

# 11-21: Afghanistan HRT & PPT exception

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## INTRODUCTION

1. This Memo provides guidance on the Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2021<sup>1</sup>, which ensure the benefit entitlement from day one to certain persons arriving in Great Britain from Afghanistan in connection with the collapse of the Afghan government that took place on 15.8.21. The regulations only exempt individuals from the residency tests as below, and claimants will still need to satisfy the other benefit entitlement conditions and have an appropriate immigration status.

1 [SI 1034/2021](#)

2. These regulations came into force on 15.9.21 and added new categories to the list of persons who are exempted from having to satisfy:

- the Habitual Residence Test (HRT) for the income-related benefits, where persons have an appropriate immigration status,
- the Past Presence Test (PPT), in addition to the HRT, for disability and carers benefits, where persons have an appropriate immigration status.

These regulations should be taken into account for any decision made from the 15.9.21, including where the claim was received before 15.9.21. Applications made, and decided, before 15.9.21 should be considered in accordance with the relevant benefit legislation as it stood prior to the coming in force of these regulations (please see examples at the end of paragraph 9).

## BACKGROUND

3. To be entitled to income-related benefits a claimant needs to show that they are not treated as a “person from abroad” (for Jobseeker’s Allowance(IB), Employment and Support Allowance(IR), Income Support and Housing Benefit) or “a person not in Great Britain” (for State Pension Credit), which means they must have a legal right to reside and be factually habitually resident in the Common Travel Area (CTA) ([DMG 072791](#)). To be entitled to a disability or carers benefit a person must be habitually resident in the CTA and be present in GB, after having been present for a specified period of time ([DMG 071717](#)). For income-related benefits, the persons covered by these regulations will be exempt from the HRT and for disability and carers benefits they will be exempt from the HRT and the PPT. The exemptions will only apply to persons if they are not a person subject to immigration control (PSIC).

4. Those in scope of these regulations will be persons who have arrived in the UK under one of the following relocation and resettlement schemes established by the Home Office:

(i) the Afghan Relocations and Assistance Policy (ARAP);

<https://www.gov.uk/government/publications/afghan-relocations-and-assistance-policy/afghan-relocations-and-assistance-policy-information-and-guidance>

(ii) the previous scheme for locally-employed staff in Afghanistan (ex-gratia scheme);

<https://www.gov.uk/government/publications/afghanistan-locally-employed-staff-ex-gratia-scheme/afghanistan-locally-employed-staff-ex-gratia-scheme-further-information-on-eligibility-criteria-and-offer-details>

(iii) The Afghan Citizens Resettlement Scheme (ACRS).

<https://www.gov.uk/guidance/afghan-citizens-resettlement-scheme>

5. These regulations will also apply to any person not covered by one of the above schemes but who has left Afghanistan in connection with the collapse of the Afghan government that took place on 15.8.21. This is in relation to the income-related benefits **only** and therefore does not apply to the disability and carer benefits.

## INCOME-RELATED BENEFITS

6. Persons who were granted leave to remain under one of the relocation and resettlement schemes, as well as those who were not covered by the schemes, but who arrived in Great Britain in connection with the collapse of the Afghan government that took place on 15.8.21, who apply for an income-related benefit, will be exempted from satisfying the HRT.

7. The relevant income-related benefits are:

- Universal Credit,
- Jobseeker's Allowance (IB),
- Employment and Support Allowance (IR),
- Income Support,
- State Pension Credit,
- Housing Benefit,
- Housing Benefit (65+)

## **DISABILITY AND CARERS BENEFITS**

8. Persons who were granted leave to remain under one of the relocation and resettlement schemes, who apply for a disability or carers benefit, will be exempted from satisfying the HRT and the PPT. The HRT and the PPT exemption **do not** apply to those not covered by the listed schemes when claiming disability and carers benefits.

9. The relevant disability and carers benefits are:

- Attendance Allowance,
- Disability Living Allowance,
- Personal Independence Payment,
- Carer's Allowance

### **Example One**

Armineh arrived in the UK from Afghanistan on 20.8.21 with her family under the ACRS scheme.

She put in a claim for DLA(Child) for her daughter on 28.8.21.

The DM looked at her claim on 10.9.21 and determined that her daughter did not pass the HRT test as she had not served an appreciable period to show that she was habitually resident in the UK, and also did not pass the PPT as she had not been present in the UK for 26 weeks out of 52.

On 15.9.21 they submit a Mandatory Reconsideration as new regulations came into force which apply to Armineh's daughter. The DM would then have to look at whether the new regulations assist her by excepting her from the HRT requirement and the PPT requirement from 15.9.21.

### **Example Two**

Abdul arrived in the UK from Afghanistan on 29.8.21 under the ARAP scheme. He made an application to

JSA(IB) on 10.9.21. The DM has not yet determined his claim. On 15.9.21 new legislation came into force that applies to Abdul.

When looking at his claim, the DM needs to look at whether he satisfies the HRT conditions for the period prior to 15.9.21, as well as look at whether the new regulations assist him by excepting him from the HRT requirement from 15.9.21. It may be that Abdul is not entitled until 15.9.21.

### **Example Three**

Farzaad arrived in the UK from Afghanistan on 10.9.21 under the former LES and made a claim to ESA(IR) on 15.9.21.

The DM needs to look at whether the new regulations assist him by excepting him from the HRT requirement from the date of claim.

## **ANNOTATIONS**

The number of this memo should be annotated against the following paragraphs of the DMG: [DMG 071707](#), [DMG 071715 \(heading\)](#), [DMG 071930](#), [DMG 072770 \(heading\)](#), [DMG 072986](#), [DMG 072990](#), [DMG 073707](#).

## **CONTACTS**

If you have any queries about this memo or are unsure how to apply the new regulations, please write to Decision Making and Appeals (DMA) Leeds, 3E zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in – Memo [4/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: September 2021

**The content of the examples in this document (including use of imagery) is for illustrative purposes only**