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STATUTORY INSTRUMENTS

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**2009 No. 362**

**SOCIAL SECURITY**

**The Social Security (Habitual Residence)  
(Amendment) Regulations 2009**

*Made* - - - - 23rd February 2009  
*Laid before Parliament* 24th February 2009  
*Coming into force* - - 18th March 2009

The Secretary of State for Work and Pensions makes the following Regulations, in exercise of the powers conferred by sections 123(1)(a), (d) and (e), 131(3)(b), 135(1) and (2), 137(1), 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1), sections 4(5) and (12), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(2), sections 1(5)(a) and 17(1) of the State Pensions Credit Act 2002(3) and sections 4(3), 24, 25(2), (3) and (5) of the Welfare Reform Act 2007(4).

In respect of the provisions of these Regulations relating to housing benefit and council tax benefit, the Secretary of State has not consulted organisations appearing to be representative of the authorities concerned because it appears to the Secretary of State to be inexpedient to do so by reason of the urgency of the matter(5).

For the same reason, it appears to the Secretary of State to be inexpedient to refer the proposals to make these Regulations to the Social Security Advisory Committee(6).

**Citation and commencement**

1.—(1) These Regulations may be cited as the Social Security (Habitual Residence) (Amendment) Regulations 2009.

(2) They come into force on 18<sup>th</sup> March 2009.

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- (1) 1992 c.4; sections 123, 131 and 137 were amended, with respect to council tax benefit, by section 103 of and Schedule 9 to the Local Government Finance Act 1992 (c.14), paragraphs 1(1), 4, 8 and 9. 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.
- (2) 1995 c.18; section 35(1) is cited because of the meaning given to the words “applicable amount”, “prescribed amount” and “regulations”.
- (3) 2002 c.16; section 17(1) is cited because of the meaning given to the word “regulations”.
- (4) 2007 c.5; section 24 is cited because of the meaning given to the word “regulations”.
- (5) See section 176(2)(a) of the Social Security Administration Act 1992 (c.5).
- (6) See sections 173(1)(a) and (2) of the Social Security Administration Act 1992.

### **Amendment of the Income Support (General) Regulations 1987**

2.—(1) Regulation 21AA of the Income Support (General) Regulations 1987(7) (special cases: supplemental – persons from abroad) is amended as follows.

(2) At the end of paragraph (4)(i), omit “or”.

(3) At the end of paragraph (4)(j), add “; or” and the following sub-paragraph—

“(k) a person who—

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom.”.

### **Amendment of the Jobseeker’s Allowance Regulations 1996**

3.—(1) Regulation 85A of the Jobseeker’s Allowance Regulations 1996(8) (special cases: supplemental – persons from abroad) is amended as follows.

(2) At the end of paragraph (4)(i), omit “or”.

(3) At the end of paragraph (4)(j), add “; or” and the following sub-paragraph—

“(k) a person who—

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom.”.

### **Amendment of the State Pension Credit Regulations 2002**

4.—(1) Regulation 2 of the State Pension Credit Regulations 2002(9) (persons not in Great Britain) is amended as follows.

(2) At the end of paragraph (4)(i), omit “or”.

(3) At the end of paragraph (4)(j), add “; or” and the following sub-paragraph—

“(k) a person who—

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom.”.

### **Amendment of the Housing Benefit Regulations 2006**

5.—(1) Regulation 10 of the Housing Benefit Regulation 2006(10) (persons from abroad) is amended as follows.

(2) At the end of paragraph (3B)(j) omit “or”.

(3) After paragraph (3B)(j), insert—

“(jj) a person who—

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(7) S.I. 1987/1967; regulation 21AA was inserted by S.I. 2006/1026.

(8) S.I. 1996/207; regulation 85A was inserted by S.I. 2006/1026.

(9) S.I. 2002/1792; regulation 2 was substituted by S.I. 2006/1026.

(10) S.I. 2006/213; regulation 10 was amended by S.I. 2006/1026.

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty's Government, to assist that person to move to and settle in the United Kingdom; or".

**Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

6.—(1) Regulation 10 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(11) (persons from abroad) is amended as follows.

(2) At the end of paragraph (4A)(j), omit "or".

(3) After paragraph (4A)(j), insert—

“(j) a person who—

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty's Government, to assist that person to move to and settle in the United Kingdom; or”.

**Amendment of the Council Tax Benefit Regulations 2006**

7.—(1) Regulation 7 of the Council Tax Benefit Regulations 2006(12) (persons from abroad) is amended as follows.

(2) At the end of paragraph (4A)(j), omit "or".

(3) After paragraph (4A)(j), insert—

“(j) a person who—

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty's Government, to assist that person to move to and settle in the United Kingdom; or”.

**Amendment of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

8.—(1) Regulation 7 of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(13) (persons from abroad) is amended as follows.

(2) At the end of paragraph (4A)(j), omit "or".

(3) After paragraph (4A)(j), insert—

“(j) a person who—

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty's Government, to assist that person to move to and settle in the United Kingdom; or”.

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(11) [S.I. 2006/214](#); regulation 10 was amended by [S.I. 2006/1026](#).

(12) [S.I. 2006/215](#); regulation 7 was amended by [S.I. 2006/1026](#).

(13) [S.I. 2006/216](#); regulation 7 was amended by [S.I. 2006/1026](#).

### **Amendment of the Employment and Support Allowance Regulations 2008**

**9.**—(1) Regulation 70 of the Employment and Support Allowance Regulations 2008(**14**) (special cases: supplemental – persons from abroad) is amended as follows.

(2) At the end of paragraph (4)(j), omit “or”.

(3) At the end of paragraph (4)(k), add “; or” and the following sub-paragraph—

“(1 a person who—

- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
- (ii) immediately before arriving there had been resident in Zimbabwe; and
- (iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom.”.

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

23rd February 2009

*Kitty Ussher*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

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), the Council Tax Benefit Regulations 2006 (S.I. 2006/215), the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/216) 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 person is ineligible for benefit where he or she is a "person from abroad", or "a person not in Great Britain", for the purposes of the State Pension Credit Regulations, that is to say where he or she is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland, subject to a list of exceptions. The amendments made by these Regulations insert a new category into the list of persons who are excepted from having to satisfy the habitual residence test. The amendments exempt a person who: arrived in Great Britain on or after 28 February 2009, but before 18 March 2011; immediately before arriving in the United Kingdom had been resident in Zimbabwe; and, before leaving Zimbabwe, had accepted an offer, made by Her Majesty's Government, to assist him or her to move to and settle in the United Kingdom.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.