

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the framework for the provision of accommodation under section 4 of the Immigration and Asylum Act 1999 (“the 1999 Act”) to failed asylum-seekers and their dependants. They provide in particular for the continued provision of accommodation to be made conditional on the performance of, or participation in, community activities. Section 4 was amended by both section 49 of the Nationality, Immigration and Asylum Act 2002 and section 10 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (“the 2004 Act”).

Regulation 1, apart from providing for citation and commencement, also provides that that these Regulations may apply to persons receiving accommodation when they come into force in exactly the same way as they apply to persons who may receive accommodation after they come into force.

Regulation 2 provides relevant definitions for the purpose of these Regulations.

Regulation 3 sets out the criteria which the Secretary of State is to use in determining whether to provide or continue to provide accommodation to a failed asylum-seeker and any dependants under section 4 of the 1999 Act. Those criteria are that the person is destitute and that he satisfies at least one of the conditions set out in paragraph (2) of that regulation.

Regulation 4 provides that the continued provision of accommodation can be made conditional on that person’s performance of or participation in community activities. Community activities are defined in section 4(7)(a) of the 1999 Act (added by section 10(1) of the 2004 Act) as meaning activities that appear to the Secretary of State to be beneficial to the public or a section of the public. Provision is made for the matters to which the Secretary of State will have regard in determining whether to make this a condition of continued provision of support to a person. Provision is also made so that the community activities condition does not apply to a person who is under the age of 18. The regulation further provides that no such community activities condition will require a person to perform or participate in community activities for more than 35 hours in any week, including the weekend.

Regulation 5 sets out the relevant information which is to be included in a notice given to a person who the Secretary of State determines should perform or participate in community activities.

Regulation 6 provides that the continued provision of accommodation to a person under section 4 may be made subject to such other conditions (falling within paragraph (2)) as the Secretary of State may from time to time determine and which are set out in a notice to that person in writing. Paragraph (2) provides that a condition falls within that paragraph to the extent that it relates to compliance with specified standards of behaviour, compliance with a reporting requirement, compliance with a requirement to reside at an authorised address or compliance with specified steps to facilitate that person’s departure from the United Kingdom.