

NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Other Support and Assistance

Section 55: Late claim for asylum: refusal of support

151. **Section 55** makes provision to restrict access to support provided to asylum seekers under certain provisions of the 1999 Act and this Act and under certain provisions of housing and local government legislation in cases where the Secretary of State is not satisfied that a person has made his asylum application as soon as reasonably practicable after his arrival in the United Kingdom. Section 55 is intended to put the burden of proof on the asylum seeker claiming support to satisfy the Secretary of State that he made his asylum claim as soon as reasonably practicable after he arrived in the UK. If he cannot so satisfy the Secretary of State then the provision of support is prohibited.
152. Subsection (1) provides that the Secretary of State may not provide or arrange for the provision of support to a person under a provision mentioned in subsection (2) of the section to a person who has claimed asylum if the Secretary of State is not satisfied that the person has made his claim for asylum as soon as reasonably practicable after his arrival in the United Kingdom.
153. Subsection (2) specifies the provisions of the 1999 Act and of this Act under which support may not be provided in the circumstances specified in subsection (1) of the section.
154. Subsection (3) provides that a local authority may not provide or arrange for the provision of support to a person under a provision mentioned in subsection (4) of the section to a person who has claimed asylum whom Secretary of State is not satisfied has made his asylum application as soon as reasonably practicable after his arrival in the United Kingdom.
155. Subsection (4) specifies the provisions of certain housing and local government legislation under which support may not be provided in the circumstances specified in subsection (3) of the section.
156. Subsection (5) provides that section 55 shall not prevent the Secretary of State exercising his power to provide support to the extent necessary to avoid the breach of a person's rights under ECHR or to children and their families under section 95 of the 1999 Act, section 17 of this Act, section 98 of the 1999 Act or section 24 of this Act.
157. Subsection (6)(a) and (b) stipulate that a local authority that proposes to provide or arrange for the provision of support under a provision mentioned in subsection (4) of this section must inform the Secretary of State if the authority believes the person has made a claim for asylum and must act in accordance with any guidance issued by the

*These notes refer to the Nationality, Immigration and Asylum Act 2002 (c.41)
which received Royal Assent on 7 November 2002*

Secretary of State to determine whether subsection (3) of this section (the provision preventing support in certain circumstances) applies.

158. Subsection (6)(c) provides that a local authority shall not be prevented from providing support where it has complied with the requirements of the previous two paragraphs of this subsection and has concluded that the prohibition on providing support does not apply.
159. Subsection (7) enables the Secretary of State by order to amend the list of provisions specified in subsection (4) of this section.
160. Subsection (8) specifies the procedure for making an order under subsection (7) and makes provision for it to include transitional, consequential or incidental provision.
161. Subsection (9) provides that “claim for asylum” has the same meaning as in section 18 of this Act, thereby removing any uncertainty as to how it is to be interpreted.
162. Subsection (10) provides that a decision by the Secretary of State that the section prevents him from providing or arranging for the provision of support under this section does not attract a right of appeal to the Asylum Support Adjudicators under section 103 of the 1999 Act.
163. Subsection (11) provides that the section does not prevent a person residing in a place in accordance with a residence restriction imposed in reliance on section 70 of this Act.