

EXPLANATORY MEMORANDUM TO

THE ASYLUM SUPPORT (AMENDMENT) REGULATIONS 2021

2021 No. 99

1. Introduction

- 1.1 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 raise the amount of the cash allowance that asylum seekers and their dependants, supported under section 95 of the Immigration and Asylum Act 1999, should as a general rule receive from £37.75 to £39.63 per week.
- 2.2 The statutory instrument amends regulation 10(2) of the Asylum Support Regulations 2000 (SI 704/2000), which sets out that as a general rule the weekly payment is £37.75.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The Home Office provides support to asylum seekers and their dependants who would otherwise be destitute under the powers set out in section 95 of the Immigration and Asylum Act 1999. Support is usually provided in the form of furnished accommodation (rent and utilities free), plus a weekly cash allowance to enable the persons to meet other “essential living needs”. As of 30 September 2020, 42,389 people were receiving this form of support.
- 6.2 A further 4,131 people were receiving the cash allowance only because they have secured accommodation through their own efforts, generally from friends or relatives.

- 6.3 The Asylum Support Regulations 2000 make provision (in regulation 10) for the level of cash support that should as “a general rule” be provided to a supported person (an asylum seeker and each of their dependants). The phrase “as a general rule” reflects the fact that a proportion of supported people do not receive the full weekly allowance. This is usually because they are receiving support in full-board accommodation, where some of their needs are provided in kind. Additionally, some receive higher weekly cash amounts because they have additional needs above and beyond the average supported person. These cases are assessed on an individual basis under criteria set out in published policy (See: <https://www.gov.uk/government/publications/applications-for-additional-support>).
- 6.4 The level of the cash allowance is generally reviewed annually and any changes implemented through an amendment to regulation 10 of the Asylum Support Regulations 2000.

7. Policy background

What is being done and why?

- 7.1 The level of the weekly cash support is reviewed regularly to ensure that it is sufficient to meet the essential living needs of individual asylum seekers who would otherwise be destitute. Following the 2020 review of the allowance, Home Office ministers agreed to raise the level of the standard asylum support allowance from £37.75 per person per week to £39.63 per person per week.
- 7.2 The annual review of the weekly cash allowance uses a methodology developed in 2014. The general approach is set out in the previous reports on the annual review of the asylum support cash allowances which can be viewed at the following link: <https://www.gov.uk/government/publications/report-on-review-of-cash-allowance-paid-to-asylum-seekers>.
- 7.3 Due to the Covid pandemic, Ministers made the interim exceptional policy decision to uplift the level of the asylum support allowances from £37.75 per person per week to £39.60, pending the outcome of the 2020 review. Destitute asylum seekers and their dependents in self-catered accommodation have therefore been receiving £39.60 per person per week since the 15 June 2020. The 2020 review has now been concluded, with the result that the level of the allowance should be set at £39.63, very close to the emergency uplift made in June 2020. The statutory instrument will confirm this position.
- 7.4 The full reports setting out the conclusions of the 2016 and 2017 reviews and explaining the review methodology in full were published in 2017 and 2018. These are available at <https://www.gov.uk/government/publications/report-on-review-of-cash-allowance-paid-to-asylum-seekers>. The 2020 review used the same methodology, but concluded that the weekly allowance should rise to £39.63 (up from £37.75), mainly due to the rise in food costs in the latest Office for National Statistics (ONS) report relating to household expenditure by the lowest 10% income group among the UK population published in March 2020 and other cost increases since the last review was conducted. The report on the 2020 review of the allowances will set out the detailed analysis of the assessment of the cost of meeting each of the needs identified as essential, as well as the research on which the decisions in June and October 2020 were made.

7.5 The impact of the rise in the cash allowance depends on the size of the asylum seeker's household and is illustrated in the table below

	Single person	Single Parent +1 Child	Single Parent + 2 Children	Couple + 1 child	Couple + 2 children
Payment from 5 February 2018	£37.75	£75.50	£113.25	£113.25	£151.00
Payment since 15 June 2020	£39.60	£79.20	£118.80	£118.80	£158.40
Payment from 22 February 2021	£39.63	£79.26	£118.89	£118.89	£158.52

7.6 In undertaking the review, full consideration has been given to the duty to have regard to the need to safeguard and promote the welfare of children. The rise in the level of the cash allowance will 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.

7.7 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 remain in place. Similarly, pregnant women will continue to receive an extra £3 per week.

7.8 Those who can show they have additional needs over and beyond the average person because of their individual circumstances will continue to be able to apply for additional cash support.

7.9 All supported persons will receive notification that their cash payments will rise. The report setting out the detailed analysis of why the payments are being raised will be sent to asylum support sub-group of the National Asylum Stakeholder Forum. This group represents the main voluntary sector groups that have an interest in the support provided to asylum seekers

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 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 text.

10. Consultation outcome

10.1 The review of the support rates invited submissions from members of the National Asylum Stakeholder Forum in early 2020. A wide range of submissions were received, including submissions made as late as September 2020, which were considered when undertaking the review.

11. Guidance

11.1 No separate guidance is necessary for the uplift to the cash allowance.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The level of the cash allowance is reviewed regularly by the Home Office.

15. Contact

15.1 Simon Bentley at the Home Office, Telephone: 0208 760 8668 or email: Simon.Bentley3@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.

15.2 Miv Elimelech, Deputy Director for Asylum Policy, at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Chris Philp MP, Minister for Immigration, Compliance and the Courts at the Home Office can confirm that this Explanatory Memorandum meets the required standard.