

# NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Accommodation Centres**

##### **Operation of centres**

##### *Section 27: Resident of centre*

87. [Section 27](#) defines a resident of an accommodation centre for the purposes of Part 2.

##### *Section 28: Manager of centre*

88. [Section 28](#) defines a manager of an accommodation centre for the purposes of Part 2.

##### *Section 29: Facilities*

89. [Section 29](#) gives the Secretary of State the power to provide residents of accommodation centres with a number of facilities and services, described in subsection (1).

90. Subsection (2) enables the Secretary of State by regulations to set the maximum amount of money that can be provided to the resident of an accommodation centre.

91. Subsection (3) enables the Secretary of State to arrange for the provision of facilities in an accommodation centre for the use of legal advisers and subsection (4) requires the Secretary of State to take reasonable steps to ensure that a resident has an opportunity to obtain legal advice before the appointment made for his substantive asylum interview.

92. Subsection (5) allows the Secretary of State to add by order to the list of items and facilities which may be provided to a resident of an accommodation centre set out in subsection (1). Orders and regulations under this section are subject to the negative resolution procedure under section 39.

##### *Section 30: Conditions of residence*

93. [Section 30](#) enables the Secretary of State to make regulations setting out conditions of residence that may be imposed on residents of accommodation centres. The powers to impose residence restrictions set out in paragraph 21 of Schedule 2 to the 1971 Act and paragraph 2 (5) of Schedule 3 to that Act are unaffected by this section.

94. Subsection (3) sets out two particular conditions that may be imposed; subsection (4) makes clear that a resident who breaches a condition may be required to leave the centre, with his dependants (if any); subsection (5) provides that a resident and his dependants may be required to leave the centre if a dependant breaches a condition; and subsection (6) provides that the regulations setting the conditions under this section must include a provision for making sure that residents are informed in writing of any

condition imposed on them. Regulations under section 30 are subject to the affirmative resolution procedure under section 39.

### ***Section 31: Financial contribution by resident***

95. **Section 31** provides that conditions imposed under section 30 may require a resident of an accommodation centre to make payments to the Secretary of State or the manager of the centre where the resident applied to be supported and had assets (including assets outside the United Kingdom) at the time of the application which at that time were not capable of being realised but have since become realisable.
96. Subsection (4) provides the methods by which any amounts may be recovered.

### ***Section 32: Tenure***

97. **Section 32** provides that a resident of an accommodation centre is not to be treated as acquiring a tenancy of or other interest in any part of the centre. It allows the Secretary of State, or the manager of the centre if authorised to do so by the Secretary of State, to recover possession of the premises occupied by the resident where the resident is required to leave the centre or where the Secretary of State decides to stop providing accommodation in the centre for that resident.
98. Subsection (4) makes clear that any licence to occupy premises which a resident of an accommodation centre has will be an excluded licence for the purposes of the Protection from Eviction Act 1977. There is therefore no need to obtain a court order before recovering possession of the premises. The procedure to be followed in order to recover the premises is to be prescribed in regulations. Subsection (7) means that accommodation provided under Section 24 (1) (b) (i.e. provisional accommodation not in an accommodation centre) is to be treated as an accommodation centre for the purposes of Section 32.

### ***Section 33: Advisory Groups***

99. **Section 33** requires the Secretary of State to appoint an Advisory Group for each accommodation centre. Subsection (2) enables the Secretary of State to make regulations conferring functions on Advisory Groups and making provision about the constitution and proceedings of the Advisory Groups. Subsection (3) requires the regulations to provide for members of Advisory Groups to visit the accommodation centre, to hear complaints made by residents of the centre and to report to the Secretary of State. Subsection (4) requires the manager of an accommodation centre to permit a member of the Advisory Group to visit the centre at any time and to visit any resident of the centre at any time, provided the resident consents. Subsection (5) makes provision about the terms of appointments for members of the Advisory Groups and subsection (6) enables the Secretary of State to pay expenses of members and to make facilities available to them.