

*Status: Point in time view as at 01/08/2008.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

Section 54

#### WITHHOLDING AND WITHDRAWAL OF SUPPORT

##### Modifications etc. (not altering text)

- C1** Sch. 3 applied (with modifications) (25.2.2008) by [The Independent Police Complaints Commission \(Immigration and Asylum Enforcement Functions\) Regulations 2008 \(S.I. 2008/212\)](#), regs. 1, 5(b), **Sch. 2**

##### *Ineligibility for support*

- 1 (1) A person to whom this paragraph applies shall not be eligible for support or assistance under—
- (a) section 21 or 29 of the National Assistance Act 1948 (c. 29) (local authority: accommodation and welfare),
  - (b) section 45 of the Health Services and Public Health Act 1968 (c. 46) (local authority: welfare of elderly),
  - (c) section 12 or 13A of the Social Work (Scotland) Act 1968 (c. 49) (social welfare services),
  - (d) Article 7 or 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) (prevention of illness, social welfare, &c.),
  - [<sup>F1</sup>(e) section 254 of, and Schedule 20 to, the National Health Service Act 2006, or section 192 of, and Schedule 15 to, the National Health Service (Wales) Act 2006 (social services),]
  - (f) section 29(1)(b) of the Housing (Scotland) Act 1987 (c. 26) (interim duty to accommodate in case of apparent priority need where review of a local authority decision has been requested),
  - (g) section 17, 23C, 24A or 24B of the Children Act 1989 (c. 41) (welfare and other powers which can be exercised in relation to adults),
  - (h) Article 18, 35 or 36 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) (welfare and other powers which can be exercised in relation to adults),
  - (i) sections 22, 29 and 30 of the Children (Scotland) Act 1995 (c. 36) (provisions analogous to those mentioned in paragraph (g)),
  - (j) section 188(3) or 204(4) of the Housing Act 1996 (c. 52) (accommodation pending review or appeal),
  - (k) section 2 of the Local Government Act 2000 (c. 22) (promotion of well-being),
  - (l) a provision of the Immigration and Asylum Act 1999 (c. 33), or
  - (m) a provision of this Act.

*Status: Point in time view as at 01/08/2008.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) A power or duty under a provision referred to in sub-paragraph (1) may not be exercised or performed in respect of a person to whom this paragraph applies (whether or not the person has previously been in receipt of support or assistance under the provision).
- (3) An approval or directions given under or in relation to a provision referred to in sub-paragraph (1) shall be taken to be subject to sub-paragraph (2).

#### **Textual Amendments**

- F1** Sch. 3 para. 1(1)(e) substituted (E.W.) (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8, [Sch. 1 para. 229](#) (with [Sch. 3 Pt. 1](#))

#### *Exceptions*

- 2 (1) Paragraph 1 does not prevent the provision of support or assistance—
  - (a) to a British citizen, or
  - (b) to a child, or
  - (c) under or by virtue of regulations made under paragraph 8, 9 or 10 below, or
  - (d) in a case in respect of which, and to the extent to which, regulations made by the Secretary of State disapply paragraph 1, or
  - (e) in circumstances in respect of which, and to the extent to which, regulations made by the Secretary of State disapply paragraph 1.
- (2) Regulations under sub-paragraph (1)(d) may confer a discretion on the Secretary of State.
- (3) Regulations under sub-paragraph (1)(e) may, in particular, disapply paragraph 1 to the provision of support or assistance by a local authority to a person where the authority—
  - (a) has taken steps in accordance with guidance issued by the Secretary of State to determine whether paragraph 1 would (but for the regulations) apply to the person, and
  - (b) has concluded on the basis of those steps that there is no reason to believe that paragraph 1 would apply.
- (4) Regulations under sub-paragraph (1)(d) or (e) may confer a discretion on an authority.
- (5) A local authority which is considering whether to give support or assistance to a person under a provision listed in paragraph 1(1) shall act in accordance with any relevant guidance issued by the Secretary of State under sub-paragraph (3)(a).
- (6) A reference in this Schedule to a person to whom paragraph 1 applies includes a reference to a person in respect of whom that paragraph is disapplied to a limited extent by regulations under sub-paragraph (1)(d) or (e), except in a case for which the regulations provide otherwise.

*Status: Point in time view as at 01/08/2008.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

- II** Sch. 3 para. 2 wholly in force at 8.1.2003; Sch. 3 para. 2 not in force at Royal Assent see s. 162(2); Sch. 3 para. 2 in force at 8.12.2002 for certain purposes and at 8.1.2003 so far as not already in force by S.I. 2002/2811, art. 2, Sch.

3 Paragraph 1 does not prevent the exercise of a power or the performance of a duty if, and to the extent that, its exercise or performance is necessary for the purpose of avoiding a breach of—

- (a) a person's Convention rights, or
- (b) a person's rights under the Community Treaties.

#### *First class of ineligible person: refugee status abroad*

4 (1) Paragraph 1 applies to a person if he—

- (a) has refugee status abroad, or
- (b) is the dependant of a person who is in the United Kingdom and who has refugee status abroad.

(2) For the purposes of this paragraph a person has refugee status abroad if—

- (a) he does not have the nationality of an EEA State, and
- (b) the government of an EEA State other than the United Kingdom has determined that he is entitled to protection as a refugee under the Refugee Convention.

#### *Second class of ineligible person: citizen of other EEA State*

5 Paragraph 1 applies to a person if he—

- (a) has the nationality of an EEA State other than the United Kingdom, or
- (b) is the dependant of a person who has the nationality of an EEA State other than the United Kingdom.

#### *Third class of ineligible person: failed asylum-seeker*

6 (1) Paragraph 1 applies to a person if—

- (a) he was (but is no longer) an asylum-seeker, and
- (b) he fails to cooperate with removal directions issued in respect of him.

(2) Paragraph 1 also applies to a dependant of a person to whom that paragraph applies by virtue of sub-paragraph (1).

#### *Fourth class of ineligible person: person unlawfully in United Kingdom*

7 Paragraph 1 applies to a person if—

- (a) he is in the United Kingdom in breach of the immigration laws within the meaning of section 11, and
- (b) he is not an asylum-seeker.

*Status: Point in time view as at 01/08/2008.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*[<sup>F2</sup>Fifth class of ineligible person: failed asylum-seeker with family*

**Textual Amendments**

**F2** Sch. 3 para. 7A and preceding cross-heading inserted (1.12.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 9(1), 48(1)-(3)**; S.I. 2004/2999, **art. 2**, Sch. (with transitional provisions in **art. 4**)

- 7A (1) Paragraph 1 applies to a person if—
- (a) he—
    - (i) is treated as an asylum-seeker for the purposes of Part VI of the Immigration and Asylum Act 1999 (c. 33) (support) by virtue only of section 94(3A) (failed asylum-seeker with dependent child), or
    - (ii) is treated as an asylum-seeker for the purposes of Part 2 of this Act by virtue only of section 18(2),
  - (b) the Secretary of State has certified that in his opinion the person has failed without reasonable excuse to take reasonable steps—
    - (i) to leave the United Kingdom voluntarily, or
    - (ii) to place himself in a position in which he is able to leave the United Kingdom voluntarily,
  - (c) the person has received a copy of the Secretary of State’s certificate, and
  - (d) the period of 14 days, beginning with the date on which the person receives the copy of the certificate, has elapsed.
- (2) Paragraph 1 also applies to a dependant of a person to whom that paragraph applies by virtue of sub-paragraph (1).
- (3) For the purpose of sub-paragraph (1)(d) if the Secretary of State sends a copy of a certificate by first class post to a person’s last known address, the person shall be treated as receiving the copy on the second day after the day on which it was posted.
- (4) The Secretary of State may by regulations vary the period specified in sub-paragraph (1)(d).]

**Modifications etc. (not altering text)**

**C2** Sch. 3 para. 7A: power to repeal conferred (prosp.) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), **ss. 44, 62**

*Travel assistance*

- 8 The Secretary of State may make regulations providing for arrangements to be made enabling a person to whom paragraph 1 applies by virtue of paragraph 4 or 5 to leave the United Kingdom.

**Commencement Information**

**I2** Sch. 3 para. 8 wholly in force at 8.1.2003; Sch. 3 para. 8 not in force at Royal Assent see [s. 162\(2\)](#); Sch. 3 para. 8 in force at 8.12.2002 for certain purposes and at 8.1.2003 so far as not already in force by S.I. 2002/2811, **art. 2**, **Sch.**

*Status: Point in time view as at 01/08/2008.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Temporary accommodation*

- 9 (1) The Secretary of State may make regulations providing for arrangements to be made for the accommodation of a person to whom paragraph 1 applies pending the implementation of arrangements made by virtue of paragraph 8.
- (2) Arrangements for a person by virtue of this paragraph—
- (a) may be made only if the person has with him a dependent child, and
  - (b) may include arrangements for a dependent child.

#### **Commencement Information**

- I3** Sch. 3 para. 9 wholly in force at 8.1.2003; Sch. 3 para. 9 not in force at Royal Assent see s. 162(2); Sch. 3 para. 9 in force at 8.12.2002 for certain purposes and at 8.1.2003 so far as not already in force by S.I. 2002/2811, art. 2, Sch.

- 10 (1) The Secretary of State may make regulations providing for arrangements to be made for the accommodation of a person if—
- (a) paragraph 1 applies to him by virtue of paragraph 7, and
  - (b) he has not failed to cooperate with removal directions issued in respect of him.
- (2) Arrangements for a person by virtue of this paragraph—
- (a) may be made only if the person has with him a dependent child, and
  - (b) may include arrangements for a dependent child.

#### **Commencement Information**

- I4** Sch. 3 para. 10 wholly in force at 8.1.2003; Sch. 3 para. 10 not in force at Royal Assent see s. 162(2); Sch. 3 para. 10 in force at 8.12.2002 for certain purposes and at 8.1.2003 so far as not already in force by S.I. 2002/2811, art. 2, Sch.

### *Assistance and accommodation: general*

- 11 Regulations under paragraph 8, 9 or 10 may—
- (a) provide for the making of arrangements under a provision referred to in paragraph 1(1) or otherwise;
  - (b) confer a function (which may include the exercise of a discretion) on the Secretary of State, a local authority or another person;
  - (c) provide that arrangements must be made in a specified manner or in accordance with specified principles;
  - (d) provide that arrangements may not be made in a specified manner;
  - (e) require a local authority or another person to have regard to guidance issued by the Secretary of State in making arrangements;
  - (f) require a local authority or another person to comply with a direction of the Secretary of State in making arrangements.

*Status: Point in time view as at 01/08/2008.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I5** Sch. 3 para. 11 wholly in force at 8.1.2003; Sch. 3 para. 11 not in force at Royal Assent see s. 162(2); Sch. 3 para. 11 in force at 8.12.2002 for certain purposes and at 8.1.2003 so far as not already in force by S.I. 2002/2811, art. 2, Sch.

- 12 (1) Regulations may, in particular, provide that if a person refuses an offer of arrangements under paragraph 8 or fails to implement or cooperate with arrangements made for him under that paragraph—
- (a) new arrangements may be made for him under paragraph 8, but
  - (b) new arrangements may not be made for him under paragraph 9.
- (2) Regulations by virtue of this paragraph may include exceptions in the case of a person who—
- (a) has a reason of a kind specified in the regulations for failing to implement or cooperate with arrangements made under paragraph 8, and
  - (b) satisfies any requirements of the regulations for proof of the reason.

#### Commencement Information

**I6** Sch. 3 para. 12 wholly in force at 8.1.2003; Sch. 3 para. 12 not in force at Royal Assent see s. 162(2); Sch. 3 para. 12 in force at 8.12.2002 for certain purposes and at 8.1.2003 so far as not already in force by S.I. 2002/2811, art. 2, Sch.

#### Offences

- 13 (1) A person who leaves the United Kingdom in accordance with arrangements made under paragraph 8 commits an offence if he—
- (a) returns to the United Kingdom, and
  - (b) requests that arrangements be made for him by virtue of paragraph 8, 9 or 10.
- (2) A person commits an offence if he—
- (a) requests that arrangements be made for him by virtue of paragraph 8, 9 or 10, and
  - (b) fails to mention a previous request by him for the making of arrangements under any of those paragraphs.
- (3) A person who is guilty of an offence under this paragraph shall be liable on summary conviction to imprisonment for a term not exceeding six months.

#### Information

- 14 (1) If it appears to a local authority that paragraph 1 applies or may apply to a person in the authority's area by virtue of [F3 paragraph 6, 7 or 7A], the authority must inform the Secretary of State.
- (2) A local authority shall act in accordance with any relevant guidance issued by the Secretary of State for the purpose of determining whether paragraph 1 applies or may apply to a person in the authority's area by virtue of [F3 paragraph 6, 7 or 7A].

*Status: Point in time view as at 01/08/2008.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F3** Words in Sch. 3 para. 14(1)(2) substituted (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 9(2), 48(1)-(3); S.I. 2004/2999, art. 2, Sch. (with transitional provisions in art. 4)

### Power to amend Schedule

- 15 The Secretary of State may by order amend this Schedule so as—
- (a) to provide for paragraph 1 to apply or not to apply to a class of person;
  - (b) to add or remove a provision to or from the list in paragraph 1(1);
  - (c) to add, amend or remove a limitation of or exception to paragraph 1.

### Commencement Information

- I7** Sch. 3 para. 15 wholly in force at 8.1.2003; Sch. 3 para. 15 not in force at Royal Assent see s. 162(2); Sch. 3 para. 15 in force at 8.12.2002 for certain purposes and at 8.1.2003 so far as not already in force by S.I. 2002/2811, art. 2, Sch.

### Orders and regulations

- 16 (1) An order or regulations under this Schedule must be made by statutory instrument.
- (2) An order or regulations under this Schedule may—
- (a) make provision which applies generally or only in specified cases or circumstances or only for specified purposes;
  - (b) make different provision for different cases, circumstances or purposes;
  - (c) make transitional provision;
  - (d) make consequential provision (which may include provision amending a provision made by or under this or another Act).
- (3) An order under this Schedule, regulations under paragraph 2(1)(d) or (e) or other regulations which include consequential provision amending an enactment shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (4) Regulations under this Schedule to which sub-paragraph (3) does not apply shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Commencement Information

- I8** Sch. 3 para. 16 wholly in force at 8.1.2003; Sch. 3 para. 16 not in force at Royal Assent see s. 162(2); Sch. 3 para. 16 in force at 8.12.2002 for certain purposes and at 8.1.2003 so far as not already in force by S.I. 2002/2811, art. 2, Sch.

### Interpretation

- 17 (1) In this Schedule—
- “asylum-seeker” means a person—

*Status: Point in time view as at 01/08/2008.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) who is at least 18 years old,
- (b) who has made a claim for asylum (within the meaning of section 18(3)), and
- (c) whose claim has been recorded by the Secretary of State but not determined,

“Convention rights” has the same meaning as in the Human Rights Act 1998 (c. 42),

“child” means a person under the age of eighteen,

“dependant” and “dependent” shall have such meanings as may be prescribed by regulations made by the Secretary of State,

“EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time),

“local authority”—

- (a) in relation to England and Wales, has the same meaning as in section 129(3),
- (b) in relation to Scotland, has the same meaning as in section 129(4), and
- (c) in relation to Northern Ireland, means a health service body within the meaning of section 133(4)(d) and the Northern Ireland Housing Executive (for which purpose a reference to the authority’s area shall be taken as a reference to Northern Ireland),

“the Refugee Convention” means the Convention relating to the status of Refugees done at Geneva on 28th July 1951 and its Protocol, and

“removal directions” means directions under Schedule 2 to the Immigration Act 1971 (c. 77) (control of entry, &c.), under Schedule 3 to that Act (deportation) or under section 10 of the Immigration and Asylum Act 1999 (c. 33) (removal of person unlawfully in United Kingdom).

- (2) For the purpose of the definition of “asylum-seeker” in sub-paragraph (1) a claim is determined if—
  - (a) the Secretary of State has notified the claimant of his decision,
  - (b) no appeal against the decision can be brought (disregarding the possibility of an appeal out of time with permission), and
  - (c) any appeal which has already been brought has been disposed of.
- (3) For the purpose of sub-paragraph (2)(c) an appeal is disposed of when it is no longer pending for the purpose of—
  - (a) Part 5 of this Act, or
  - (b) the Special Immigration Appeals Commission Act 1997 (c. 68).
- (4) The giving of directions in respect of a person under a provision of the Immigration Acts is not the provision of assistance to him for the purposes of this Schedule.



**Status:**

Point in time view as at 01/08/2008.

**Changes to legislation:**

Nationality, Immigration and Asylum Act 2002, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.