



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

## 2004 CHAPTER 19

### *Treatment of claimants*

#### **9 Failed asylum seekers: withdrawal of support**

- (1) In Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (withholding and withdrawal of support) after paragraph 7 insert—

##### **“Fifth class of ineligible person: failed asylum-seeker with family**

- 7A (1) Paragraph 1 applies to a person if—
- (a) he—
    - (i) is treated as an asylum-seeker for the purposes of Part VI of the Immigration and Asylum Act 1999 (c. 33) (support) by virtue only of section 94(3A) (failed asylum-seeker with dependent child), or
    - (ii) is treated as an asylum-seeker for the purposes of Part 2 of this Act by virtue only of section 18(2),
  - (b) the Secretary of State has certified that in his opinion the person has failed without reasonable excuse to take reasonable steps—
    - (i) to leave the United Kingdom voluntarily, or
    - (ii) to place himself in a position in which he is able to leave the United Kingdom voluntarily,
  - (c) the person has received a copy of the Secretary of State’s certificate, and
  - (d) the period of 14 days, beginning with the date on which the person receives the copy of the certificate, has elapsed.
- (2) Paragraph 1 also applies to a dependant of a person to whom that paragraph applies by virtue of sub-paragraph (1).

---

*Changes to legislation: Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Section 9 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- (3) For the purpose of sub-paragraph (1)(d) if the Secretary of State sends a copy of a certificate by first class post to a person's last known address, the person shall be treated as receiving the copy on the second day after the day on which it was posted.
- (4) The Secretary of State may by regulations vary the period specified in sub-paragraph (1)(d)."
- (2) In paragraph 14(1) and (2) of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (local authority to notify Secretary of State) for "paragraph 6 or 7" substitute " paragraph 6, 7 or 7A ".
- (3) No appeal may be brought under section 103 of the Immigration and Asylum Act 1999 (asylum support appeal) against a decision—
- (a) that by virtue of a provision of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (c. 41) other than paragraph 7A a person is not qualified to receive support, or
  - (b) on the grounds of the application of a provision of that Schedule other than paragraph 7A, to stop providing support to a person.
- (4) On an appeal under section 103 of the Immigration and Asylum Act 1999 (c. 33) against a decision made by virtue of paragraph 7A of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 the<sup>F1</sup>[First-tier Tribunal] may, in particular—
- (a) annul a certificate of the Secretary of State issued for the purposes of that paragraph;
  - (b) require the Secretary of State to reconsider the matters certified.
- (5) An order under section 48 providing for this section to come into force may, in particular, provide for this section to have effect with specified modifications before the coming into force of a provision of the Nationality, Immigration and Asylum Act 2002.

---

#### Textual Amendments

- F1** Words in s. 9(4) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 203](#)
- 

#### Commencement Information

- II** S. 9 in force at 1.12.2004 by [S.I. 2004/2999](#), art. 2, [Sch.](#) (with arts. 3, 4)

**Changes to legislation:**

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Section 9 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- s. 9(1)(4) omitted by [2016 c. 19 Sch. 11 para. 27\(a\)](#)
- s. 9(1)(2) power to repeal conferred by [2006 c. 13 s. 44\(2\)\(a\)](#)
- s. 9(3)(a)(b) power to repeal conferred by [2006 c. 13 s. 44\(2\)\(b\)](#)
- s. 9(3)(a)(b) words omitted by [2016 c. 19 Sch. 11 para. 27\(b\)](#)
- s. 9(4) power to repeal conferred by [2006 c. 13 s. 44\(2\)\(a\)](#)

**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\(9\)\(c\)](#)