

2002 No. 3078

IMMIGRATION

**The Withholding and Withdrawal of Support
(Travel Assistance and Temporary Accommodation)
Regulations 2002**

Made - - - - - *13th December 2002*
Laid before Parliament *17th December 2002*
Coming into force - - - *8th January 2003*

The Secretary of State, in exercise of the powers conferred on him by section 54 of and paragraphs 8, 9, 10, 11, 12, 16(2) and 17 of Schedule 3 to the Nationality, Immigration and Asylum Act 2002(a), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Withholding and Withdrawal of Support (Travel Assistance and Temporary Accommodation) Regulations 2002 and shall come into force on 8th January 2003.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Nationality, Immigration and Asylum Act 2002,

“person with refugee status abroad” means a person to whom paragraph 1 of Schedule 3 to the Act applies by virtue of paragraph 4 of that Schedule,

“EEA national” means a person to whom paragraph 1 of Schedule 3 to the Act applies by virtue of paragraph 5 of that Schedule,

“person unlawfully in the United Kingdom” means a person to whom paragraph 1 of Schedule 3 to the Act applies by virtue of paragraph 7 of that Schedule,

“relevant EEA State” means—

- (a) in relation to a person with refugee status abroad, the EEA State the government of which has determined that he, or a person on whom he is dependent, is entitled to protection as a refugee under the Refugee Convention;
- (b) in relation to an EEA national, the EEA State of which he, or a person on whom he is dependent, is a national;

“travel arrangements” means arrangements made under regulation 3(1).

(2) In these Regulations and for the purposes of Schedule 3 to the Act, a “dependant” of a person means a person who at the relevant time—

- (a) is his spouse;
- (b) is a child of his or of his spouse;
- (c) is a member of his or his spouse’s close family and is under 18;
- (d) has been living as part of his household—

(a) 2002 c. 41.

- (i) for at least six of the twelve months before the relevant time, or
 - (ii) since birth,
- and is under 18;
- (e) is in need of care and attention from him or a member of his household by reason of a disability and would fall under (c) or (d) but for the fact that he is not under 18;
 - (f) has been living with him as an unmarried couple for at least two of the three years before the relevant time,

and “dependent” has the corresponding meaning.

(3) In paragraph (2)—

“relevant time” means, in relation to any arrangements made by a local authority in respect of a person, the time when the local authority begins to make those arrangements; “unmarried couple” means a man and woman who, though not married to each other, are living together as if married.

Power for local authorities to arrange travel and provide accommodation

3.—(1) A local authority may make arrangements (“travel arrangements”) enabling a person with refugee status abroad or who is an EEA national to leave the United Kingdom to travel to the relevant EEA State.

(2) A local authority may make arrangements for the accommodation of a person in respect of whom travel arrangements have been or are to be made pending the implementation of those arrangements.

(3) A local authority may make arrangements for the accommodation of a person unlawfully in the United Kingdom who has not failed to co-operate with removal directions issued in respect of him.

(4) Arrangements for a person by virtue of paragraph (2) or (3)—

- (a) may be made only if the person has with him a dependent child, and
- (b) may include arrangements for that child.

Requirements relating to travel and accommodation arrangements

4.—(1) Travel arrangements and arrangements for accommodation must be made so as to secure implementation of those arrangements at the lowest practicable cost to the local authority.

(2) Subject to the requirements in paragraph (1), travel arrangements made in respect of a person must be made so that the person leaves the United Kingdom as soon as practicable.

(3) Travel arrangements and arrangements for accommodation may not include cash payments to a person in respect of whom the arrangements are made and must be made in such a way as to prevent the obtaining of services or benefits other than those specified in the arrangements.

(4) A local authority must have regard to guidance issued by the Secretary of State in making travel arrangements and arrangements for accommodation.

Failure to implement travel arrangements

5. Where a person with refugee status abroad or an EEA national refuses an offer of travel arrangements or fails to implement or co-operate with travel arrangements, a local authority may make new travel arrangements for him to travel to the relevant EEA State.

6.—(1) Where a person with refugee status abroad or an EEA national in respect of whom travel arrangements have been made by a local authority fails to implement or co-operate with those travel arrangements, neither that local authority nor any other local authority may make arrangements for the accommodation of that person except in accordance with the following provisions of this regulation.

(2) Where paragraph (1) applies to a person because of his failure to travel as arranged, the relevant local authority or another local authority may make further arrangements for the accommodation of that person pending the implementation of revised travel arrangements if, but only if, the local authority considers that—

- (a) the failure was for one or both of the reasons set out in paragraph (3) and for no other reason, and
 - (b) the person took all reasonable steps to travel as arranged,
- and the person has provided or taken all reasonable steps to provide the explanations and evidence requested by the local authority as regards the matters referred to in sub-paragraphs (a) and (b).
- (3) The reasons referred to in paragraph (2) are—
 - (a) that the applicant or a person within his family group was medically unfit to travel as arranged;
 - (b) that despite his having taken all reasonable steps to ensure that he travelled as arranged, he was prevented from doing so by failure of a transport service.
 - (4) Arrangements for accommodation pursuant to this regulation may only be made in accordance with the provisions of these Regulations, including this regulation.
 - (5) In this regulation—
 - (a) “family group” in relation to a person means that person and those of his dependants who are to travel with him under arrangements made under these Regulations;
 - (b) “transport service” means a public transport service or any transport provided or arranged by the local authority.

Home Office
13th December 2002

Beverley Hughes
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 8th January 2003, extend to the whole of the United Kingdom and empower local authorities to make arrangements for travel and temporary accommodation in respect of certain categories of persons who are ineligible for certain benefits by virtue of paragraph 1 of Schedule 3 to the Nationality, Immigration and Asylum Act 2002.

The categories are—

- (a) persons who have been accorded protection as refugees in a State of the European Economic Area (“EEA”) other than the United Kingdom,
- (b) nationals of an EEA State other than the United Kingdom,
- (c) persons unlawfully in the United Kingdom.

The powers extend to dependants of such persons, who are defined in regulation 2(2) both for the purposes of the Regulations and for the purposes of Schedule 3 to the Act.

Regulation 3 provides that local authorities may make arrangements for persons in the first two categories to travel to the relevant EEA State. They may make arrangements for the accommodation of these persons who are accompanied by dependent children pending travel under these arrangements and for the accommodation of persons unlawfully in the United Kingdom, who are so accompanied and who have not failed to co-operate with removal directions issued by the Secretary of State.

Regulation 4 sets out requirements relating to travel and accommodation arrangements. Regulation 5 enables a local authority to make new travel arrangements for persons who fail to implement or co-operate with travel arrangements and regulation 6 limits the provision of accommodation in the case of such persons.

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