
STATUTORY INSTRUMENTS

2006 No. 1026

**The Social Security (Persons from
Abroad) Amendment Regulations 2006**

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

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

(2) In regulation 10 (persons from abroad)—

(a) for paragraphs (2), (3) and (4) substitute—

“(2) In paragraph (1), “person from abroad” means, subject to the following provisions of this regulation, a person who is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(3) No person shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless he has a right to reside in (as the case may be) the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland other than a right to reside which falls within paragraph (4).

(4) A right to reside falls within this paragraph if it is one which exists by virtue of, or in accordance with, one or more of the following—

(a) regulation 13 of the Immigration (European Economic Area) Regulations 2006⁽²⁾;

(b) regulation 14 of those Regulations, but only in a case where the right exists under that regulation because the person is—

(i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or

(ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;

(c) Article 6 of Council Directive No.2004/38/EC⁽³⁾; or

(d) Article 39 of the Treaty establishing the European Community (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland).

(4A) A person is not a person from abroad if he is—

(a) a worker for the purposes of Council Directive No. 2004/38/EC;

(b) a self-employed person for the purposes of that Directive;

(c) a person who retains a status referred to in sub-paragraph (a) or (b) pursuant to Article 7(3) of that Directive;

(1) S.I.2006/214.

(2) S.I. 2006/1003.

(3) OJ L 158, 30.4.04, p. 77.

- (d) a person who is a family member of a person referred to in sub-paragraph (a), (b) or (c) within the meaning of Article 2 of that Directive;
 - (e) a person who has a right to reside permanently in the United Kingdom by virtue of Article 17 of that Directive;
 - (f) a person who is an accession State worker requiring registration who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004⁽⁴⁾;
 - (g) a refugee;
 - (h) a person who has been granted exceptional leave to enter the United Kingdom by an immigration officer within the meaning of the Immigration Act 1971⁽⁵⁾, or to remain in the United Kingdom by the Secretary of State;
 - (i) 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⁽⁶⁾ and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;
 - (j) a person in Great Britain who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption; or
 - (k) on state pension credit.”;
- (b) in paragraph (6), omit the definition of “a European Economic Area State”.

Commencement Information

II Reg. 5 in force at 30.4.2006, see [reg. 1](#)

⁽⁴⁾ S.I. 2004/1219; the relevant amending instrument is S.I. 2006/1003.

⁽⁵⁾ 1971 c. 77.

⁽⁶⁾ 1999 c. 33.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Persons from Abroad) Amendment Regulations 2006, Section 5.