

2006 No. 213
SOCIAL SECURITY

The Housing Benefit Regulations 2006

Made - - - 2nd February 2006
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Coming into force - - 6th March 2006

[...]

Persons from abroad

10.—(1) A person from abroad who is liable to make payments in respect of a dwelling shall be treated as if he were not so liable¹.

²(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 (3A).

(3A) 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;
- (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;
- ³(bb) regulation 15A(1) of those Regulations, but only in a case where the right exists under that regulation because the claimant satisfies the criteria in regulation 15A(4A) of those Regulations;⁴
- (c) Article 6 of Council Directive No. 2004/38/EC;⁴
- (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)⁵; or

¹ Words omitted implied repeal by Asylum and Immigration (Treatment of Claimants etc.) Act 2004 s12(2)(e), art, 2(1) of S.I. 2007/1602 as from 14.06.07; see also S.I. 2006/217 reg. 7 and schedule 4

² Regs. 10(2), (3), (3A)(a)-(d), (3B)(a)-(k) substituted for regs 10(2) & (3) by reg. 4(2)(a) of S.I. 2006/1026 as from 30.4.06.

³ Sub-paragraph (bb) inserted by reg. 5(2) of S.I. 2012/2587 as from 8.11.12

⁴ Word omitted by reg. 5(3) of S.I. 2012/2587 as from 8.11.12

⁵ Semi-colon and word inserted by reg. 5(4) of S.I. 2012/2587 as from 8.11.12

- ▶⁶(e) Article 20 of the Treaty on the functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen. ◀
- (3B) A person is not a person from abroad if he is—
- ▶⁷(za) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006 as a worker or self-employed person;
- (zb) a family member of a person referred to in sub-paragraph (za) within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations;
- (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations;
- (g) a refugee;
- ▶⁸(h) a person who has been granted leave or who is deemed to have been granted leave outside the rules made under section 3(2) of the Immigration Act 1971 where that leave is—
- (i) discretionary leave to enter or remain in the United Kingdom;
- (ii) leave to remain under the Destitution Domestic Violence concession; or
- (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005; ◀
- ▶⁹(hh) a person who has humanitarian protection granted under those rules; ◀
- (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 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; ▶¹⁰ ◀
- (j)-(jj) ▶¹¹ ◀
- (k) in receipt of income support ▶¹²▶¹³ ◀ or on an income-related employment and support allowance ◀▶¹⁴; or ◀◀¹⁵
- ▶¹⁶(l) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (3A). ◀
- (4) ▶¹⁷ ◀
- (5) ▶¹⁸ ◀
- (6) In this regulation—
- ▶¹⁹ ◀

“refugee” means a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees .

⁶ Sub-paragraph (e) inserted by reg. 5(4) of S.I. 2012/2587 as from 8.11.12.

⁷ Regulation 10(3B)(a)-(f) substituted for sub-paragraphs (za)-(zc) by reg. 5 of S.I. 2014/902 as from 31.5.14.

⁸ Sub-paragraph (h) substituted by reg. 11(3)(a) of S.I. 2013/2536 as from 29.10.13.

⁹ Sub-paragraph (hh) inserted by reg. 5(2) of S.I. 2006/2528 as from 9.10.06.

¹⁰ Word omitted by reg. 2(1)(a) of S.I. 2014/539 as from 1.4.14.

¹¹ Sub-paragraphs (j) and (jj) omitted by reg. 11(3)(c) of S.I. 2013/2536 as from 29.10.13.

¹² Words substituted by reg. 8 of S.I. 2008/1082 as from 27.10.08.

¹³ Comma and words omitted by reg. 2(1)(b) of S.I. 2014/539 as from 1.4.14.

¹⁴ Semi-colon and word substituted for full stop by reg. 2(1)(c) of S.I. 2014/539 as from 1.4.14.

¹⁵ See footnote 2 above.

¹⁶ Sub-paragraph (l) added to reg. 10(3B) by reg. 2(1)(c) of S.I. 2014/539 as from 1.4.14.

¹⁷ Paragraph (4) omitted by reg. 11(3)(c) of S.I. 2013/2536 as from 29.10.13.

¹⁸ Paragraph (5) omitted by reg. 4(2)(b) of S.I. 2006/1026 as from 30.4.06.

¹⁹ Definition of “a European Economic Area State” omitted by reg. 4(2)(c) of S.I. 2006/1026 as from 30.4.06.