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Dr Stephen Brien,  
Chair of the Social Security Advisory Committee,  
7th Floor Caxton House  
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12 January 2022

**THE SOCIAL SECURITY (HABITUAL RESIDENCE AND PAST PRESENCE)  
(AMENDMENT) REGULATIONS 2021**

Dear Stephen,

Thank you for your correspondence dated 8 November 2021, and for confirming that SSAC will not be taking the Social Security (Habitual Residence and Past Presence) (Amendment) regulations on formal reference. We also appreciate the committee's understanding of the use of the emergency procedure for these regulations and allowing officials to present these formally following the regulations being laid.

We are grateful for the scrutiny of the Committee, and I welcome the opportunity for an introductory meeting.

Please find a response below to the concerns you have raised in your letter over the difference in drafting between the regulations related to income-related benefits and disability and carer benefits.

The intention of the provisions in relation to disability and carer benefits was to align the position of those coming to the UK under the resettlement schemes with that of refugees or those with humanitarian protection status as, whilst these people have been awarded indefinite leave to remain, they are coming here for humanitarian reasons. Our purpose is to ensure they can work and have access to benefits. The fact no exemption was introduced for returning UK Nationals is consistent with application of the current Past Presence Test (PPT) policy and also with its application in other crisis situations.

UK Nationals who are returning to the UK after living in Afghanistan are treated in the same way as other UK nationals who are returning after living abroad which

could be for reasons such as fleeing domestic abuse, or returning to provide care for an elderly parent. The disability and carer benefits are designed to make a contribution towards the additional costs faced by people with a long-term health condition or disability, or those with caring responsibilities. The PPT policy is based on the fact that disability and carer benefits are non-means tested and non-contribution based. UK nationals who have chosen to live abroad are required to meet the prevailing conditions of entitlement on their return to Great Britain, which includes some evidence of a recent connection to GB. This is therefore entirely consistent with the policy intent and the need to protect the public purse.

There are some exceptions to the PPT test for people serving in our armed forces and their families and for certain categories of workers who are treated as if they are present in Great Britain whilst living abroad. There are also exemptions from the test for refugees and people with humanitarian protection status and people who are terminally ill. In addition, special arrangements apply, outside the statutory regime, for crown servants whose government department pays the equivalent of their benefit entitlement out of departmental pay roll funds.

UK citizens who have only been in Afghanistan for a year, and can meet the 104 weeks out of a 156 weeks presence test, can apply for a disability or carer benefits on their return. There are also a range of other benefits available to eligible claimants in many cases straightaway, for example income related benefits which are benefits designed to alleviate short term hardship. HMRC amendments also mean that immediate access will be available to Child Benefit for eligible British citizens.

I trust that these answers provide the reassurance you're looking for, and thank you and the Committee once again for your support with these regulations.

Kind regards,

A handwritten signature in black ink, appearing to read 'David Rutley', with a horizontal line underneath.

**David Rutley MP**  
**Minister for Welfare Delivery**