
STATUTORY INSTRUMENTS

2000 No. 704

The Asylum Support Regulations 2000

Determining whether persons are destitute

Determination where application relates to more than one person, etc.

5.—(1) Subject to paragraph (2), where an application in accordance with regulation 3(3) is for asylum support for the applicant and one or more dependants of his, in applying section 95(1) of the Act the Secretary of State must decide whether the applicant and all those dependants, taken together, are destitute or likely to become destitute within the period prescribed by regulation 7.

(2) Where a person is a supported person, and the question falls to be determined whether asylum support should in future be provided for him and one or more other persons who are his dependants and are—

- (a) persons for whom asylum support is also being provided when that question falls to be determined; or
- (b) persons for whom the Secretary of State is then considering whether asylum support should be provided,

in applying section 95(1) of the Act the Secretary of State must decide whether the supported person and all those dependants, taken together, are destitute or likely to become destitute within the period prescribed by regulation 7.

Income and assets to be taken into account

6.—(1) This regulation applies where it falls to the Secretary of State to determine for the purposes of section 95(1) of the Act whether—

- (a) a person applying for asylum support, or such an applicant and any dependants of his, or
- (b) a supported person, or such a person and any dependants of his,

is or are destitute or likely to become so within the period prescribed by regulation 7.

(2) In this regulation “the principal” means the applicant for asylum support (where paragraph (1)(a) applies) or the supported person (where paragraph (1)(b) applies).

(3) The Secretary of State must ignore—

- (a) any asylum support, and
- (b) any support under section 98 of the Act,

which the principal or any dependant of his is provided with or, where the question is whether destitution is likely within a particular period, might be provided with in that period.

(4) But he must take into account—

- (a) any other income which the principal, or any dependant of his, has or might reasonably be expected to have in that period;
- (b) any other support which is available to the principal or any dependant of his, or might reasonably be expected to be so available in that period; and

- (c) any assets mentioned in paragraph (5) (whether held in the United Kingdom or elsewhere) which are available to the principal or any dependant of his otherwise than by way of asylum support or support under section 98, or might reasonably be expected to be so available in that period.
- (5) Those assets are—
 - (a) cash;
 - (b) savings;
 - (c) investments;
 - (d) land;
 - (e) cars or other vehicles; and
 - (f) goods held for the purpose of a trade or other business.
- (6) The Secretary of State must ignore any assets not mentioned in paragraph (5).

Period within which applicant must be likely to become destitute

- 7. The period prescribed for the purposes of section 95(1) of the Act is—
 - (a) where the question whether a person or persons is or are destitute or likely to become so falls to be determined in relation to an application for asylum support and sub-paragraph (b) does not apply, 14 days beginning with the day on which that question falls to be determined;
 - (b) where that question falls to be determined in relation to a supported person, or in relation to persons including a supported person, 56 days beginning with the day on which that question falls to be determined.

Adequacy of existing accommodation

8.—(1) Subject to paragraph (2), the matters mentioned in paragraph (3) are prescribed for the purposes of subsection (5)(a) of section 95 of the Act as matters to which the Secretary of State must have regard in determining for the purposes of that section whether the accommodation of—

- (a) a person applying for asylum support, or
- (b) a supported person for whom accommodation is not for the time being provided by way of asylum support,

is adequate.

(2) The matters mentioned in paragraph (3)(a) and (d) to (g) are not so prescribed for the purposes of a case where the person indicates to the Secretary of State that he wishes to remain in the accommodation.

- (3) The matters referred to in paragraph (1) are—
 - (a) whether it would be reasonable for the person to continue to occupy the accommodation;
 - (b) whether the accommodation is affordable for him;
 - (c) whether the accommodation is provided under section 98 of the Act, or otherwise on an emergency basis, only while the claim for asylum support is being determined;
 - (d) whether the person can secure entry to the accommodation;
 - (e) where the accommodation consists of a moveable structure, vehicle or vessel designed or adapted for human habitation, whether there is a place where the person is entitled or permitted both to place it and reside in it;

- (f) whether the accommodation is available for occupation by the person's dependants together with him;
 - (g) whether it is probable that the person's continued occupation of the accommodation will lead to domestic violence against him or any of his dependants.
- (4) In determining whether it would be reasonable for a person to continue to occupy accommodation, regard may be had to the general circumstances prevailing in relation to housing in the district of the local housing authority where the accommodation is.
- (5) In determining whether a person's accommodation is affordable for him, the Secretary of State must have regard to—
- (a) any income, or any assets mentioned in regulation 6(5) (whether held in the United Kingdom or elsewhere), which is or are available to him or any dependant of his otherwise than by way of asylum support or support under section 98 of the Act, or might reasonably be expected to be so available;
 - (b) the costs in respect of the accommodation; and
 - (c) the person's other reasonable living expenses.
- (6) In this regulation—
- (a) "domestic violence" means violence from a person who is or has been a close family member, or threats of violence from such a person which are likely to be carried out; and
 - (b) "district of the local housing authority" has the meaning given by section 217(3) of the Housing Act 1996(1).
- (7) The reference in paragraph (1) to subsection (5)(a) of section 95 of the Act does not include a reference to that provision as applied by section 98(3) of the Act.

Essential living needs

9.—(1) The matter mentioned in paragraph (2) is prescribed for the purposes of subsection (7) (b) of section 95 of the Act as a matter to which the Secretary of State may not have regard in determining for the purposes of that section whether a person's essential living needs (other than accommodation) are met.

(2) That matter is his personal preference as to clothing (but this shall not be taken to prevent the Secretary of State from taking into account his individual circumstances as regards clothing).

(3) None of the items and expenses mentioned in paragraph (4) is to be treated as being an essential living need of a person for the purposes of Part VI of the Act.

(4) Those items and expenses are—

- (a) the cost of faxes;
- (b) computers and the cost of computer facilities;
- (c) the cost of photocopying;
- (d) travel expenses, except the expense mentioned in paragraph (5);
- (e) toys and other recreational items;
- (f) entertainment expenses.

(5) The expense excepted from paragraph (4)(d) is the expense of an initial journey from a place in the United Kingdom to accommodation provided by way of asylum support or (where accommodation is not so provided) to an address in the United Kingdom which has been notified to the Secretary of State as the address where the person intends to live.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) Paragraph (3) shall not be taken to affect the question whether any item or expense not mentioned in paragraph (4) or (5) is, or is not, an essential living need.

(7) The reference in paragraph (1) to subsection (7)(b) of section 95 of the Act includes a reference to that provision as applied by section 98(3) of the Act and, accordingly, the reference in paragraph (1) to “that section” includes a reference to section 98.