EXPLANATORY MEMORANDUM TO

THE HOUSING BENEFIT (HABITUAL RESIDENCE) (AMENDMENT) REGULATIONS 2025

2025 No. 988

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions (DWP) and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 The Rt Hon Sir Stephen Timms MP, Minister for Social Security and Disability at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

2.2 Jonathan Harris, International Strategy Lead at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Dan Revill-Crookes at the Department for Work and Pensions (email: internationalaccessto.benefitpolicy@dwp.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes amendments to the Housing Benefit Regulations 2006[1], to specify that local authorities shall treat a person as not being a 'person from abroad' for the purposes of working-age Housing Benefit if they are already in receipt of Universal Credit.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England, Scotland and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Scotland and Wales.

5. Policy Context

What is being done and why?

5.1 Legislation[2] specifies that a person must be habitually resident in the Common Travel Area (the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland) to be eligible for income-related benefits (including Housing Benefit and

[1] www.legislation.gov.uk/uksi/2006/213.

[2] Housing Benefit Regulations 2006 10 (www.legislation.gov.uk/uksi/2006/213/regulation/10) and Universal Credit Regulations 2013 9 (https://www.legislation.gov.uk/uksi/2013/376/regulation/9).

Universal Credit), unless they are exempt from this requirement. To demonstrate habitual residence a person must have a legal right to reside, have spent an 'appreciable period of time'[3] in the Common Travel Area, and have a settled intention to remain. This instrument amends the Housing Benefit Regulations 2006[4] to specify that a person in receipt of Universal Credit is not a 'person from abroad'[5] (and therefore habitually resident) for the purpose of determining eligibility for working-age Housing Benefit. Therefore, if a person is in receipt of Universal Credit and then claims working-age Housing Benefit, the local authority administering their claim does not need to make a separate assessment of whether that person is habitually resident in the Common Travel Area or is exempt from this requirement. This is because a person must have already met those conditions in order to be eligible for Universal Credit. An equivalent process is already in place for other income-related benefits (Income Support, income-based Jobseeker's Allowance and income-related Employment and Support Allowance).

5.2 The Department sets policy on who is considered a 'person from abroad' for both Universal Credit and Housing Benefit, but Housing Benefit is administered by local authorities. Assessing whether a person should be considered a 'person from abroad' can be complex and time-consuming for both the local authority making the decision and the claimant, who may have to provide evidence to support this process. This instrument will mean that where Universal Credit is in payment, there will be no need for local authorities to consider whether the person is a 'person from abroad' for working age Housing Benefit purposes. In doing so this instrument will prevent the risk of inconsistent decision making through unnecessary duplication. Local authority decision makers consider the assessment of whether the claimant is a 'person from abroad' alongside a range of other eligibility criteria[6] when reviewing individual cases. While increasing efficiency, this change will not result in cost savings for local authorities.

What was the previous policy, how is this different?

5.3 Under the previous policy, the local authorities assessing a person's eligibility for working-age Housing Benefit had to determine whether they met the requirement to not be 'a person from abroad', including whether they were habitually resident in the Common Travel Area or exempt from that requirement. A working-age person can only be eligible for Housing Benefit, as opposed to the housing element of Universal Credit, if they are living in specified[7] or temporary accommodation.

5.4 If a person makes a claim to working-age Housing Benefit but is not in receipt of Universal Credit, local authority staff will advise the person to make a Universal Credit claim and will wait for the outcome before proceeding with the Housing Benefit claim. Each month local authorities conduct around 1,500 detailed assessments[8] of whether a claimant is a 'person from abroad' for Housing Benefit purposes for claimants who are already in receipt of Universal Credit.

---

[3] DWP guidance (https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide Chapter C1) currently defines this as a period of between one and three months.
[4] https://www.legislation.gov.uk/uksi/2006/213.
[5] www.legislation.gov.uk/uksi/2006/213/regulation/10.
[6] Housing Benefit eligibility criteria is outlined at Housing Benefit and Council Tax Benefit guidance: Part C (https://www.gov.uk/government/publications/housing-benefit-and-council-tax-benefit-guidance-part-c).
[7] Specified accommodation is defined at www.gov.uk/government/publications/housing-benefit-guidance-for-supported-housing-claims/housing-benefit-guidance-for-supported-housing-claims.
[8] Internal DWP administrative benefit data was used to complete this analysis. The internal data source was used to estimate how many working-age claimants currently receive Universal Credit and working-age Housing

5.5 Once these regulations come into force, we expect that the number of detailed assessments that local authorities will be required to make will reduce to zero (for all working-age Housing Benefit claims where the claimant is in receipt of Universal Credit, or legacy benefits (Income Support, income-based Jobseeker's Allowance and Employment and Support Allowance Income Related)). Local authorities will still be required to make an assessment of whether a claimant is a 'person from abroad' for Housing Benefit purposes if the claimant does not apply for Universal Credit and still requires Housing Benefit.

5.6 Income Support and income-based Jobseeker's Allowance will end in March 2026, and Employment and Support Allowance Income Related will end later in 2026. At this point, all claimants will migrate to Universal Credit, and if the claimant then makes a new Housing Benefit claim, the local authority will not need to make a separate assessment of whether the person is habitually resident in the Common Travel Area or is exempt from this requirement because a person must also meet these conditions to be eligible for Universal Credit. The migration to Universal Credit from legacy benefit will have no impact on the legislation.

6. Legislative and Legal Context

How has the law changed?

6.1 The instrument amends the definition of 'persons from abroad' within regulation 10(3B) of the Housing Benefit Regulations 2006 (SI 2006/213)[9] to additionally specify that a person in receipt of Universal Credit is not a 'person from abroad'.

Why was this approach taken to change the law?

6.2 This is the only possible way to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with section 170(3) of the Social Security Administration Act 1992[10] the Department presented a draft of the instrument to the Social Security Advisory Committee on 21 May 2025[11]. The committee did not take the regulations on formal reference. The committee was content with the legislation and had no additional areas of concern that needed to be addressed.

7.2 The Department has a statutory duty[12] to consult the Local Authority Association on amendments to Housing Benefit regulations. The Association was content with this instrument and did not share any comments with the Department.

8. Applicable Guidance

8.1 For the changes to The Housing Benefit Regulations, the Department will publish an adjudication circular[13] providing relevant guidance for local authority staff before the instrument comes into force.

Benefit, and to estimate how many of these claimants have passed the Universal Credit assessment for being a 'person from abroad'. This analysis allowed an estimate of 1,500, which represents the number of monthly detailed assessments conducted for dual Universal Credit and Housing Benefit claimants (up to May 2024).

[9] www.legislation.gov.uk/uksi/2006/213/regulation/10.

[10] https://www.legislation.gov.uk/ukpga/1992/5/section/170.

[11] www.gov.uk/government/collections/social-security-advisory-committee-minutes-of-meetings.

[12] https://www.legislation.gov.uk/ukpga/1992/5/section/176.

[13] www.gov.uk/government/collections/housing-benefit-for-local-authorities-circulars.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 The Department has not prepared a full Impact Assessment for this instrument because there is no impact on businesses.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies, because this instrument only affects people who claim income-related benefits.

9.3 The instrument does not impact small or micro businesses.

9.4 There is no impact on the public sector because the Department's Annually Managed Expenditure spend as a result of the legislation is not impacted. This is because the Department does not expect the instrument will affect the number of Housing Benefit claimants considered habitually resident and subsequently paid Housing Benefit. There is no impact on the Departmental Expenditure Limits costs.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to seek continuous insights and data from local authorities. The Department will also monitor any points raised by relevant civil society organisations and individuals' correspondence with the Department through official channels.

10.2 This instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ('relevant European Union Acts').