

DMG Memo 1-23 - HRT & PPT Exemptions For Specific Irish Citizens

Contents	Paragraphs
Introduction	1-3
Background	4-5
Income-related Benefits	6-7
Disability Benefits	8-9
Annotations	
Contacts	

Introduction

1. This Memo should be read in conjunction with [Memo DMG 8/22](#) and provides guidance on the Social Security (Habitual Residence and Past Presence) (Amendment) (No.2) Regulations 2022¹, which ensures meeting of residence tests for benefit entitlement from day one to Irish Citizens arriving in Great Britain from Ukraine in connection with the Russian invasion which took place on 24.2.22. The regulations only exempt individuals from the residency tests as below, and claimants will still need to satisfy the other benefit entitlement conditions.

1 [SI 2022/990](#)

2. These regulations came into force on 18.10.22 and added a new category to the list of persons who are exempted from having to satisfy:
 - the Habitual Residence Test (HRT) for the income-related benefits,
 - the Past Presence Test (PPT), in addition to the factual habitual residence test, for disability and carers benefits.
3. These regulations should be taken into account for any decision made from 18.10.22, including where the claim was received before 18.10.22. Applications made, and decided, before 18.10.22 should be considered in accordance with the relevant benefit legislation as it stood prior to the coming in force of these regulations.

Background

4. 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 factual habitual residence test and the PPT.

5. These regulations will exempt Irish Citizens that fall under Section 3ZA of the Immigration Act 1971 from having to satisfy the HRT and PPT providing they meet the following criteria:

- they were residing in Ukraine immediately before 1.1.22; and
- they left Ukraine in connection with the Russian invasion which took place on 24.2.22.

Income-related Benefits

6. Persons covered by these regulations who apply for an income-related benefit, will be exempted from satisfying the HRT in England, Wales and Scotland.

7. The relevant income-related benefits are:

- Income Support,
- Jobseekers Allowance (IB)
- State Pension Credit,
- Housing Benefit,
- Housing Benefit (65+)

Disability and Carers Benefits

8. Persons covered by these regulations who apply for a disability and/or carers related benefits, will be exempted from satisfying the factual habitual residence test and PPT in England and Wales.

9. The relevant disability and carers benefits are:

- Attendance Allowance,
- Disability Living Allowance,
- Carer’s Allowance

Note: the factual habitual residence test and the PPT exemption for disability and carers benefit claims made in Scotland is mirrored in regulation 6 of The Social Security (Miscellaneous Amendment and Transitional Provision) (Scotland) Regulations 2022¹.

ANNOTATIONS

The number of this memo should be annotated against the following paragraphs of the DMG:

[071715](#), [072770](#), [073707](#)

CONTACTS

If you have any queries about this memo, 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): January 2023

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