

GUERNSEY STATUTORY INSTRUMENT

2021 No. 155

**The Income Support (Guernsey) (Amendment)  
Regulations, 2021**

<i>Made</i>	8 <sup>th</sup> December, 2021
<i>Coming into operation</i>	8 <sup>th</sup> December, 2021
<i>Laid before the States</i>	, 2022

THE COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY, in exercise of the powers conferred on it by sections 1 and 15B of the Income Support (Guernsey) Law, 1971<sup>a</sup> and all other powers enabling them in that behalf, makes the following regulations:-

**Amendment of 2014 Regulations.**

1. The Income Support (Guernsey) Regulations, 2014<sup>b</sup> ("the principal Regulations") are amended as follows.

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<sup>a</sup> Ordres en Conseil Vol. XXIII, p. 26; amended by Ordres en Conseil Vol. XXVI, p. 292; Vol. XXXI, p. 278; Vol. XXXIX, p. 107; Order in Council No. XIII of 2014; No. VII of 2015; No. VI of 2016; No. IV of 2018; Recueil d'Ordonnances Tome XXVI, p. 177; Ordinance No. XXXIII of 2003; No. VII of 2010; No. IX of 2016; No. XIII of 2017; and Alderney Ordinance No. VIII of 2018.. Applied to Alderney by Recueil d'Ordonnances Tome XVII, p. 168.

<sup>b</sup> G.S.I. No. 82 of 2014; amended by Order in Council No. IV of 2018; Ordinance No. IX of 2016; No. V of 2021; G.S.I. No. 73 of 2016; G.S.I.No. 29 of 2018; and G.S.I. No. 1 of 2020.

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2. Immediately after regulation 2 of the principal Regulations, insert the following regulation –

**"Persons exempt from section 1(1)(a)(iii) and (iv) of the Law.**

2A. (1) Subject to paragraphs (2) to (5), a person who makes a claim for asylum recorded by the Lieutenant Governor is exempt from–

- (a) section 1(1)(a)(iii) of the Law (requirement to be ordinarily resident in Guernsey), and
- (b) section 1(1)(a)(iv) of the Law, so far as that provision, through section 1(1)(b) of the Income Support (Residence Conditions) Ordinance, 2017, requires a relevant person (within the meaning of that Ordinance) to have resided in Guernsey or Alderney for a continuous period of five years in order to be eligible for income support under and in accordance with the Law.

(2) The exemption does not apply to the following persons –

- (a) a British citizen,
- (b) a person who would be entitled to enter the Bailiwick without leave on a journey from a place outside the common travel area under Immigration laws,

(c) a person who holds indefinite leave to remain,  
and

(d) a person who lives outside of the Islands of  
Guernsey, Alderney, Herm and Jethou.

(3) The exemption ceases to apply if –

(a) the person abandons or withdraws that  
person's claim for asylum,

(b) the person leaves the Bailiwick to live  
permanently abroad at any time (whether the  
person's claim for asylum is under  
consideration, rejected or accepted), or

(c) the person's claim for asylum is rejected by the  
Lieutenant Governor, and –

(i) the person is removed from the  
Bailiwick under Immigration laws, or

(ii) the person is deported from the  
Bailiwick under Immigration laws.

(4) If the Lieutenant Governor decides to reject the  
person's claim for asylum and the exemption has not ceased to apply under  
paragraph (3), the exemption lapses on the expiry of –

- (a) the proceedings period, if no proceedings for judicial review of the decision are brought within that period, or
- (b) three months following the day on which any proceedings for judicial review of the decision are finally determined, withdrawn or abandoned, or lapse, unless the person's claim for asylum has been accepted by the Lieutenant Governor.

(5) Despite an exemption lapsing under paragraph (4), the Administrator may continue the exemption in respect of any person for a period of time the Administrator considers appropriate in the particular circumstances.

(6) In this regulation –

**"claim for asylum"**, in relation to any person, means a claim that it would be contrary to the United Kingdom's obligations in respect of the Bailiwick of Guernsey under the Refugee Convention for the person to be removed from, or required to leave, the Bailiwick of Guernsey,

**"common travel area"** means the United Kingdom, the Bailiwick of Jersey, the Isle of Man and the Republic of Ireland,

**"Immigration laws"** means –

- (a) the Immigration Act 1971,

- (b) any provision of any other immigration-related Acts in force in the United Kingdom and extended to the Bailiwick, and
- (c) any other enactment relating to immigration in force in the Bailiwick,

**"indefinite leave to remain"** means leave to remain in the Bailiwick which is not limited as to duration under the Immigration Act 1971,

**"leave"** means leave to enter or remain in the Bailiwick under the Immigration Act 1971,

**"leave to remain"** means leave to remain under the Immigration Act 1971,

**"proceedings period"**, in relation to a person's claim for asylum, means the period of three months following the day on which written notice is given to the person that the Lieutenant Governor has rejected that person's claim, and

**"Refugee Convention"** means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention."

**Extent.**

3. These Regulations have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

**Citation.**

4. These Regulations may be cited as the Income Support (Guernsey) (Amendment) Regulations, 2021.

**Commencement**

5. These Regulations shall come into force on the 8<sup>th</sup> December, 2021.

Dated this 8<sup>th</sup> day of December, 2021



P. J. ROFFEY

President of the Committee for Employment & Social Security

For and on behalf of the Committee

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EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Income Support (Guernsey) Regulations, 2014 to exempt a person who has made a claim for asylum in the Bailiwick from conditions relating to ordinary residence and periods of continuous residence in Guernsey and

Alderney imposed under section 1(1)(a)(iii) and (iv) of the Income Support (Guernsey) Law, 1971 and section 1(1)(b) of the Income Support (Residence Conditions) Ordinance, 2017.

These Regulations exclude the application of this exemption to British citizens, persons who do not need immigration leave to enter or remain in the Bailiwick, persons who hold indefinite leave to remain and persons who live outside of Guernsey, Alderney, Herm and Jethou.

The exemption ceases to apply if the person abandons or withdraws the asylum claim, leaves the Bailiwick to live permanently abroad, or is removed or deported under Immigration laws (if the person's claim for asylum is rejected).

The exemption lapses after three months of the person's claim for asylum being rejected unless judicial review proceedings are brought within that time. If proceedings are brought within that time, the exemption ceases to apply three months after those proceedings are finally determined, withdrawn or abandoned, or lapse, unless the person's claim for asylum is accepted. In these cases, the Administrator is given discretion to continue the exemption for a time if the Administrator considers it appropriate in the particular circumstances.

These Regulations will come into force on the 8<sup>th</sup> December, 2021.

