
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, together with a new Part 11A in the Immigration Rules (HC 395), the Education (Student Fees and Support) Temporary Protection (Scotland) Amendments Regulations 2005 (SSI 2005/217), the Further Education Bursaries (Scotland) Direction 2005 and the Education Maintenance Allowances (Scotland) Direction 2005, implement Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p12) (“the Directive”). Some parts of the Directive do not require implementation as consistent provisions already exist in domestic legislation. A transposition note has been prepared and is published together with the explanatory memorandum for these Regulations on HMSO’s website: www.hmso.gov.uk.

These Regulations apply to people with a grant of temporary protection under Part 11A of the Immigration Rules.

Regulation 3 allows those with temporary protection to claim means of subsistence under the provisions specified in regulation 4.

Regulations 5 to 15 provide a framework for the provision of housing to those with temporary protection. Regulation 5 confers a power on the Secretary of State to provide or arrange for the provision of accommodation, regulation 6 confers a power to provide accommodation on local authorities and the Northern Ireland Housing Executive and regulation 7 sets out those factors that the Secretary of State shall consider and those he shall disregard when exercising his power.

Regulation 8 requires the bodies listed to co-operate if asked by the Secretary of State to assist in the provision of housing and regulation 9 requires the bodies listed to give the Secretary of State information requested about their housing accommodation.

Regulation 10 contains a power for the Secretary of State to direct a listed body to make suitable housing available. Regulation 11 contains the types of housing which will be suitable and regulation 12 contains a power to direct the body to carry out minor work necessary to make the housing suitable, for which the Secretary of State will pay the reasonable cost. Regulation 13 requires the Secretary of State to consult before issuing a direction under regulation 10.

Regulation 14 provides that a person with temporary protection who is housed by the Secretary of State under these Regulations will be liable to pay rent and regulation 15 contains a notice to vacate provision.

Section 55 of the Nationality, Immigration and Asylum Act 2002 provides that the Secretary of State may not provide or arrange for the provision of support to an asylum claimant if he is not satisfied that the asylum claim was made as soon as reasonably practicable after the claimant’s arrival in the United Kingdom. Regulation 16 provides that the Secretary of State may disregard any time during which an asylum claimant had temporary protection when considering whether the asylum claim was made late for the purposes of support.

Regulation 17 provides that those who are granted temporary protection will not be charged a visa fee for entry into the United Kingdom.

The Schedule to these Regulations contains consequential amendments which exclude those with temporary protection from provisions granting protection from eviction, security of tenure and access to homelessness assistance.