

EXPLANATORY MEMORANDUM TO

THE ASYLUM SUPPORT (AMENDMENT) REGULATIONS 2023

2023 No. 1372

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 To amend the cash allowance that asylum seekers and their dependants should, as a general rule, receive if they are supported under section 95 of the Immigration and Asylum Act 1999 from £47.39 per person per week to £49.18 in self-catered accommodation. This instrument also amends the amount of additional support pregnant women and children under three should, as a general rule, receive if they are supported under section 95. For pregnant woman and children aged at least one and under three the level of additional support is increased from £3.00 to £5.25, and eligibility is expanded to include children aged three. For children aged under one, the additional support is increased from £5.00 to £9.50.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to the 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 to these individuals is usually provided in the form of fully-furnished accommodation (including utilities bills paid), plus a weekly cash allowance to enable the individual to meet other “essential living needs”.
- 6.2 Regulation 10 of the Asylum Support Regulations 2000 makes provision for the level of cash support that should, as a general rule, be provided to these individuals. The phrase “as a general rule” reflects the fact that a proportion of supported individuals do not receive the full weekly allowance. This is usually because they are receiving support in catered accommodation, where some of their needs are provided in kind.

- 6.3 Regulation 10A of the Asylum Support Regulations 2000 makes provision for the level of additional support that should, as a general rule, be provided to support women who are pregnant and children under the age of three.
- 6.4 Section 96(2) of the Immigration and Asylum Act 1999 enables the Secretary of State to provide further support for individuals to receive higher weekly cash amounts due to having additional needs above and beyond the average supported individual. Such 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>).
- 6.5 The level of the cash allowance is generally reviewed annually, and amendments are implemented through an amendment to Regulation 10 of the Asylum Support Regulations 2000.

7. Policy background

What is being done and why?

- 7.1 In order to ensure the weekly cash allowance provided by the Home Office to asylum seekers who are supported under section 95 of the Immigration and Asylum Act 1999 remains sufficient to cover their essential living needs, an annual review is conducted by the Home Office. This year, the Home Office has also reviewed the level of the additional weekly cash payments made to pregnant women and children under the age of three.
- 7.2 Following the review, Home Office Ministers have decided to amend the weekly level of the allowance from £47.39 to £49.18 per person in self-catered accommodation. Home Office Ministers have also decided to increase additional support for pregnant women and children under three. For pregnant woman and children aged at least one and under three the additional support is being increased from £3.00 to £5.25, and eligibility is being expanded to include children aged three. For children aged under one, the additional support is being increased from £5.00 to £9.50.
- 7.3 The amendment to the weekly per person payment is based on a new methodology and uses a 'disaggregated CPI' to decide the change in prices of goods determined to be needed to meet essential needs. For food, baseline food costs have been determined using ONS's Living Costs and Food (LCF) survey, and a subcategory of CPI (food and non-alcoholic drinks) has been used to uplift this base rate to September 2023 prices. For non-food categories of need, such as clothing or travel, the base rate is taken from the 2020 asylum support review, and subcategories of CPI or bespoke categories using item-level data from the ONS have been used to identify price changes over the past three years to September 2023. On top of this, the methodology to determine the 2020 base rates has been reviewed which resulted in some small adjustments to the rates.
- 7.4 The additional support for pregnant women and young children has been amended to align with the 'Healthy Start' scheme provided by the Department for Health and Social Care to a different cohort for a similar purpose, with an additional allowance on top of this for individuals to buy vitamins, which are provided as part of the 'Healthy Start' scheme.
- 7.5 Home Office Ministers made the interim policy decision to uplift the level of the asylum support allowances from £40.85 per person per week to £45.00 per person per week in December 2022, and then from £45.00 per person per week to £47.39 per

person per week in July 2023, pending the outcome of the 2023 review. Destitute asylum seekers and their dependents in self-catered accommodation have therefore been receiving £47.39 per person per week since the 17 July 2023, and before that £45.00 per person per week from 21 December 2022. The 2023 review has now been concluded, with the result that the level of the allowance should be set at £49.18. The statutory instrument will confirm this position.

- 7.6 In undertaking the review, full consideration has been given to Section 55 of the Borders, Citizenship and Immigration Act 2009, which requires the Home Office to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.7 The Asylum Support Regulations 2000 (as amended by the Asylum Support (Amendment) Regulations 2022) currently provides that as a general rule, the cash allowance to be provided to asylum seekers and each of any of their dependants supported under section 95 of the Immigration and Asylum Act 1999 is £40.85 per week.
- 7.8 Regulation 10A of the Asylum Support Regulations 2000 currently provides that the level of additional support that should, as a general rule, be provided to supported women who are pregnant, and children aged one and under the age of three is £3.00 per week and for children aged under one is £5.00 per week.

Why is it being changed?

- 7.9 The level of the rates has been reviewed and it has been determined that they should be increased to ensure that the Home Office is able to continue to meet its statutory obligations.

What will it now do?

- 7.10 The statutory instrument will amend the Asylum Support Regulations 2000 so the weekly cash allowance is amended to £49.18 per week per person in self-catered accommodation.
- 7.11 It will also amend the Asylum Support Regulations 2000 on the amount of additional support pregnant women and children under three should receive. For pregnant woman and children aged at least one and under three the additional support is increased from £3.00 to £5.25, and eligibility is being expanded to include children aged three. For children aged under one, the additional support is increased from £5.00 to £9.50.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The Home Office is changing the payment rates in regulation 10(2) and regulation 10A of the Asylum Support Regulations 2000, rather than amending policy or

procedure substantively, therefore we consider there to be no requirement for consolidation text.

10. Consultation outcome

- 10.1 The Home Office reviews the level of the cash allowances provided to asylum seekers supported under section 95 of the 1999 Act each year. In line with our standard practices, leading voluntary sector groups with an interest in asylum support were invited to submit their views for consideration.
- 10.2 Most responses received considered that the rate should be raised, with many suggesting the level of the allowance should be set at 70% of the standard rate of Universal Credit for single adults over the age of 25. This suggestion has been considered but is not considered to be appropriate. The purpose of the support provided under section 95 of the Immigration and Asylum Act 1999 is to ensure that individuals are not left destitute whilst their asylum claims, and any appeals, are under consideration. Fully furnished accommodation, with utilities such as gas, electricity and water are also provided in addition to the weekly support payment. Universal credit and other benefit payments are provided for different purposes and are intended to cover a broader range of costs. On the additional payments, most responses suggested that the rates should be set in line with DHSC's Healthy Start payments.

11. Guidance

- 11.1 Asylum support payments guidance will be published noting the levels of cash allowance available to asylum seekers and each of any of their dependants supported under section 95 of the Immigration and Asylum Act 1999.

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 A full Impact Assessment has not been prepared for this instrument because there is no impact on businesses and the public sector.

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 approach to monitoring of this legislation is that the level of cash allowance provided is reviewed regularly by the Home Office.
- 14.2 The instrument does not include a statutory review clause.

15. Contact

- 15.1 Jonah Sanders at the Home Office, email jonah.sanders@homeoffice.gov.uk can be contacted regarding the instrument.
- 15.2 Miv Elimelech, Deputy Director for Asylum and Protection Unit, at the Home Office can confirm this explanatory memorandum meets the required standard.
- 15.3 Tom Pursglove, Minister of State at the Home Office can confirm this explanatory memorandum meets the required standard.