

**THE SOCIAL SECURITY (RESIDENCE AND PRESENCE REQUIREMENTS)  
(ISRAEL, THE WEST BANK, THE GAZA STRIP, EAST JERUSALEM AND THE  
GOLAN HEIGHTS ) (SCOTLAND) REGULATIONS 2023)**

**SSI 2023/XXX**

**Statement made under s97(9)(b) of the Social Security (Scotland) Act 2018**

These regulations are being laid without a report from the Scottish Commission on Social Security (the Commission). As such, this statement has been prepared setting out why Scottish Ministers consider it appropriate to lay the draft instrument before the Parliament before the Commission has submitted its report on the proposals for the regulations.

Scottish Ministers consider laying this draft without a Commission report is appropriate.

Given the recent escalation of violence and unrest in Israel, and the Gaza Strip following the Hamas terrorist attack on 7 October 2023, the UK Ministers wish to make changes to social security residence and presence rules for specified individuals who were residing in Israel, the West Bank, the Gaza Strip, East Jerusalem or the Golan Heights immediately before the 7 October 2023. Specifically, the UK Government intends to exempt affected arriving individuals from both the Habitual Residence Test and the Past Presence Test for benefits where those tests are applied. The UK Government intends for these changes to come into force on 27 October 2023. The Scottish Government is replicating the legislative changes in Scotland to ensure equivalent treatment in how people returning from these areas are treated in different parts of the UK when accessing benefits. Similar changes are being made to the Regulations governing Council Tax Reduction in Scotland for the same reasons.

It is essential that these regulations enter into force at the same time as the UK regulations. Not legislating in a similar timetable would create disparity within the UK for arriving individuals and go strongly against the Scottish Government's general policy to support individuals who flee violence from around the world as much as possible. The proposed changes give effect to that goal by exempting UK nationals, Irish nationals and third country nationals with certain types of immigration status from the Habitual Residence Test and the Past Presence Test. As such, it was not possible to maintain current legislative timelines and allow the Commission sufficient time to prepare a report, and Scottish Ministers would have similarly had insufficient time to prepare a response.

Officials have discussed the proposals with the Commission and when a report is published by the Commission, Scottish Ministers will respond, including bringing forward further provision where that is necessary to implement recommendations that we accept and to explain why we will not do so where we do not agree with recommendations made.

SCOTTISH GOVERNMENT