

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: Immigration Act 2016, Paragraph 9 is up to date with all changes known to be in force on or before 15 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## SCHEDULES

### SCHEDULE 11

#### SUPPORT FOR CERTAIN CATEGORIES OF MIGRANT

#### PART 1

#### AMENDMENTS OF THE IMMIGRATION ACTS

PROSPECTIVE

#### *Power to support failed asylum-seekers*

9 After section 95 insert—

#### **“95A Support for failed asylum-seekers, etc who are unable to leave UK**

- (1) The Secretary of State may provide, or arrange for the provision of, support for a person, for such period or periods as may be prescribed, if—
  - (a) the person is a failed asylum-seeker, or a dependant of a failed asylum-seeker,
  - (b) an application for support under this section is made in respect of the person which meets such requirements as may be prescribed,
  - (c) it appears to the Secretary of State that the person is destitute, or is likely to become destitute within such period as may be prescribed, and
  - (d) the person faces a genuine obstacle to leaving the United Kingdom.
- (2) Subsections (3) to (8) of section 95 (meaning of “destitute”) apply for the purposes of this section as they apply for the purposes of that section.
- (3) Regulations made by the Secretary of State may make provision for determining what is, or is not, to be regarded as a genuine obstacle to leaving the United Kingdom for the purposes of this section.
- (4) The Secretary of State may make regulations prescribing other criteria to be used in determining—
  - (a) whether or not to provide support, or arrange for the provision of support, for a person under this section;
  - (b) whether or not to continue to provide support, or arrange for the provision of support, for a person under this section.
- (5) Regulations under subsection (4) may, in particular—
  - (a) provide for the provision of support (or the continuation of the provision of support) to be subject to conditions;

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- (b) provide for the provision of support (or the continuation of the provision of support) to be a matter for the Secretary of State's discretion to a prescribed extent or in cases of a prescribed description.
- (6) A condition imposed by regulations under subsection (5)(a) may, in particular, relate to any of the following—
  - (a) any matter relating to the use of the support provided;
  - (b) compliance with a condition imposed under Schedule 10 to the Immigration Act 2016 (immigration bail);
  - (c) the person's performance of, or participation in, community activities in accordance with arrangements made by the Secretary of State.
- (7) A copy of any conditions imposed by regulations under subsection (5)(a) must be given to the supported person.
- (8) For the purposes of subsection (6)(c)—
  - (a) “community activities” means activities that appear to the Secretary of State to be beneficial to the public or a section of the public, and
  - (b) the Secretary of State may, in particular—
    - (i) appoint one person to supervise or manage the performance of, or participation in, activities by another person;
    - (ii) enter into a contract (with a local authority or any other person) for the provision of services by way of making arrangements for community activities in accordance with this section;
    - (iii) pay, or arrange for the payment of, allowances to a person performing or participating in community activities in accordance with arrangements under this section.
- (9) Regulations by virtue of subsection (6)(c) may, in particular, provide for a condition requiring the performance of, or participation in, community activities to apply to a person only if—
  - (a) accommodation is to be, or is being, provided for the person under this section, and
  - (b) the Secretary of State has made arrangements for community activities in an area that includes the place where the accommodation is to be, or is being, provided.
- (10) A local authority or other person may undertake to manage or participate in arrangements for community activities in accordance with this section.
- (11) The powers conferred by Schedule 8 (supplementary regulation-making powers) are exercisable with respect to the powers conferred by this section as they are exercisable with respect to the powers conferred by section 95, but with the modification in subsection (12).
- (12) Paragraph 9 of Schedule 8 (notice to quit) has effect with respect to the powers conferred by this section as if sub-paragraph (2)(b) were omitted.”

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1241, Sch. by [S.I. 2018/31 reg. 2](#)