

2014 No. 902

SOCIAL SECURITY

The Social Security (Habitual Residence) (Amendment) Regulations 2014

<i>Made</i> - - - -	<i>2nd April 2014</i>
<i>Laid before Parliament</i>	<i>8th April 2014</i>
<i>Coming into force</i> -	<i>31st May 2014</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(a) and (d), 135(1) and (2), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(a), sections 4(5) and (12), 35(1) and 36(2) of the Jobseekers Act 1995(b), section 115(3), (4) and (7) of the Immigration and Asylum Act 1999(c), sections 1(5)(a), 17(1) and 19(1) of the State Pension Credit Act 2002(d), sections 4(3), 24 and 25(2) and (3) of the Welfare Reform Act 2007(e) and sections 30, 40, 42(1), (2) and (3) of, and paragraph 7 of Schedule 1 to, the Welfare Reform Act 2012(f).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(g), the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it.

In respect of provisions relating to housing benefit, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned(h).

Citation and Commencement

1. These Regulations may be cited as the Social Security (Habitual Residence) (Amendment) Regulations 2014 and shall come into force on 31st May 2014.

[Reg. 2 substitutes para. (za)-(zc) for reg. 21AA(4)(a)-(f) of S.I. 1987/1967.]

[Reg. 3 substitutes para. (za)-(zc) for reg. 85A(4)(a)-(f) of S.I. 1996/207.]

[Reg. 4 substitutes para. (za)-(zc) for reg. 2(4)(a)-(f) of S.I. 2002/1792.]

(a) 1992 c. 4; sections 123 and 137 are repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5) from a date to be appointed. Section 137(1) is cited because of the meaning given to the word “prescribed”. Section 175(1), (3) and (4) is applied to provisions of the State Pension Credit Act 2002 (c. 16) by section 19(1) of that Act.

(b) 1995 c. 18; section 35(1) is cited because of the meaning given to the words “applicable amount”, “prescribed” and “regulations”.

(c) 1999 c. 33.

(d) 2002 c. 16; section 17(1) is cited because of the meaning given to the words “prescribed” and “regulations”.

(e) 2007 c. 5; section 24 is cited because of the meaning given to the words “prescribed” and “regulations”.

(f) 2012 c. 5.

(g) 1992 c. 5.

(h) See section 176(1) of the Social Security Administration Act 1992 (c. 5).

[Reg. 5 substitutes para. (za)-(zc) for reg. 10(3B)(a)-(f) of S.I. 2006/213.]

[Reg. 6 substitutes para. (za)-(zc) for reg. 10(4A)(a)-(f) of S.I. 2006/214.]

[Reg. 7 substitutes para. (za)-(zc) for reg. 70(4) (a)-(f) of S.I. 2008/794.]

[Reg. 8 substitutes reg. 92(1)(b) of S.I. 2013/376.]

Signed by authority of the Secretary of State for Work and Pensions.

2nd April 2014

Esther McVey
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulation)

These Regulations amend the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), the State Pension Credit Regulations 2002 (S.I. 2002/1792), the Housing Benefit Regulations 2006 (S.I. 2006/213), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214) and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) ("the income-related benefit Regulations").

The income-related benefit Regulations provide that a claimant is ineligible for benefit where he or she is a "person from abroad" or, in the case of state pension credit, a "person not in Great Britain". A person is a person from abroad or a person not in Great Britain if he or she is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland. No person shall be treated as habitually resident without a relevant right to reside in the place where he or she is habitually resident. However, certain categories of people are exempt from this habitual residence test.

These Regulations amend some of the categories of person who are exempt from the habitual residence test. They are made in consequence of amendments made to the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003) by the Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/3032) (together, "the Immigration Regulations") which transpose Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. These Regulations ensure consistency between the income-related benefit Regulations and the Immigration Regulations.

These Regulations also amend Regulation 92 of the Universal Credit Regulations 2013 (S.I. 2013/376) in order to ensure consistency with the Immigration Regulations.

A full impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.