

**EXPLANATORY MEMORANDUM TO
THE REFUGEE OR PERSON IN NEED OF INTERNATIONAL PROTECTION
(QUALIFICATION) REGULATIONS 2006**

2006 No. 2525

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 These Regulations together with amendments to the Immigration Rules (HC 395) in part implement Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ L304 30.9.04 p12) (“the Qualification Directive”).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 The Treaty of Amsterdam (1997) committed Member States to a range of measures designed to establish minimum standards for asylum procedures and policies across the Union by 1 May 2004 as a first step towards a common European asylum system.
 - 4.2 The Qualification Directive is a key element of this package, establishing common European definitions of “refugee” and “person eligible for subsidiary protection”. The Directive also provides minimum entitlements to rights and benefits (e.g. access to housing, health care and education) for these categories across Member States. Existing policy statements and guidance need to be transposed into legislation to provide a statutory base.
 - 4.3 The Directive is being implemented both by the introduction of new legislation as well as reliance on existing legislation. Where possible, the changes that are necessary to implement the Directive have been made through the Immigration Rules. The provisions contained in these Regulations, however, are not suitable for inclusion in the Immigration Rules.
 - 4.4 The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to immigration, asylum, refugees and displaced persons. These Regulations are made under section 2(2) of that Act.
 - 4.5 The Directive cleared Parliamentary scrutiny in December 2002.
 - 4.6 A transposition note has been prepared and is attached as an annex.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister of State for the Home Department, Liam Byrne, made the following statement regarding Human Rights:

In my view the provisions of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006 are compatible with the Convention rights.

7. Policy background

7.1 The Directive sets a deadline of 9 October 2006 for member states to take all necessary steps to comply with its provisions. Much of the Directive does not require implementation because equivalent statutory provision is already made. Even in those areas where there is not, many of the Directive's provisions are already applied in practice, although they must now be given statutory effect. In policy and operational terms therefore, it is not anticipated that implementation will have a significant impact.

7.2 The UK's plans for implementation of the Directive were subject to a nine week public consultation exercise. The consultation paper attached draft versions of the Regulations and Immigration Rules. They were made available on the Home Office and Immigration and Nationality Directorate websites, and the subject of a specific stakeholder meeting with interested parties. We received a range of comments from 14 organisations. We have made a number of changes in light of those comments where we agreed that the implementing instruments could be worded better. There were a number of other suggestions we did not adopt as we felt that the draft instruments were consistent with the Directive and best met the Government's policy aims. There were some other comments about the Directive itself or wider policy/process matters not directly relevant to the implementation. A summary will be made available on the Home Office website.

7.3 These Regulations apply to all applications for asylum recorded by the Secretary of State on or after 9 October 2006.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Neal Barcoe at the Home Office Tel: 020 8760 8767 or e-mail: Neal.Barcoe@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX
TRANSPOSITION NOTE PREPARED BY THE HOME OFFICE

Directive
<p>Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of that protection granted (“the Directive”)</p> <p>Many elements of the Directive do not require implementation as equivalent provision is already made. However where implementation is required this has been done by way of three instruments:</p> <ul style="list-style-type: none"> (i) Part 11 in the Immigration Rules (HC 395) (“Part 11” and a reference to a rule in this note is a reference to a rule in Part 11); (ii) the Refugee or Person in need of International Protection (Qualification) Regulations 2006 and, (iii) The Refugee or Person in Need of International Protection (Qualification) Regulations 2006 (“the Qualification Directive Regulations”). Part 11 takes effect on 9th October 2006. The Regulations come into force on 9th October 2006.

Article	Objectives	Implementation	Responsibility
1	Sets out the purpose of the Directive (to lay down minimum standards for the qualification of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of that protection granted). The individual articles (detailed below) set out the specific obligations with which Member States must comply.	No action required	Throughout the Directive, the Secretary of State for the Home Department is responsible unless stated otherwise.
2	Defines terms used throughout the Directive.	Where necessary, in the legislation implementing the Directive, these terms have been defined.	

3	<p>Describes the scope of the Directive and provide that the Directive establishes minimum standards – Member States may choose to go further than the Directive provides. The Directive applies to third country nationals who are recognised as refugees or in need of international protection.</p>	<p>Where equivalent provision is already made which fulfils the requirements of the Directive, or go further than the provisions of the Directive, this will be retained.</p>	
4	<p>1. Member States may consider it the duty of the applicant to submit as soon as possible all elements needed to substantiate the application for international protection. In cooperation with the applicant it is the duty of the Member State to assess the relevant elements of the application.</p> <p>2. The elements referred to in of paragraph 1 consist of the applicant's statements and all documentation at the applicants disposal regarding the applicant's age, background, including that of relevant relatives, identity, nationality(ies), country(ies) and place(s) of previous residence, previous asylum applications, travel routes, identity and travel documents and the reasons for applying for international protection.</p> <p>3. The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:</p> <p>(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application; including laws and regulations of the country of origin and the manner in which they are applied;</p> <p>(b) the relevant statements and documentation presented by the applicant including information on whether the applicant has been or may be subject to persecution or serious harm;</p> <p>(c) the individual position and personal circumstances of the applicant, including factors such</p>	<p>In meeting the requirements of the Qualification Directive Part 11 of the Immigration Rules have been amended and now reflect the Directives requirements. Rule 339I confirms that it the duty of the person to submit to the Secretary of State as soon as possible all the material factors needed to substantiate the asylum or human rights claim or establish that he/she is a person eligible of humanitarian protection, which the Secretary of State shall assess in cooperation with the person.</p> <p>These material factors include:</p> <p>(i) the person's statement on the reasons for making an asylum claim or on eligibility for a grant of humanitarian protection or for making a human rights claim; and</p> <p>(ii) all documentation at the person's disposal regarding the person's age, background (including background details of relevant relatives), identity, nationality(ies), country(ies) and place(s) of previous residence, previous asylum applications, travel routes; and</p> <p>(iii) identity and travel documents.</p> <p>Rule 339J covers assessment by the Secretary of State of an asylum claim, eligibility for a grant of humanitarian protection or a human rights claim will be carried out on an individual basis. This will include taking into account in particular:</p> <p>(i) all relevant facts as they relate to the country of origin at the time of taking a decision on the grant; including laws and regulations of the country of origin and the manner in which they are applied;</p> <p>(ii) relevant statements and documentation presented by the person including information on whether the person has been or may be subject to persecution or serious harm;</p> <p>(iii) the individual position and personal circumstances of the person, including factors such as background, gender and</p>	

<p>as background, gender and age, so as to assess whether, on the basis of the applicant's personal circumstances, the acts to which the applicant has been or could be exposed would amount to persecution or serious harm;</p> <p>(d) whether the applicant's activities since leaving the country of origin were engaged in for the sole or main purpose of creating the necessary conditions for applying for international protection, so as to assess whether these activities will expose the applicant to persecution or serious harm if returned to that country;</p> <p>(e) whether the applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship.</p> <p>4. The fact that an applicant has already been subject to persecution or serious harm or to direct threats of such persecution or such harm, is a serious indication of the applicant's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.</p> <p>5. Where Member States apply the principle according to which it is the duty of the applicant to substantiate the application for international protection and where aspects of the applicant's statements are not supported by documentary or other evidence, those aspects shall not need confirmation, when the following conditions are met:</p> <p>(a) the applicant has made a genuine effort to substantiate his application;</p> <p>(b) all relevant elements, at the applicant's disposal, have been submitted, and a satisfactory explanation regarding any lack of other relevant elements has been given;</p> <p>(c) the applicant's statements are found to be coherent and plausible and do not run counter</p>	<p>age, so as to assess whether, on the basis of the person's personal circumstances, the acts to which the person has been or could be exposed would amount to persecution or serious harm;</p> <p>(iv) whether the person's activities since leaving the country of origin were engaged in for the sole or main purpose of creating the necessary conditions for making an asylum claim or establishing that he is a person eligible for humanitarian protection or a human rights claim, so as to assess whether these activities will expose the person to persecution or serious harm if he returned to that country;</p> <p>(v) whether the person could reasonably be expected to avail himself of the protection of another country where he could assert citizenship.</p> <p>Rule 339K of the Immigration Rules considers the fact that a person has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, will be regarded as a serious indication of the person's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.</p> <p>Rule 339L consider it the duty of the person to substantiate the asylum claim or establish that he is a person eligible humanitarian protection or substantiate his human rights claim. Where aspects of the person's statements are not supported by documentary or other evidence, those aspects will not need confirmation when all of the following conditions are met:</p> <p>(a) the person has made a genuine effort to substantiate his asylum claim or establish that he is a person eligible humanitarian protection or substantiate his human rights claim;</p> <p>(b) all material factors at the person's disposal have been submitted, and a satisfactory explanation regarding any lack of other relevant material has been given;</p> <p>(c) the person's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the person's case;</p> <p>(d) the person has made an asylum claim or sought to establish that he is a person eligible for humanitarian protection or made a human rights claim at the earliest possible time, unless the person can demonstrate good reason for not having done so;</p> <p>(e) the general credibility of the person has been established.</p>	
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	<p>to available specific and general information relevant to the applicant's case;</p> <p>(d) the applicant has applied for international protection at the earliest possible time, unless the applicant can demonstrate good reason for not having done so; and</p> <p>(e) the general credibility of the applicant has been established.</p>	<p>We feel these amendments to the Immigration Rules meet the requirements of the Directive.</p>	
5	<p>1. A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on events which have taken place since the applicant left the country of origin.</p> <p>2. A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on activities which have been engaged in by the applicant since he left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin.</p> <p>3. Without prejudice to the Geneva Convention, Member States may determine that an applicant who files a subsequent application shall normally not be granted refugee status, if the risk of persecution is based on circumstances which the applicant has created by his own decision since leaving the country of origin.</p>	<p>Part 11 Rule 339P. A person may have a well-founded fear of being persecuted or a real risk of suffering serious harm based on events which have taken place since the person left the country of origin and/or activities which have been engaged in by a person since he left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin.</p>	
6	<p>Actors of persecution or serious harm include:</p> <p>(a) the State;</p> <p>(b) parties or organisations controlling the State or a substantial part of the territory of the State;</p> <p>(c) non-State actors, if it can be demonstrated that the actors mentioned in (a) and (b), including international organisations, are unable or unwilling to provide protection</p>	<p>Provisions within the Refugee or Person in need of International Protection (Qualification) Regulations 2006 consider persecution or serious harm can be committed by:</p> <p>(a) the State;</p> <p>(b) any party or organisation controlling the State or a substantial part of the territory of the State;</p> <p>(a) any non-State actor if it can be</p>	

	<p>against persecution or serious harm as defined in Article 7.</p>	<p>demonstrated that the actors mentioned in (a) and (b), including any international organisation, are unable or unwilling to provide protection against persecution or serious harm.</p>	
7	<p>1. Protection can be provided by:</p> <p>(a) the State; or</p> <p>(b) parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State.</p> <p>2. Protection is generally provided when the actors mentioned in paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, <i>inter alia</i>, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.</p> <p>3. When assessing whether an international organisation controls a State or a substantial part of its territory and provides protection as described in paragraph 2, Member States shall take into account any guidance which may be provided in relevant council acts.</p>	<p>In determining whether a third country national or stateless person is a refugee or eligible for humanitarian protection, protection from persecution or serious harm, the Refugee and Person in need of International Protection (Qualification) Regulation 2006 provides that protection from persecution or serious harm can be provided by:</p> <p>(a) the State; Or</p> <p>(b) any party or organisation, including any international organisation, controlling the State or a substantial part of the territory of the State.</p> <p>(4) Protection shall be regarded as provided when the actors mentioned in paragraph (1)(a) and (b) take reasonable steps to prevent the persecution or suffering of serious harm by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the person mentioned in paragraph (1) has access to such protection.</p> <p>(5) In determining whether a third country national or stateless person is a refugee or a person eligible for humanitarian protection the Secretary of State may assess whether an international organisation controls a State or a substantial part of its territory and provides protection as described in paragraph (2).</p>	
8	<p>1. As part of the assessment of the application for international protection, Member States may determine that an applicant is not in need of international protection if in a part of the country of origin there is no well-founded fear of being persecuted or no real risk of suffering serious harm and the applicant can reasonably be expected to stay in that part of the country.</p>	<p>Immigration Rule 339O provides that</p> <p>(i) The Secretary of State will not make a grant of asylum if in part of the country of origin a person would not have a well founded fear of being persecuted or a grant of humanitarian protection if in part of the country of return a person would not face a real risk of suffering serious harm and where in both cases the person can be reasonably be expected to stay in that part of the country.</p> <p>(ii) In examining whether a part of the country of</p>	

	<p>2. In examining whether a part of the country of origin is in accordance with paragraph 1, Member States shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant.</p> <p>3. Paragraph 1 may apply notwithstanding technical obstacles to return to the country of origin.</p>	<p>origin or country of return meets the requirements in (i) the Secretary of State when making his decision on whether to grant asylum or humanitarian protection will have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the person.</p> <p>(iii) (i) applies notwithstanding technical obstacles to return to the country of origin or country of return</p>	
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<p>9</p>	<p>1. Acts of persecution within the meaning of article 1 A of the Geneva Convention must:</p> <p>(a) be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or</p> <p>(b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in (a).</p> <p>2. Acts of persecution as qualified in paragraph 1, can, <i>inter alia</i>, take the form of:</p> <p>(a) acts of physical or mental violence, including acts of sexual violence;</p> <p>(b) legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;</p> <p>(c) prosecution or punishment, which is disproportionate or discriminatory;</p> <p>(d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;</p> <p>(e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses as set out in Article 12(2);</p> <p>(f) acts of a gender-specific or child-specific nature.</p> <p>3. In accordance with Article 2(c), there must be a connection between the reasons mentioned in Article 10 and the acts of persecution as qualified in</p>	<p>In determining whether a third country national or stateless person qualifies as a refugee, the Refugee and Person in need of International Protection (Qualification) Regulation 2006 provides that an act of persecution must be sufficiently serious by its nature or repetition, or an accumulation of various measures, as to constitute a violation of a right in the Convention from which derogation cannot be made under Article 15(2) of that Convention.</p> <p>An act of persecution can take the form of:</p> <p>(a) an act of physical or mental violence, including an act of sexual violence;</p> <p>(b) a legal, administrative, police, and/or judicial measure which in itself is discriminatory or which is implemented in a discriminatory manner;</p> <p>(c) prosecution or punishment, which is disproportionate or discriminatory;</p> <p>(d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;</p> <p>(e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under regulation 7;</p> <p>An act of persecution must be committed for at least one of the reasons in Article 1A of the Geneva Convention.</p>	
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	paragraph 1.		
10	<p>1. Member States shall take the following elements into account when assessing the reasons for persecution:</p> <p>(a) the concept of race shall in particular include considerations of colour, descent, or membership of a particular ethnic group;</p> <p>(b) the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;</p> <p>(c) the concept of nationality shall not be confined to citizenship or lack thereof but shall in particular include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another State;</p> <p>(d) a group shall be considered to form a particular social group where in particular:</p> <p>— members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and</p> <p>— that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society; depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic of sexual orientation. Sexual orientation cannot be understood to include acts considered to be criminal in accordance with national law of the Member States: Gender related aspects might be considered, without by</p>	<p>In determining whether a third country national or stateless person qualifies as a refugee the Refugee and Person in need of International Protection (Qualification) Regulation 2006 provide:</p> <p>(a) the concept of race shall include considerations of colour, descent, or membership of a particular ethnic group;</p> <p>(b) the concept of religion shall include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;</p> <p>(c) the concept of nationality shall not be confined to citizenship or lack thereof but shall include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another State;</p> <p>(d) a group shall be considered to form a particular social group where:</p> <p>(i) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and</p> <p>(ii) that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society;</p> <p>(e) depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic of:</p> <p>(i) sexual orientation or gender; but</p> <p>(ii) sexual orientation cannot be understood to include acts considered to be criminal in accordance with</p>	

	<p>themselves alone creating a presumption for the applicability of this Article;</p> <p>(e) the concept of political opinion shall in particular include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution mentioned in Article 6 and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the applicant.</p> <p>2. When assessing if an applicant has a well-founded fear of being persecuted it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution</p>	<p>national law of the Member States.</p> <p>(f) the concept of political opinion shall include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution mentioned in regulation 3 and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the third country national or stateless person.</p> <p>As part of the Qualification Directive Regulations the Secretary of State also considers that in determining whether a third country national or stateless person has a well-founded fear of being persecuted, it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.</p>	
11	<p>1. A third country national or a stateless person shall cease to be a refugee, if he or she:</p> <p>(a) has voluntarily re-availed himself or herself of the protection of the country of nationality; or</p> <p>(b) having lost his or her nationality, has voluntarily reacquired it; or</p> <p>(c) has acquired a new nationality, and enjoys the protection of the country of his or her new nationality; or</p> <p>(d) has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution; or</p> <p>(e) can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of the country of nationality;</p> <p>(f) being a stateless person with no nationality, he or she is able, because the circumstances in</p>	<p>Section 76 of the Nationality, Immigration and Asylum Act 2002 (NIAA) allows for Indefinite Leave to Remain to be revoked where one or more of the cessation clauses 1C (1) – (4) in the Geneva Convention apply. Other powers such as Section 10 of the Immigration and Nationality Act 1999 and Section 323 of the Immigration Rules also allow us to curtail leave. In addition to these powers, Immigration Rule 339A provides a person’s grant of asylum under Rule 334 may be revoked or not renewed if the Secretary of State is satisfied that:</p> <p>(i) he has voluntarily re-availed himself of the protection of the country of nationality; or</p> <p>(ii) having lost his nationality, he has voluntarily re-acquired it; or</p> <p>(iii) he has acquired a new nationality, and enjoys the protection of the country of his new nationality; or</p> <p>(iv) he has voluntarily re-established himself in the country which he left or outside which he remained owing to a fear of persecution; or</p> <p>(v) he can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of nationality.</p> <p>(vi) being a stateless person with no nationality, he is able, because the</p>	

	<p>connection with which he or she has been recognised as a refugee have ceased to exist, to return to the country of former habitual residence.</p> <p>2. In considering points (e) and (f) of paragraph 1, Member States shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well founded.</p>	<p>circumstances in connection with which he has been recognised a refugee have ceased to exist, to return to the country of former habitual residence; or</p>	
12	<p>1. A third country national or a stateless person is excluded from being a refugee, if:</p> <p>(a) he or she falls within the scope of Article 1 D of the Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. When such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Directive;</p> <p>(b) he or she is recognised by the competent authorities of the country in which he or she has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country; or rights and obligations equivalent to those.</p> <p>2. A third country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that:</p> <p>(a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;</p> <p>(b) he or she has committed a</p>	<p>Section 54 of the Immigration and Asylum and Nationality Act 2006 already provides a statutory interpretation for Article 1F of the Geneva Convention. Building on this existing provision the Refugee and Persons in need of International Protection (Qualification) Regulations 2006 also provide that a third country national or stateless person is not a refugee, if:</p> <p>A person is not a refugee, if he or she falls within the scope of Article 1 D, 1E or 1F of the Geneva Convention.</p> <p>(6) In the construction and application of Article 1F(b) of the Geneva Convention:</p> <p>(a) the reference to serious non-political crime includes a particularly cruel action, even if it is committed with an allegedly political objective;</p> <p>(b) the reference to the crime being committed outside the country of refuge prior to his admission as a refugee shall be taken to mean the time up to and including the day on which a residence permit is issued.</p> <p>(7) Article 1F(a) and (b) of the Geneva Convention shall apply to a person who instigates or otherwise participates in the commission of the crimes or acts specified in those provisions.</p>	

	<p>serious non-political crime outside the country of refuge prior to his or her admission as a refugee; which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;</p> <p>(c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.</p> <p>3. Paragraph 2 applies to persons who instigate or otherwise participate in the commission of the crimes or acts mentioned therein.</p>		
13	<p>Member States shall grant refugee status to a third country national or a stateless person, who qualifies as a refugee in accordance with Chapters II and III.</p>	<p>In order to reflect the provisions of Article 13, we have amended Immigration Rule 334, to reflect the following:</p> <p>An asylum applicant will be granted asylum in the United Kingdom if the Secretary of State is satisfied that:</p> <ul style="list-style-type: none"> (i) he is in the United Kingdom or has arrived at a port of entry in the United Kingdom ; and (ii) he is a refugee, as defined in regulation 2 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006; and (iii) there are no reasonable grounds for regarding him as a danger to the security of the United Kingdom; and (iv) he does not, having been convicted by a final judgment of a particularly serious crime, constitute a danger to the community of the United Kingdom; and (v) refusing his application would result in his being required to go (whether immediately or after the time limited by any existing leave to enter or remain) in breach of the Geneva Convention, to a country in which his life or freedom would be threatened on account of his race, religion, nationality, political opinion or membership of a particular social group 	

<p>14</p>	<p>1. Concerning applications for international protection filed after the entry into force of this Directive, Member States shall revoke, end or refuse to renew the refugee status of a third country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body, if he or she has ceased to be a refugee in accordance with Article 11.</p> <p>2. Without prejudice to the duty of the refugee in accordance with Article 4(1) to disclose all relevant facts and provide all relevant documentation at his/her disposal, the Member State, which has granted refugee status, shall on an individual basis demonstrate that the person concerned has ceased to be or has never been a refugee in accordance with paragraph 1 of this Article.</p> <p>3. Member States shall revoke, end or refuse to renew the refugee status of a third country national or a stateless person, if, after he or she has been granted refugee status, it is established by the Member State concerned that:</p> <p>(a) he or she should have been or is excluded from being a refugee in accordance with Article 12;</p> <p>(b) his or her misrepresentation or omission of facts, including the use of false documents, were decisive for the granting of refugee status.</p> <p>4. Member States may revoke, end or refuse to renew the status granted to a refugee by a governmental, administrative, judicial or quasi-judicial body, when:</p> <p>(a) there are reasonable grounds for regarding him or her as a danger to the security of the Member State in which he or she is present;</p> <p>(b) he or she, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that Member State.</p>	<p>Immigration Rule 339A (vii-x) details the circumstances under which a person's grant of asylum under rule 334 may be revoked or not renewed if the Secretary of State is satisfied that:</p> <p>(vii) he should have been or is excluded from being a refugee in accordance with regulation 7 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006; or</p> <p>(viii) his misrepresentation or omission or facts, including the use of false documents, were decisive for the grant of asylum; or</p> <p>(ix) there are reasonable grounds for regarding him as a danger to the security of the United Kingdom; or</p> <p>(x) having been convicted by a final judgment of a particularly serious crime he constitutes danger to the community of the United Kingdom.</p>	
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	<p>5. In situations described in paragraph 4, Member States may decide not to grant status to a refugee, where such a decision has not yet been taken.</p> <p>6. Persons to whom paragraphs 4 or 5 apply are entitled to rights set out in or similar to those set out in Articles 3, 4, 16, 22, 31 and 32 and 33 of the Geneva Convention in so far as they are present in the Member State.</p>		
15	<p>Serious harm consists of:</p> <p>(a) death penalty or execution; or</p> <p>(b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or</p> <p>(c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.</p>	<p>In order to align ourselves with the requirements of the Directive, the Secretary of State has amended the Immigration Rules to reflect the needs of Article 15. Subsidiary Protection will be known as Humanitarian Protection in the UK and retain the include the "Unlawful Killing". The amended Immigration Rule 339D confirms that:</p> <p>Serious harm consists of:</p> <p>(i) the death penalty or execution; or</p> <p>(ii) unlawful killing; or</p> <p>(iii) torture or inhuman or degrading treatment or punishment of a person in the country of origin; or</p> <p>(iv) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.</p>	

<p>16</p>	<p>1. A third country national or a stateless person shall cease to be eligible for subsidiary protection when the circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required.</p> <p>2. In applying paragraph 1, Member States shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the person eligible for subsidiary protection no longer faces a real risk of serious harm.</p>	<p>Part 11 Rule 339G allows the revocation of a person's humanitarian protection granted under paragraph 339D, may be revoked or not renewed if the Secretary of State is satisfied that at least one of the following applies:</p> <p>(i) the circumstances which led to the grant of humanitarian protection have ceased to exist or have changed to such a degree that such protection is no longer required; or</p>	
<p>17</p>	<p>1. A third country national or a stateless person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that:</p> <p>(a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;</p> <p>(b) he or she has committed a serious crime;</p> <p>(c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;</p> <p>(d) he or she constitutes a danger to the community or to the security of the Member State in which he or she is present.</p> <p>2. Paragraph 1 applies to persons who instigate or otherwise participate in the commission of the crimes or acts mentioned therein.</p>	<p>Rule 339E confirms that a person granted humanitarian protection under paragraph 339D may be excluded if the Secretary of State is satisfied that at least one of the following applies:</p> <p>(ii) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he has committed a crime against peace, a war crime, a crime against humanity, or any other serious crime or instigated or otherwise participated in such crimes; or</p> <p>(iii) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he is guilty of acts contrary to the purposes and principles of the United Nations or has committed, prepared or instigated such acts or induced others to commit, prepare or instigate instigated such acts; or</p> <p>(iv) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he constitutes a danger to the community or to the security of the United Kingdom; or</p> <p>(v) the person granted humanitarian protection misrepresented or omitted facts, including the use of false documents, which were decisive to the grant of humanitarian protection; or</p> <p>(vi) the person granted humanitarian protection should have been or is excluded from humanitarian protection because prior to his admission to the United Kingdom the person committed a crime outside the scope of (ii) and (iii) that would be</p>	

		<p>punishable by imprisonment had it been committed in the United Kingdom and the person left his country of origin solely in order to avoid sanctions resulting from the crime.</p>	
18	<p>Member States shall grant subsidiary protection status to a third country national or a stateless person eligible for subsidiary protection in accordance with Chapters II and V.</p>	<p>339C. A person will be granted humanitarian protection in the United Kingdom if the Secretary of State is satisfied that:</p> <ul style="list-style-type: none"> (i) he is in the United Kingdom or has arrived at a port of entry in the United Kingdom; and (ii) he does not qualify as a refugee as defined in regulation 2 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006; and (iii) substantial grounds have been shown for believing that the person concerned, if he returned to the country of return, would face a real risk of suffering serious harm and is unable, or, owing to such risk, unwilling to avail himself of the protection of that country; and (iv) he is not excluded from a grant of humanitarian protection. 	
19	<p>1. Concerning applications for international protection filed after the entry into force of this Directive, Member States shall revoke, end or refuse to renew the subsidiary protection status of a third country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body, if he or she has ceased to be eligible for subsidiary protection in accordance with Article 16.</p> <p>2. Member States may revoke, end or refuse to renew the subsidiary protection status of a third country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body, if after having been granted subsidiary protection status, he or she should have been excluded from being eligible for subsidiary protection in accordance with Article 17(3).</p> <p>3. Member States shall revoke, end or refuse to renew the</p>	<p>Rule 339I requires that a person's humanitarian protection granted under paragraph 339D may be revoked or not renewed if the Secretary of State is satisfied that at least one of the following applies:</p> <ul style="list-style-type: none"> (iii) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he has committed a crime against peace, a war crime, a crime against humanity, or any other serious crime or instigated or otherwise participated in such crimes; or (iv) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he is guilty of acts contrary to the purposes and principles of the United Nations or has committed, prepared or instigated such acts or induced others to commit, prepare or instigate instigated such acts; or (v) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he constitutes a danger to the community or 	

	<p>subsidiary protection status of a third country national or a stateless person, if:</p> <p>(a) he or she, after having been granted subsidiary protection status, should have been or is excluded from being eligible for subsidiary protection in accordance with Article 17(1) and (2);</p> <p>(b) his or her misrepresentation or omission of facts, including the use of false documents, were decisive for the granting of subsidiary protection status.</p> <p>4. Without prejudice to the duty of the third country national or stateless person in accordance with Article 4(1) to disclose all relevant facts and provide all relevant documentation at his/her disposal, the Member State, which has granted the subsidiary protection status, shall on an individual basis demonstrate that the person concerned has ceased to be or is not eligible for subsidiary protection in accordance with paragraphs 1, 2 and 3 of this Article.</p>	<p>to the security of the United Kingdom; or</p> <p>(vi) the person granted humanitarian protection misrepresented or omitted facts, including the use of false documents, which were decisive to the grant of humanitarian protection.</p>	
20	<p>1. This Chapter shall be without prejudice to the rights laid down in the Geneva Convention.</p> <p>2. This Chapter shall apply both to refugees and persons eligible for subsidiary protection unless otherwise indicated.</p> <p>3. When implementing this Chapter, Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.</p> <p>4. Paragraph 3 shall apply only to persons found to have special needs after an individual evaluation of their situation.</p>	<p>This needs to be checked.</p> <p>Immigration Rule 351 considers how to handle claims from unaccompanied minors and specifies that close attention should be given to the child at all times. Rule 350 also draws attention to the vulnerability of the child and giving particular care to the handling of their claims. In addition The Children Act 1989, or the Children (Scotland) Act 1995 and the Children (Northern Ireland) Order 1995 are also relevant to some of the provisions of this article and has the best interests of the child as an unpinning principle.</p> <p>Decisions as to what health services should be provided for an individual whether adult or minor, including mental health provision and treatment of victims of torture and violence is a matter of clinical judgment in each individual case, made within the policies of the particular NHS or Primary care Trust in the absence of specific directions from the Secretary of State for Health under Section 17 of the National Health Service Act 1977 and section 2(5) of the National Health Service (Scotland) Act 1978.</p> <p>We currently provide detailed Guidance on handling claims from vulnerable people.</p>	

	<p>5. The best interest of the child shall be a primary consideration for Member States when implementing the provisions of this Chapter that involve minors.</p> <p>6. Within the limits set out by the Geneva Convention, Member States may reduce the benefits of this Chapter, granted to a refugee whose refugee status has been obtained on the basis of activities engaged in for the sole or main purpose of creating the necessary conditions for being recognised as a refugee.</p> <p>7. Within the limits set out by international obligations of Member States, Member States may reduce the benefits of this Chapter, granted to a person eligible for subsidiary protection, whose subsidiary protection status has been obtained on the basis of activities engaged in for the sole or main purpose of creating the necessary conditions for being recognised as a person eligible for subsidiary protection.</p>	<p>Targeted training is provided for asylum staff who deal with victims of torture or those who have suffered mental or physical torture. Further policy instructions will be drafted to cover the individual evaluations outlined in Article 20.</p> <p>The UK does not intend to implement the provisions set out in Article 20(6) and 20(7).</p>	
21	<p>1. Member States shall respect the principle of non-refoulement in accordance with their international obligations.</p> <p>2. Where not prohibited by the international obligations mentioned in paragraph 1, Member States may refoule a refugee, whether formally recognised or not, when:</p> <p>(a) there are reasonable grounds for considering him or her as a danger to the security of the Member State in which he or she is present; or</p> <p>(b) he or she, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that Member State.</p> <p>3. Member States may revoke, end or refuse to renew or to grant the residence permit of (or to) a refugee to whom paragraph 2 applies.</p>	<p>Rule 334 confirms that an asylum applicant will be granted asylum in the United Kingdom if the Secretary of State is satisfied that:</p> <p>(i) he is in the United Kingdom or has arrived at a port of entry in the United Kingdom ; and</p> <p>(ii) he is a refugee, as defined in regulation 2 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006; and</p> <p>(iii) there are no reasonable grounds for regarding him as a danger to the security of the United Kingdom; and</p> <p>(iv) he does not, having been convicted by a final judgment of a particularly serious crime, constitute a danger to the community of the United Kingdom; and</p> <p>(v) (v) refusing his application would result in his being required to go (whether immediately or after the time limited by any existing leave to enter or remain) in breach of the Geneva Convention, to a country in which his life or freedom would be threatened on account of his race, religion, nationality, political opinion or</p>	

		<p>membership of a particular social group.</p> <p>In meeting the requirements of the Directive, those individuals who are recognised as refugees are granted leave to enter or remain in the United Kingdom, along with their grant of status, so are not refouled.</p> <p>Following this Section 72 of the NIAA provides an interpretation of Article 33(2) of the Geneva Convention and sets out what constitutes a particularly serious crime and when an individual is presumed to be a danger to the community.</p>	
22	<p>Member States shall provide persons recognised as being in need of international protection, as soon as possible after the respective protection status has been granted, with access to information, in a language likely to be understood by them, on the rights and obligations relating to that status.</p>	<p>Rule 344C A person who is granted asylum or humanitarian protection will be provided with access to information in a language that they may reasonably be supposed to understand which sets out the rights and obligations relating to that status. The Secretary of State will provide the information as soon as possible after the grant of <u>asylum or humanitarian protection.</u></p>	
23	<p>1. Member States shall ensure that family unity can be maintained.</p> <p>2. Member States shall ensure that family members of the beneficiary of refugee or subsidiary protection status, who do not individually qualify for such status, are entitled to claim the benefits referred to in Articles 24 to 34, in accordance with national procedures and as far as it is compatible with the personal legal status of the family member. In so far as the family members of beneficiaries of subsidiary protection status are concerned, Member States may define the conditions applicable to such benefits. In these cases, Member States shall ensure that any benefits provided guarantee an adequate standard of living.</p> <p>3. Paragraphs 1 and 2 are not applicable where the family member is or would be excluded from refugee or subsidiary protection status pursuant to Chapters III and V.</p> <p>4. Notwithstanding paragraphs 1 and 2, Member States may refuse, reduce or withdraw the benefits</p>	<p>Await further clarification.</p> <p>Dependants of persons granted refugee status or humanitarian protection who are in the country of origin can apply to join the principle applicants subject to the necessary conditions. Immigration Rules 352A-352D confirm this obligation on the Secretary of State.</p> <p>Immigration Rule 349 confirms that dependants will be granted leave in line with that of the main applicant, unless otherwise requested, and where this is the case they will also have access to the benefits as set out in article 24-34.</p> <p>We do not intend to implement articles 23(4) and 23(5).</p>	

	<p>referred therein for reasons of national security or public order.</p> <p>5. Member States may decide that this Article also applies to other close relatives who lived together as part of the family at the time of leaving the country of origin, and who were wholly or mainly dependent on the beneficiary of refugee or subsidiary protection status at that time.</p>		
24	<p>1. As soon as possible after their status has been granted, Member States shall issue to beneficiaries of refugee status a residence permit which must be valid for at least three years and renewable unless compelling reasons of national security or public order otherwise require, and without prejudice to Article 21(3).</p> <p>Without prejudice to Article 23(1), the residence permit to be issued to the family members of the beneficiaries of refugee status may be valid for less than three years and renewable.</p> <p>2. As soon as possible after the status has been granted, Member States shall issue to beneficiaries of subsidiary protection status a residence permit which must be valid for at least one year and renewable, unless compelling reasons of national security or public order otherwise require.</p>	<p>To meet the requirements of the Directive we have introduced rule 339Q which confirms that:</p> <ul style="list-style-type: none"> (i) (i), The Secretary of State will issue to a person granted asylum in the United Kingdom a United Kingdom Residence Permit (UKRP) as soon as possible after the grant of asylum. The UKRP will be valid for five years and renewable, unless compelling reasons of national security or public order otherwise require or where there are reasonable grounds for considering that the applicant is a danger to the security of the UK or having been convicted by a final judgment of a particularly serious crime, the applicant constitutes a danger to the community of the UK. (ii) The Secretary of State will issue to a person granted asylum in the UKRP as soon as possible after the grant of humanitarian protection and after having received a complete application. The Secretary of State can grant a UKRP with a validity of between one to five years which will be renewable, unless compelling reasons of national security or public order otherwise require or where there are reasonable grounds for considering that the applicant is a danger to the security of the UK or having been convicted by a final judgment of a particularly serious crime, the applicant constitutes a danger to the community of the UK. (iii) The Secretary of State will issue a UKRP to a family member of a person granted asylum or humanitarian protection where the family member does not qualify for such status. A UKRP will be granted for a period of five years. The UKRP is renewable on the terms set out in (i) and (ii) respectively. (iv) The Secretary of State may revoke or refuse to renew a person's UKRP where their grant of asylum or humanitarian protection is revoked under the provisions in the immigration rules. 	

<p>25</p>	<p>1. Member States shall issue to beneficiaries of refugee status travel documents in the form set out in the Schedule to the Geneva Convention, for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require.</p> <p>2. Member States shall issue to beneficiaries of subsidiary protection status who are unable to obtain a national passport, documents which enable them to travel, at least when serious humanitarian reasons arise that require their presence in another State, unless compelling reasons of national security or public order otherwise require.</p>	<p>The meet the requirements of article 25 we have introduced rule 344A whereby the Secretary of State confirms that:</p> <ul style="list-style-type: none"> (i) After having received a complete application for a travel document, the Secretary of State will issue to a person granted asylum in the United Kingdom and their family members travel documents, in the form set out in the Schedule to the Geneva Convention, for the purpose of travel outside the United Kingdom, unless compelling reasons of national security or public order otherwise require. (ii) After having received a complete application for a travel document, the Secretary of State will issue travel documents to a person granted humanitarian protection in the United Kingdom where that person is unable to obtain a national passport or other identity documents which enable him to travel, unless compelling reasons of national security or public order otherwise require. (iii) Where the person referred to in (ii) can obtain a national passport or identity documents but has not done so, the Secretary of State will issue that person with a travel document where he can show that he has made reasonable attempts to obtain a national passport or identity document and there are serious humanitarian reasons for travel. 	
<p>26</p>	<p>1. Member States shall authorise beneficiaries of refugee status to engage in employed or self-employed activities subject to rules generally applicable to the profession and to the public service, immediately after the refugee status has been granted.</p> <p>2. Member States shall ensure that activities such as employment related education opportunities for adults, vocational training and practical workplace experience are offered to beneficiaries of refugee status, under equivalent conditions as nationals.</p>	<p>To meet the requirements of the Directive we have amended our immigration rules to specify that a person recognised as a refugee or humanitarian protection (Subsidiary Protection) will not be subject to conditions restricting their employment. This obligation on the Secretary of State is confirmed in rule 344B:</p> <p>The Secretary of State will not impose conditions restricting the employment or occupation in the United Kingdom of a person granted asylum or humanitarian protection.</p> <p>Employment related educational opportunities and practical workplace experience are available to those granted refugee status or humanitarian protection under the same conditions as UK nationals.</p>	<p>Secretary of State for the Home Department</p> <p>Secretary of State for Trade and Industry</p>

<p>27</p>	<p>1. Member States shall grant full access to the education system to all minors granted refugee or subsidiary protection status, under the same conditions as nationals.</p> <p>2. Member States shall allow adults granted refugee or subsidiary protection status access to the general education system, further training or retraining, under the same conditions as third country nationals legally resident.</p> <p>3. Member States shall ensure equal treatment between beneficiaries of refugee or subsidiary protection status and nationals in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications.</p>	<p>For those under 16 local authorities in England and Wales have a legal responsibility under section 13 and 14 of the Education Act 1996 to secure the provision of sufficient school places so that education is available for all children of compulsory school age. This duty applies irrespective of a child's immigration status or rights of residence in a particular area. This also applies in Wales, Scotland and Northern Ireland.</p> <p>Further and higher education institutions use the Education (Fees and Awards) Regulations 1997, as a guide to determine whether to charge students tuition fees at the 'home' rate or 'overseas' rate. Anyone who is recognised as a refugee by the UK Government (granted Refugee Status) who has remained ordinarily resident in the UK and Islands since so recognised, or the spouse, civil partner or child of such a refugee is charged tuition fees at the 'home' rate. This also applies to those granted Humanitarian Protection who have remained ordinarily resident in the UK and Islands since being granted that status, or the spouse, civil partner or child of such a person.</p> <p>Tuition fee student support in England, which constitutes access to education, is granted under the Student Support Regulations 2006 (S.I. 2006/119). Refugees are in a better position than nationals in terms of eligibility as they are not required to satisfy a 3 year prior residence test. A person refused refugee status but given leave to enter or remain is eligible on the same basis as nationals.</p> <p>Adults in Scotland have the same access to further education as nationals.</p> <p>Acts that cover Scotland are: Standards in Scottish Schools Act 2000 Education Scotland Act 1980</p> <p>The Education support Regulations (Northern Ireland) 2005 provide that persons settled in the UK who have been ordinarily resident in the UK for 3 years will have the same entitlement to student finance as home students.</p> <p>The position of recognition procedures is that educational institutions in the UK like employers and professional bodies make their own decision on the acceptability of qualifications. The UK national agency NARIC is contracted to the government provides recognition and information on all international qualifications from 183 countries. Third country nationals are not treated any differently than EU nationals.</p>	<p>The Secretary of State for Education and Skills</p>
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<p>28</p>	<p>1. Member States shall ensure that beneficiaries of refugee or subsidiary protection status receive, in the Member State that has granted such statuses, the necessary social assistance, as provided to nationals of that Member State.</p> <p>2. By exception to the general rule laid down in paragraph 1, Member States may limit social assistance granted to beneficiaries of subsidiary protection status to core benefits which will then be provided at the same levels and under the same eligibility conditions as nationals.</p>	<p>Once a person is granted refugee status or humanitarian protection and are not subject to immigration control they have access to public funds as defined by Section 115 of the Asylum and Immigration Act 1999. They are entitled to the same income-related benefits as UK nationals, provided that they fulfil the normal conditions of entitlement.</p> <p>These include:</p> <p>Income Support State Pension Credit Housing Benefit Council tax Benefit Child Benefit</p> <p>Social Welfare is not devolved, however Northern Ireland do have separate regulations. Currently legislation in this field is being amended in England, Wales, Scotland and Northern Ireland to reflect change in Humanitarian Protection being granted inside the immigration rules. The Department for Work and Pension is amending their legislation accordingly in time for the Directives deadline.</p> <p>Section 42 of the Tax Credit Act 2002 allows for regulations allows access to these funds too person not subject to immigration Control. These regulations are contained in the Tax Credits (Immigration) Regulations 2003.</p> <p>Tax Credits are not a devolved matter.</p>	<p>Secretary of State for Work and Pensions</p> <p>Secretary of State for the Home Department</p> <p>Pay Master General for Her Majesty's Revenue and Customs.</p>
<p>29</p>	<p>1. Member States shall ensure that beneficiaries of refugee or subsidiary protection status have access to health care under the same eligibility conditions as nationals of the Member State that has granted such statuses.</p> <p>2. By exception to the general rule laid down in paragraph 1, Member States may limit health care granted to beneficiaries of subsidiary protection to core benefits which will then be provided at the same levels and under the same eligibility conditions as nationals.</p> <p>3. Member States shall provide, under the same eligibility conditions as nationals of the Member State that has granted the status, adequate health care to beneficiaries of refugee or subsidiary protection status who have special needs, such as</p>	<p>National Health Service (NHS) primary medical services are free to all persons lawfully resident in the UK regardless of their immigration status. Under section 16CC(1) of the NHS Act 1977, each Primary Care Trusts (PCT) has a duty, to the extent that it considers necessary to meet all reasonable requirements, to exercise its powers so as to provide or secure the provision of primary medical services within its area.</p> <p>NHS secondary care is also provided free of charge to those granted refugee status or humanitarian protection. They are exempt from charges under the NHS (Charges for Overseas Visitors) Regulations 1989.</p> <p>The NHS (Charges for Overseas Visitors) (Scotland) 1989 cover people who have been accepted as refugees and who qualify to take up permanent residence in the UK. NHS Boards in Scotland treat refugees on the same basis as nationals and secure the provision of primary medical services to any resident of their area.</p>	<p>Secretary of State for Health.</p>

	pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict.	The Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2005 covers health treatment for refugees. Individuals with special needs are subject to clinical judgement in each individual case within the policies of the particular HSS Trust or Health and Social Services Board.	
30	<p>1. As soon as possible after the granting of refugee or subsidiary protection status Member States shall take the necessary measures, to ensure the representation of unaccompanied minors by legal guardianship or, where necessary, by an organisation responsible for the care and well-being of minors, or by any other appropriate representation including that based on legislation or Court order.</p> <p>2. Member States shall ensure that the minor's needs are duly met in the implementation of this Directive by the appointed guardian or representative. The appropriate authorities shall make regular assessments.</p> <p>3. Member States shall ensure that unaccompanied minors are placed either:</p> <ul style="list-style-type: none"> (a) with adult relatives; or (b) with a foster family; or (c) in centres specialised in accommodation for minors; or (d) in other accommodation suitable for minors. 	<p>Unaccompanied children in England and Wales are supported by Local Authority Children's Service Departments under Section 20 of the Children Act of 1989.</p> <p>The same is applicable under Section 21 of the Children (Northern Ireland) Act Order 1995 and the equivalent provisions for Scotland are Article 25 and 26 of the Children (Scotland) Act 1995.</p> <p>The best interests of the child is an underpinning principle of the Act and we therefore believe we meet the requirements of article 30.</p>	
31	The Member States shall ensure that beneficiaries of refugee or subsidiary protection status have access to accommodation under equivalent conditions as other third country nationals legally resident in their territories.	<p>Parts 6 and 7 of the Housing Act 1996 allocates social housing in England and Wales. Sections 160(A) and 3 as well as 185(2) of the 1996 Act provide refugees and those granted exceptional leave to enter/remain access to social housing. However to meet the requirements of the Qualification Directive the Secretary of State for Communities and Local Government will amend secondary legislation to reflect the change in Humanitarian Protection being granted inside the immigration rules.</p> <p>Housing allocation in Scotland and Northern Ireland is also being amended to reflect the introduction of Humanitarian Protection within the immigration Rules.</p>	<p>Secretary of State for Communities and Local Government.</p> <p>Secretary of State for the Home Department.</p>

32	<p>Member States shall allow freedom of movement within their territory to beneficiaries of refugee or subsidiary protection status, under the same conditions and restrictions as those provided for other third country nationals legally resident in their territories.</p>	<p>There is no bar on those granted refugee status or humanitarian protection (unless otherwise detained). Therefore is no legislative basis for freedom of movement for people with refugee status any more than there is a legal basis for freedom of movement for anyone else. This provision has not been specifically implemented.</p>	
33	<p>1. In order to facilitate the integration of refugees into society, Member States shall make provision for integration programmes which they consider to be appropriate or create pre-conditions which guarantee access to such programmes.</p> <p>2. Where it is considered appropriate by Member States, beneficiaries of subsidiary protection status shall be granted access to integration programmes.</p>	<p>The UK currently has a number of programmes which offer assistance and integration facilities. These integration facilities are funded by the Home Office Integration as well as the European Refugee Fund.</p> <p>Further more, the Immigration, Asylum and Nationality Bill which is currently going through parliament will provide a legislative basis for Integration Loans to be provided to refugees.</p>	
34	<p>Member States may provide assistance to beneficiaries of refugee or subsidiary protection status who wish to repatriate.</p>	<p>No action required.</p> <p>The UK currently offers a range of programmes such as Voluntary Assisted Return and Reintegration (VARRP) and Assisted Voluntary Return for Irregular Migrants (AVRIM). VARRP is open to asylum seekers as well as those who have limited leave to enter or remain while other programmes exists which provide assistance to those with indefinite leave who wish to repatriate.</p> <p>We fee this sufficiently meets the requirements of the Directive.</p>	
35	<p>Member States shall each appoint a national contact point, whose address they shall communicate to the Commission, which shall communicate it to the other Member States.</p> <p>Member States shall, in liaison with the Commission, take all appropriate measures to establish direct cooperation and an exchange of information between the competent authorities.</p>	<p>No action required.</p>	

36	Member States shall ensure that authorities and other organisations implementing this Directive have received the necessary training and shall be bound by the confidentiality principle, as defined in the national law, in relation to any information they obtain in the course of their work.	No action required.	
37	<p>1. By 10 April 2008, the Commission shall report to the European Parliament and the Council on the application of this Directive and shall propose any amendments that are necessary. These proposals for amendments shall be made by way of priority in relation to Articles 15, 26 and 33. Member States shall send the Commission all the information that is appropriate for drawing up that report by 10 October 2007.</p> <p>2. After presenting the report, the Commission shall report to the European Parliament and the Council on the application of this Directive at least every five years.</p>	No action required.	
38	<p>1. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 10 October 2006. They shall forthwith inform the Commission thereof. When the Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.</p> <p>2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.</p>	No action required.	
39	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	No action required.	

40	This Directive is addressed to the Member States in accordance with the Treaty establishing the European Community.	No action required.	
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TRANSPOSITION NOTE PREPARED BY THE HOME OFFICE

Directive
<p>Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of that protection granted (“the Directive”)</p> <p>Many elements of the Directive do not require implementation as equivalent provision is already made. However where implementation is required this has been done by way of two instruments:</p> <p>(iv) Part 11 in the Immigration Rules (HC 395) (“Part 11” and a reference to a rule in this note is a reference to a rule in Part 11); and</p> <p>(v) The Refugee or Person in Need of International Protection (Qualification) Regulations 2006.</p>

Article	Objectives	Implementation	Responsibility
1	Sets out the purpose of the Directive (to lay down minimum standards for the qualification of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of that protection granted). The individual articles (detailed below) set out the specific obligations with which Member States must comply.	No action required	Throughout the Directive, the Secretary of State for the Home Department is responsible unless stated otherwise.
2	Defines terms used throughout the Directive.	Where necessary, in the legislation implementing the Directive, these terms have been defined.	

3	<p>Describes the scope of the Directive and provide that the Directive establishes minimum standards – Member States may choose to go further than the Directive provides. The Directive applies to third country nationals who are recognised as refugees or in need of international protection.</p>	<p>Where equivalent provision is already made which fulfils the requirements of the Directive, or go further than the provisions of the Directive, this will be retained.</p>	
4	<p>1. Member States may consider it the duty of the applicant to submit as soon as possible all elements needed to substantiate the application for international protection. In cooperation with the applicant it is the duty of the Member State to assess the relevant elements of the application.</p> <p>2. The elements referred to in of paragraph 1 consist of the applicant's statements and all documentation at the applicants disposal regarding the applicant's age, background, including that of relevant relatives, identity, nationality(ies), country(ies) and place(s) of previous residence, previous asylum applications, travel routes, identity and travel documents and the reasons for applying for international protection.</p> <p>3. The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:</p> <p>(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application; including laws and regulations of the country of origin and the manner in which they are applied;</p> <p>(b) the relevant statements and documentation presented by the applicant including information on whether the applicant has been or may be subject to persecution or serious harm;</p> <p>(c) the individual position and personal circumstances of the applicant, including factors such</p>	<p>In meeting the requirements of the Qualification Directive Part 11 of the Immigration Rules have been amended and now reflect the Directives requirements. Rule 339I confirms that it the duty of the person to submit to the Secretary of State as soon as possible all the material factors needed to substantiate the asylum or human rights claim or establish that he/she is a person eligible of humanitarian protection, which the Secretary of State shall assess in cooperation with the person.</p> <p>These material factors include:</p> <p>(i) the person's statement on the reasons for making an asylum claim or on eligibility for a grant of humanitarian protection or for making a human rights claim; and</p> <p>(ii) all documentation at the person's disposal regarding the person's age, background (including background details of relevant relatives), identity, nationality(ies), country(ies) and place(s) of previous residence, previous asylum applications, travel routes; and</p> <p>(iii) identity and travel documents.</p> <p>Rule 339J covers assessment by the Secretary of State of an asylum claim, eligibility for a grant of humanitarian protection or a human rights claim will be carried out on an individual basis. This will include taking into account in particular:</p> <p>(vi) all relevant facts as they relate to the country of origin at the time of taking a decision on the grant; including laws and regulations of the country of origin and the manner in which they are applied;</p> <p>(vii) relevant statements and documentation presented by the person including information on whether the person has been or may be subject to persecution or serious harm;</p> <p>(viii) the individual position and personal circumstances of the person, including factors such as background, gender and</p>	

<p>as background, gender and age, so as to assess whether, on the basis of the applicant's personal circumstances, the acts to which the applicant has been or could be exposed would amount to persecution or serious harm;</p> <p>(d) whether the applicant's activities since leaving the country of origin were engaged in for the sole or main purpose of creating the necessary conditions for applying for international protection, so as to assess whether these activities will expose the applicant to persecution or serious harm if returned to that country;</p> <p>(e) whether the applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship.</p> <p>4. The fact that an applicant has already been subject to persecution or serious harm or to direct threats of such persecution or such harm, is a serious indication of the applicant's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.</p> <p>5. Where Member States apply the principle according to which it is the duty of the applicant to substantiate the application for international protection and where aspects of the applicant's statements are not supported by documentary or other evidence, those aspects shall not need confirmation, when the following conditions are met:</p> <p>(a) the applicant has made a genuine effort to substantiate his application;</p> <p>(b) all relevant elements, at the applicant's disposal, have been submitted, and a satisfactory explanation regarding any lack of other relevant elements has been given;</p> <p>(c) the applicant's statements are found to be coherent and plausible and do not run counter</p>	<p>age, so as to assess whether, on the basis of the person's personal circumstances, the acts to which the person has been or could be exposed would amount to persecution or serious harm;</p> <p>(ix) whether the person's activities since leaving the country of origin were engaged in for the sole or main purpose of creating the necessary conditions for making an asylum claim or establishing that he is a person eligible for humanitarian protection or a human rights claim, so as to assess whether these activities will expose the person to persecution or serious harm if he returned to that country;</p> <p>(x) whether the person could reasonably be expected to avail himself of the protection of another country where he could assert citizenship.</p> <p>Rule 339K of the Immigration Rules considers the fact that a person has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, will be regarded as a serious indication of the person's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.</p> <p>Rule 339L consider it the duty of the person to substantiate the asylum claim or establish that he is a person eligible humanitarian protection or substantiate his human rights claim. Where aspects of the person's statements are not supported by documentary or other evidence, those aspects will not need confirmation when all of the following conditions are met:</p> <p>(a) the person has made a genuine effort to substantiate his asylum claim or establish that he is a person eligible humanitarian protection or substantiate his human rights claim;</p> <p>(b) all material factors at the person's disposal have been submitted, and a satisfactory explanation regarding any lack of other relevant material has been given;</p> <p>(c) the person's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the person's case;</p> <p>(d) the person has made an asylum claim or sought to establish that he is a person eligible for humanitarian protection or made a human rights claim at the earliest possible time, unless the person can demonstrate good reason for not having done so;</p> <p>(e) the general credibility of the person has been established.</p>	
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	<p>to available specific and general information relevant to the applicant's case;</p> <p>(d) the applicant has applied for international protection at the earliest possible time, unless the applicant can demonstrate good reason for not having done so; and</p> <p>(e) the general credibility of the applicant has been established.</p>	<p>We feel these amendments to the Immigration Rules meet the requirements of the Directive.</p>	
5	<p>1. A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on events which have taken place since the applicant left the country of origin.</p> <p>2. A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on activities which have been engaged in by the applicant since he left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin.</p> <p>3. Without prejudice to the Geneva Convention, Member States may determine that an applicant who files a subsequent application shall normally not be granted refugee status, if the risk of persecution is based on circumstances which the applicant has created by his own decision since leaving the country of origin.</p>	<p>Part 11 Rule 339P. A person may have a well-founded fear of being persecuted or a real risk of suffering serious harm based on events which have taken place since the person left the country of origin and/or activities which have been engaged in by a person since he left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin.</p>	
6	<p>Actors of persecution or serious harm include:</p> <p>(a) the State;</p> <p>(b) parties or organisations controlling the State or a substantial part of the territory of the State;</p> <p>(c) non-State actors, if it can be demonstrated that the actors mentioned in (a) and (b), including international organisations, are unable or unwilling to provide protection</p>	<p>Provisions within the Refugee or Person in need of International Protection (Qualification) Regulations 2006 consider persecution or serious harm can be committed by:</p> <p>(c) the State;</p> <p>(d) any party or organisation controlling the State or a substantial part of the territory of the State;</p> <p>(a) any non-State actor if it can be</p>	

	against persecution or serious harm as defined in Article 7.	demonstrated that the actors mentioned in (a) and (b), including any international organisation, are unable or unwilling to provide protection against persecution or serious harm.	
7	<p>1. Protection can be provided by:</p> <p>(a) the State; or</p> <p>(b) parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State.</p> <p>2. Protection is generally provided when the actors mentioned in paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, <i>inter alia</i>, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.</p> <p>3. When assessing whether an international organisation controls a State or a substantial part of its territory and provides protection as described in paragraph 2, Member States shall take into account any guidance which may be provided in relevant council acts.</p>	<p>In determining whether a third country national or stateless person is a refugee or eligible for humanitarian protection, protection from persecution or serious harm, the Refugee and Person in need of International Protection (Qualification) Regulation 2006 provides that protection from persecution or serious harm can be provided by:</p> <p>(b) the State; Or</p> <p>(c) any party or organisation, including any international organisation, controlling the State or a substantial part of the territory of the State.</p> <p>(8) Protection shall be regarded as provided when the actors mentioned in paragraph (1)(a) and (b) take reasonable steps to prevent the persecution or suffering of serious harm by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the person mentioned in paragraph (1) has access to such protection.</p> <p>(9) In determining whether a third country national or stateless person is a refugee or a person eligible for humanitarian protection the Secretary of State may assess whether an international organisation controls a State or a substantial part of its territory and provides protection as described in paragraph (2).</p>	
8	<p>1. As part of the assessment of the application for international protection, Member States may determine that an applicant is not in need of international protection if in a part of the country of origin there is no well-founded fear of being persecuted or no real risk of suffering serious harm and the applicant can reasonably be expected to stay in that part of the country.</p>	<p>Immigration Rule 339O provides that</p> <p>(i) The Secretary of State will not make:</p> <p>a) a grant of asylum if in part of the country of origin a person would not have a well founded fear of being persecuted; or</p> <p>b) a grant of humanitarian protection if in part of the country of return a person would not face a real risk of suffering serious harm and where in both cases the</p>	

	<p>2. In examining whether a part of the country of origin is in accordance with paragraph 1, Member States shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant.</p> <p>3. Paragraph 1 may apply notwithstanding technical obstacles to return to the country of origin.</p>	<p>person can be reasonably be expected to stay in that part of the country.</p> <p>(ii) In examining whether a part of the country of origin or country of return meets the requirements in (i) the Secretary of State when making his decision on whether to grant asylum or humanitarian protection will have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the person.</p> <p>(iii) (i) applies notwithstanding technical obstacles to return to the country of origin or country of return</p>	
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<p>9</p>	<p>1. Acts of persecution within the meaning of article 1 A of the Geneva Convention must:</p> <p>(a) be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or</p> <p>(b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in (a).</p> <p>2. Acts of persecution as qualified in paragraph 1, can, <i>inter alia</i>, take the form of:</p> <p>(a) acts of physical or mental violence, including acts of sexual violence;</p> <p>(b) legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;</p> <p>(c) prosecution or punishment, which is disproportionate or discriminatory;</p> <p>(d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;</p> <p>(e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses as set out in Article 12(2);</p> <p>(f) acts of a gender-specific or child-specific nature.</p> <p>3. In accordance with Article 2(c), there must be a connection between the reasons mentioned in Article 10 and the acts of persecution as qualified in</p>	<p>In determining whether a third country national or stateless person qualifies as a refugee, the Refugee and Person in need of International Protection (Qualification) Regulation 2006 provides that an act of persecution must be sufficiently serious by its nature or repetition, or an accumulation of various measures, as to constitute a violation of a right in the Convention from which derogation cannot be made under Article 15(2) of that Convention.</p> <p>An act of persecution can take the form of:</p> <p>(a) an act of physical or mental violence, including an act of sexual violence;</p> <p>(b) a legal, administrative, police, and/or judicial measure which in itself is discriminatory or which is implemented in a discriminatory manner;</p> <p>(c) prosecution or punishment, which is disproportionate or discriminatory;</p> <p>(d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;</p> <p>(e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under regulation 7;</p> <p>An act of persecution must be committed for at least one of the reasons in Article 1A of the Geneva Convention.</p>	
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	paragraph 1.		
10	<p>1. Member States shall take the following elements into account when assessing the reasons for persecution:</p> <p>(a) the concept of race shall in particular include considerations of colour, descent, or membership of a particular ethnic group;</p> <p>(b) the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;</p> <p>(c) the concept of nationality shall not be confined to citizenship or lack thereof but shall in particular include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another State;</p> <p>(d) a group shall be considered to form a particular social group where in particular:</p> <p>— members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and</p> <p>— that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society; depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic of sexual orientation. Sexual orientation cannot be understood to include acts considered to be criminal in accordance with national law of the Member States: Gender related aspects might be considered, without by</p>	<p>In determining whether a third country national or stateless person qualifies as a refugee the Refugee and Person in need of International Protection (Qualification) Regulation 2006 provide:</p> <p>(f) the concept of race shall include considerations of colour, descent, or membership of a particular ethnic group;</p> <p>(g) the concept of religion shall include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;</p> <p>(h) the concept of nationality shall not be confined to citizenship or lack thereof but shall include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another State;</p> <p>(i) a group shall be considered to form a particular social group where:</p> <p>(i) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and</p> <p>(ii) that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society;</p> <p>(j) depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic of:</p> <p>(i) sexual orientation or gender; but</p> <p>(ii) sexual orientation cannot be understood to include acts considered to be criminal in accordance with</p>	

	<p>themselves alone creating a presumption for the applicability of this Article;</p> <p>(e) the concept of political opinion shall in particular include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution mentioned in Article 6 and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the applicant.</p> <p>2. When assessing if an applicant has a well-founded fear of being persecuted it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution</p>	<p>national law of the Member States.</p> <p>(k) the concept of political opinion shall include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution mentioned in regulation 3 and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the third country national or stateless person.</p> <p>As part of the Qualification Directive Regulations the Secretary of State also considers that in determining whether a third country national or stateless person has a well-founded fear of being persecuted, it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.</p>	
11	<p>1. A third country national or a stateless person shall cease to be a refugee, if he or she:</p> <p>(a) has voluntarily re-availed himself or herself of the protection of the country of nationality; or</p> <p>(b) having lost his or her nationality, has voluntarily reacquired it; or</p> <p>(c) has acquired a new nationality, and enjoys the protection of the country of his or her new nationality; or</p> <p>(d) has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution; or</p> <p>(e) can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of the country of nationality;</p> <p>(f) being a stateless person with no nationality, he or she is able, because the circumstances in</p>	<p>Section 76 of the Nationality, Immigration and Asylum Act 2002 (NIAA) allows for Indefinite Leave to Remain to be revoked where one or more of the cessation clauses 1C (1) – (4) in the Geneva Convention apply. Other powers such as Section 10 of the Immigration and Nationality Act 1999 and Section 323 of the Immigration Rules also allow us to curtail leave. In addition to these powers, Immigration Rule 339A provides a person’s grant of asylum under Rule 334 will be revoked or not renewed if the Secretary of State is satisfied that:</p> <p>(vii) he has voluntarily re-availed himself of the protection of the country of nationality;</p> <p>(viii) having lost his nationality, he has voluntarily re-acquired it; or</p> <p>(ix) he has acquired a new nationality, and enjoys the protection of the country of his new nationality;</p> <p>(x) he has voluntarily re-established himself in the country which he left or outside which he remained owing to a fear of persecution;</p> <p>(xi) he can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of nationality;</p> <p>(xii) being a stateless person with no nationality, he is able, because the</p>	

	<p>connection with which he or she has been recognised as a refugee have ceased to exist, to return to the country of former habitual residence.</p> <p>2. In considering points (e) and (f) of paragraph 1, Member States shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well founded.</p>	<p>circumstances in connection with which he has been recognised a refugee have ceased to exist, to return to the country of former habitual residence;</p>	
12	<p>1. A third country national or a stateless person is excluded from being a refugee, if:</p> <p>(a) he or she falls within the scope of Article 1 D of the Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. When such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Directive;</p> <p>(b) he or she is recognised by the competent authorities of the country in which he or she has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country; or rights and obligations equivalent to those.</p> <p>2. A third country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that:</p> <p>(a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;</p> <p>(b) he or she has committed a</p>	<p>Section 54 of the Immigration and Asylum and Nationality Act 2006 already provides a statutory interpretation for Article 1F of the Geneva Convention. Building on this existing provision the Refugee and Persons in need of International Protection (Qualification) Regulations 2006 also provide that a third country national or stateless person is not a refugee, if:</p> <p>A person is not a refugee, if he or she falls within the scope of Article 1 D, 1E or 1F of the Geneva Convention.</p> <p>(10) In the construction and application of Article 1F(b) of the Geneva Convention:</p> <p>(a) the reference to serious non-political crime includes a particularly cruel action, even if it is committed with an allegedly political objective;</p> <p>(b) the reference to the crime being committed outside the country of refuge prior to his admission as a refugee shall be taken to mean the time up to and including the day on which a residence permit is issued.</p> <p>(11) Article 1F(a) and (b) of the Geneva Convention shall apply to a person who instigates or otherwise participates in the commission of the crimes or acts specified in those provisions.</p>	

	<p>serious non-political crime outside the country of refuge prior to his or her admission as a refugee; which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;</p> <p>(c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.</p> <p>3. Paragraph 2 applies to persons who instigate or otherwise participate in the commission of the crimes or acts mentioned therein.</p>		
13	<p>Member States shall grant refugee status to a third country national or a stateless person, who qualifies as a refugee in accordance with Chapters II and III.</p>	<p>In order to reflect the provisions of Article 13, we have amended Immigration Rule 334, to reflect the following:</p> <p>An asylum applicant will be granted asylum in the United Kingdom if the Secretary of State is satisfied that:</p> <ul style="list-style-type: none"> (i) he is in the United Kingdom or has arrived at a port of entry in the United Kingdom ; and (ii) he is a refugee, as defined in regulation 2 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006; and (vi) there are no reasonable grounds for regarding him as a danger to the security of the United Kingdom; and (vii) he does not, having been convicted by a final judgment of a particularly serious crime, constitute a danger to the community of the United Kingdom; and (viii) refusing his application would result in his being required to go (whether immediately or after the time limited by any existing leave to enter or remain) in breach of the Geneva Convention, to a country in which his life or freedom would be threatened on account of his race, religion, nationality, political opinion or membership of a particular social group 	

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<p>14</p>	<p>1. Concerning applications for international protection filed after the entry into force of this Directive, Member States shall revoke, end or refuse to renew the refugee status of a third country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body, if he or she has ceased to be a refugee in accordance with Article 11.</p> <p>2. Without prejudice to the duty of the refugee in accordance with Article 4(1) to disclose all relevant facts and provide all relevant documentation at his/her disposal, the Member State, which has granted refugee status, shall on an individual basis demonstrate that the person concerned has ceased to be or has never been a refugee in accordance with paragraph 1 of this Article.</p> <p>3. Member States shall revoke, end or refuse to renew the refugee status of a third country national or a stateless person, if, after he or she has been granted refugee status, it is established by the Member State concerned that:</p> <p>(a) he or she should have been or is excluded from being a refugee in accordance with Article 12;</p> <p>(b) his or her misrepresentation or omission of facts, including the use of false documents, were decisive for the granting of refugee status.</p> <p>4. Member States may revoke, end or refuse to renew the status granted to a refugee by a governmental, administrative, judicial or quasi-judicial body, when:</p> <p>(a) there are reasonable grounds for regarding him or her as a danger to the security of the Member State in which he or she is present;</p> <p>(b) he or she, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that Member State.</p>	<p>Immigration Rule 339A (vii-x) details the circumstances under which a person's grant of asylum under rule 334 may be revoked or not renewed if the Secretary of State is satisfied that:</p> <p>(xi) he should have been or is excluded from being a refugee in accordance with regulation 7 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006; or</p> <p>(xii) his misrepresentation or omission or facts, including the use of false documents, were decisive for the grant of asylum; or</p> <p>(xiii) there are reasonable grounds for regarding him as a danger to the security of the United Kingdom; or</p> <p>(xiv) having been convicted by a final judgment of a particularly serious crime he constitutes danger to the community of the United Kingdom.</p>	
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	<p>5. In situations described in paragraph 4, Member States may decide not to grant status to a refugee, where such a decision has not yet been taken.</p> <p>6. Persons to whom paragraphs 4 or 5 apply are entitled to rights set out in or similar to those set out in Articles 3, 4, 16, 22, 31 and 32 and 33 of the Geneva Convention in so far as they are present in the Member State.</p>		
15	<p>Serious harm consists of:</p> <p>(a) death penalty or execution; or</p> <p>(b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or</p> <p>(c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.</p>	<p>In order to align ourselves with the requirements of the Directive, the Secretary of State has amended the Immigration Rules to reflect the needs of Article 15. Subsidiary Protection will be known as Humanitarian Protection in the UK and retain the include the "Unlawful Killing". The amended Immigration Rule 339D confirms that:</p> <p>Serious harm consists of:</p> <p>(v) the death penalty or execution; or</p> <p>(vi) unlawful killing; or</p> <p>(vii) torture or inhuman or degrading treatment or punishment of an person in the country of origin; or</p> <p>(viii) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.</p>	

16	<p>1. A third country national or a stateless person shall cease to be eligible for subsidiary protection when the circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required.</p> <p>2. In applying paragraph 1, Member States shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the person eligible for subsidiary protection no longer faces a real risk of serious harm.</p>	<p>Part 11 Rule 339G allows the revocation of a person's humanitarian protection granted under paragraph 339C, may be revoked or not renewed if the Secretary of State is satisfied that at least one of the following applies:</p> <p>(vii) the circumstances which led to the grant of humanitarian protection have ceased to exist or have changed to such a degree that such protection is no longer required; or</p>	
17	<p>1. A third country national or a stateless person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that:</p> <p>(a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;</p> <p>(b) he or she has committed a serious crime;</p> <p>(c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;</p> <p>(d) he or she constitutes a danger to the community or to the security of the Member State in which he or she is present.</p> <p>2. Paragraph 1 applies to persons who instigate or otherwise participate in the commission of the crimes or acts mentioned therein.</p>	<p>Rule 339D confirms that a person granted humanitarian protection under paragraph 339C may be excluded where the Secretary of State is satisfied that:</p> <p>(i) there are serious reasons for considering that he has committed a crime against peace, a war crime, a crime against humanity, or any other serious crime or instigated or otherwise participated in such crimes;</p> <p>(ii) there are serious reasons for considering that he is guilty of acts contrary to the purposes and principles of the United Nations or has committed, prepared or instigated such acts or induced others to commit, prepare or instigate instigated such acts;</p> <p>(i) there are serious reasons for considering that he constitutes a danger to the community or to the security of the United Kingdom; and</p> <p>(ii) prior to his admission to the United Kingdom the person committed a crime outside the scope of (i) and (ii) that would be punishable by imprisonment were it committed in the United Kingdom and the person left his country of origin solely in order to avoid sanctions resulting from the crime.</p>	
18	<p>Member States shall grant subsidiary protection status to a third country national or a stateless person eligible for subsidiary protection in accordance with Chapters II and</p>	<p>339C. A person will be granted humanitarian protection in the United Kingdom if the Secretary of State is satisfied that:</p> <p>(v) he is in the United Kingdom or has arrived at a port of entry in the United Kingdom;</p>	

	V.	<p>and</p> <ul style="list-style-type: none"> (vi) he does not qualify as a refugee as defined in regulation 2 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006; and (vii) substantial grounds have been shown for believing that the person concerned, if he returned to the country of return, would face a real risk of suffering serious harm and is unable, or, owing to such risk, unwilling to avail himself of the protection of that country; and (viii) he is not excluded from a grant of humanitarian protection. 	
19	<p>1. Concerning applications for international protection filed after the entry into force of this Directive, Member States shall revoke, end or refuse to renew the subsidiary protection status of a third country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body, if he or she has ceased to be eligible for subsidiary protection in accordance with Article 16.</p> <p>2. Member States may revoke, end or refuse to renew the subsidiary protection status of a third country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body, if after having been granted subsidiary protection status, he or she should have been excluded from being eligible for subsidiary protection in accordance with Article 17(3).</p> <p>3. Member States shall revoke, end or refuse to renew the subsidiary protection status of a third country national or a stateless person, if:</p> <ul style="list-style-type: none"> (a) he or she, after having been granted subsidiary protection status, should have been or is excluded from being eligible for subsidiary protection in accordance with Article 17(1) and (2); (b) his or her misrepresentation or omission of facts, including the 	<p>Rule 339G requires that a person's humanitarian protection granted under paragraph 339D may be revoked or not renewed if the Secretary of State is satisfied that at least one of the following applies:</p> <ul style="list-style-type: none"> (ii) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he has committed a crime against peace, a war crime, a crime against humanity, or any other serious crime or instigated or otherwise participated in such crimes; (iii) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he is guilty of acts contrary to the purposes and principles of the United Nations or has committed, prepared or instigated such acts or encouraged or induced others to commit, prepare or instigate such acts; (iv) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he constitutes a danger to the community or to the security of the United Kingdom; (v) the person granted humanitarian protection misrepresented or omitted facts, including the use of false documents, which were decisive to the grant of humanitarian protection; or (vi) the person granted humanitarian protection should have been or is excluded from humanitarian protection because prior to his admission to the 	

	<p>use of false documents, were decisive for the granting of subsidiary protection status.</p> <p>4. Without prejudice to the duty of the third country national or stateless person in accordance with Article 4(1) to disclose all relevant facts and provide all relevant documentation at his/her disposal, the Member State, which has granted the subsidiary protection status, shall on an individual basis demonstrate that the person concerned has ceased to be or is not eligible for subsidiary protection in accordance with paragraphs 1, 2 and 3 of this Article.</p>	<p>United Kingdom the person committed a crime outside the scope of (ii) and (iii) that would be punishable by imprisonment had it been committed in the United Kingdom and the person left his country of origin solely in order to avoid sanctions resulting from the crime.</p>	
20	<p>1. This Chapter shall be without prejudice to the rights laid down in the Geneva Convention.</p> <p>2. This Chapter shall apply both to refugees and persons eligible for subsidiary protection unless otherwise indicated.</p> <p>3. When implementing this Chapter, Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.</p> <p>4. Paragraph 3 shall apply only to persons found to have special needs after an individual evaluation of their situation.</p> <p>5. The best interest of the child shall be a primary consideration for Member States when implementing the provisions of this Chapter that involve minors.</p> <p>6. Within the limits set out by the Geneva Convention, Member States may reduce the benefits of this Chapter, granted to a refugee whose refugee status has been obtained on the basis of activities engaged in for the sole</p>	<p>Immigration Rule 351 considers how to handle claims from unaccompanied minors and specifies that close attention should be given to the child at all times. Rule 350 also draws attention to the vulnerability of the child and giving particular care to the handling of their claims. In addition The Children Act 1989, or the Children (Scotland) Act 1995 and the Children (Northern Ireland) Order 1995 are also relevant to some of the provisions of this article and has the best interests of the child as an unpinning principle.</p> <p>The UK does not intend to implement the provisions set out in Article 20(6) and 20(7).</p>	<p>http://www.opsi.gov.uk/acts/acts1989/Ukpga_19890041_en_1.htm</p> <p>http://www.opsi.gov.uk/acts/acts1995/Ukpga_19950036_en_1.htm</p> <p>http://www.uk-legislation.hmso.gov.uk/si/si1995/Uksi_19950755_en_1.htm</p>

	<p>or main purpose of creating the necessary conditions for being recognised as a refugee.</p> <p>7. Within the limits set out by international obligations of Member States, Member States may reduce the benefits of this Chapter, granted to a person eligible for subsidiary protection, whose subsidiary protection status has been obtained on the basis of activities engaged in for the sole or main purpose of creating the necessary conditions for being recognised as a person eligible for subsidiary protection.</p>		
21	<p>1. Member States shall respect the principle of non-refoulement in accordance with their international obligations.</p> <p>2. Where not prohibited by the international obligations mentioned in paragraph 1, Member States may refoule a refugee, whether formally recognised or not, when:</p> <p>(a) there are reasonable grounds for considering him or her as a danger to the security of the Member State in which he or she is present; or</p> <p>(b) he or she, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that Member State.</p> <p>3. Member States may revoke, end or refuse to renew or to grant the residence permit of (or to) a refugee to whom paragraph 2 applies.</p>	<p>Rule 334 confirms that an asylum applicant will be granted asylum in the United Kingdom if the Secretary of State is satisfied that:</p> <ul style="list-style-type: none"> (i) he is in the United Kingdom or has arrived at a port of entry in the United Kingdom ; and (ii) he is a refugee, as defined in regulation 2 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006; and (iii) there are no reasonable grounds for regarding him as a danger to the security of the United Kingdom; and (vi) he does not, having been convicted by a final judgment of a particularly serious crime, constitute a danger to the community of the United Kingdom; and (vii) (v) refusing his application would result in his being required to go (whether immediately or after the time limited by any existing leave to enter or remain) in breach of the Geneva Convention, to a country in which his life or freedom would be threatened on account of his race, religion, nationality, political opinion or membership of a particular social group. <p>In meeting the requirements of the Directive, those individuals who are recognised as refugees are granted leave to enter or remain in the United Kingdom, along with their grant of status, so are not refouled.</p> <p>Following this Section 72 of the NIAA provides an interpretation of Article 33(2) of the Geneva Convention and sets out what constitutes a particularly serious crime and when an individual is presumed to be a danger to the community.</p>	

22	<p>Member States shall provide persons recognised as being in need of international protection, as soon as possible after the respective protection status has been granted, with access to information, in a language likely to be understood by them, on the rights and obligations relating to that status.</p>	<p>Rule 344C A person who is granted asylum or humanitarian protection will be provided with access to information in a language that they may reasonably be supposed to understand which sets out the rights and obligations relating to that status. The Secretary of State will provide the information as soon as possible after the grant of <u>asylum or humanitarian protection.</u></p>	
23	<p>1. Member States shall ensure that family unity can be maintained.</p> <p>2. Member States shall ensure that family members of the beneficiary of refugee or subsidiary protection status, who do not individually qualify for such status, are entitled to claim the benefits referred to in Articles 24 to 34, in accordance with national procedures and as far as it is compatible with the personal legal status of the family member. In so far as the family members of beneficiaries of subsidiary protection status are concerned, Member States may define the conditions applicable to such benefits. In these cases, Member States shall ensure that any benefits provided guarantee an adequate standard of living.</p> <p>3. Paragraphs 1 and 2 are not applicable where the family member is or would be excluded from refugee or subsidiary protection status pursuant to Chapters III and V.</p> <p>4. Notwithstanding paragraphs 1 and 2, Member States may refuse, reduce or withdraw the benefits referred therein for reasons of national security or public order.</p> <p>5. Member States may decide that this Article also applies to other close relatives who lived together as part of the family at the time of leaving the country of origin, and who were wholly or mainly dependent on the beneficiary of refugee or subsidiary protection status at that time.</p>	<p>Dependants of persons granted refugee status or humanitarian protection who are in the country of origin can apply to join the principle applicants subject to the necessary conditions. Immigration Rules 352A-352D confirm this obligation on the Secretary of State.</p> <p>Immigration Rule 349 confirms that dependants will be granted leave in line with that of the main applicant, unless otherwise requested, and where this is the case they will also have access to the benefits as set out in article 24-34.</p> <p>We do not intend to implement articles 23(4) and 23(5).</p>	

<p>24</p>	<p>1. As soon as possible after their status has been granted, Member States shall issue to beneficiaries of refugee status a residence permit which must be valid for at least three years and renewable unless compelling reasons of national security or public order otherwise require, and without prejudice to Article 21(3).</p> <p>Without prejudice to Article 23(1), the residence permit to be issued to the family members of the beneficiaries of refugee status may be valid for less than three years and renewable.</p> <p>2. As soon as possible after the status has been granted, Member States shall issue to beneficiaries of subsidiary protection status a residence permit which must be valid for at least one year and renewable, unless compelling reasons of national security or public order otherwise require.</p>	<p>To meet the requirements of the Directive we have introduced rule 339Q which confirms that:</p> <ul style="list-style-type: none"> (v) The Secretary of State will issue to a person granted asylum in the United Kingdom a United Kingdom Residence Permit (UKRP) as soon as possible after the grant of asylum. The UKRP will be valid for five years and renewable, unless compelling reasons of national security or public order otherwise require or where there are reasonable grounds for considering that the applicant is a danger to the security of the UK or having been convicted by a final judgment of a particularly serious crime, the applicant constitutes a danger to the community of the UK. (vi) The Secretary of State will issue to a person granted asylum in the UKRP as soon as possible after the grant of humanitarian protection and after having received a complete application. The Secretary of State can grant a UKRP with a validity of between one to five years which will be renewable, unless compelling reasons of national security or public order otherwise require or where there are reasonable grounds for considering that the applicant is a danger to the security of the UK or having been convicted by a final judgment of a particularly serious crime, the applicant constitutes a danger to the community of the UK. (vii) The Secretary of State will issue a UKRP to a family member of a person granted asylum or humanitarian protection where the family member does not qualify for such status. A UKRP will be granted for a period of five years. The UKRP is renewable on the terms set out in (i) and (ii) respectively. (viii) The Secretary of State may revoke or refuse to renew a person's UKRP where their grant of asylum or humanitarian protection is revoked under the provisions in the immigration rules. 	
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<p>25</p>	<p>1. Member States shall issue to beneficiaries of refugee status travel documents in the form set out in the Schedule to the Geneva Convention, for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require.</p> <p>2. Member States shall issue to beneficiaries of subsidiary protection status who are unable to obtain a national passport, documents which enable them to travel, at least when serious humanitarian reasons arise that require their presence in another State, unless compelling reasons of national security or public order otherwise require.</p>	<p>The meet the requirements of article 25 we have introduced rule 344A whereby the Secretary of State confirms that:</p> <p>(iv) After having received a complete application for a travel document, the Secretary of State will issue to a person granted asylum in the United Kingdom and their family members travel documents, in the form set out in the Schedule to the Geneva Convention, for the purpose of travel outside the United Kingdom, unless compelling reasons of national security or public order otherwise require.</p> <p>(v) After having received a complete application for a travel document, the Secretary of State will issue travel documents to a person granted humanitarian protection in the United Kingdom where that person is unable to obtain a national passport or other identity documents which enable him to travel, unless compelling reasons of national security or public order otherwise require.</p> <p>(vi) Where the person referred to in (ii) can obtain a national passport or identity documents but has not done so, the Secretary of State will issue that person with a travel document where he can show that he has made reasonable attempts to obtain a national passport or identity document and there are serious humanitarian reasons for travel.</p>	
<p>26</p>	<p>1. Member States shall authorise beneficiaries of refugee status to engage in employed or self-employed activities subject to rules generally applicable to the profession and to the public service, immediately after the refugee status has been granted.</p> <p>2. Member States shall ensure that activities such as employment related education opportunities for adults, vocational training and practical workplace experience are offered to beneficiaries of refugee status, under equivalent conditions as nationals.</p>	<p>To meet the requirements of the Directive we have amended our immigration rules to specify that a person recognised as a refugee or humanitarian protection (Subsidiary Protection) will not be subject to conditions restricting their employment. This obligation on the Secretary of State is confirmed in rule 344B:</p> <p>The Secretary of State will not impose conditions restricting the employment or occupation in the United Kingdom of a person granted asylum or humanitarian protection.</p> <p>Employment related educational opportunities and practical workplace experience are available to those granted refugee status or humanitarian protection under the same conditions as UK nationals.</p>	<p>Secretary of State for the Home Department</p> <p>Secretary of State for Trade and Industry</p>

<p>27</p>	<p>1. Member States shall grant full access to the education system to all minors granted refugee or subsidiary protection status, under the same conditions as nationals.</p> <p>2. Member States shall allow adults granted refugee or subsidiary protection status access to the general education system, further training or retraining, under the same conditions as third country nationals legally resident.</p> <p>3. Member States shall ensure equal treatment between beneficiaries of refugee or subsidiary protection status and nationals in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications.</p>	<p>For those under 16 local authorities in England and Wales have a legal responsibility under section 13 and 14 of the Education Act 1996 to secure the provision of sufficient school places so that education is available for all children of compulsory school age. This duty applies irrespective of a child's immigration status or rights of residence in a particular area. This also applies in Wales, Scotland and Northern Ireland.</p> <p>Further and higher education institutions use the Education (Fees and Awards) Regulations 1997, as a guide to determine whether to charge students tuition fees at the 'home' rate or 'overseas' rate. Anyone who is recognised as a refugee by the UK Government (granted Refugee Status) who has remained ordinarily resident in the UK and Islands since so recognised, or the spouse, civil partner or child of such a refugee is charged tuition fees at the 'home' rate. This also applies to those granted Humanitarian Protection who have remained ordinarily resident in the UK and Islands since being granted that status, or the spouse, civil partner or child of such a person.</p> <p>Tuition fee student support in England, which constitutes access to education, is granted under the Student Support Regulations 2006 (S.I. 2006/119). Refugees are in a better position than nationals in terms of eligibility as they are not required to satisfy a 3 year prior residence test. A person refused refugee status but given leave to enter or remain is eligible on the same basis as nationals.</p> <p>Adults in Scotland have the same access to further education as nationals.</p> <p>Acts that cover Scotland are: Standards in Scottish Schools Act 2000 Education Scotland Act 1980</p> <p>The Education support Regulations (Northern Ireland) 2005 provide that persons settled in the UK who have been ordinarily resident in the UK for 3 years will have the same entitlement to student finance as home students.</p> <p>The position of recognition procedures is that educational institutions in the UK like employers and professional bodies make their own decision on the acceptability of qualifications. The UK national agency NARIC is contracted to the government provides recognition and information on all international qualifications from 183 countries. Third country nationals are not treated any differently than EU nationals.</p>	<p>The Secretary of State for Education and Skills</p> <p>Department for Learning and Employment Northern Ireland</p> <p>Scottish Executive</p> <p>Welsh Assembly</p> <p>http://www.opsi.gov.uk/acts/acts1996/1996056.htm section 13 and 14</p> <p>http://www.opsi.gov.uk/si/si1997/19971972.htm</p> <p>http://www.opsi.gov.uk/si/si2006/20060119.htm</p> <p>http://www.opsi.gov.uk/si/si2006/20060482.htm</p> <p>http://www.opsi.gov.uk/ACTS/acts2002/20020032.htm section 14-16</p> <p>http://www.opsi.gov.uk/legislation/scotland/acts2000/20000006.htm</p> <p>Education (Scotland) Act 1980</p> <p>Further Education Bursaries (Scotland) (no3) Direction 2005</p> <p>http://www.opsi.gov.uk/si/si1992/Uksi19920580_en_1.htm</p> <p>http://www.opsi.gov.uk/si/si1997/19972008.htm</p> <p>http://www.opsi.gov.uk/si/si1999/19991131.htm</p> <p>http://www.opsi.gov.uk/legislation/scotland/ssi2000/20000</p>
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			<p>240.htm</p> <p>http://www.opsi.gov.uk/legislation/scotland/ssi2001/20010280.htm</p> <p>http://www.opsi.gov.uk/legislation/scotland/ssi2004/20040273.htm</p> <p>Education and Libraries (Northern Ireland) Order 1986 Articles 5 and 6</p> <p>Education and Libraries (Northern Ireland) Order 1997 Part 3</p> <p>http://www.opsi.gov.uk/Sr/sr2005/20050298.htm</p>
28	<p>1. Member States shall ensure that beneficiaries of refugee or subsidiary protection status receive, in the Member State that has granted such statuses, the necessary social assistance, as provided to nationals of that Member State.</p> <p>2. By exception to the general rule laid down in paragraph 1, Member States may limit social assistance granted to beneficiaries of subsidiary protection status to core benefits which will then be provided at the same levels and under the same eligibility conditions as nationals.</p>	<p>Once a person is granted refugee status or humanitarian protection and are not subject to immigration control they have access to public funds as defined by Section 115 of the Asylum and Immigration Act 1999. They are entitled to the same income-related benefits as UK nationals, provided that they fulfil the normal conditions of entitlement.</p> <p>These include:</p> <p>Income Support State Pension Credit Housing Benefit Council tax Benefit Child Benefit</p> <p>Social Welfare is not devolved, however Northern Ireland do have separate regulations. Currently legislation in this field is being amended in England, Wales, Scotland and Northern Ireland to reflect change in Humanitarian Protection being granted inside the immigration rules. The Department for Work and Pension is amending their legislation accordingly in time for the Directives deadline.</p> <p>Section 42 of the Tax Credit Act 2002 allows for regulations allows access to these funds too person not subject to immigration Control. These regulations are contained in the Tax Credits (Immigration) Regulations 2003.</p> <p>Tax Credits are not a devolved matter.</p>	<p>Secretary of State for Work and Pensions</p> <p>Secretary of State for the Home Department</p> <p>Department for Social Development Northern Ireland, Social Security</p> <p>Pay Master General for Her Majesty's Revenue and Customs.</p> <p>http://www.opsi.gov.uk/ACTS/acts1999/19990033.htm Section 115</p> <p>http://www.opsi.gov.uk/acts/acts2002/20020021.htm</p> <p>http://www.opsi.gov.uk/ACTS/acts1995/Ukpga_19950018_en_1.htm</p> <p>http://www.opsi.gov.uk/si/si1995/Uksi_19952705_en_1.htm#end</p>

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29	<p>1. Member States shall ensure that beneficiaries of refugee or subsidiary protection status have access to health care under the same eligibility conditions as nationals of the Member State that has granted such statuses.</p> <p>2. By exception to the general rule laid down in paragraph 1, Member States may limit health care granted to beneficiaries of subsidiary protection to core benefits which will then be provided at the same levels and under the same eligibility conditions as nationals.</p> <p>3. Member States shall provide, under the same eligibility conditions as nationals of the Member State that has granted the</p>	<p>National Health Service (NHS) primary medical services are free to all persons lawfully resident in the UK regardless of their immigration status. Under section 16CC(1) of the NHS Act 1977, each Primary Care Trusts (PCT) has a duty, to the extent that it considers necessary to meet all reasonable requirements, to exercise its powers so as to provide or secure the provision of primary medical services within its area.</p> <p>NHS secondary care is also provided free of charge to those granted refugee status or humanitarian protection. They are exempt from charges under the NHS (Charges for Overseas Visitors) Regulations 1989.</p> <p>The NHS (Charges for Overseas Visitors) (Scotland) 1989 cover people who have been accepted as refugees and who qualify to take up permanent residence in the UK. NHS Boards in Scotland treat refugees on the</p>	<p>Secretary of State for Health.</p> <p>http://www.opsi.gov.uk/sr/sr2005/20050551.htm</p> <p>Health and Personal Social, Services (Northern Ireland) Order 1972 Article 17</p> <p>NHS Act 1977 Section 2, section 121, section 16CC(1)</p> <p>http://www.opsi.gov.uk/si/si2002/20022759.htm section 16CC(1), section 17</p>

	<p>status, adequate health care to beneficiaries of refugee or subsidiary protection status who have special needs, such as pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict.</p>	<p>same basis as nationals and secure the provision of primary medical services to any resident of their area.</p> <p>The Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2005 covers health treatment for refugees. Individuals with special needs are subject to clinical judgement in each individual case within the policies of the particular HSS Trust or Health and Social Services Board.</p>	<p>NHS(Charges to Overseas Visitors) Regulations 1989 as amended.</p> <p>NHS(Charges to Overseas Visitors) (Scotland) Regulations 1989 as amended.</p> <p>http://www.opsi.gov.uk/acts/acts1998/19980038.htm section 120</p> <p>http://www.opsi.gov.uk/legislation/wales/wsi2003/20030150e.htm Reg 2(2)</p>
30	<p>1. As soon as possible after the granting of refugee or subsidiary protection status Member States shall take the necessary measures, to ensure the representation of unaccompanied minors by legal guardianship or, where necessary, by an organisation responsible for the care and well-being of minors, or by any other appropriate representation including that based on legislation or Court order.</p> <p>2. Member States shall ensure that the minor's needs are duly met in the implementation of this Directive by the appointed guardian or representative. The appropriate authorities shall make regular assessments.</p> <p>3. Member States shall ensure that unaccompanied minors are placed either:</p> <ul style="list-style-type: none"> (a) with adult relatives; or (b) with a foster family; or (c) in centres specialised in accommodation for minors; or (d) in other accommodation suitable for minors. 	<p>Unaccompanied children in England and Wales are supported by Local Authority Children's Service Departments under Section 20 of the Children Act of 1989.</p> <p>The same is applicable under Section 21 of the Children (Northern Ireland) Act Order 1995 and the equivalent provisions for Scotland are Article 25 and 26 of the Children (Scotland) Act 1995.</p> <p>The best interests of the child is an underpinning principle of the Act and we therefore believe we meet the requirements of article 30.</p>	<p>http://www.opsi.gov.uk/legislation/wales/wsi2004/20041433e.htm</p> <p>http://www.opsi.gov.uk/si/si2004/20040614.htm</p> <p>http://www.opsi.gov.uk/legislation/wales/wsi2004/wsi_20040478_mi.pdf#search=%22NHS%20general%20medical%20services%20contracts%20wales%20regulations%202004%22</p> <p>http://www.opsi.gov.uk/acts/acts1989/Ukpga_19890041_en_1.htm section 20</p> <p>http://www.uk-legislation.hmso.gov.uk/si/si1995/Uksi_19950755_en_1.htm section 21</p> <p>http://www.opsi.gov.uk/acts/acts1995/Ukpga_19950036_en_1.htm articles 25 and 26</p>

31	<p>The Member States shall ensure that beneficiaries of refugee or subsidiary protection status have access to accommodation under equivalent conditions as other third country nationals legally resident in their territories.</p>	<p>Parts 6 and 7 of the Housing Act 1996 allocates social housing in England and Wales. Sections 160(A) and 3 as well as 185(2) of the 1996 Act provide refugees and those granted exceptional leave to enter/remain access to social housing. However to meet the requirements of the Qualification Directive the Secretary of State for Communities and Local Government will amend secondary legislation to reflect the change in Humanitarian Protection being granted inside the immigration rules.</p> <p>Housing allocation in Scotland and Northern Ireland is also being amended to reflect the introduction of Humanitarian Protection within the immigration Rules.</p>	<p>Secretary of State for Communities and Local Government.</p> <p>Secretary of State for the Home Department.</p> <p>Welsh Assembly - Wales Housing Directorate</p> <p>http://www.opsi.gov.uk/ACTS/acts1996/1996052.htm Parts 6 and 7</p> <p>http://www.opsi.gov.uk/si/si2006/20061294.htm Allocation of Housing (Wales) Regulations 2003</p> <p>http://www.opsi.gov.uk/legislation/wales/wsi2000/20001079e.htm</p> <p>http://www.opsi.gov.uk/si/si2000/20000706.htm</p>
32	<p>Member States shall allow freedom of movement within their territory to beneficiaries of refugee or subsidiary protection status, under the same conditions and restrictions as those provided for other third country nationals legally resident in their territories.</p>	<p>There is no bar on those granted refugee status or humanitarian protection (unless otherwise detained). Therefore is no legislative basis for freedom of movement for people with refugee status any more than there is a legal basis for freedom of movement for anyone else. This provision has not been specifically implemented.</p>	
33	<p>1. In order to facilitate the integration of refugees into society, Member States shall make provision for integration programmes which they consider to be appropriate or create pre-conditions which guarantee access to such programmes.</p> <p>2. Where it is considered appropriate by Member States, beneficiaries of subsidiary protection status shall be granted access to integration programmes.</p>	<p>Section 13(1) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (as amended by s45 of the Immigration, Asylum and Nationality Act 2006) gives the Secretary of State the authority to make regulations enabling him to make integration loans to</p> <p>(a) refugees and</p> <p>(b) to such other classes of person, or persons other than refugees in such circumstances, as the regulations may prescribe.</p> <p>This replaced s111 (1) of the Immigration and Asylum Act 1999 which gave the Secretary of State authority to make grants to voluntary organisations in connection with</p>	<p>http://www.opsi.gov.uk/acts/acts2004/20040019.htm section 13(1)</p> <p>http://www.opsi.gov.uk/ACTS/acts2006/ukpga_20060013_en.pdf#search=%22Immigration%20and%20Nationality%20Act%202006%2022</p> <p>http://www.opsi.gov.uk/ACTS/acts1999/1</p>

		<p>(a) the provision by them to support (of whatever nature) to persons who are, or have been, asylum seekers and to their dependants; and</p> <p>(b) connected matters</p> <p>(2) Grants may be made on such terms, and subject to such conditions, as the Secretary of State may determine.</p> <p>Section 60 of the 2006 Act states: There shall be paid out of money provided by Parliament –</p> <p>(a) any expenditure of the Secretary of State in connection with this Act and</p> <p>(b) any increased attributable to this Act in sums payable under another enactment out of money provided by Parliament.</p> <p>This therefore gives the authority to set aside money as seen fit by the Secretary of State to fund whatever is deemed to be appropriate.</p>	<p>9990033.htm section 111 (1)</p>
34	<p>Member States may provide assistance to beneficiaries of refugee or subsidiary protection status who wish to repatriate.</p>	<p>No action required.</p> <p>The UK currently offers a range of programmes such as Voluntary Assisted Return and Reintegration (VARRP) and Assisted Voluntary Return for Irregular Migrants (AVRIM). VARRP is open to asylum seekers as well as those who have limited leave to enter or remain while other programmes exists which provide assistance to those with indefinite leave who wish to repatriate.</p> <p>We fee this sufficiently meets the requirements of the Directive.</p>	
35	<p>Member States shall each appoint a national contact point, whose address they shall communicate to the Commission, which shall communicate it to the other Member States.</p> <p>Member States shall, in liaison with the Commission, take all appropriate measures to establish direct cooperation and an exchange of information between the competent authorities.</p>	<p>No action required.</p>	
36	<p>Member States shall ensure that authorities and other organisations implementing this Directive have received the necessary training and shall be bound by the confidentiality principle, as defined in the national law, in relation to any information they obtain in the course of their work.</p>	<p>No action required.</p>	

37	<p>1. By 10 April 2008, the Commission shall report to the European Parliament and the Council on the application of this Directive and shall propose any amendments that are necessary. These proposals for amendments shall be made by way of priority in relation to Articles 15, 26 and 33. Member States shall send the Commission all the information that is appropriate for drawing up that report by 10 October 2007.</p> <p>2. After presenting the report, the Commission shall report to the European Parliament and the Council on the application of this Directive at least every five years.</p>	No action required.	
38	<p>1. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 10 October 2006. They shall forthwith inform the Commission thereof. When the Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.</p> <p>2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.</p>	No action required.	
39	<p>This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>.</p>	No action required.	
40	<p>This Directive is addressed to the Member States in accordance with the Treaty establishing the European Community.</p>	No action required.	