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STATUTORY INSTRUMENTS

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**2014 No. 1511**

**The Child Benefit (General) and the Tax Credits  
(Residence) (Amendment) Regulations 2014**

**Amendment of the Child Benefit (General) Regulations 2006**

**3.—**(1) Amend regulation 23 (circumstances in which person treated as not being in Great Britain) as follows.

(2) In paragraph (2) for “Paragraph (1) does” substitute “Paragraphs (1) and (5) do”.

(3) At the end of paragraph (3) insert “and paragraph (5) shall not apply”.

(4) After paragraph (4) insert—

“(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 Council [Directive 2004/38/EC](#) (rights of citizens of the European Union and their family members to move and reside freely within the territory of the Member States)(1);
- (c) retains the status of a worker or self-employed person in the United Kingdom pursuant to Article 7(3) of Council [Directive 2004/38/EC](#);
- (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”)(2);
- (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

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(1) OJ L 158, 30.4.2004, p77.

(2) [S.I. 2013/1460](#), the relevant amending instrument is [S.I. 2014/530](#).

- (Contributions) Regulations 2001<sup>(3)</sup> or pursuant to an Order in Council having effect under section 179 of the Social Security Administration Act 1992<sup>(4)</sup>;
- (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 Council Directive 2004/38/EC 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<sup>(5)</sup>, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967<sup>(6)</sup>;
- (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<sup>(7)</sup> 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<sup>(8)</sup>;
- (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<sup>(9)</sup>;
- (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<sup>(10)</sup>.
- (7) In this regulation, a “family member” means a person who is defined as a family member of another person in Article 2 of Council Directive 2004/38/EC.”.

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<sup>(3)</sup> S.I. 2001/1004; amended by S.I. 2007/1838; there are other amending instruments but none is relevant.

<sup>(4)</sup> 1992 c. 5, relevantly amended by paragraph 70 of Schedule 2 to the Jobseekers Act 1995 (c. 18), paragraph 107 of Schedule 7 to the Social Security Act 1998 (c. 14), paragraph 15 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), paragraph 21 of Part 2 of Schedule 2 of the State Pension Credit Act 2002 (c. 16), Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 10(29) of Schedule 3 to the Welfare Reform Act 2007 (c. 5), Part 1 of Schedule 7 to the Welfare Reform Act 2009 (c. 24), paragraph 27 of Schedule 2 and Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5), S.I. 1999/671 and S.I. 2011/2425.

<sup>(5)</sup> Cmd. 9171.

<sup>(6)</sup> Cmnd. 3906.

<sup>(7)</sup> 1971 c. 77.

<sup>(8)</sup> S.I.2005/1379.

<sup>(9)</sup> Details on applying for indefinite leave to remain as a victim of domestic violence can be found at <https://www.gov.uk/government/publications/application-for-benefits-for-visa-holder-domestic-violence>

<sup>(10)</sup> The Immigration Rules which can be found at: <https://www.gov.uk/government/collections/immigration-rules>