STATUTORY INSTRUMENTS

1999 No. 3056

IMMIGRATION

The Asylum Support (Interim Provisions) Regulations 1999

Made - - - -	*13th November 1999*
Laid before Parliament	*15th November 1999*
Coming into force - -	*6th December 1999*

The Secretary of State, in exercise of the powers conferred on him by sections 94 and 166 of, and paragraphs 1, 2, 4 to 7, 9, 11 and 13 to 15 of Schedule 9 to, the Immigration and Asylum Act 1999(**1**), hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Asylum Support (Interim Provisions) Regulations 1999 and shall come into force on 6th December 1999.

(2) These Regulations do not extend to Scotland or Northern Ireland.

Interpretation

2.—(1) In these Regulations—

"assisted person" means an asylum-seeker, or a dependant of an asylum-seeker, who has applied for support and for whom support is provided;

"dependant", in relation to an asylum-seeker, an assisted person or a person claiming support, means a person in the United Kingdom who:

(a) is his spouse;

(b) is a child of his, or of his spouse, who is under 18 and dependent on him;

(c) is under 18 and is a member of his, or his spouse's, close family;

(d) is under 18 and had been living as part of his household:

(i) for at least six of the 12 months before the day on which his claim for support was made; or

(ii) since birth;

(**1**) 1999 c. 33.

(e) is in need of care and attention from him or a member of his household by reason of a disability and would fall within sub-paragraph (c) or (d) but for the fact that he is not under 18;

(f) had been living with him as a member of an unmarried couple for at least two of the three years before the day on which his claim for support was made;

(g) is a person living as part of his household who was receiving assistance from a local authority under section 17 of the Children Act 1989(**2**) immediately before the beginning of the interim period;

(h) has made a claim for leave to enter or remain in the United Kingdom, or for variation of any such leave, which is being considered on the basis that he is dependent on the asylum-seeker; or

(i) in relation to an assisted person or a person claiming support who is himself a dependant of an asylum-seeker, is the asylum-seeker;

"eligible persons" means asylum-seekers or their dependants who appear to be destitute or to be likely to become destitute within 14 days;

"local authority" means:

(a) in England, a county council, a metropolitan district council, a district council with the functions of a county council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;

(b) in Wales, a county council or a county borough council.

(2) Any reference in these Regulations to support is to support under these Regulations.

(3) Any reference in these Regulations to assistance under section 21 of the National Assistance Act 1948(**3**) is to assistance, the need for which has arisen solely:

(a) because of destitution; or

(b) because of the physical effects, or anticipated physical effects, of destitution.

(4) Any reference in these Regulations to assistance under section 17 of the Children Act 1989(**4**) is to the provision of accommodation or of any essential living needs.

(5) The interim period begins on the day on which these Regulations come into force and ends on 1st April 2002.

(6) For the purposes of section 94(3) of the Immigration and Asylum Act 1999(**5**) (day on which a claim for asylum is determined), the period of 14 days is prescribed for any case to which these Regulations apply.

Requirement to provide support

3.—(1) Subject to regulations 7 and 8:

(a) the local authority concerned, or

(b) the local authority to whom responsibility for providing support is transferred under regulation 9,

must provide support during the interim period to eligible persons.

(2) The question whether a person is an eligible person is to be determined by the local authority concerned.

(**2**) 1989 c. 41.
(**3**) 1948 c. 29.
(**4**) 1989 c. 41.
(**5**) 1999 c. 33.

(3) For the purposes of these Regulations, the local authority concerned are the local authority to whom a claim for support is made, except where a claim for support is transferred by a local authority in accordance with regulation 9, in which case the local authority concerned are the local authority to whom the claim is transferred.

Temporary support

4.—(1) This regulation applies to support to be provided before it has been determined whether a person is an eligible person ("temporary support").

(2) Temporary support is to be provided to a person claiming support:

(a) by the local authority to whom the claim is made until such time (if any) as the claim is transferred under regulation 9;

(b) where the claim is so transferred, by the local authority to whom the claim is transferred.

(3) Temporary support must appear to the local authority by whom it is provided to be adequate for the needs of the person claiming support and his dependants (if any).

Provision of support

5.—(1) Subject to paragraph (2), support is to be provided by providing:

(a) accommodation appearing to the local authority by whom it is provided to be adequate for the needs of the assisted person and his dependants (if any) ("accommodation"); and

(b) what appear to the local authority by whom it is provided to be essential living needs of the assisted person and his dependants (if any) ("essential living needs").

(2) Where an assisted person's household includes a child who is under 18 and a dependant of his, support is to be provided:

(a) in accordance with paragraph (1);

(b) by providing accommodation; or

(c) by providing essential living needs.

(3) Support is to be provided to enable the assisted person (if he is the asylum-seeker) to meet reasonable travel expenses incurred in attending:

(a) a hearing of an appeal on his claim for asylum; or

(b) an interview in connection with his claim for asylum which has been requested by the Secretary of State.

(4) Where the circumstances of a particular case are exceptional, support is to be provided in such other ways as are necessary to enable the assisted person and his dependants (if any) to be supported.

(5) Support provided by way of payments made (by whatever means) to the assisted person and his dependants (if any) is not to exceed £10 per person in any one week, unless:

(a) the assisted person's household includes a child who is under 18 and a dependant of his; or

(b) the circumstances of a particular case are exceptional.

(6) A local authority may provide support subject to conditions.

(7) Such conditions are to be set out in writing.

(8) A copy of the conditions is to be given to the assisted person.

Matters to which the local authority are to have regard

6.—(1) In providing support, the local authority are to have regard to:

(a) income which the assisted person has, or his dependants (if any) have, or might reasonably be expected to have;

(b) support which is, or assets which are, or might reasonably be expected to be, available to the assisted person, or to his dependants (if any);

(c) the welfare of the assisted person and his dependants (if any); and

(d) the cost of providing support.

(2) In providing accommodation under these Regulations, the local authority are not to have regard to any preference that the assisted person or his dependants (if any) may have as to:

(a) the locality in which the accommodation is to be provided;

(b) the nature of the accommodation to be provided; or

(c) the nature and standard of fixtures and fittings in that accommodation.

Refusal of support

7.—(1) Unless this paragraph does not apply, support must be refused in the following circumstances:

(a) where the person claiming support has intentionally made himself and his dependants (if any) destitute;

(b) where the person claiming support has made a claim for support to another local authority, except where the claim is one to which regulation 9 applies;

(c) where the claim for support is made by a person to a local authority other than one to whom, in the previous 12 months, he has made a claim for assistance under section 21 of the National Assistance Act 1948(**6**) or under section 17 of the Children Act 1989(**7**);

(d) where the person claiming support—

(i) is an asylum-seeker within the meaning of paragraph (3A)(a) or (aa) of regulation 70 of the Income Support (General) Regulations 1987(**8**) who has not ceased to be an asylum-seeker by virtue of sub-paragraph (b) of that paragraph;

(ii) is a person who became an asylum-seeker under paragraph (3A)(a) of regulation 70 of the Income Support (General) Regulations 1987 and who has not ceased to be an asylum-seeker by virtue of sub-paragraph (b) of that paragraph, as saved by regulation 12(1) of the Social Security (Persons from Abroad) Miscellaneous Amendments Regulations 1996(**9**);

(iii) is not a person from abroad within the meaning of sub-paragraph (a) of regulation 21(3) of the Income Support (General) Regulations 1987(**10**) by virtue of the exclusions specified in that sub-paragraph;

(e) where neither the person claiming support nor any of his dependants is an asylum-seeker or has made a claim for leave to enter or remain in the United Kingdom, or for variation of any such leave, which is being considered on the basis that he is dependent on an asylum-seeker.

(2) For the purposes of paragraph (1)(a), a person has intentionally made himself destitute if he appears to be, or likely within 14 days to become, destitute as a result of an act or omission deliberately done or made by him or any dependant of his without reasonable excuse while in the United Kingdom.

(**6**) 1948 c. 29.
(**7**) 1989 c. 41.
(**8**) S.I.1987/1967. Regulation 70(3A) was substituted by regulation 8(3) of S.I. 1996/30.
(**9**) S.I. 1996/30. Regulation 12 was amended by paragraph 5 of Schedule 1 to the Asylum and Immigration Act 1996 (c. 49).
(**10**) Regulation 21(3)(a) was amended by S.I. 1990/547, 1991/236 and 1996/1944.

(3) Paragraph (1) does not apply where the local authority concerned did not know, or could not with reasonable diligence have known, of any circumstance set out in that paragraph.

Suspension and discontinuation of support

8.—(1) Support for the assisted person and his dependants (if any) must be discontinued as soon as the local authority by whom it is provided become aware of any circumstance which, if they had known of it when the claim was made, would have led to the claim being refused in accordance with regulation 7(1).

(2) Support may be suspended or discontinued:

(a) where the assisted person, or any dependant of his, fails without reasonable excuse to comply with any condition subject to which the support is provided;

(b) where the assisted person, or any dependant of his, leaves accommodation provided as part of such support for more than seven consecutive days without reasonable excuse.

Transfer of a claim for support or responsibility for providing support by a local authority

9. A local authority may transfer a claim for support made to them, or responsibility for providing support, to another local authority on such terms as may be agreed between the two authorities.

Assistance to those providing support

10. Reasonable assistance to a local authority providing support is to be given by:

(a) any district council for an area any part of which lies within the area of the local authority providing support, and

(b) any registered social landlord, within the meaning of Part I of the Housing Act 1996(**11**), which manages any house or other property which is in the area of the local authority providing support,

who is requested to provide such assistance by the local authority providing support.

Transitional provision

11. Where an asylum-seeker or a dependant of an asylum-seeker is receiving assistance from a local authority under section 21 of the National Assistance Act 1948(**12**) or under section 17 of the Children Act 1989(**13**) immediately before the beginning of the interim period, he is to be taken to have been accepted for support by the local authority providing such assistance.

Entitlement to claim support

12. A person entitled to support under these Regulations is not entitled to assistance under section 17 of the Children Act 1989.

Home Office
13th November 1999

Barbara Roche
Minister of State

(**11**) 1996 c. 52.
(**12**) 1948 c. 29.
(**13**) 1989 c. 41.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision requiring certain local authorities to provide support to asylum-seekers and their dependants who appear to be, or to be likely to become, destitute. This requirement will begin on 6th December 1999 and come to an end on 1st April 2002.