
STATUTORY INSTRUMENTS

2006 No. 223

The Child Benefit (General) Regulations 2006

PART 6

Residence

Circumstances in which person treated as not being in Great Britain

23.—(1) A person shall be treated as not being in Great Britain for the purposes of section 146(2) ^{M1} of SSCBA if he is not ordinarily resident in the United Kingdom.

(2) [^{F1}Paragraphs (1) and (5) do] not apply to a Crown servant posted overseas or his partner.

(3) A person who is in Great Britain as a result of his deportation, expulsion or other removal by compulsion of law from another country to Great Britain shall be treated as being ordinarily resident in the United Kingdom [^{F2}and paragraph (5) shall not apply].

(4) A person shall be treated as not being in Great Britain for the purposes of section 146(2) of SSCBA where he [^{F3}makes a claim for child benefit on or after 1st May 2004][^{F4} and

(a) does not have a right to reside in the United Kingdom;]^{F5} ...

[^{F6}(b) has a right to reside by virtue of paragraph (1) of regulation 16 of the Immigration (European Economic Area) Regulations 2016, but only in a case where a right exists under that regulation because that person satisfies the criteria in paragraph (5) of that regulatio][^{F7}; or

(c) would fall within sub-paragraph (a) or (b) but for the fact that that person has limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 which has been granted by virtue of Appendix EU to the immigration rules].

[^{F8}(4A) Paragraph (4)(b) does not apply to a person who is lawfully working in Great Britain and is a national of a State with which the European Union has concluded an agreement under Article 217 of the Treaty on the Functioning of the European Union providing, in the field of social security, for the equal treatment of workers who are nationals of the signatory State and their families.]

[^{F9}(5) Subject to paragraph (6), a person is to be treated as being in Great Britain for the purposes of section 146(2) of SSCBA only if that person has been living in the United Kingdom for 3 months ending on the first day of the week referred to in that section.

(6) Paragraph (5) does not apply where the person—

(a) most recently entered the United Kingdom before 1st July 2014;

(b) is a worker or a self-employed person in the United Kingdom for the purposes of [^{F10}regulation 4(1)(a) or (b) of the Immigration (European Economic Area) Regulations 2016];

(c) retains the status of a worker or self-employed person in the United Kingdom pursuant to [^{F11}regulation 6(2) or (4) of the Immigration (European Economic Area) Regulations 2016];

- (d) is treated as a worker in the United Kingdom pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an “accession State national subject to worker authorisation”);
- (e) is a family member of a person referred to in sub-paragraphs (b), (c), (d) or (i);
- (f) is a person to whom regulation 24 applies (persons temporarily absent from Great Britain) and who returns to Great Britain within 52 weeks starting from the first day of the temporary absence;
- (g) returns to the United Kingdom after a period abroad of less than 52 weeks where immediately before departing from the United Kingdom that person had been ordinarily resident in the United Kingdom for a continuous period of 3 months;
- (h) returns to Great Britain otherwise than as a worker or self-employed person after a period abroad and where, otherwise than for a period of up to 3 months ending on the day of returning, that person has paid either Class 1 or Class 2 contributions by virtue of regulation 114, 118, 146 or 147 of the Social Security (Contributions) Regulations 2001 or pursuant to an Order in Council having effect under section 179 of the Social Security Administration Act 1992;
- (i) is not a national of an EEA State and would be a worker or self-employed person in the United Kingdom for the purposes of [F12the Immigration (European Economic Area) Regulations 2016] if that person were a national of an EEA State;
- (j) is a refugee as defined 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;
- (k) has been granted leave, or is deemed to have been granted leave, outside the rules made under section 3(2) of the Immigration Act 1971 where the leave is —
 - (i) granted by the Secretary of State with recourse to public funds, or
 - (ii) deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005;
- (l) has been granted leave to remain in the United Kingdom by the Secretary of State pending an application for indefinite leave to remain as a victim of domestic violence;
- (m) has been granted humanitarian protection by the Secretary of State under rule 339C of Part 11 of the rules made under section 3(2) of the Immigration Act 1971;
- [has been granted section 67 leave.]

^{F13}(n)

(7) In this regulation, a “family member” means a person who is defined as a family member of another person in [F14regulation 7 of the Immigration (European Economic Area) Regulations 2016].]

Textual Amendments

- F1** Words in reg. 23(2) substituted (1.7.2014) by [The Child Benefit \(General\) and the Tax Credits \(Residence\) \(Amendment\) Regulations 2014 \(S.I. 2014/1511\)](#), regs. 1, **3(2)**
- F2** Words in reg. 23(3) inserted (1.7.2014) by [The Child Benefit \(General\) and the Tax Credits \(Residence\) \(Amendment\) Regulations 2014 \(S.I. 2014/1511\)](#), regs. 1, **3(3)**
- F3** Words in reg. 23(4) inserted (16.8.2007) by [The Child Benefit \(General\) \(Amendment\) Regulations 2007 \(S.I. 2007/2150\)](#), regs. 1, **8**
- F4** Words in reg. 23(4) substituted (8.11.2012) by [The Child Benefit and Child Tax Credit \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/2612\)](#), regs. 1, **3**
- F5** Word in reg. 23(4)(a) omitted (7.5.2019) by virtue of [The Child Benefit and Child Tax Credit \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/867\)](#), regs. 1, **2(2)(a)**

- F6** Reg. 23(4)(b) substituted (21.3.2019) by The Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/364), regs. 1, **11(4)(a)**
- F7** Reg. 23(4)(c) and preceding word inserted (7.5.2019) by The Child Benefit and Child Tax Credit (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/867), regs. 1, **2(2)(b)**
- F8** Reg. 23(4A) inserted (21.3.2019) by The Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/364), regs. 1, **11(4)(b)**
- F9** Reg. 23(5)-(7) inserted (1.7.2014) by The Child Benefit (General) and the Tax Credits (Residence) (Amendment) Regulations 2014 (S.I. 2014/1511), regs. 1, **3(4)**
- F10** Words in reg. 23(6)(b) substituted (21.3.2019) by The Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/364), regs. 1, **11(4)(c)(i)**
- F11** Words in reg. 23(6)(c) substituted (21.3.2019) by The Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/364), regs. 1, **11(4)(c)(ii)**
- F12** Words in reg. 23(6)(i) substituted (21.3.2019) by The Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/364), regs. 1, **11(4)(c)(iii)**
- F13** Reg. 23(6)(n) inserted (20.7.2018) by The Child Benefit, Tax Credits and Childcare Payments (Section 67 Immigration Act 2016 Leave) (Amendment) Regulations 2018 (S.I. 2018/788), regs. 1, **2(3)**
- F14** Words in reg. 23(7) substituted (21.3.2019) by The Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/364), regs. 1, **11(4)(d)**

Marginal Citations

- M1** Section 146 of the Social Security Contributions and Benefits Act 1992 (c. 4) was substituted by section 56 of the Tax Credits Act 2002 (c. 21).

Status:

Point in time view as at 07/05/2019. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the The Child Benefit (General) Regulations 2006, Section 23.