



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART VI

#### SUPPORT FOR ASYLUM-SEEKERS

##### *Provision of support*

#### **95 Persons for whom support may be provided.**

- (1) The Secretary of State may provide, or arrange for the provision of, support for—
  - (a) asylum-seekers, or
  - (b) dependants of asylum-seekers,who appear to the Secretary of State to be destitute or to be likely to become destitute within such period as may be prescribed.
- (2) In prescribed circumstances, a person who would otherwise fall within subsection (1) is excluded.
- (3) For the purposes of this section, a person is destitute if—
  - (a) he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or
  - (b) he has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs.
- (4) If a person has dependants, subsection (3) is to be read as if the references to him were references to him and his dependants taken together.
- (5) In determining, for the purposes of this section, whether a person's accommodation is adequate, the Secretary of State—
  - (a) must have regard to such matters as may be prescribed for the purposes of this paragraph; but
  - (b) may not have regard to such matters as may be prescribed for the purposes of this paragraph or to any of the matters mentioned in subsection (6).

*Status: Point in time view as at 15/01/2018.*

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- (6) Those matters are—
- (a) the fact that the person concerned has no enforceable right to occupy the accommodation;
  - (b) the fact that he shares the accommodation, or any part of the accommodation, with one or more other persons;
  - (c) the fact that the accommodation is temporary;
  - (d) the location of the accommodation.
- (7) In determining, for the purposes of this section, whether a person’s other essential living needs are met, the Secretary of State—
- (a) must have regard to such matters as may be prescribed for the purposes of this paragraph; but
  - (b) may not have regard to such matters as may be prescribed for the purposes of this paragraph.
- (8) The Secretary of State may by regulations provide that items or expenses of such a description as may be prescribed are, or are not, to be treated as being an essential living need of a person for the purposes of this Part.
- (9) Support may be provided subject to conditions.
- [<sup>F1</sup>(9A) A condition imposed under subsection (9) may, in particular, relate to—
- (a) any matter relating to the use of the support provided, or
  - (b) compliance with a [<sup>F2</sup>condition imposed under Schedule 10 to the Immigration Act 2016 (immigration bail).]]
- (10) The conditions must be set out in writing.
- (11) A copy of the conditions must be given to the supported person.
- (12) Schedule 8 gives the Secretary of State power to make regulations supplementing this section.
- (13) Schedule 9 makes temporary provision for support in the period before the coming into force of this section.

#### Textual Amendments

- F1** S. 95(9A) inserted (7.11.2002) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), s. 50\(1\)](#) (with s. 159)
- F2** Words in s. 95(9A)(b) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\), s. 94\(1\), Sch. 10 para. 29; S.I. 2017/1241, reg. 2\(c\)](#) (with [Sch.](#)) (as amended by [S.I. 2018/31, reg. 2](#))

#### Modifications etc. (not altering text)

- C1** S. 95 restricted (8.1.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), s. 55](#) (with s. 159); [S.I. 2002/2811, art. 2, Sch.](#)
- S. 95 restricted (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 51, 162\(1\)](#) (with s. 159)
- C2** S. 95 modified (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 22, 162\(1\)](#) (with s. 159)
- C3** S. 95(2)-(7) applied (with modifications) (S.) (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\), arts. 1\(1\), 14\(2\)](#) (as substituted by [2002 c. 41, s. 46\(4\)](#)), Sch. 1 para. 6

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- C4 S. 95(2)-(7) applied (with modifications) (E.W.) (1.3.2007) by National Health Service (Wales) Act 2006 (c. 42), s. 208(1), **Sch. 15 para. 2(7)** (with s. 19(3))
- C5 S. 95(2)-(7) applied (with modifications) (E.W.) (1.3.2007) by National Health Service Act 2006 (c. 41), **Sch. 20 para. 2(7)**
- C6 S. 95(2)-(7) applied (with modifications) (E.W.) (1.4.2015) by Care Act 2014 (c. 23), **ss. 21(2)(3), 127(1); S.I. 2015/993, art. 2(d)** (with transitional provisions in S.I. 2015/995)
- C7 S. 95(2)-(7) applied (with modifications) (E.W.) (6.4.2016) by Social Services and Well-being (Wales) Act 2014 (anaw 4), **s. 46(2)(3), 199(2); S.I. 2016/412, art. 2** (with art. 4Sch. 1Sch. 2)
- C8 S. 95(3)(5)-(8) applied (with modifications) (6.12.1999) by 1948 c. 29, **s. 21(1B)** (as inserted by 1999 c. 33, **ss. 116, 169(2), Sch. 15 para. 5; S.I. 1999/3190, art. 2, Sch.**)  
S. 95(3)(5)-(8) applied (with modifications) (6.12.1999) by 1968 c. 46, **s. 45(4B)** (as inserted by 1999 c. 33, **ss. 117(1), 169(2), Sch. 15 para. 6; S.I. 1999/3190, art. 2, Sch.**)  
S. 95(3)(5)-(8) applied (with modifications) (6.12.1999) by 1977 c. 49, **Sch. 8 para 2 (2B)** (as inserted by 1999 c. 33, **ss. 117(2), 169(2), Sch. 15 para. 9; S.I. 1999/3190, art. 2, Sch.**)  
S. 95(3)(5)-(8) applied (with modifications) (1.3.2000 for specified purposes and otherwise 3.4.2000) by 1968 c. 49, **ss. 12(2B), 13A(5), 13B(4)** (as inserted by 1999 c. 33, **ss. 120(1)-(3), 169(2), 170(4), Sch. 15 para. 7**)  
S. 95(3)(5)-(8) applied (with modifications) (1.3.2000 for specified purposes and otherwise 3.4.2000) by 1984 c. 36, **ss. 7(4), 8(5)** (as inserted by 1999 c. 33, **ss. 120(4)(5), 169(2), 170(4), Sch. 15 para. 10**)

#### Commencement Information

- II S. 95 wholly in force at 3.4.2000; s. 95(13) in force at Royal Assent see s. 170(3)(g); s. 95(3)-(8) in force for certain purposes at 6.12.1999 and s. 95 in force for certain purposes at 1.1.2000 insofar as not already in force by S.I. 1999/3190, art. 2, **Sch.**; s. 95 in force at 3.4.2000 insofar as not already in force by S.I. 2000/464, art. 2, **Sch.**

## 96 Ways in which support may be provided.

- (1) Support may be provided under section 95—
  - (a) by providing accommodation appearing to the Secretary of State to be adequate for the needs of the supported person and his dependants (if any);
  - (b) by providing what appear to the Secretary of State to be essential living needs of the supported person and his dependants (if any);
  - (c) to enable the supported person (if he is the asylum-seeker) to meet what appear to the Secretary of State to be expenses (other than legal expenses or other expenses of a prescribed description) incurred in connection with his claim for asylum;
  - (d) to enable the asylum-seeker and his dependants to attend bail proceedings in connection with his detention under any provision of the Immigration Acts; or
  - (e) to enable the asylum-seeker and his dependants to attend bail proceedings in connection with the detention of a dependant of his under any such provision.
- (2) If the Secretary of State considers that the circumstances of a particular case are exceptional, he may provide support under section 95 in such other ways as he considers necessary to enable the supported person and his dependants (if any) to be supported.
- (3) <sup>F3</sup>.....
- (4) [<sup>F4</sup>But the Secretary of State may by order provide for subsection (3) not to apply—
  - (a) in all cases, for such period as may be specified;
  - (b) in such circumstances as may be specified;

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- (c) in relation to specified categories of person; or
  - (d) in relation to persons whose accommodation is in a specified locality.]
- (5) [<sup>F4</sup>The Secretary of State may by order repeal subsection (3).]
- (6) [<sup>F4</sup>“Specified” means specified in an order made under subsection (4).]

#### Textual Amendments

- F3** S. 96(3) repealed (8.4.2002) by [The Asylum Support \(Repeal\) Order 2002 \(S.I. 2002/782\)](#), [art. 2](#)
- F4** S. 96(4)-(6) cease to have effect (7.11.2002) and repealed (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 61\(a\)](#), 161, [Sch. 9](#) (with s. 159)

#### Modifications etc. (not altering text)

- C9** S. 96(1)(b): power to restrict conferred (7.11.2002) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [s. 43](#) (with s. 159)

## 97 Supplemental.

- (1) When exercising his power under section 95 to provide accommodation, the Secretary of State must have regard to—
- (a) the fact that the accommodation is to be temporary pending determination of the asylum-seeker’s claim;
  - (b) the desirability, in general, of providing accommodation in areas in which there is a ready supply of accommodation; and
  - (c) such other matters (if any) as may be prescribed.
- (2) But he may not have regard to—
- (a) any preference that the supported person or his dependants (if any) may have as to the locality in which the accommodation is to be provided; or
  - (b) such other matters (if any) as may be prescribed.
- (3) The Secretary of State may by order repeal all or any of the following—
- (a) subsection (1)(a);
  - (b) subsection (1)(b);
  - (c) subsection (2)(a).
- (4) When exercising his power under section 95 to provide essential living needs, the Secretary of State—
- (a) must have regard to such matters as may be prescribed for the purposes of this paragraph; but
  - (b) may not have regard to such other matters as may be prescribed for the purposes of this paragraph.
- (5) In addition, when exercising his power under section 95 to provide essential living needs, the Secretary of State may limit the overall amount of the expenditure which he incurs in connection with a particular supported person—
- [<sup>F5</sup>(za) to such portion of the maximum amount of an award of universal credit under section 8(1) of the Welfare Reform Act 2012, or]
  - (a) to such portion of the income support applicable amount provided under section 124 of the <sup>M1</sup>Social Security Contributions and Benefits Act 1992, or

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- (b) to such portion of any components [<sup>F6</sup>or elements] of that amount, as he considers appropriate having regard to the temporary nature of the support that he is providing.
- (6) For the purposes of subsection (5), any support of a kind falling within section 96(1)(c) is to be treated as if it were the provision of essential living needs.
- (7) In determining how to provide, or arrange for the provision of, support under section 95, the Secretary of State may disregard any preference which the supported person or his dependants (if any) may have as to the way in which the support is to be given.

#### Textual Amendments

- F5** S. 97(5)(za) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 2 para. 53\(a\)](#); [S.I. 2013/983, art. 3\(1\)\(b\)\(i\)](#)
- F6** Words in s. 97(5)(b) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 2 para. 53\(b\)](#); [S.I. 2013/983, art. 3\(1\)\(b\)\(i\)](#)

#### Commencement Information

- I2** S. 97 wholly in force at 3.4.2000; s. 97 not in force at Royal Assent see s. 170(4); s. 97 in force for certain purposes at 1.1.2000 by [S.I. 1999/3190, art. 2, Sch.](#); s. 97 in force at 3.4.2000 insofar as not already in force by [S.I. 2000/464, art. 2, Sch.](#)

#### Marginal Citations

- M1** 1992 c. 4.

## 98 Temporary support.

- (1) The Secretary of State may provide, or arrange for the provision of, support for—
- asylum-seekers, or
  - dependants of asylum-seekers,
- who it appears to the Secretary of State may be destitute.
- (2) Support may be provided under this section only until the Secretary of State is able to determine whether support may be provided under section 95.
- (3) Subsections (2) to (11) of section 95 apply for the purposes of this section as they apply for the purposes of that section.

#### Modifications etc. (not altering text)

- C10** S. 98 restricted (8.1.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), s. 55](#) (with s. 159); [S.I. 2002/2811, art. 2, Sch.](#)  
S. 98 restricted (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 51, 162\(1\)](#) (with s. 159)

#### Commencement Information

- I3** S. 98 partly in force; s. 98 not in force at Royal Assent see s. 170(4); s. 98(3) in force for certain purposes at 1.3.2000 by [S.I. 2000/464, art. 2, Sch.](#)

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**Changes to legislation:**

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