



Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

2004 CHAPTER 19

Treatment of claimants

10 Failed asylum seekers: accommodation

(1) At the end of section 4 of the Immigration and Asylum Act 1999 (provision of accommodation for failed asylum seekers, &c.) add—

“(5) The Secretary of State may make regulations specifying criteria to be used in determining—

- (a) whether or not to provide accommodation, or arrange for the provision of accommodation, for a person under this section;
- (b) whether or not to continue to provide accommodation, or arrange for the provision of accommodation, for a person under this section.

(6) The regulations may, in particular—

- (a) provide for the continuation of the provision of accommodation for a person to be conditional upon his performance of or participation in community activities in accordance with arrangements made by the Secretary of State;
- (b) provide for the continuation of the provision of accommodation to be subject to other conditions;
- (c) provide for the provision of accommodation (or the continuation of the provision of accommodation) to be a matter for the Secretary of State’s discretion to a specified extent or in a specified class of case.

(7) For the purposes of subsection (6)(a)—

- (a) “community activities” means activities that appear to the Secretary of State to be beneficial to the public or a section of the public, and
- (b) the Secretary of State may, in particular—
 - (i) appoint one person to supervise or manage the performance of or participation in activities by another person;

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- (ii) enter into a contract (with a local authority or any other person) for the provision of services by way of making arrangements for community activities in accordance with this section;
 - (iii) pay, or arrange for the payment of, allowances to a person performing or participating in community activities in accordance with arrangements under this section.
- (8) Regulations by virtue of subsection (6)(a) may, in particular, provide for a condition requiring the performance of or participation in community activities to apply to a person only if the Secretary of State has made arrangements for community activities in an area that includes the place where accommodation is provided for the person.
- (9) A local authority or other person may undertake to manage or participate in arrangements for community activities in accordance with this section.”
- (2) In section 166(5) of that Act (regulations: affirmative instrument) before paragraph (a) insert—
 - “(za) section 4(5),”.
- (3) In section 103 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seekers: appeal) as it has effect before the commencement of section 53 of the Nationality, Immigration and Asylum Act 2002 (c. 41)—
 - (a) after subsection (2) insert—
 - “(2A) If the Secretary of State decides not to provide accommodation for a person under section 4, or not to continue to provide accommodation for a person under section 4, the person may appeal to an adjudicator.”, and
 - (b) in subsections (6) and (7) for “section 95” substitute “ section 4 or 95 ”.
- (4) In section 103 of the Immigration and Asylum Act 1999 (support for asylum-seekers: appeal) as it has effect after the commencement of section 53 of the Nationality, Immigration and Asylum Act 2002—
 - (a) for subsection (1) substitute—
 - “(1) This section applies where a person has applied for support under all or any of the following provisions—
 - (a) section 4,
 - (b) section 95, and
 - (c) section 17 of the Nationality, Immigration and Asylum Act 2002.”,
 - (b) in subsection (4)(a) for “the other provision” substitute “ another of those provisions ”, and
 - (c) in subsection (7) for “subsection (1)(a) or (b)” substitute “ subsection (1) ”.
- (5) In section 103A of the Immigration and Asylum Act 1999 (appeal about location of support) in subsection (1) (and in the heading) for “section 95” substitute “ section 4 or 95 ”.
- (6) In an amendment made by this section a reference to providing accommodation includes a reference to arranging for the provision of accommodation.

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(7) Regulations under section 4(5)(b) of the Immigration and Asylum Act 1999 (c. 33) (as inserted by subsection (1) above) may apply to persons receiving support under section 4 when the regulations come into force.

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Commencement Information

- I1** S. 10(1)(2)(6)(7) in force at 1.12.2004 by S.I. 2004/2999, art. 2, Sch.
I2 S. 10(3)(4)(5) in force at 31.3.2005 by S.I. 2005/372, art. 2

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Changes and effects yet to be applied to :

- s. 10 omitted by [2016 c. 19 Sch. 11 para. 2\(h\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 8(1A)(1B) inserted by [2022 c. 36 s. 19\(2\)](#)
- s. 8(3A)(3B) inserted by [2022 c. 36 s. 19\(3\)](#)
- s. 8(6A)(6B) inserted by [2022 c. 36 s. 19\(4\)](#)
- s. 8(9A)(a) word inserted by [2022 c. 36 Sch. 3 para. 7\(b\)](#)
- s. 8(9A)(b) and word inserted by [2022 c. 36 Sch. 3 para. 7\(c\)](#)
- s. 8(9B) inserted by [2022 c. 36 s. 19\(6\)](#)
- Sch. 3 para. 3(3) inserted by [2023 c. 37 s. 10\(9\)\(a\)](#)
- Sch. 3 para. 8(3) inserted by [2023 c. 37 s. 10\(9\)\(b\)](#)
- Sch. 3 para. 13(3) inserted by [2023 c. 37 s. 10\(9\)\(c\)](#)