STATUTORY RULES OF NORTHERN IRELAND

2025 No. 136

SOCIAL SECURITY

The Social Security (Habitual Residence, Past Presence and Temporary Absence) (Amendment) Regulations (Northern Ireland) 2025

Made - - - -	*18th July 2025*
Coming into operation -	*19th July 2025*

The Department for Communities(**a**) makes the following Regulations in exercise of the powers conferred by sections 64(1), 70(4), 71(6), 122(1)(a) and (d), 133(2)(a), (b) and (h) and 171(1), (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**b**), Article 36(2) of, and paragraph 11 of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**c**), and now vested in it(**d**), sections 1(5), 17(2)(a) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**e**), section 25(2) of, and paragraphs 5 and 6 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007(**f**) and Articles 9(5)(a) and (b), 48(1) and (2), 82(3), 97(1) and 99(1) of the Welfare Reform (Northern Ireland) Order 2015(**g**).

Regulation 2, in so far as it relates to the provisions referred to in paragraph (2)(b) and (c) of that regulation, and regulations 7 and 8 are made with the consent of the Department of Finance(**h**).

(**a**) *See* section 1(7) of the Departments Act (Northern Ireland) 2016 c. 5 (N.I.)

(**b**) 1992 c. 7; section 64(1) was amended by paragraph 38 of Schedule 1 to the Pensions Act (Northern Ireland) 2008 (c. 1) and paragraph 4(2) of Schedule 9 to the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)); sections 122(1) and 171(1) were amended by Schedule 6, and paragraph 5 of Schedule 4, respectively, to the Tax Credits Act 2002 (c. 21); section 171(5) was amended by Schedules 1 and 2 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(**c**) S.I. 1995/2705 (N.I. 15); Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671); paragraph 11(1) of Schedule 1 was amended by Part 1 of Schedule 12 to the Welfare Reform (Northern Ireland) Order 2015 and remains in operation in certain circumstances, *see* Article 6 of S.R. 2017 No. 190 (C. 11)

(**d**) *See* Article 8(b) of S.R. 1999 No. 481

(**e**) 2002 c. 14 (N.I.)

(**f**) 2007 c. 2 (N.I.); section 25(2)(a) and paragraph 6 of Schedule 2 were respectively amended by Article 57(2)(b) of, and paragraph 21(g) of Schedule 3 to, the Welfare Reform (Northern Ireland) Order 2015

(**g**) S.I. 2015/2006 (N.I. 1); *see* Article 2 of the Welfare Reform (Northern Ireland) Order 2015 (Cessation of Transitory Provision) Order 2020 (S.I. 2020/927)

(**h**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); *see also* Article 6(b) of S.R. 1999 No. 481 and section 1(4) of the Departments Act (Northern Ireland) 2016 c. 5 (N.I.)

PART 1

PRELIMINARY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Habitual Residence, Past Presence and Temporary Absence) (Amendment) Regulations (Northern Ireland) 2025 and shall come into operation on 19th July 2025.

(2) The Interpretation Act (Northern Ireland) 1954(**a**) shall apply to these Regulations as it applies to an Act of the Assembly.

PART 2

AMENDMENTS TO THE HABITUAL RESIDENCE TEST FOR INCOME-RELATED BENEFITS

Amendment of the State Pension Credit Regulations, the Housing Benefit Regulations and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations

2.—(1) In the provisions specified in paragraph (2) after sub-paragraph (zze)(**b**) insert—

"(zzf) a person who—

(i) was residing in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(aa) provided public information to advise British nationals to leave that country or territory, or

(bb) arranged the evacuation of British nationals from that country or territory;

(ii) has left that country or territory and is present in Northern Ireland; and

(iii) has—

(aa) a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971(**c**),

(bb) no requirement of leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act(**d**),

(cc) leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of that Act, or

(dd) leave on a discretionary basis outside of rules made under section 3(2) of that Act; or

(zzg) a person who, as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules;".

(2) Those provisions are—

(**a**) 1954 c. 33 (N.I.)
(**b**) Sub-paragraph (zze) was inserted by regulation 2(1) of S.R. 2023 No. 184
(**c**) 1971 c. 77; section 2 was substituted by section 39(2) of the British Nationality Act 1981 (c. 61) and amended by regulation 4(2) of S.I. 2019/745
(**d**) Section 3ZA was inserted by section 2(2) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20)

(a) regulation 2(4) of the State Pension Credit Regulations (Northern Ireland) 2003(**a**) (persons not in Northern Ireland);

(b) regulation 10(5) of the Housing Benefit Regulations (Northern Ireland) 2006(**b**) (persons from abroad);

(c) regulation 10(5) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**c**) (persons from abroad).

(3) After the provision specified in paragraph (2)(a) insert—

"(4A) Paragraph (4)(zzf) does not apply after the expiry of 6 months beginning on the day on which the public information is issued, or the evacuation is started.".

(4) After the provisions specified in paragraph (2)(b) and (2)(c) insert—

"(5A) Paragraph (5)(zzf) does not apply after the expiry of 6 months beginning on the day on which the public information is issued, or the evacuation is started.".

Amendment of the Universal Credit Regulations

3.—(1) The Universal Credit Regulations (Northern Ireland) 2016(**d**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 9(1) (persons treated as not being in Northern Ireland) after "paragraph (4)" insert "and subject to paragraph (4A),".

(3) In regulation 9(4) after sub-paragraph (ze) insert—

"(zf)a person who—

(i) was residing in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(aa) provided public information to advise British nationals to leave that country or territory, or

(bb) arranged the evacuation of British nationals from that country or territory;

(ii) has left that country or territory and is present in Northern Ireland; and

(iii) has—

(aa) a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971,

(bb) no requirement of leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act,

(cc) leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of that Act, or

(dd) leave on a discretionary basis outside of rules made under section 3(2) of that Act, or

(zg) a person who, as part of a safe and legal humanitarian immigration route, has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules,".

(4) After regulation 9(4) insert—

(**a**) S.R. 2003 No. 28; regulation 2 was substituted by regulation 5 of S.R. 2006 No. 178; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 Nos. 80 and 184

(**b**) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 Nos. 80 and 184

(**c**) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 Nos. 80 and 184

(**d**) S.R. 2016 No. 216; regulation 9(4)(ze) was inserted by regulation 2(3) of S.R. 2023 No. 184; relevant amending Regulations are S.R. 2021 No. 169, S.R. 2022 Nos. 149 and 230 and S.R. 2023 Nos. 80 and 184

"(4A) A person who falls within paragraph (4)(zf) will be treated as a person in Northern Ireland in the circumstances specified in paragraph (1) for 6 months beginning on the day on which the public information is issued, or the evacuation is started.".

PART 3

AMENDMENTS TO THE TEMPORARY ABSENCE RULES FOR INCOME-RELATED AND CONTRIBUTORY BENEFITS

Amendment of the Income Support Regulations 1987

4. In regulation 4 of the Income Support (General) Regulations (Northern Ireland) 1987(**a**) (temporary absence from Northern Ireland)—

(a) after paragraph 1(b) add—

"and

(c) in the circumstances specified in paragraph (3B), during the first 26 weeks of that period.";

(b) after paragraph (3A) add—

"(3B) A claimant's entitlement to income support is to continue during a temporary absence from Northern Ireland during the first 26 weeks of the absence if–

(a) the claimant was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) paragraphs (1)(a) or (b) or (3A) applied to the claimant when the public information was issued or the evacuation began;

(c) the Department is satisfied that it would be unreasonable to expect the claimant to return, or to have returned, to Northern Ireland; and

(d) the claimant did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.

(3C) Where a person is temporarily absent from Northern Ireland, except where the circumstances in paragraph (3A) apply, the total period of absence where the person is treated as present in Northern Ireland will not exceed 26 weeks.".

Amendment of the Jobseeker's Allowance Regulations 1996

5. In regulation 50 of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**b**) (persons temporarily absent from Northern Ireland)—

(a) after paragraph (1)(b) add—

"and

(c) not exceeding 26 weeks in the circumstances specified in paragraph (5A).";

(b) after paragraph (5) insert—

"(5A) The circumstances specified in this paragraph are that—

(**a**) S.R. 1987 No. 459; in regulation 4, paragraph (1)(a) and (b) was substituted by regulation 3(a) of S.R. 1990 No. 131 and paragraph (3A) was inserted by regulation 2 of S.R. 2004 No. 308

(**b**) S.R. 1996 No. 198

(a) the claimant was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) paragraph (1)(a) or (b), (6), (6AA), (6A), (6B), (6C) or (6D) applied to the person when the public information was issued or the evacuation began;

(c) the Department is satisfied that it would be unreasonable to expect the claimant to return, or to have returned, to Northern Ireland; and

(d) the claimant did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.".

(c) after paragraph (6D)(**a**) insert—

"(6E) Where a person is temporarily absent from Northern Ireland, except where the circumstances in paragraph (6AA), (6A) or (6C) apply, the total period of absence where the person is treated as present in Northern Ireland will not exceed 26 weeks.".

Amendment of the State Pension Credit Regulations 2003

6.—(1) The State Pension Credit Regulations (Northern Ireland) 2003 are amended in accordance with paragraphs (2) and (3).

(2) In regulation 3(**b**) (persons temporarily absent from Northern Ireland)—

(a) at the end of paragraph (1)(b) omit "or";

(b) after paragraph (1)(c) insert—

"or

(d) 26 weeks, where paragraph (3A) applies,"

(c) after paragraph (3) insert—

"(3A) This paragraph applies where—

(a) the claimant was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) paragraph (1)(a), (b) or (c) applied to the person when the public information was issued or the evacuation began;

(c) the Department is satisfied that it would be unreasonable to expect the claimant to return, or to have returned, to Northern Ireland; and

(d) the claimant did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.

(3B) Where a person is temporarily absent from Northern Ireland, the total period of absence where the person is treated as present in Northern Ireland will not exceed 26 weeks.".

(3) In regulation 5(**c**) (persons treated as being or not being members of the same household)—

(a) at the end of paragraph (1A)(b) omit "or";

(**a**) Paragraph (6D) was inserted by regulation 3(2) of S.R. 2012 No. 377

(**b**) Regulation 3 was substituted by regulation 4(2) of S.R. 2017 No. 1

(**c**) Paragraphs (1A) to (1C) of regulation 5 were substituted for paragraph (1A) by regulation 4(6)(b) of S.R. 2017 No. 1

(b) after paragraph (1A)(c) add—

"or

(d) 26 weeks, where paragraph (1D) applies.";

(c) after paragraph (1C) insert—

"(1D) This paragraph applies where—

(a) the person was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory; or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) the Department is satisfied that it would be unreasonable to expect the claimant to return, or to have returned, to Northern Ireland; and

(c) the person did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.

(1E) Where a person is temporarily absent from Northern Ireland, the total period of absence where the person is treated as being a member of the same household will not exceed 26 weeks.".

Amendment of the Housing Benefit Regulations 2006

7. In regulation 7(**a**) of the Housing Benefit Regulations (Northern Ireland) 2006 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

(a) in paragraph (13D) for "and (17D)" substitute ", (17D) and (17E)";

(b) after paragraph (17D) insert—

"(17E) A person who is absent from Northern Ireland is treated as occupying the main dwelling as his home during the first 26 weeks of the absence if—

(a) the person was present in a country or territory immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) paragraph (13A), (13D), (13E), (13G), (17A), (17C) or (17D) applied to the person when the public information was issued or the evacuation began;

(c) the relevant authority is satisfied that it would be unreasonable to expect the person to return, or to have returned, to Northern Ireland; and

(d) the person did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.

(17F) Where a person is temporarily absent from Northern Ireland, except where the circumstances in paragraph (17A) apply, the total period of absence where the person is treated as occupying the main dwelling as his home will not exceed 26 weeks.".

(**a**) Paragraphs (13A) to (13G) and (17A) to (17D) of regulation 7 were inserted by reg 2(2)(d) and (g), respectively, of S.R. 2017 No.1

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

8. In regulation 7(**a**) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

(a) in paragraph (13D) for "and (17D)" substitute ", (17D) and (17E)";

(b) after paragraph (17D) insert—

"(17E) A person who is absent from Northern Ireland is treated as occupying the main dwelling as his home during the first 26 weeks of the absence if—

(a) the person was present in a country or territory immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) paragraph (13A), (13D), (13E), (13G), (17A), (17C) or (17D) applied to the person when the public information was issued or the evacuation began;

(c) the relevant authority is satisfied that it would be unreasonable to expect the person to return, or to have returned, to Northern Ireland; and

(d) the person did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.

(17F) Where a person is temporarily absent from Northern Ireland, except where the circumstances in paragraph (17A) apply, the total period of absence where the person is treated as occupying the main dwelling as his home will not exceed 26 weeks.".

Amendment of the Employment and Support Allowance Regulations 2008

9.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(**b**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 151 (absence from Northern Ireland), after paragraph (1) insert—

"(1A) Where a claimant is temporarily absent from Northern Ireland, except where the circumstances in regulation 154 or 155 apply, the total period of temporary absence where the claimant is treated as present in Northern Ireland will not exceed 26 weeks.".

(3) After regulation 155(**c**) (absence of member of family of member of Her Majesty's forces) insert—

"Absence where His Majesty's Government provides public information to advise British nationals to leave a country or territory or arranges evacuation of British nationals from that country or territory

155A. A claimant is to continue to be entitled to an employment and support allowance during the first 26 weeks of a temporary absence from Northern Ireland if—

(a) the claimant was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

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(**a**) Paragraphs (13A) to (13G) and (17A) to (17D) of regulation 7 were inserted by reg 3(2)(d) and (g), respectively, of S.R. 2017 No.1

(**b**) S.R. 2008 No. 280

(**c**) Regulation 155 was amended by regulation 9(17)(b) of S.R. 2010 No. 200

(ii) arranged the evacuation of British nationals from that country or territory;

(b) any of regulations 152 to 155 applied to the person when the public information was issued or the evacuation began;

(c) the Department is satisfied that it would be unreasonable to expect the claimant to return, or to have returned, to Northern Ireland; and

(d) the claimant did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.".

Amendment of the Universal Credit Regulations 2016

10. In regulation 11 of the Universal Credit Regulations (Northern Ireland) 2016 (temporary absence from Northern Ireland)—

(a) after paragraph (1)(b)(ii) insert—

"or

(iii) paragraph (4A) applies."

(b) after paragraph (4) insert—

"(4A) This paragraph applies where—

(a) the person was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) paragraph (1)(a), (b)(i), (b)(ii) or (2) applied to the person when the public information was issued or the evacuation began;

(c) the Department is satisfied that it would be unreasonable to expect the person to return, or to have returned, to Northern Ireland; and

(d) the person did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.

(4B) Where a person is temporarily absent from Northern Ireland, the total period of absence disregarded in determining whether they meet the basic condition to be in Northern Ireland will not exceed 6 months.".

Amendment of the Jobseeker's Allowance Regulations 2016

11. In regulation 40 of the Jobseeker's Allowance Regulations (Northern Ireland) 2016(**a**) (persons temporarily absent from Northern Ireland)—

(a) after paragraph (1)(b) add—

"or

(c) not exceeding 26 weeks in the circumstances specified in paragraph (6A).";

(b) after paragraph (6) insert—

"(6A) The circumstances in this paragraph are that—

(a) the claimant was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(**a**) S.R. 2016 No. 218

(b) paragraph (1)(a) or (b), (2), (4), (5) or (6) applied to the claimant when the public information was issued or the evacuation began;

(c) the Department is satisfied that it would be unreasonable to expect the claimant to return, or to have returned, to Northern Ireland; and

(d) the claimant did not enter that country or territory when His Majesty's Government public information was to advise British nationals to leave that country or territory.

(6B) Where a person is temporarily absent from Northern Ireland, except where the circumstances in paragraph (5) apply, the total period of absence where the person is treated as present in Northern Ireland will not exceed 6 months.".

Amendment of the Employment and Support Allowance Regulations 2016

12.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2016(**a**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 88 (absence from Northern Ireland)—

(a) in sub-paragraph (1) for "92" substitute "92A";

(b) after sub-paragraph (1) insert—

"(1A) Where a claimant is temporarily absent from Northern Ireland, except where the circumstances in regulation 91 or 92 apply, the total period of absence where the claimant is treated as present in Northern Ireland will not exceed 26 weeks.".

(3) After regulation 92 (absence of member of family of member of Her Majesty's forces) insert—

"Absence where His Majesty's Government provides public information to advise British nationals to leave a country or territory or arranges evacuation of British nationals from that country or territory

92A. A claimant is to continue to be entitled to an employment and support allowance during the first 26 weeks of a temporary absence from Northern Ireland if—

(a) the claimant was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) any of regulations 88 to 92 applied to the person when the public information was issued or the evacuation began;

(c) the Department is satisfied that it would be unreasonable to expect the claimant to return, or to have returned, to Northern Ireland; and

(d) the claimant did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.".

(**a**) S.R. 2016 No. 219

PART 4

AMENDMENTS TO THE PAST PRESENCE TEST AND HABITUAL RESIDENCE TEST FOR DISABILITY AND CARER BENEFITS

Amendment of the Social Security (Invalid Care Allowance) Regulations, the Social Security (Attendance Allowance) Regulations and the Social Security (Disability Living Allowance) Regulations

13.—(1) In the provisions specified in paragraph (4)(**a**)—

(a) after sub-paragraph (1)(g)(**b**) omit "or";

(b) after sub-paragraph (1)(h)(**c**) add—

"(i) met conditions A to D.

Condition A

The person was residing in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(a) provided public information to advise British nationals to leave that country or territory, or

(b) arranged the evacuation of British nationals from that country or territory.

Condition B

The person has left that country or territory.

Condition C

The person arrived in Northern Ireland in the first 26 weeks beginning on the day on which the public information is issued, or the evacuation is started.

Condition D

The person—

(a) has a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971,

(b) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act,

(c) has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of that Act, or

(d) has leave on a discretionary basis outside of rules made under section 3(2) of that Act; or

(j) as part of a safe and legal humanitarian immigration route, leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules.".

(2) In the provisions specified in paragraphs (4)(a) and (b), after paragraph (1A) insert—

"(1B) Where paragraph 1(i) applies, it will apply for 130 weeks starting from the day the public information is issued or the evacuation is started.".

(3) In the provision specified in paragraph (4)(c), after paragraph (1A) insert—

"(1B) Where paragraph 1(i) applies, it will apply for the following periods starting from the day the public information is issued or the evacuation is started—

(**a**) The headings to the provisions specified in paragraph (2) were substituted by regulation 4(2) of S.R. 2021 No. 269
(**b**) Sub-paragraph (g) was added by regulation 4(1)(b) of S.R. 2023 No. 80
(**c**) Sub-paragraph (h) and the preceding "or" were added by regulation 10(1)(b) of S.R. 2023 No. 184

(a) no more than 130 weeks for persons aged 16 years and over;

(b) no more than 52 weeks for persons aged between 6 months and under 16 years;

(c) no more than 39 weeks for persons aged under 6 months.".

(4) Those provisions are—

(a) regulation 9C of the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(**a**) (refugees and certain persons with leave to enter or remain in the United Kingdom);

(b) regulation 2C of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(**b**) (refugees and certain persons with leave to enter or remain in the United Kingdom);

(c) regulation 2C of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**c**) (refugees and certain persons with leave to enter or remain in the United Kingdom).

Amendment of the Personal Independence Payment Regulations

14.—(1) In regulation 23A(1) of the Personal Independence Payment Regulations (Northern Ireland) 2016(**d**) (refugees and certain persons with leave to enter or remain in the United Kingdom)—

(a) after sub-paragraph (g)(**e**) omit "or";

(b) after sub-paragraph (h)(**f**) add—

"or

(i) met conditions A to D.

Condition A

The person was residing in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(a) provided public information to advise British nationals to leave that country or territory, or

(b) arranged the evacuation of British nationals from that country or territory.

Condition B

The person has left that country or territory.

Condition C

The person arrived in Northern Ireland in the first 26 weeks beginning on the day on which the public information is issued, or the evacuation is started.

Condition D

The person—

(a) has a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971,

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(**a**) S.R. 1976 No. 99; regulation 9C was inserted by regulation 2(3) of S.R. 2017 No. 218; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 Nos. 80 and 184

(**b**) S.R. 1992 No. 20; regulation 2C was inserted by regulation 7(3) of S.R. 2017 No. 218; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 Nos. 80 and 184

(**c**) S.R. 1992 No. 32; regulation 2C was inserted by regulation 8(3) of S.R. 2017 No. 218; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 Nos. 80 and 184

(**d**) S.R. 2016 No. 217; regulation 23A was inserted by regulation 15 of S.R. 2017 No. 218 and the heading was substituted by regulation 4(2) of S.R. 2021 No. 269; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 Nos. 80 and 184

(**e**) Sub-paragraph (g) was added by regulation 5(b) of S.R. 2023 No. 80

(**f**) Sub-paragraph (h) and the preceding "or" were added by regulation 11(b) of S.R. 2023 No. 184

(b) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act,

(c) has leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of that Act, or

(d) has leave on a discretionary basis outside of rules made under section 3(2) of that Act; or

(j) as part of a safe and legal humanitarian immigration route, leave to enter or remain in the United Kingdom in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 or leave on a discretionary basis outside of rules.".

(2) In regulation 23A, after paragraph (1A) insert—

"(1B) Where paragraph 1(i) applies, it will apply for 130 weeks beginning on the day on which the public information is issued, or the evacuation is started.".

PART 5

AMENDMENTS TO THE TEMPORARY ABSENCE RULES FOR DISABILITY BENEFITS

Amendment of the Social Security (Attendance Allowance) Regulations

15. In regulation 2(**a**) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992 (conditions as to residence and presence in Northern Ireland)—

(a) in paragraph (6) for "and (5)" substitute ", (5) and (7)";

(b) after paragraph (6) add—

"(7) Where a person is temporarily absent from Northern Ireland, he is treated as present in Northern Ireland for the purposes of paragraph (1)(a)(ii) and (iii) for the first 26 weeks of that absence, where—

(a) that person was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) the Department is satisfied that it would be unreasonable to expect the person to return, or to have returned, to Northern Ireland; and

(c) the person did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.

(8) Where a person is temporarily absent from Northern Ireland in the circumstances specified in paragraph (2)(d), (5) or (7), the total period of an absence where the person is treated as present in Northern Ireland will not exceed 26 weeks.".

Amendment of the Social Security (Disability Living Allowance) Regulations

16. In regulation 2(**b**) of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 (conditions as to residence and presence in Northern Ireland)—

(a) in paragraph (2C) for "and (2B)" substitute ", (2B) and (2D);

(**a**) Regulation 2(6) was added by regulation 3(2)(g) of S.R. 2016 No. 229

(**b**) Regulation 2(2C) was inserted by regulation 4(3)(g) of S.R. 2016 No. 229 and amended by regulation 3(3)(b) of S.I. 2023/664

(b) after paragraph (2C) insert—

"(2D) Where a person is temporarily absent from Northern Ireland, he is treated as present in Northern Ireland for the purposes of paragraph (1)(a)(ii) and (iii) for the first 26 weeks of that absence, where—

(a) that person was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) the Department is satisfied that it would be unreasonable to expect the person to return, or to have returned, to Northern Ireland; and

(c) the person did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.

(2E) Where a person is temporarily absent from Northern Ireland in the circumstances specified in paragraph (2)(d), (2B) or (2D), the total period of an absence where the person is treated as present in Northern Ireland will not exceed 26 weeks.".

Amendment of the Personal Independence Payment Regulations

17. After regulation 18 of the Personal Independence Payment Regulations (Northern Ireland) 2016 (absence from Northern Ireland to receive medical treatment) insert—

"**Absence where His Majesty's Government provides public information to advise British nationals to leave a country or territory or arranges evacuation of British nationals from that country or territory**

18A.—(1) Where C is temporarily absent from Northern Ireland, C is treated as present in Northern Ireland for the purposes of regulation 16(a) and (b) during the first 26 weeks of that absence, where—

(a) C was present in a country or territory outside Northern Ireland immediately before His Majesty's Government—

(i) provided public information to advise British nationals to leave that country or territory, or

(ii) arranged the evacuation of British nationals from that country or territory;

(b) the Department is satisfied that it would be unreasonable to expect C to return, or to have returned, to Northern Ireland; and

(c) C did not enter that country or territory when His Majesty's Government's public information was to advise British nationals to leave that country or territory.

(2) In this regulation, "temporarily absent" has the same meaning as regulation in 17(2).

Time limits on absences where the claimant is treated as being in Northern Ireland

18B. Where a person is temporarily absent from Northern Ireland in the circumstances specified in regulation 17(1), 18(1) or 18A(1), the total period of an absence where C is treated as present in Northern Ireland will not exceed 26 weeks.".

Sealed with the Official Seal of the Department for Communities on 18th July 2025

(L.S.)

David Tarr
A senior officer of the Department for Communities

The Department of Finance hereby consents to regulation 2, in so far as it relates to the provisions referred to in paragraph (2)(b) and (c) of that regulation, and regulations 7 and 8

Sealed with the Official Seal of the Department of Finance on 18th July 2025

(L.S.)

Patrick Neeson
A senior officer of the Department of Finance

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 of the Regulations provides for citation, commencement and interpretation.

Part 2 of these Regulations enables certain persons to access income-related benefits upon arrival in Northern Ireland in the following situations, provided they meet the other relevant entitlement conditions—

- where His Majesty's Government has provided public information to advise British nationals to leave a country or territory or has arranged the evacuation of British nationals from that country or territory; or
- where a person has permission to stay under immigration provisions which have been sanctioned by His Majesty's Government as safe and legal immigration routes for humanitarian reasons.

This Part amends the State Pension Credit Regulations (Northern Ireland) 2003 ("the State Pension Credit Regulations"), the Housing Benefit Regulations (Northern Ireland) 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 ("the Housing Benefit Regulations") and the Universal Credit Regulations (Northern Ireland) 2016 ("the Universal Credit Regulations") - "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", "a person not in Northern Ireland" (for the purposes of the State Pension Credit Regulations) or "a person treated as not being in Northern Ireland" (for the purposes of the Universal Credit Regulations); that is to say where the person 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 exemptions.

Regulations 2 and 3 insert two new categories into the list of persons who are exempt from having to satisfy the habitual residence test for income-related benefits.

The first new category of exempt persons is those who have leave to enter or remain in the United Kingdom granted in accordance with immigration rules made under section 3(2) of the Immigration Act 1971 (c. 77), a right of abode in the United Kingdom within the meaning given in section 2 of that Act, or who do not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act and where the person was residing in a country or territory when His Majesty's Government provided public information to advise British nationals to leave that country or territory or has arranged the evacuation of British nationals from that country or territory.

The second new category of exempt persons is those who are granted leave under immigration provisions which have been sanctioned by His Majesty's Government as safe and legal humanitarian immigration routes.

Part 3 provides that payments of income-related and contributory benefits can continue to be paid if a person is in a country or territory outside Northern Ireland pursuant to other temporary absence provisions and His Majesty's Government has provided public information to advise British nationals to leave that country or territory or has arranged the evacuation of British nationals from that country or territory.

This Part amends the Income Support (General) Regulations (Northern Ireland) 1987, the Jobseeker's Allowance Regulations (Northern Ireland) 1996, the State Pension Credit Regulations (Northern Ireland) 2003, the Housing Benefit Regulations (Northern Ireland) 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006, the Employment and Support Allowance Regulations (Northern Ireland) 2008, the Universal Credit Regulations (Northern Ireland) 2016, the Jobseeker's Allowance Regulations (Northern Ireland) 2016 and the Employment and Support Allowance Regulations (Northern Ireland) 2016.

Regulations 4 to 12 add a new category of permitted temporary absence for income-related and contributory benefits. This new category extends permitted temporary absences for income-related and contributory benefits not exceeding a period of 6 months (for the purposes of Universal Credit), or 26 weeks (for the purposes of the other benefits covered by these amendments), beginning with the first day of the absence from Northern Ireland. This applies to persons who, during a period of permitted temporary absence outside Northern Ireland, were in a country or territory immediately before His Majesty's Government provided public information to advise British nationals to leave that country or territory or has arranged the evacuation of British nationals from that country or territory and—

- the Department, or the relevant authority in the case of Housing Benefit, considers that it would be unreasonable to expect the claimant to return to Northern Ireland within the period of permitted temporary absence applicable to that person, and
- the claimant did not enter that country or territory when His Majesty's Government provided public information to advise British nationals to leave that country or territory.

The new category of permitted temporary absence also applies in state pension credit when determining whether a person is treated as being or not being a member of the same household as the claimant.

Part 4 of these Regulations enables certain persons to access disability and carer benefits upon arrival in Northern Ireland in the following situations, provided they meet the other relevant entitlement conditions—

- where His Majesty's Government has provided public information to advise British nationals to leave a country or territory or has arranged the evacuation of British nationals from that country or territory; or
- where a person has leave under safe and legal humanitarian immigration routes.

That Part amends the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976), the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992, the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 and the Personal Independence Payment Regulations (Northern Ireland) 2016 to exempt the same group of people from the past presence test. This is the test which normally has to be fulfilled in order to be entitled to Carer's Allowance, Attendance Allowance, Disability Living Allowance and Personal Independence Payment ("disability and carer benefits"). The past presence test normally requires that an individual has been present in Northern Ireland for a specified period of time to be eligible for those benefits. The amendments also have the effect of removing the habitual residence requirement for entitlement to disability and carer benefits which would otherwise apply to these persons.

Part 5 of these Regulations provides that payments of disability benefits can continue to be paid temporarily if a person is in a country or territory outside Northern Ireland pursuant to other temporary absence provisions and His Majesty's Government provides public information to advise British nationals to leave that country or territory or has arranged the evacuation of British nationals from that country or territory.

That Part amends the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992, the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 and the Personal Independence Payment Regulations (Northern Ireland) 2016. Regulations 15 to 17 insert a new category of temporary absence for disability benefits not exceeding a period of 26

weeks, beginning with the first day of the absence from Northern Ireland. This applies to persons who, during a period of permitted temporary absence outside Northern Ireland, were in a country or territory immediately before His Majesty's Government provided public information to advise British nationals to leave that country or territory or begins the evacuation of British nationals from that country or territory and—

- the Department considers that it would be unreasonable to expect the claimant to return to Northern Ireland within the period of permitted temporary absence applicable to that person, and
- the person did not enter that country or territory when His Majesty's Government provided public information to advise British nationals to leave that country or territory.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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