



# Nationality, Immigration and Asylum Act 2002

## 2002 CHAPTER 41

### PART 2

#### ACCOMMODATION CENTRES

##### *Use of centres*

PROSPECTIVE

#### 17 Support for destitute asylum-seeker

- (1) The Secretary of State may arrange for the provision of accommodation for a person in an accommodation centre if—
  - (a) the person is an asylum-seeker or the dependant of an asylum-seeker, and
  - (b) the Secretary of State thinks that the person is destitute or is likely to become destitute within a prescribed period.
- (2) The Secretary of State may make regulations about procedure to be followed in respect of the provision of accommodation under this section.
- (3) The regulations may, in particular, make provision—
  - (a) specifying procedure to be followed in applying for accommodation in an accommodation centre;
  - (b) providing for an application to be combined with an application under or in respect of another enactment;
  - (c) requiring an applicant to provide information;
  - (d) specifying circumstances in which an application may not be considered (which provision may, in particular, provide for an application not to be considered where the Secretary of State is not satisfied that the information

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provided is complete or accurate or that the applicant is co-operating with enquiries under paragraph (e));

- (e) about the making of enquiries by the Secretary of State;
- (f) requiring a person to notify the Secretary of State of a change in circumstances.

(4) Sections 18 to 20 define the following expressions for the purpose of this Part—

- (a) asylum-seeker,
- (b) dependant, and
- (c) destitute.

## 18 Asylum-seeker: definition

- (1) For the purposes of this Part a person is an “asylum-seeker” if—
- (a) he is at least 18 years old,
  - (b) he is in the United Kingdom,
  - (c) a claim for asylum has been made by him [<sup>F1</sup>at a place designated by the Secretary of State],
  - (d) the Secretary of State has recorded the claim, and
  - (e) the claim has not been determined.
- (2) A person shall continue to be treated as an asylum-seeker despite subsection (1)(e) while—
- (a) his household includes a dependent child who is under 18, and
  - (b) he does not have leave to enter or remain in the United Kingdom.
- (3) A claim for asylum is a claim by a person that to remove him from or require him to leave the United Kingdom would be contrary to the United Kingdom’s obligations under—
- (a) the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol, or
  - (b) Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4th November 1950.

### Textual Amendments

- F1** Words in s. 18(1)(c) omitted (28.4.2022 for specified purposes) by virtue of [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 14\(4\)](#), [87\(1\)\(4\)\(a\)](#)

### Commencement Information

- II** S. 18 partly in force; s. 18 not in force at Royal Assent see s. 162(2); s. 18 in force for certain purposes at 8.1.2003 and for further certain purposes at 10.2.2003 by [S.I. 2003/1](#), [art. 2](#), [Sch.](#)

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PROSPECTIVE

## 19 Destitution: definition

- (1) Where a person has dependants, he and his dependants are destitute for the purpose of this Part if they do not have and cannot obtain both—
  - (a) adequate accommodation, and
  - (b) food and other essential items.
- (2) Where a person does not have dependants, he is destitute for the purpose of this Part if he does not have and cannot obtain both—
  - (a) adequate accommodation, and
  - (b) food and other essential items.
- (3) In determining whether accommodation is adequate for the purposes of subsection (1) or (2) the Secretary of State must have regard to any matter prescribed for the purposes of this subsection.
- (4) In determining whether accommodation is adequate for the purposes of subsection (1) or (2) the Secretary of State may not have regard to—
  - (a) whether a person has an enforceable right to occupy accommodation,
  - (b) whether a person shares all or part of accommodation,
  - (c) whether accommodation is temporary or permanent,
  - (d) the location of accommodation, or
  - (e) any other matter prescribed for the purposes of this subsection.
- (5) The Secretary of State may by regulations specify items which are or are not to be treated as essential items for the purposes of subsections (1) and (2).
- (6) The Secretary of State may by regulations—
  - (a) provide that a person is not to be treated as destitute for the purposes of this Part in specified circumstances;
  - (b) enable or require the Secretary of State in deciding whether a person is destitute to have regard to income which he or a dependant of his might reasonably be expected to have;
  - (c) enable or require the Secretary of State in deciding whether a person is destitute to have regard to support which is or might reasonably be expected to be available to the person or a dependant of his;
  - (d) enable or require the Secretary of State in deciding whether a person is destitute to have regard to assets of a prescribed kind which he or a dependant of his has or might reasonably be expected to have;
  - (e) make provision as to the valuation of assets.

PROSPECTIVE

## 20 Dependant: definition

For the purposes of this Part a person is a “dependant” of an asylum-seeker if (and only if) that person—

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- (a) is in the United Kingdom, and
- (b) is within a prescribed class.

PROSPECTIVE

## 21 Sections 17 to 20: supplementary

- (1) This section applies for the purposes of sections 17 to 20.
- (2) The Secretary of State may inquire into and decide a person's age.
- (3) A claim for asylum shall be treated as determined at the end of such period as may be prescribed beginning with—
  - (a) the date on which the Secretary of State notifies the claimant of his decision on the claim [<sup>F2</sup>or (as the case may be) of the declaration of inadmissibility under section 80A or 80B], or
  - (b) if the claimant appeals against the Secretary of State's decision, the date on which the appeal is disposed of.
- (4) A notice under subsection (3)(a)—
  - (a) must be in writing, and
  - (b) if sent by first class post to the claimant's last known address or to the claimant's representative, shall be treated as being received by the claimant on the second day after the day of posting.
- (5) An appeal is disposed of when it is no longer pending for the purpose of—
  - (a) Part 5 of this Act, or
  - (b) the Special Immigration Appeals Commission Act 1997 (c. 68).

### Textual Amendments

- F2** Words in s. 21(3)(a) inserted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), **ss. 17(6)**, 87(1); [S.I. 2022/590](#), reg. 2, **Sch. 1 para. 16**

PROSPECTIVE

## 22 Immigration and Asylum Act 1999, s. 95

The Secretary of State may provide support under section 95 of the Immigration and Asylum Act 1999 (c. 33) (destitute asylum-seeker) by arranging for the provision of accommodation in an accommodation centre.

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PROSPECTIVE

## 23 Person subject to United Kingdom entrance control

- (1) A residence [<sup>F3</sup>condition] may include a requirement to reside at an accommodation centre.
- [<sup>F4</sup>(2) In subsection (1) “residence condition” means a condition imposed under Schedule 10 to the Immigration Act 2016.]
- (3) Where a person is required to reside in an accommodation centre by virtue of subsection (1) the Secretary of State must arrange for the provision of accommodation for the person in an accommodation centre.
- (4) But if the person is required to leave an accommodation centre by virtue of section 26 or 30 he shall be treated as having broken the residence [<sup>F5</sup>condition] referred to in subsection (1).
- (5) The Secretary of State may provide support under section 4 of the Immigration and Asylum Act 1999 (persons subject to entrance control) (including that section as amended by section 49 of this Act) by arranging for the provision of accommodation in an accommodation centre.

### Textual Amendments

- F3** Word in s. 23(1) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\), s. 94\(1\), Sch. 10 para. 32\(2\)](#); [S.I. 2017/1241, reg. 2\(c\)](#) (with [Sch.](#)) (as amended by [S.I. 2018/31, reg. 2](#))
- F4** S. 23(2) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\), s. 94\(1\), Sch. 10 para. 32\(3\)](#); [S.I. 2017/1241, reg. 2\(c\)](#) (with [Sch.](#)) (as amended by [S.I. 2018/31, reg. 2](#))
- F5** Word in s. 23(4) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\), s. 94\(1\), Sch. 10 para. 32\(4\)](#); [S.I. 2017/1241, reg. 2\(c\)](#) (with [Sch.](#)) (as amended by [S.I. 2018/31, reg. 2](#))

PROSPECTIVE

## 24 Provisional assistance

- (1) If the Secretary of State thinks that a person may be eligible for the provision of accommodation in an accommodation centre under section 17, he may arrange for the provision for the person, pending a decision about eligibility, of—
  - (a) accommodation in an accommodation centre, or
  - (b) other support or assistance (of any kind).
- (2) Section 99 of the Immigration and Asylum Act 1999 (c. 33) (provision of support by local authority) shall have effect in relation to the provision of support for persons under subsection (1) above as it has effect in relation to the provision of support for asylum-seekers under sections 95 and 98 of that Act.

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PROSPECTIVE

**25 Length of stay**

- (1) The Secretary of State may not arrange for the provision of accommodation for a person in an accommodation centre if he has been a resident of an accommodation centre for a continuous period of six months.
- (2) But—
  - (a) subsection (1) may be disapplied in respect of a person, generally or to a specified extent, by agreement between the Secretary of State and the person, and
  - (b) if the Secretary of State thinks it appropriate in relation to a person because of the circumstances of his case, the Secretary of State may direct that subsection (1) shall have effect in relation to the person as if the period specified in that subsection were the period of nine months.
- (3) Section 51 is subject to this section.
- (4) The Secretary of State may by order amend subsection (1) or (2)(b) so as to substitute a shorter period for a period specified.

PROSPECTIVE

**26 Withdrawal of support**

- (1) The Secretary of State may stop providing support for a person under section 17 or 24 if—
  - (a) the Secretary of State suspects that the person or a dependant of his has committed an offence by virtue of section 35, or
  - (b) the person or a dependant of his has failed to comply with directions of the Secretary of State as to the time or manner of travel to accommodation provided under section 17 or 24.
- (2) The Secretary of State may by regulations specify other circumstances in which he may stop providing support for a person under section 17 or 24.
- (3) In determining whether or not to provide a person with support or assistance under section 17 or 24 of this Act or section 4, 95 or 98 of the Immigration and Asylum Act 1999 (asylum-seeker) the Secretary of State may take into account the fact that—
  - (a) he has withdrawn support from the person by virtue of this section or section 30(4) or (5), or
  - (b) circumstances exist which would have enabled the Secretary of State to withdraw support from the person by virtue of this section had he been receiving support.
- (4) This section is without prejudice to section 103 of the Immigration and Asylum Act 1999 (c. 33) (appeal against refusal to support).

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