

**THE SOCIAL SECURITY (RESIDENCE AND PRESENCE REQUIREMENTS)
(MISCELLANEOUS AMENDMENT) REGULATIONS 2025SSI 2025/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 escalation of violence between Israel and Iran which started on 13 June 2025, and in order to support specified classes of people fleeing the violence including those the UK Government evacuated from Israel and the Occupied Palestinian Territories and the occupied Golan Heights, the Scottish Government is introducing regulations to allow those specified classes of people to meet the residency conditions for social security assistance from day one, if they are eligible. Further, given children from Gaza will be coming to the UK for medical treatment outside of the immigration rules via a UK Government Scheme, provisions will be included within the regulations to ensure this class of people can also meet the residency conditions.

The Department for Work and Pensions (DWP) has laid general crisis response legislation which will exempt affected arriving individuals from both the Habitual Residence Test and the Past Presence Test for benefits where those tests are applied, in order that they can receive access to DWP benefits and services immediately. This legislation is activated when the Foreign and Commonwealth Office (FCDO) changes their travel advice to leave a country, there are evacuation flights, or if there is a humanitarian visa route. This applies to individuals arriving from Israel, the Occupied Palestinian Territories and the Golan Heights, and individuals evacuated from Gaza for medical treatment in the UK and who have been granted leave outside the Immigration Rules. The UK Government changes came into force on 18 July 2025.

The Scottish Government is legislating for this specific crisis to ensure equivalent treatment in how people returning from these areas are treated in different parts of the UK when accessing benefits. We will also bring forward general crisis legislation in due course.

The proposed changes exempt UK nationals, Irish nationals and third country nationals with Leave to Remain from the Habitual Residence Test and the Past Presence Test when applying for Scottish benefits. We are also including an exemption for individuals granted leave outside the Immigration Rules within the disability benefit and Carer Support Payment regulations to align them with the existing exemption within the Best Start Foods, Best Start Grant and Young Carer Grant regulations. However, due to the Scottish Parliament recess, it was not possible to have these regulations come into force at the same time as the UK regulations. To minimise the gap between the coming to force dates, it is intended that these regulations come into force as soon as possible once Parliament has resumed. As such, it was not possible to maintain the usual 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