

2013 No. 376
SOCIAL SECURITY

The Universal Credit Regulations 2013

Made - - - - 25th February 2013
Coming into force - - 29th April 2013

[...]

Persons treated as not being in Great Britain

9.—(1) For the purposes of determining whether a person meets the basic condition to be in Great Britain, except where that person falls within paragraph (4), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(2) A person must not be treated as being habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

(3) For the purposes of paragraph (2), a right to reside does not include a right which exists by virtue of, or in accordance with—

(a) regulation 13 of the EEA Regulations or Article 6 of Council Directive No. 2004/38/EC;

▶¹◀

▶²(aa) regulation 14 of those Regulations, but only in a case where the right exists under that regulation because the person is—

(i) a qualified person for the purposes of regulation 6(1) of those Regulations as a jobseeker¹, or

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

(b) regulation 15A(1) of the EEA 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 or article 20 of the Treaty on the Functioning of the European Union 9in a case where the right to reside arises because a British Citizen would otherwise be deprived of the genuine enjoyment of their rights as a European citizen);

(4) A person falls within this paragraph if the person is—

(a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or self-employed person;

(b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;

(c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;

¹ Word in regulation 9(3)(a) omitted by regulation 2 of S.I. 2015/546 as from 10.6.15

² Sub-paragraph (aa) inserted by reg. 2 of S.I. 2015/546 as from 10.6.15

- (d) a refugee within the definition 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 the 31st January 1967;
- ▶³(e) 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; ◀
- (f) a person who has humanitarian protection granted under those rules; or
- (g) 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 and who is in the United Kingdom as a result of their deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

³ Sub-paragraph (e) substituted by reg. 3(5) of S.I. 2013/1508 as from 29.10.13.