
STATUTORY INSTRUMENTS

2023 No. 1144

**The Social Security (Habitual Residence and Past Presence,
and Capital Disregards) (Amendment) Regulations 2023**

PART 2

**AMENDMENTS TO BENEFIT LEGISLATION EXTENDING
TO ENGLAND AND WALES AND SCOTLAND**

Amendment of the habitual residence test in income-related benefits

2.—(1) In the provisions specified in paragraph (2), after sub-paragraph (zzd) insert—

“(zze) 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⁽¹⁾;
- (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act⁽²⁾; or
- (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act⁽³⁾”.

(2) Those provisions are—

- (a) regulation 21AA(4) of the Income Support (General) Regulations 1987 (special cases: supplemental – persons from abroad)⁽⁴⁾;
- (b) regulation 85A(4) of the Jobseeker’s Allowance Regulations 1996 (special cases: supplemental — persons from abroad)⁽⁵⁾;
- (c) regulation 2(4) of the State Pension Credit Regulations 2002 (persons not in Great Britain)⁽⁶⁾;
- (d) regulation 10(3B) of the Housing Benefit Regulations 2006 (persons from abroad)⁽⁷⁾;

(1) 1971 c. 77.

(2) Section 2 is substituted by section 39(2) of the British Nationality Act 1981 (c. 61) and amended by S.I. 2019/745.

(3) Section 3ZA is inserted by section 2(2) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20).

(4) S.I. 1987/1967. Regulation 21AA is inserted by S.I. 2006/1026. Relevant amendments are made by S.I. 2006/2528, 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(5) S.I. 1996/207. Regulation 85A is inserted by S.I. 2006/1026. Relevant amendments are made by S.I. 2006/2528, 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(6) S.I. 2002/1792. Regulation 2 is substituted by S.I. 2006/1026. Relevant amendments are made by S.I. 2006/2528, 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(7) S.I. 2006/213. Relevant amendments are made by S.I. 2006/1026 and 2528, 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

- (e) regulation 10(4A) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (persons from abroad)(8); and
 - (f) regulation 70(4) of the Employment and Support Allowance Regulations 2008 (special cases: supplemental — persons from abroad)(9).
- (3) In the Universal Credit Regulations 2013(10), in regulation 9(4) (persons treated as not being in Great Britain), after sub-paragraph (zd) insert—
- “(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.”.

Amendment of the Income Support (General) Regulations 1987

- 3.—(1) The Income Support (General) Regulations 1987(11) are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) in the definition of “qualifying person” after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;
 - (b) after the definition of “vaccine damage payment” insert—
 - ““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010(12);”.
- (3) In each of the following provisions, after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—
- (a) regulation 48(10)(c) (income treated as capital);
 - (b) regulation 51(3A)(a) (notional capital);
 - (c) paragraphs 22(1) and (7) of Schedule 10 (capital to be disregarded).

Amendment of the Jobseeker’s Allowance Regulations 1996

- 4.—(1) The Jobseeker’s Allowance Regulations 1996(13) are amended as follows.
- (2) In regulation 1(3) (interpretation)—

(8) S.I. 2006/214. Relevant amendments are made by S.I. 2006/1026 and 2528, 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(9) S.I. 2008/794. Relevant amendments are made by S.I. 2009/362, 2013/2536, 2014/902, 2019/872, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(10) S.I. 2013/376. Relevant amendments are made by S.I. 2013/1508, 2020/683 and 1309, 2021/1034, 2022/344 and 990 and 2023/532.

(11) Relevant amending instruments are S.I. 1988/663, 999 and 2022, 1990/127 and 1549, 1991/1175, 1992/1101, 1993/963 and 1249, 1995/1613, 1998/2117 and 2231, 2004/1141 and 2308, 2005/3391, 2008/2767, 2010/641, 2011/2425, 2017/329 and 689, 2020/618, 2021/1405 and 2023/640.

(12) 2010 c. 17.

(13) Relevant amending instruments are S.I. 1998/2117, 2004/1141 and 2308, 2005/3391, 2008/2767, 2010/641, 2011/2425, 2017/329 and 689, 2020/618, 2021/2405 and 2023/640.

- (a) in the definition of “qualifying person” after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;
- (b) after the definition of “vaccine damage payment” insert—
 - ““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;”.
- (3) In each of the following provisions, after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—
 - (a) regulation 110(10)(c) (income treated as capital);
 - (b) regulation 113(3A)(a) (notional capital);
 - (c) paragraph 27(1) of Schedule 8 (capital to be disregarded).

Amendment of the State Pension Credit Regulations 2002

- 5.—(1) The State Pension Credit Regulations 2002(14) are amended as follows.
- (2) In regulation 1(2) (citation, commencement and interpretation)—
 - (a) in the definition of “qualifying person” after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;
 - (b) after the definition of “vaccine damage payment” insert—
 - ““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;”.
- (3) In both of the following provisions, after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—
 - (a) paragraph 14(8)(b) of Schedule 2 (housing costs);
 - (b) paragraph 15(1) and (7) of Schedule 5 (income from capital).

Amendment of the Housing Benefit Regulations 2006

- 6.—(1) The Housing Benefit Regulations 2006(15) are amended as follows.
- (2) In regulation 2 (interpretation)—
 - (a) in the definition of “qualifying person” after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;
 - (b) after the definition of “vaccine damage payment” insert—
 - ““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;”.
- (3) In each of the following provisions, after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—
 - (a) regulation 46(6) (income treated as capital);
 - (b) regulation 49(4)(a) (notional capital);
 - (c) regulation 74(9)(b) (non-dependant deductions);

(14) Relevant amending instruments are [S.I. 2004/1141](#), [2005/3391](#), [2008/2767](#), [2010/641](#), [2011/2425](#), [2017/329](#) and [2023/640](#).
(15) Relevant amending instruments are [S.I. 2007/2868](#), [2008/2767](#) and [3157](#), [2010/641](#), [2011/2425](#), [2017/329](#) and [689](#), [2020/618](#), [2021/1405](#) and [2023/640](#).

- (d) paragraph 24(1) and (7) of Schedule 6 (capital to be disregarded).

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

7.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(16) are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) in the definition of “qualifying person” after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;
- (b) after the definition of “vaccine damage payment” insert—

““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;”.

(3) In both of the following provisions, after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—

- (a) regulation 55(10)(b) (non-dependant deductions);
- (b) paragraph 16(1)(a) of Schedule 6 (capital to be disregarded generally).

Amendment of Employment and Support Allowance Regulations 2008

8.—(1) The Employment and Support Allowance Regulations 2008(17) are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) in the definition of “qualifying person” after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;
- (b) after the definition of “vaccine damage payment” insert—

““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;”.

(3) In each of the following provisions, after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—

- (a) regulation 112(8)(a) (income treated as capital);
- (b) regulation 115(5)(a) (notional capital);
- (c) paragraph 27(1) and (7) of Schedule 9 (capital to be disregarded).

Amendment of the Universal Credit Regulations 2013

9.—(1) Regulation 76 of the Universal Credit Regulations 2013 (special schemes for compensation etc)(18) is amended as follows.

(2) In paragraph (1A)—

- (a) at the end of sub-paragraph (d) omit “or”;
- (b) at the end of sub-paragraph (e) omit the full stop and insert “; or”;
- (c) after sub-paragraph (e) insert—

(16) Relevant amending instruments are [S.I. 2007/2869](#), [2008/1042](#) and [2767](#), [2010/641](#), [2011/2425](#), [2017/329](#), [2017/689](#), [2020/618](#), [2021/188](#) and [1405](#) and [2023/640](#).

(17) Relevant amending instruments are [S.I. 2008/2428](#), [2010/641](#), [2011/2425](#), [2017/329](#), [2020/618](#), [2021/1405](#) and [2023/640](#).

(18) Relevant amendments are made by [S.I. 2017/689](#), [2020/618](#), [2021/1405](#) and [2023/640](#).

“(f) the Victims of Overseas Terrorism Compensation Scheme established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010.”.