



New rules: Child Benefit and Child Tax Credit – living in the UK

New conditions are being introduced for people who want to claim Child Benefit and Child Tax Credit on arrival in the UK or on their return after a period of absence.

People who arrive in the UK on or after 1 July 2014 will need to live in the UK for three months before they can become eligible for Child Benefit or Child Tax Credit, unless they fall within one of the exemptions given below.

The new rules apply to people arriving in the UK and to those, including UK nationals, who are returning after a period of absence of more than 52 weeks.

Frequently asked questions

1. What is meant by 'living in' the UK?

This expression is not defined in the regulations and as such should be given its ordinary everyday meaning. The New Oxford English Dictionary says that to 'live' somewhere means to 'make one's home in a particular place'. The Shorter Oxford English Dictionary says that 'living' means dwelling in a specified place.

Who is affected?

2. Will people who already receive Child Benefit or Child Tax Credit have to meet the three month living in the UK condition?

No, the new rules only apply to people who arrive from abroad on or after 1 July 2014.



3. Will the new rule apply to people who arrived in the UK before 1 July 2014 but who have not claimed by that date?

No. The new condition only applies to those who newly arrive in the UK or who have returned after a period of absence of more than 52 weeks, on or after 1 July 2014, having previously been ordinarily resident for a continuous period of 3 months.

4. Will this new 'living in the UK' condition apply to people who come to work?

No. The new condition applies only to jobseekers or those who are not working. If somebody arrives in the UK from the European Economic Area as a worker or self-employed person but is then made redundant, then the three month 'living in the UK' condition will not apply.

5. Are there any other people this new three month 'living in the UK' condition will not apply to?

The new condition will not apply to the following groups of people:

- Crown servants posted overseas and their dependants.
- Those people, not subject to immigration control, who have been returned to the UK following deportation, expulsion or other legal removal.
- People who have been granted:
 - discretionary leave to enter or remain in the UK
 - leave to remain under the Destitution Domestic Violence concession
 - leave deemed to have been granted under the Displaced Persons (Temporary Protection) Regulations.



Where this leave is given with recourse to public funds.

Absences from the UK

- 6. What happens if someone has recently arrived in the UK but has to leave for a short period of time and then returns? Does the period of living in the UK before their departure count towards calculating the 3 month period?**

HM Revenue & Customs will make a judgement on whether the claimant ceased to be living in the UK during their absence. A common sense approach will be applied to the normal everyday meaning of 'living in' and all the facts and circumstances of the case will be looked at, including the reason for the departure and the length of time absent from the UK (see examples 1, 2 and 3 below).

- 7. What is a period of absence from the UK?**

Anybody who lives in the UK and receives Child Benefit or Child Tax Credit and is absent for the first 8 weeks is treated as being in the UK, regardless of the reason for their absence; or for the first 12 weeks in cases where they go abroad because they are, or a member of their family is, receiving treatment for an illness or disability, or because a member of their family has died. These rules are limited to an absence, which at the outset, must be unlikely to exceed 52 weeks (see examples 4 and 5 below).

UK nationals

- 8. Will UK nationals have to meet the three month 'living in the UK' condition?**

Yes. This new condition applies to people of any nationality, including UK nationals returning to the UK who are not working or actively seeking work on or after 1 July 2014.



People from outside Europe

- 9. Does this mean that people from outside Europe will be able to claim Child Benefit or Child Tax Credit once they have met the three month 'living in the UK' condition?**

Generally non European Economic Area nationals are subject to immigration control. They require leave to remain in the UK and this is generally given with the restriction that they do not have recourse to public funds, which includes the payment Child Benefit and tax credits.

In certain limited circumstances some non-European Economic Area nationals may be entitled to claim Child Benefit and Child Tax Credit.

European nationals

- 10. Will the 3 month rule stop Child Benefit being paid for children living in another European country?**

The UK will only consider paying a Child Benefit supplement under EU rules once all entitlement conditions have been met, including the three month condition.

Proof of eligibility

- 11. How does a claimant prove that they have been living in the UK for three months and what will be the process for checking this is correct?**

HM Revenue & Customs will ask for evidence and information that can be verified, which demonstrates that the claimant has been living in the country for a period of time.

The process for claiming Child Tax Credit and Child Benefit has built in checks and risk assessments. HM Revenue & Customs is introducing strengthened compliance checks on new claims from European Economic Area migrants, which will establish whether the claimant is present in the UK.



Failure by claimants to respond to enquiries may result in a claim being rejected or an existing award being terminated.

12. What sort of evidence or information will be needed as proof that the claimant has been living in the UK?

HM Revenue & Customs already carries out checks to verify whether a claimant is in the UK. Claimants are asked to provide at least two meaningful pieces of documentary evidence to verify that they are in the UK, such as:

- a. a recent bank statement or credit card statement
- b. utility bills
- c. lease agreement or mortgage agreement.

13. Will HM Revenue & Customs provide comprehensive guidance and revised claim forms in readiness for the new rules.

Yes. Guidance is being revised and a variety of claimant support groups will be consulted, to ensure it is clear and comprehensive.

Examples

Example 1 – absence from the UK

Ilona is a German national. She came to the UK alone on 2 July 2014 to look for work. She rented a bedsit on a short-term one month tenancy.

Ilona returned to Germany on 1 August 2014. In Germany she and her children stayed with her mother in the family home until 30 September 2014. She didn't work in Germany during that time.

Ilona came back to the UK with her children on 30 September 2014 and took up a six month tenancy on a flat and was actively looking



for work. Ilona claimed Child Benefit and Child Tax Credit from 30 September 2014.

HM Revenue & Customs decided that although Ilona met all other conditions of entitlement, including having a right to reside here as a jobseeker, as she had not been living in the UK for the three months before 30 September 2014, Ilona was not entitled to either Child Benefit or Child Tax Credit. It was determined that her absence of over one month from the UK meant that Ilona had ceased to live in the UK and so the 3 month period would need to be recalculated with 30 September 2014 as the starting date.

Example 2 – temporary absence from the UK

On 9 October 2014 Frederic, a Belgian national, came to the UK with his child Peter to look for work. He made a claim for Child Benefit and Child Tax Credit on 14 January 2015.

On questioning his claims it emerged that, since arriving, Frederic had lived in a rented flat in the UK and that he had spent from 2 December 2014 to 15 December 2014 in Belgium. His father had died and he and Peter attended the funeral in Belgium and had stayed in his mother's house.

It was decided that Frederic had lived in the UK continuously for three months before making a claim. In these circumstances the 2 week absence did not mean that Frederic had ceased to live in the UK and that he had satisfied the 3 month condition on 9 January 2015.

Example 3 – absences from the UK

Daan, a Dutch national, arrived in the UK with his son on 6 July 2014 in order look for work and he stayed in a hotel.



Daan claimed Child Benefit 7 October 2014. On reviewing his claim, it emerged that Daan and his son had spent two weeks, on three separate occasions, at his flat in Amsterdam which he owns and has lived in since 2001. On 19 October 2014 HM Revenue & Customs decided that, although Daan had an EU right to reside as a jobseeker, he had not lived in the UK for the 3 months before becoming eligible to Child Benefit. HM Revenue & Customs considered that during his absences in the Netherlands Daan had ceased to live in the UK for the purposes of the 3 month condition.

Example 4- temporary absence

Sara is an European Economic Area national who has one child and receives Child Benefit and Child Tax Credit and lives and works in the UK as a nurse. On the 1 January 2015 she goes with her child to Africa to volunteer at a hospital in Africa for 11 months. She continues to receive Child Benefit for the first eight weeks she is absent from the UK as the absence is temporary and not planned to last for more than 52 weeks.

Sara returns to the UK on 2 November 2015 and starts to look for work. On 15 November 2015 she makes a claim for Child Benefit and Child Tax Credit. HM Revenue & Customs decide that as the absence from the UK was temporary and for less than 52 weeks, Sara did not have to meet the 'living in the UK' rule.

Example 5 - UK national absence

Rebecca is a UK national who has two children and is living and working in the UK. On 1 August 2013 she plans to move to Canada with her children to be with her sister who is receiving medical treatment in Canada. She plans to be out of the UK for at least 18 months. As the planned absence is for more than 52 weeks, Rebecca's entitlement to Child Benefit and Child Tax Credit end on 1 August 2013.

Rebecca returns to the UK with her children on 10 February 2015



HM Revenue
& Customs

and starts to look for work. Rebecca claims Child Benefit and Child Tax Credit 10 June 2015. HM Revenue & Customs decide that as she has not been living in the UK for at least three months she is not entitled to Child Benefit or Child Tax Credit until 11 May 2015.