

IMMIGRATION AND ASYLUM ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 8

279. *Schedule 8* is a vehicle for the powers to make regulations about the operation of the support scheme under Part VI. By setting out a scheme the Secretary of State may indicate the way in which he would normally provide support and at what level (although this would not limit his discretion); this would allow claimants and those advising them to know what he may expect.
280. Regulations under paragraph 2 may prescribe that, in determining whether an asylum seeker is destitute and, if so, to what extent support should be provided, the Secretary of State is able to take into account any income, support or assets which the asylum seeker or his dependants have, or which might reasonably be expected to be available from other sources. This might include support from friends and relatives already in the country or from the voluntary sector.
281. Regulations under paragraph 3 would set out the circumstances under which payments may be made at a flat rate applicable to anyone meeting certain criteria (eg that support should be available to the value of £x per adult and £y per child) and the circumstances under which the Secretary of State may make special payments to meet particular needs (eg to someone whose particular medical condition gives rise to special needs). Nonetheless, regulations may be made under paragraph 4 allowing for particular items or services which fall outside an asylum seeker's essential living needs to be made available in certain circumstances.
282. *Paragraph 5* provides for regulations allowing any income, support or assets which an asylum seeker or his dependants may have to be taken into account reaching a view on the level or nature of support to be provided. This would also apply to resources to which he might reasonably be expected to have access, for example, from friends or family already in the United Kingdom.
283. There may be cases in which there is a dispute between the National Asylum Support Service and the asylum seeker regarding the value of assets which he possesses or to which he has access. So paragraph 6 permits regulations to be made as respects their valuation.
284. Conditions will be attached to any support provided under Part VI. Paragraph 7 provides for regulations allowing consideration to be taken of the extent to which the asylum seeker has complied with these conditions in deciding whether to continue providing support or the level and nature of that support. This would include, for example, individuals who vandalised the property which they had been allocated. Regulations under paragraph 8 would also allow the Secretary of State to suspend or cease to provide support in certain circumstances including to those cases where the asylum seeker has ceased to live in the accommodation provided or (for those receiving subsistence support only) who were no longer living at the address they had notified to the Secretary of State.

*These notes refer to the Immigration and Asylum Act 1999
(c.33) which received Royal Assent on 11 November 1999*

285. Paragraph 9 provides for regulations to prescribe the period of notice to be given to an asylum seeker required to quit accommodation provided under Part VI, whether because his support is to be terminated, or because he is to be moved to other accommodation. The provisions contained in paragraphs 73, 78, 79, 81, 82, 87 and 88 of Schedule 14 disapply the statutory secure and assured tenancy regimes that would otherwise apply to asylum seekers receiving support under Part VI.
286. There may be occasions in which a supported asylum seeker has a small income (but not enough to disqualify him from support). Paragraph 10 would provide for regulations requiring him to make contributions to support. Similarly there may be cases in which an asylum seeker who, although destitute at the time of making his application, possesses assets which for some reason he is unable to realise. There is power within paragraph 11 for regulations covering the recovery of sums from the asylum seeker if those assets subsequently become available.
287. Regulations under paragraph 12 would cover procedural matters relating to applications for support. These regulations might set out, for example, how an application should be made and the arrangements and timescales for notifying the Secretary of State of changes in circumstances that would lead to a reassessment of the asylum seeker's continuing support (for example, the birth of a child).