

EXPLANATORY MEMORANDUM TO
THE ASYLUM SUPPORT (AMENDMENT) REGULATIONS 2015
2015 No. 645

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1. To provide that all persons supported under section 95 of the Immigration and Asylum Act 1999 (destitute asylum seekers and their dependants) receive a weekly payment of £36.95 to enable them to cover their essential living needs.

2.2. The statutory instrument amends regulation 10 of the Asylum Support Regulations 2000 (SI 704/2000), which sets out the amount of cash the persons currently receive.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None.

4. Legislative Context

4.1. The Home Office provides support to destitute asylum seekers and their dependants under the powers set out in section 95 of the Immigration and Asylum Act 1999. Support is usually provided in the form of accommodation plus a weekly cash allowance to enable the persons to meet other “essential living needs”. However, where the persons are accommodated by friends or relatives support is provided through the cash allowance only.

4.2. The level of the cash allowances is generally reviewed annually and any changes implemented through an amendment to regulation 10 of the Asylum Support Regulations 2000. The changes are usually timed to take effect from early April, in order to coincide with the start of the financial year.

5. Territorial Extent and Application

5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1. The Asylum Support Regulations 2000 which came into force on 3 April 2000 make provision (in regulation 10) for the amounts of cash paid, as a general rule, to destitute asylum seekers and their dependants.
- 7.2. The current level of payment depends on the size and composition of the particular household and is illustrated in the table below. The payment rates have been in place since 18 April 2011.

Qualifying couples	£72.52
Lone parent aged 18 or over	£43.94
Single person aged 25 years or over (where the decision to provide cash support was made before 5 October 2009 and the person reached age 25 prior to that date).	£42.62
Any other single person aged 18 or over	£36.62
Person aged 16 but under 18 (except where the person is a member of a qualifying couple)	£39.80
Person aged under 16	£52.96

- 7.3. A review of the payment rates, completed in June 2013, concluded they were sufficient to meet essential living needs and would therefore remain unchanged. This decision was challenged in the High Court. The Court did not decide that the payment levels were too low, but found that there were some errors in the way that the review had been conducted.
- 7.4. A further review was therefore undertaken in 2014, using a methodology developed to take account of the findings of the court. The methodology is based on analysis of Office of National Statistics (ONS) data about levels of expenditure by low income groups on items regarded as essential (for example food and clothing), supplemented by research into the real cost of the items. The review found that the payment rates were sufficient to meet essential living needs and should therefore remain unchanged.
- 7.5. This year's review has been conducted according to the same methodology, but has used more recent ONS data and taken account of changes in the costs of living. It has concluded that the current payment for a single person without dependants (£36.62 per week) is marginally too low and should be increased to £36.95.
- 7.6. The review has also looked at the payments rates provided to family households (asylum seekers with dependants) and found they significantly exceed what is necessary to meet essential living needs. This is mainly because, in addition to payments for the parents, a sum of £52.96 is usually paid for every child in the household (£39.80 if the child is between 16 or 17

years of age). This payment methodology provides more than enough to cover the needs of individual children and takes no account of the economies of scale available to the household as a whole.

7.7. The United Kingdom’s approach to supporting asylum seeking families is, in fact, different to the approach of other EU member states which support large numbers of destitute asylum seekers. Sweden, Germany and France, for example, all use payments systems that take into account the economies of scale available to multi-person households.

7.8. In light of these factors it has been decided to discontinue the existing payment system and move to a simplified system where a standard rate (£36.95) is provided to each supported person (of whatever age). This is already the approach taken in respect of failed asylum seekers and their dependants supported under section 4 of the Immigration and Asylum Act 1999 (where the rate is £35.39 per person per week). The changes we are proposing will mean that a family of 4 asylum seekers in the UK will receive roughly the same cash support as a family of 4 in Sweden.

7.9. In taking this decision we have fully considered our legal duty to have regard to the need to safeguard and promote the welfare of children. The changes involve reductions in cash payments to families, but ensure that sufficient funds continue to be available to enable parents to care for their children safely and effectively and provide for their health and development.

7.10. The additional support available to families with very young children (£5 per week for children aged under 1 and £3 for children aged between 1 and 3), provided for in regulation 10A of the Regulations, will be retained. Similarly pregnant women will continue to receive an extra £3 per week, as well as being able to apply for a maternity grant of £300.

7.11. The impact of the changes on the main family groups is illustrated in the table below.

	Single Parent +1 Child	Single Parent +2 Children	Couple + 1 child	Couple + 2 children
Current payment	£96.90	£149.86	£125.48	178.44
New Payment	£73.90	£110.85	£110.85	£147.80

Consolidation

- 7.12. We are changing the payment rates in regulation 10(2) of the Asylum Support Regulations 2000, rather than amending policy or procedure substantively so we consider that there is no need for consolidation.

8. Consultation outcome

- 8.1. The review methodology described in paragraph 7.4 above was set out in detail in letters sent to members of the “National Asylum Stakeholder Forum” (NASF) and has been discussed at meetings that are held regularly with this group. NASF is the main forum through which the Home Office discusses asylum issues with refugee groups and other interested parties. Meetings have also taken place with “Still Human Sill Here”, a coalition of voluntary sector organisations with an interest in asylum issues.

9. Guidance

- 9.1. No separate guidance is necessary.

10. Impact

- 10.1. An Impact Assessment has not been prepared for this instrument because no impact on the public, private or voluntary sector is foreseen. A Public Sector Equality Duty Statement has been prepared.

11. Regulating small business

- 11.1. The legislation does not apply to small business.

12. Monitoring & review

- 12.1. Asylum support payment rates are reviewed regularly by Home Office officials to ensure they meet the essential living needs of asylum seekers and their dependants.

13. Contact

- 13.1. Simon Bentley, Asylum Support Policy Tel. 0208 196 4157 or e-mail: Simon.Bentley3@homeoffice.gsi.gov.uk can answer any queries regarding this instrument.