8.2020) by The Social Security (Income-Related Benefits) (Persons of Northern Ireland - Family Members) (Amendment) Regulations 2020 (S.I. 2020/683), regs. 1, **8(2)(d)**

#### Modifications etc. (not altering text)

- C1** Reg. 9 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(3)**, 4(4), 11(t)

#### Marginal Citations

- M1** Regulation 15A was inserted by S.I. 2012/1547 and paragraph (4A) of that regulation was inserted by S.I.2012/2560.

**M2** 1971 c.77.

**M3** 1999 c.33.

### **Crown servants and members of Her Majesty's forces posted overseas**

**10.**—(1) The following persons do not have to meet the basic condition to be in Great Britain—

- (a) a Crown servant or member of Her Majesty's forces posted overseas;
- (b) in the case of joint claimants, the partner of a person mentioned in sub-paragraph (a) while they are accompanying the person on that posting.

(2) A person mentioned in paragraph (1)(a) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty's forces and was, immediately before their posting or the first of consecutive postings, habitually resident in the United Kingdom.

(3) In this regulation—

“Crown servant” means a person holding an office or employment under the Crown; and

“Her Majesty's forces” has the meaning in the Armed Forces Act 2006 <sup>M4</sup>.

#### **Modifications etc. (not altering text)**

**C2** Reg. 10 applied (with modifications) (29.4.2013) by [The Universal Credit \(Transitional Provisions\) Regulations 2013 \(S.I. 2013/386\)](#), regs. 1(2), **30(5)**

**C3** Reg. 10 applied (with modifications) (29.4.2013) by [The Universal Credit \(Transitional Provisions\) Regulations 2013 \(S.I. 2013/386\)](#), regs. 1(2), **32(5)**

#### **Marginal Citations**

**M4** 2006 c.52.

### **Temporary absence from Great Britain**

**11.**—(1) A person's temporary absence from Great Britain is disregarded in determining whether they meet the basic condition to be in Great Britain if—

- (a) the person is entitled to universal credit immediately before the beginning of the period of temporary absence; and
- (b) either—
  - (i) the absence is not expected to exceed, and does not exceed, one month, or
  - (ii) paragraph (3) or (4) applies.

(2) The period of one month in paragraph (1)(b) may be extended by up to a further month if the temporary absence is in connection with the death of—

- (a) the person's partner or a child or qualifying young person for whom the person was responsible; or
- (b) a close relative of the person, or of their partner or of a child or qualifying young person for whom the person or their partner was responsible,

and the Secretary of State considers that it would be unreasonable to expect the person to return to Great Britain within the first month.

(3) This paragraph applies where the absence is not expected to exceed, and does not exceed, 6 months and is solely in connection with—

- (a) the person undergoing—

- (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner, or
  - (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the person had that illness or impairment before leaving Great Britain; or
  - (b) the person accompanying their partner or a child or qualifying young person for whom they are responsible for treatment or convalescence or care as mentioned in sub-paragraph (a).
- (4) This paragraph applies where the absence is not expected to exceed, and does not exceed, 6 months and the person is—
- (a) a mariner; or
  - (b) a continental shelf worker who is in a designated area or a prescribed area.
- (5) In this regulation—
- “continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998 <sup>M5</sup>;
- “designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 <sup>M6</sup> as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;
- “mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—
- (a) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
  - (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;
- “medically approved” means certified by a registered medical practitioner;
- “prescribed area” means any area over which Norway or any member State <sup>F28</sup>... exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;
- “qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

#### Textual Amendments

**F28** Words in [reg. 11\(5\)](#) omitted (31.12.2020) by virtue of [The Social Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/128\)](#), [reg. 1\(2\)](#), [Sch. para. 11](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

#### Marginal Citations

**M5** 1998 c.17.

**M6** 1964 c.29.

**Changes to legislation:**

There are currently no known outstanding effects for the The Universal Credit Regulations 2013,  
Cross Heading: In Great Britain.