

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

**Changes to legislation:** Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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

VALID FROM 15/01/2018

### SCHEDULE 11

Section 66

#### SUPPORT FOR CERTAIN CATEGORIES OF MIGRANT

#### PART 1

#### AMENDMENTS OF THE IMMIGRATION ACTS

#### *Abolition of power to support certain categories of migrant*

- 1 Section 4 of the Immigration and Asylum Act 1999 (provision of accommodation for failed asylum-seekers, etc) is repealed.

#### Commencement Information

- II** Sch. 11 para. 1 in force at 15.1.2018 for specified purposes by S.I. 2017/1241, reg. 2(d)(i) (with Sch.) (as amended by S.I. 2018/31, reg. 2)

PROSPECTIVE

- 2 In consequence of the repeal made by paragraph 1—
- (a) in section 26A of the Immigration Act 1971, omit subsection (1)(b)(ii);
  - (b) in the following provisions, omit “section 4 or”—
    - (i) section 3A(7A) of the Protection from Eviction Act 1977;
    - (ii) paragraph 3A(1) of Schedule 2 to the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I. 15));
    - (iii) section 23A(5A) of the Rent (Scotland) Act 1984;
    - (iv) paragraph 4A(1) of Schedule 1 to the Housing Act 1985;
    - (v) paragraph 11B of Schedule 4 to the Housing (Scotland) Act 1988;
    - (vi) paragraph 12A(1) of Schedule 1 to the Housing Act 1988;
  - (c) in section 99 of the Immigration and Asylum Act 1999, in subsections (1) and (4), omit “4,”;
  - (d) in section 103 of that Act—
    - (i) omit subsection (2A), and
    - (ii) in subsections (6) and (7), for “section 4 or 95” substitute “section 95”;
  - (e) in section 118(1)(b) of that Act, omit “4,”;

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)*

- (f) in section 166(5) of that Act, omit paragraph (za);
- (g) in the Nationality, Immigration and Asylum Act 2002—
  - (i) in section 23, omit subsection (5),
  - (ii) in section 26, in subsection (3), omit “4,”,
  - (iii) omit section 49,
  - (iv) in section 51, in subsection (2), omit paragraph (b), and
  - (v) in section 55, in subsection (2)(a), omit “4,”;
- (h) in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, omit section 10;
- (i) in the Immigration, Asylum and Nationality Act 2006, omit section 43(1)(b), (2), (5), (6) and (7);
- (j) in the UK Borders Act 2007—
  - (i) in section 17, in subsection (1)(a), omit “(and section 4)”, and
  - (ii) in section 40, in subsection (1), omit paragraph (e);
- (k) in section 134 of the Criminal Justice and Immigration Act 2008, omit subsection (5);
- (l) in Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012, in paragraph 31(1)(a), omit “4 or” and “persons temporarily admitted and”;
- (m) in paragraph 8 of Schedule 3 to the Immigration Act 2014, omit paragraph (a).
- [<sup>F1</sup>(n) in paragraph 7(3)(k)(i) of Schedule 2 to the Renting Homes (Wales) Act 2016 (anaw 1), in the English language text omit “section 4 (accommodation) or” and in the Welsh language text omit “adran 4 (llety) neu”.]

#### Textual Amendments

- F1** Sch. 11 para. 2(n) inserted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Amendment\) Regulations 2022 \(S.I. 2022/803\)](#), regs. 1(1), 8 (as amended by [S.I. 2022/906](#), arts. 1(2), 15)

PROSPECTIVE

#### *Power to support people making further submissions in relation to protection claims*

- 3 (1) Section 94 of the Immigration and Asylum Act 1999 (interpretation of Part 6) is amended as follows.
- (2) In subsection (1)—
- (a) for the definition of “asylum-seeker” substitute—
    - ““asylum-seeker” means a person falling within subsection (2A) or (2B) (but see also subsection (3C));”;
  - (b) omit the definition of “claim for asylum”;
  - (c) before the definition of “housing accommodation” insert—
    - ““further qualifying submissions” has the meaning given by subsection (2C);”;

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

**Changes to legislation:** Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)

(d) after the definition of “Northern Ireland authority” insert—

““protection claim” has the meaning given by section 82(2) of the Nationality, Immigration and Asylum Act 2002;”.

(3) After subsection (2) insert—

“(2A) A person is an asylum-seeker for the purposes of this Part if—

- (a) the person is at least 18 years old,
- (b) the person has made a protection claim, and
- (c) the person's claim—
  - (i) has been recorded by the Secretary of State, but
  - (ii) has not been determined.

(2B) A person is also an asylum-seeker for the purposes of this Part if—

- (a) the person is at least 18 years old,
- (b) the person has made further qualifying submissions (see subsection (2C)), and
- (c) the person's submissions—
  - (i) have been recorded by the Secretary of State, but
  - (ii) have not been determined before the end of such period as may be prescribed.

(2C) A person makes “further qualifying submissions” if—

- (a) the person makes submissions to the Secretary of State that the person's removal from the United Kingdom would breach any of the obligations mentioned in section 82(2)(a)(i) or (ii) of the Nationality, Immigration and Asylum Act 2002 (protection claims), and
- (b) the submissions fall to be considered by the Secretary of State under paragraph 353 of the immigration rules.”

(4) In subsection (3), for “claim for asylum” substitute “ protection claim ”.

(5) After subsection (3) insert—

“(3A) For the purposes of this Part, further qualifying submissions made by a person are determined—

- (a) at the end of a prescribed period beginning with the relevant day (see subsection (3B)), or
- (b) in a case where no period is prescribed for the purposes of paragraph (a), at the end of the relevant day.

(3B) In subsection (3A) “the relevant day” means the day on which the Secretary of State notifies the person that the submissions made by the person are to be—

- (a) accepted,
- (b) rejected without being treated as a fresh protection claim, or
- (c) treated as a fresh protection claim.

(3C) If—

- (a) further qualifying submissions made by a person are rejected without being treated as a fresh protection claim, and

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)*

(b) the person is granted permission to apply for judicial review of that rejection,

the person is to be treated as an asylum-seeker for the purposes of this Part during the review period (see subsection (3D)).

(3D) In subsection (3C) “the review period” means the period—

(a) beginning with the day on which permission to apply for judicial review is granted, and

(b) ending with—

(i) a prescribed period beginning with the day on which the judicial review is disposed of, or

(ii) in a case where no period is prescribed for the purposes of sub-paragraph (i), that day.”

(6) In subsection (8), after “subsection (3)” insert “ or (3B) ”.

4

In consequence of the repeal made by paragraph 3(2)(b)—

(a) in section 96 of the Immigration and Asylum Act 1999 (ways in which support may be provided), in subsection (1)(c), for “claim for asylum” substitute “ protection claim ”;

(b) in section 141 of that Act (fingerprinting)—

(i) in subsections (7)(e), (8)(e) and (9)(e), for “claim for asylum” substitute “ protection claim ”, and

(ii) in subsection (15), for “ “Claim for asylum” ” substitute “ “Protection claim” ”;

(c) in section 167 of that Act (interpretation), in subsection (1), in the definition of “claim for asylum”, for “Parts V and VI and section 141” substitute “ Part 5 ”;

(d) in Schedule 8 to that Act (provision of support: regulations), in paragraph 9(2)(b), for “claim for asylum” substitute “ protection claim ”;

(e) in section 135 of the Criminal Justice and Immigration Act 2008 (support: supplemental), in subsection (5), for “claim for asylum” substitute “ protection claim ”.

PROSPECTIVE

*Power to support failed asylum-seekers*

5

Part 6 of the Immigration and Asylum Act 1999 (support for asylum-seekers) is amended as follows.

6

The heading of the Part becomes “ SUPPORT FOR ASYLUM-SEEKERS, ETC ”.

7

(1) Section 94 (interpretation of Part 6) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “dependant”, after “asylum-seeker” insert “ , a failed asylum-seeker ”;

(b) after the definition of “the Executive” insert—

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)*

““failed asylum-seeker” has the meaning given by subsection (2D);”;

(c) for the definition of “supported person” substitute—

““supported person” means—

- (a) in relation to support under section 95, an asylum-seeker, or a dependant of an asylum-seeker, who has applied for support and for whom support is provided under that section, and
- (b) in relation to support under section 95A, a failed asylum-seeker, or a dependant of a failed asylum-seeker, who has applied for support and for whom support is provided under that section.”

(3) In subsection (2), after “section 95” insert “ or 95A ”.

(4) After subsection (2C) (inserted by paragraph 3(3) above) insert—

“(2D) A person is a failed asylum-seeker for the purposes of this Part if—

- (a) the person is at least 18 years old,
- (b) the person—
  - (i) was an asylum-seeker, or
  - (ii) would have been an asylum-seeker at any time if the person had been at least 18 years old at that time,
- (c) the person's protection claim has been rejected, and
- (d) the person is not an asylum-seeker.”

(5) Omit subsections (5) and (6).

8 In section 95 (persons for whom support may be provided), the heading becomes “ **Support for asylum-seekers, etc** ”.

9 After section 95 insert—

**“95A Support for failed asylum-seekers, etc who are unable to leave UK**

(1) The Secretary of State may provide, or arrange for the provision of, support for a person, for such period or periods as may be prescribed, if—

- (a) the person is a failed asylum-seeker, or a dependant of a failed asylum-seeker,
- (b) an application for support under this section is made in respect of the person which meets such requirements as may be prescribed,
- (c) it appears to the Secretary of State that the person is destitute, or is likely to become destitute within such period as may be prescribed, and
- (d) the person faces a genuine obstacle to leaving the United Kingdom.

(2) Subsections (3) to (8) of section 95 (meaning of “destitute”) apply for the purposes of this section as they apply for the purposes of that section.

---

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

**Changes to legislation:** *Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)*

---

- (3) Regulations made by the Secretary of State may make provision for determining what is, or is not, to be regarded as a genuine obstacle to leaving the United Kingdom for the purposes of this section.
- (4) The Secretary of State may make regulations prescribing other criteria to be used in determining—
  - (a) whether or not to provide support, or arrange for the provision of support, for a person under this section;
  - (b) whether or not to continue to provide support, or arrange for the provision of support, for a person under this section.
- (5) Regulations under subsection (4) may, in particular—
  - (a) provide for the provision of support (or the continuation of the provision of support) to be subject to conditions;
  - (b) provide for the provision of support (or the continuation of the provision of support) to be a matter for the Secretary of State's discretion to a prescribed extent or in cases of a prescribed description.
- (6) A condition imposed by regulations under subsection (5)(a) may, in particular, relate to any of the following—
  - (a) any matter relating to the use of the support provided;
  - (b) compliance with a condition imposed under Schedule 10 to the Immigration Act 2016 (immigration bail);
  - (c) the person's performance of, or participation in, community activities in accordance with arrangements made by the Secretary of State.
- (7) A copy of any conditions imposed by regulations under subsection (5)
  - (a) must be given to the supported person.
- (8) For the purposes of subsection (6)(c)—
  - (a) “community activities” means activities that appear to the Secretary of State to be beneficial to the public or a section of the public, and
  - (b) the Secretary of State may, in particular—
    - (i) appoint one person to supervise or manage the performance of, or participation in, activities by another person;
    - (ii) enter into a contract (with a local authority or any other person) for the provision of services by way of making arrangements for community activities in accordance with this section;
    - (iii) pay, or arrange for the payment of, allowances to a person performing or participating in community activities in accordance with arrangements under this section.
- (9) Regulations by virtue of subsection (6)(c) may, in particular, provide for a condition requiring the performance of, or participation in, community activities to apply to a person only if—

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

**Changes to legislation:** Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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) accommodation is to be, or is being, provided for the person under this section, and
    - (b) the Secretary of State has made arrangements for community activities in an area that includes the place where the accommodation is to be, or is being, provided.
  - (10) A local authority or other person may undertake to manage or participate in arrangements for community activities in accordance with this section.
  - (11) The powers conferred by Schedule 8 (supplementary regulation-making powers) are exercisable with respect to the powers conferred by this section as they are exercisable with respect to the powers conferred by section 95, but with the modification in subsection (12).
  - (12) Paragraph 9 of Schedule 8 (notice to quit) has effect with respect to the powers conferred by this section as if sub-paragraph (2)(b) were omitted.”
- 10 (1) Section 96 (ways in which support may be provided) is amended as follows.
- (2) In subsection (1)—
    - (a) after “section 95” insert “ or 95A ”;
    - (b) in paragraph (c), for “the asylum-seeker” substitute “ an asylum-seeker ”;
    - (c) in paragraph (d)—
      - (i) for “the asylum-seeker” substitute “ an asylum-seeker ”, and
      - (ii) after “dependants” insert “ , or a failed asylum-seeker and his dependants, ”;
    - (d) in paragraph (e)—
      - (i) for “the asylum-seeker” substitute “ an asylum-seeker ”, and
      - (ii) after “dependants” insert “ , or a failed asylum-seeker and his dependants, ”.
  - (3) After subsection (1) insert—

“(1A) Support under section 95A may, in particular, be provided in the form of vouchers which may be exchanged for goods or services (as well as in the form of cash).”
  - (4) In subsection (2), after “section 95” insert “ or 95A ”.
- 11 (1) Section 97 (supplemental) is amended as follows.
- (2) In subsection (1)—
    - (a) after “section 95” insert “ or 95A ”;
    - (b) after “regard to” insert “ the following ”;
    - (c) in paragraph (a), at the beginning insert “ in the case of the provision of accommodation under section 95, ”.
  - (3) In subsections (4), (5) and (7), after “section 95” insert “ or 95A ”.
  - (4) After subsection (7) insert—

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)*

- “(8) A tenancy is not a Scottish secure tenancy (within the meaning of the Housing (Scotland) Act 2001 (asp 10)) if it is granted in order to provide accommodation under section 95A.
- (9) A tenancy which would be a Scottish secure tenancy but for subsection (8) becomes a Scottish secure tenancy if the landlord notifies the tenant that it is to be regarded as such.”
- 12 In section 98, the heading becomes “**Temporary support for asylum-seekers, etc**”.
- 13 After section 98 insert—
- “98A Temporary support for failed asylum-seekers, etc**
- (1) The Secretary of State may provide, or arrange for the provision of, support for persons within subsection (2) who it appears to the Secretary of State—
- (a) may be destitute, and
- (b) may face a genuine obstacle to leaving the United Kingdom.
- (2) The persons referred to in subsection (1) are—
- (a) failed asylum-seekers, and
- (b) dependants of failed asylum-seekers.
- (3) Support may be provided under this section only until the Secretary of State is able to determine whether support may be provided under section 95A.
- (4) Subsections (3) to (12) of section 95A apply for the purposes of this section as they apply for the purposes of that section.”
- 14 (1) Section 99 (provision of support by local authorities) is amended as follows.
- (2) In subsection (1), for “or 98” substitute “ 95A, 98 or 98A ”.
- (3) In subsection (3)—
- (a) after “section 95” insert “ or 95A ”;
- (b) for “section 96(1) and (2)” substitute “ section 96(1) to (2) ”.
- (4) In subsection (4), for “or 98” substitute “ 95A, 98 or 98A ”.
- 15 In section 100 (local authority and other assistance for Secretary of State), in subsection (1), after “section 95” insert “ or 95A ”.
- 16 In section 101 (reception zones), in subsection (3), after “section 95” (in both places where it occurs) insert “ or 95A ”.
- 17 In section 112 (recovery of expenditure on support: misrepresentation etc), in subsections (1)(b) and (3), for “section 95 or 98” substitute “ section 95, 95A, 98 or 98A ”.
- 18 In section 113 (recovery of expenditure on support from sponsor), in subsections (1)(b), (4) and (5)(a), after “section 95” insert “ or 95A ”.
- 19 (1) Section 114 (overpayments) is amended as follows.
- (2) In subsection (1), for “section 95 or 98” substitute “ section 95, 95A, 98 or 98A ”.



*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)*

- (3) In subsection (4), for “section 95” substitute “ section 95, 95A or 98A ”.
- 20 In section 118 (housing authority accommodation), in subsection (1)(b), for “or 98” substitute “ 95A, 98 or 98A ”.
- 21 (1) Section 122 (support for children) is amended as follows.
- (2) In subsection (1), after “section 95” insert “ or 95A ”.
- (3) In subsection (2), after “section 95” insert “ or (as the case may be) 95A ”.
- (4) In subsections (3) and (4), after “section 95” insert “ or 95A ”.
- (5) In subsection (5)—
- (a) in paragraph (b)(i), after “section 95” insert “ or 95A ”, and
- (b) in paragraph (b)(ii), after “section 95” insert “ or (as the case may be) 95A ”.
- 22 (1) Section 125 (entry of premises) is amended as follows.
- (2) In subsection (1), for “section 95 or 98” substitute “ section 95, 95A, 98 or 98A ”.
- (3) In subsection (2)—
- (a) in paragraph (b), at the beginning insert “ in the case of accommodation provided under section 95 or 98, ”;
- (b) after that paragraph insert—
- “(ba) in the case of accommodation provided under section 95A or 98A, the accommodation is being used for any purpose other than the accommodation of the failed asylum-seeker or any dependant of his,”.
- 23 In section 127 (requirement to supply information about redirection of post), in subsection (1)(c), after “asylum-seekers” insert “ or failed asylum-seekers ”.
- 24 (1) Section 166 (regulations and orders) is amended as follows.
- (2) In subsection (5) (regulations subject to the affirmative procedure) for the “or” at the end of paragraph (c) substitute—
- “(ca) section 95A, or”.
- (3) After subsection (5) insert—
- “(5A) No regulations under paragraph 1 of Schedule 8 which make provision with respect to the powers conferred by section 95A are to be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- (5B) Subsection (5A) does not apply to regulations under paragraph 1 of that Schedule which make provision of the kind mentioned in paragraph 3(a) of that Schedule.”
- (4) In subsection (6) (regulations subject to the negative procedure) for the “or” at the end of paragraph (a) substitute—
- “(aa) under the provision mentioned in subsection (5A) and containing regulations to which that subsection applies, or”.
- 25 In section 26A of the Immigration Act 1971 (registration card), in subsection (1)(b), after sub-paragraph (i) insert—

*Status: Point in time view as at 12/07/2016. This version of this  
 schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force  
 on or before 06 September 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)*

- “(ia) a claim for support under section 95A of the  
 Immigration and Asylum Act 1999 (whether or not  
 made by that person).”
- 26 (1) The Nationality, Immigration and Asylum Act 2002 is amended as follows.
- (2) In section 18 (definition of asylum-seeker for purposes of Part 2), omit subsection (2).
- (3) In section 26 (withdrawal of support), in subsection (3)—
- (a) for “95 or 98” substitute “ 95, 95A, 98 or 98A ”;
- (b) omit “(asylum-seeker)”.
- (4) In section 35—
- (a) in subsection (2), for “section 95 or 98” substitute “ section 95, 95A, 98 or 98A ”;
- (b) in subsection (3), after “section 95” insert “ or 95A ”.
- (5) In section 43—
- (a) in subsection (1), for “asylum-seeker” substitute “ asylum-seekers and failed asylum-seekers, etc ”;
- (b) the heading of that section becomes “ **Form of support under Part 6 of the Immigration and Asylum Act 1999** ”.
- (6) In section 51 (choice of form of support), in subsection (2), omit the “and” after paragraph (b) and after paragraph (c) insert “, and
- (d) sections 95A and 98A of that Act (support for destitute failed asylum-seekers).”
- (7) In section 55 (late claim for asylum: refusal of support), in subsection (2), after paragraph (a) insert—
- “(aa) sections 95A and 98A of that Act (support for failed asylum-seeker, &c),”.
- (8) In Schedule 3 (withholding and withdrawal of support)—
- (a) omit paragraph 7A;
- (b) in paragraph 14(1) and (2), for “, 7 or 7A” substitute “ or 7 ”.
- 27 In section 9 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (failed asylum-seekers: withdrawal of support)—
- (a) omit subsections (1) and (4);
- (b) in subsection (3)(a) and (b), omit “other than paragraph 7A”.
- 28 In the Immigration, Asylum and Nationality Act 2006, omit section 44 (power to repeal paragraph 7A of Schedule 3 to the Nationality, Immigration and Asylum Act 2002).
- 29 In section 40 of the UK Borders Act 2007 (supply of Revenue and Customs information), in subsection (1)(f), for “asylum-seekers and their dependants” substitute “ persons ”.
- 30 In Schedule 3 to the Immigration Act 2014 (excluded residential tenancy agreements), in paragraph 8 (accommodation provided by virtue of immigration provisions)—
- (a) in paragraph (b) after “95” insert “ or 95A ”, and

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)*

(b) in paragraph (c) after “98” insert “ or 98A ”.

PROSPECTIVE

*Accommodation centres: definition of “asylum-seeker” etc*

- 31 (1) Section 18 of the Nationality, Immigration and Asylum Act 2002 (definition of asylum-seeker for purposes of Part 2) is amended as follows.
- (2) For subsection (1) substitute—
- “ (1) For the purposes of this Part a person is an “asylum-seeker” if—
- (a) the person is at least 18 years old,
  - (b) the person has made a protection claim, and
  - (c) the person's claim—
    - (i) has been recorded by the Secretary of State, but
    - (ii) has not been determined.
- (1A) A person is also an “asylum-seeker” for the purposes of this Part if the person is an asylum-seeker for the purposes of Part 6 of the Immigration and Asylum Act 1999 by virtue of section 94(2B) or (3C) of that Act.”
- (3) For subsection (3) substitute—
- “ (3) Protection claim” has the meaning given by section 82(2).”
- 32 (1) In consequence of the amendment made by paragraph 31(3), section 26A of the Immigration Act 1971 (registration card) is amended as follows.
- (2) In subsection (1)(b)(i), for “claim for asylum” substitute “ protection claim ”.
- (3) In subsection (2), for “ “claim for asylum” ” substitute “ “protection claim” ”.
- 33 In consequence of the amendments made by paragraph 31, the Nationality, Immigration and Asylum Act 2002 is amended as follows.
- 34 In section 16 (establishment of accommodation centres), in subsection (3)(b), for “claims for asylum” substitute “ protection claims ”.
- 35 In section 21(3), for “claim for asylum” substitute “ protection claim ”.
- 36 In section 29 (facilities), in subsection (1)(c), for “claim for asylum” substitute “ protection claim ”.
- 37 (1) Section 55 (late claim for asylum: refusal of support) is amended as follows.
- (2) In subsections (1)(a), (3)(a) and (6)(a), for “claim for asylum” substitute “ protection claim ”.
- (3) In subsection (9), for “ “claim for asylum” ” substitute “ “protection claim” ”.
- (4) The heading of the section becomes “ **Late protection claim: refusal of support** ”.
- 38 In section 70 (induction), in the definition of “asylum-seeker” in subsection (3), after “section 18(1)(a)” insert “ of this Act and section 94(2B)(a) of the Immigration and Asylum Act 1999 ”.
- 39 (1) Section 71 (asylum-seeker: residence, etc restriction) is amended as follows.

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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) In subsection (1)(a), for “claim for asylum” substitute “ protection claim ”.
- (3) In subsection (5), for “ “claim for asylum” ” substitute “ “protection claim” ”.
- 40 In Schedule 3 (withholding and withdrawal of support), in paragraph 17(1), for the definition of “asylum-seeker” substitute—
- ““asylum-seeker” has the meaning given by section 18,”.

PROSPECTIVE

*Repeal of uncommenced provisions*

- 41 The following provisions of the Nationality, Immigration and Asylum Act 2002, which contain amendments that have never been brought into force, are repealed—
- (a) section 44 (which amends sections 94 and 95 of the Immigration and Asylum Act 1999);
  - (b) sections 45 and 46;
  - (c) section 47 (which inserts a new section 122 into that Act);
  - (d) section 53 (which inserts new sections 103, 103A and 103B into that Act).
- 42 In Schedule 15 to the National Health Service (Wales) Act 2006, in paragraph 2, for sub-paragraph (7) substitute—
- “(7) Subsections (3) and (5) to (8) of section 95 of the Immigration and Asylum Act 1999, and paragraph 2 of Schedule 8 to that Act, apply for the purposes of sub-paragraph (6) as they apply for the purposes of that section, but with references in section 95(5) and (7) and that paragraph to the Secretary of State being read as references to a local social services authority.”
- 43 In Schedule 3 to the National Health Service (Consequential Provisions) Act 2006, omit paragraph 9.
- 44 In section 21 of the Care Act 2014, for subsections (2) and (3) substitute—
- “(2) For the purposes of subsection (1), section 95(3) and (5) to (8) of, and paragraph 2 of Schedule 8 to, the 1999 Act apply but with references in section 95(5) and (7) and that paragraph to the Secretary of State being read as references to the local authority in question.”
- 45 In section 46 of the Social Services and Well-being (Wales) Act 2014, for subsections (2) and (3) substitute—
- “(2) For the purposes of subsection (1), section 95(3) and (5) to (8) of, and paragraph 2 of Schedule 8 to, the 1999 Act apply but with references in section 95(5) and (7) and that paragraph to the Secretary of State being read as references to the local authority in question.”

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)*

## PART 2

### TRANSITIONAL AND SAVING PROVISION

- 46 (1) The repeals made by paragraphs 1 and 2 do not apply in relation to—
- (a) any person for whom accommodation is being provided under section 4 of the Immigration and Asylum Act 1999 immediately before the day on which those paragraphs come into force,
  - (b) any person who has made an application before that day for accommodation to be provided under that section and whose application has not been determined or withdrawn before that day,
  - (c) any person who has appealed before that day against a decision not to provide accommodation for the person under that section, or a decision not to continue to provide accommodation for the person under that section, and whose appeal has not been determined or withdrawn before that day, and
  - (d) any dependant of a person within paragraph (a), (b) or (c).

This is subject to sub-paragraph (2).

- (2) The repeals made by paragraph 2(d) (which remove the right to appeal against a decision not to continue to provide accommodation for a person under section 4 of the Immigration and Asylum Act 1999) apply in relation to any decision not to continue to provide accommodation under that section for any person within sub-paragraph (1) which is made on or after the day on which paragraph 2(d) comes into force.
- (3) On and after the day on which paragraphs 1 and 2 come into force, section 4 of the Immigration and Asylum Act 1999 has effect in relation to persons within sub-paragraph (1) as if in subsection (11)(b) the word “not” were omitted.
- (4) In this paragraph “dependant” has the same meaning as in Part 6 of the Immigration and Asylum Act 1999 (see section 94 of that Act).

PROSPECTIVE

- 47 (1) The repeal made by paragraph 7(5) does not apply in relation to—
- (a) any person for whom support is being provided under section 95 of the Immigration and Asylum Act 1999 by virtue of section 94(5) of that Act immediately before the day on which paragraph 7(5) comes into force,
  - (b) any person who has made an application before that day for support to be provided under section 95 of that Act and whose application has not been determined or withdrawn before that day,
  - (c) any person who has appealed before that day against a decision not to provide support for the person under that section, or a decision not to continue to provide support for the person under that section, and whose appeal has not been determined or withdrawn before that day, and
  - (d) any dependant of a person within paragraph (a), (b) or (c).
- (2) Where by virtue of sub-paragraph (1) a person is provided with support under section 95 of the Immigration and Asylum Act 1999 by virtue of section 94(5) of that Act on or after the day on which paragraph 7(5) comes into force, section 103

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

**Changes to legislation:** Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)

of that Act (appeals) does not apply in relation to any decision not to continue to provide that support for that person which is made on or after that day.

(3) In this paragraph “dependant” has the same meaning as in Part 6 of the Immigration and Asylum Act 1999 (see section 94 of that Act).

PROSPECTIVE

48 Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (withholding and withdrawal of support) has effect as if—

(a) after paragraph 7C there were inserted—

*“Eighth class of ineligible person: transitional cases*

7D (1) Paragraph 1 applies to a person if—

- (a) the person is a transitionally-supported person (see sub-paragraph (3)),
- (b) the Secretary of State has certified that, in the Secretary of State's 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) A person is a “transitionally-supported person” if—

- (a) accommodation is provided for the person by virtue of section 4 of the Immigration and Asylum Act 1999 as that section has effect by virtue of paragraph 46 of Schedule 11 to the Immigration Act 2016, or
- (b) support is provided for the person under section 95 of the Immigration and Asylum Act 1999 by virtue of section 94(5) of that Act, as that provision has effect by virtue of paragraph 47 of that Schedule.

(4) 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 is treated as receiving the copy on the second day after the day on which it was posted.

(5) The Secretary of State may by regulations vary the period specified in sub-paragraph (1)(d).”, and

---

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*

**Changes to legislation:** Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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)

---

- (b) in paragraph 14 (information), references to paragraph 7 included a reference to the paragraph 7D treated as inserted by this Schedule.

**Status:**

Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.

**Changes to legislation:**

Immigration Act 2016, SCHEDULE 11 is up to date with all changes known to be in force on or before 06 September 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.