STATUTORY RULES OF NORTHERN IRELAND

2019 No. 90

EXITING THE EUROPEAN UNION
SOCIAL SECURITY

The Social Security (Income-related Benefits) (Updating and Amendment No. 2) (EU Exit) Regulations (Northern Ireland) 2019

Made - - - -	*17th April 2019*
Coming into operation	*7th May 2019*

The Department for Communities(**1**) makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 133(2)(a) and (i) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**), Article 36(2) of, and paragraph 11(2) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**3**), and now vested in it(**4**), sections 1(5)(a) and 19(2) of the State Pension Credit Act (Northern Ireland) 2002(**5**) and section 25(2) of, and paragraph 5 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007(**6**).

Regulations 5 and 6 are made with the consent of the Department of Finance(**7**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Income-related Benefits) (Updating and Amendment No. 2) (EU Exit) Regulations (Northern Ireland) 2019 and shall come into operation on 7th May 2019.

(**1**) *See* section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
(**2**) 1992 c. 7; section 122(1) was amended by Schedule 6 to the Tax Credits Act 2002 (c. 21) and section 171(1) was amended by paragraph 5 of Schedule 4 to that Act
(**3**) 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. 1997/671)
(**4**) *See* Article 8(b) of S.R. 1999 No. 481
(**5**) 2002 c. 14 (N.I.)
(**6**) 2007 c. 2 (N.I.); section 25(2) was amended by Article 57(2)(b) of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1))
(**7**) *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

Amendment of the Income Support (General) Regulations

2. In regulation 21AA of the Income Support (General) Regulations (Northern Ireland) 1987(**8**) (special cases: supplemental–persons from abroad)—

(a) in paragraph (2) after "paragraph (3)" insert "or (3A)";

(b) in paragraph (3)—

(i) in sub-paragraph (a) for "Immigration (European Economic Area) Regulations 2006"(**9**) substitute "Immigration (European Economic Area) Regulations 2016"(**10**);

(ii) for sub-paragraph (bb)(**11**) substitute—

"(bb) regulation 16 of those Regulations, but only in a case where the right exists under that regulation because the claimant satisfies the criteria in paragraph (5) of that regulation;"(**12**);

(c) after paragraph (3) insert—

"(3A) A right to reside falls within this paragraph if it is one which exists by virtue of a claimant having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971(**13**) by virtue of—

(a) Appendix EU to the immigration rules(**14**) made under section 3(2) of that Act; or

(b) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act.";

(d) in paragraph (4)(za)(**15**) for "Immigration (European Economic Area) Regulations 2006" substitute "Immigration (European Economic Area) Regulations 2016".

Amendment of the Jobseeker's Allowance Regulations

3. In regulation 85A of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**16**) (special cases: supplemental–persons from abroad)—

(a) in paragraph (2)(b) after "paragraph (3)" insert "or (3A)";

(b) in paragraph (3)(**17**)—

(i) in sub-paragraph (a) for "Immigration (European Economic Area) Regulations 2006" substitute "Immigration (European Economic Area) Regulations 2016";

(ii) for sub-paragraph (aa) substitute—

(**8**) S.R. 1987 No. 459; regulation 21AA was inserted by regulation 2(3) of S.R. 2006 No. 178 and amended by S.R. 2012 No. 380 and S.R. 2014 No. 133
(**9**) S.I. 2006/1003
(**10**) S.I. 2016/1052
(**11**) Paragraph (3)(bb) was inserted by regulation 2(a) of S.R. 2012 No. 380
(**12**) The definition of "primary carer" in regulation 16 was amended by S.I. 2018/801; there are other amendments but none is relevant
(**13**) 1971 c. 77
(**14**) The immigration rules were laid before Parliament on 23rd May 1994 (HC 395); Appendix EU was laid before Parliament on 20th July 2018 as part of a command paper that amended the immigration rules entitled "Statement of Changes in Immigration Rules" (CM 9675); Appendix EU was amended in respect of the Zambrano right to reside by a further command paper entitled "Statement of Changes in Immigration Rules" laid before Parliament on 7th March 2019 (HC 1919)
(**15**) Sub-paragraphs (za) to (zc) were substituted for sub-paragraphs (a) to (f) by regulation 2 of S.R. 2014 No. 133
(**16**) S.R. 1996 No. 198; regulation 85A was inserted by regulation 4(3) of S.R. 2006 No. 178 and amended by S.R. 2012 No. 380 and S.R. 2014 No. 133
(**17**) Sub-paragraph (a) was amended, and sub-paragraph (aa) was added, by regulation 3(a) of S.R. 2012 No. 380

"(aa) regulation 16 of those Regulations, but only in a case where the right exists under that regulation because the claimant satisfies the criteria in paragraph (5) of that regulation;";

(c) after paragraph (3) insert—

"(3A) A right to reside falls within this paragraph if it is one which exists by virtue of a claimant having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of—

(a) Appendix EU to the immigration rules made under section 3(2) of that Act; or

(b) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act.";

(d) in paragraph (4)(za)(**18**) for "Immigration (European Economic Area) Regulations 2006" substitute "Immigration (European Economic Area) Regulations 2016".

Amendment of the State Pension Credit Regulations

4. In regulation 2(**19**) of the State Pension Credit Regulations (Northern Ireland) 2003(**20**) (persons not in Northern Ireland)—

(a) in paragraph (2) after "paragraph (3)" insert "or (3A)";

(b) in paragraph (3)—

(i) in sub-paragraph (a) for "Immigration (European Economic Area) Regulations 2006" substitute "Immigration (European Economic Area) Regulations 2016";

(ii) for sub-paragraph (bb)(**21**) substitute—

"(bb) regulation 16 of those Regulations, but only in a case where the right exists under that regulation because the person satisfies the criteria in paragraph (5) of that regulation;";

(c) after paragraph (3) insert—

"(3A) A right to reside falls within this paragraph if it is one which exists by virtue of a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of—

(a) Appendix EU to the immigration rules made under section 3(2) of that Act; or

(b) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act.";

(d) in paragraph (4)(za)(**22**) for "Immigration (European Economic Area) Regulations 2006" substitute "Immigration (European Economic Area) Regulations 2016".

Amendment of the Housing Benefit Regulations

5. In regulation 10 of the Housing Benefit Regulations (Northern Ireland) 2006(**23**) (persons from abroad)—

(a) in paragraph (3) after "paragraph (4)" insert "or (4A)";

(b) in paragraph (4)—

(**18**) Sub-paragraphs (za) to (zc) were substituted for sub-paragraphs (a) to (f) by regulation 3 of S.R. 2014 No. 133
(**19**) Regulation 2 was substituted by regulation 5 of S.R. 2006 No. 178
(**20**) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2006 No. 178, S.R. 2012 No. 380 and S.R. 2014 No. 133
(**21**) Sub-paragraph (bb) was inserted by regulation 4(a) of S.R. 2012 No. 380
(**22**) Sub-paragraphs (za) to (zc) were substituted for sub-paragraphs (a) to (f) by regulation 4 of S.R. 2014 No. 133
(**23**) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2012 No. 380 and S.R. 2014 No. 133