EXPLANATORY MEMORANDUM TO

THE ASYLUM SUPPORT (AMENDMENT No. 2) REGULATIONS 2015

2015 No. 944

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. The Asylum Support (Amendment) Regulations 2015 (SI 2015/645), laid on 12 March 2015, were intended to change the amount of cash support provided to destitute asylum seekers and their families with effect from 6 April 2015.

2.2. On reflection, the Government has decided that not all of these changes should be implemented from 6 April 2015.

2.3. As planned, single asylum seekers supported under section 95 of the Immigration and Asylum Act 1999 will receive a rise in their weekly payments to £36.95 (from £36.62).

2.4. However, the changes planned to the payments for family groups (asylum seekers with dependants) will not now proceed.

2.5. This statutory instrument gives effect to this decision. It 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. This statutory instrument will come into force on 6 April 2015, which is only 10 days after it will be laid before Parliament. This is regrettable, but it is the only practical way to preserve the existing level of payments for family groups from 6 April 2015.

3.2. A later implementation date would have anomalous consequences – in that asylum seekers with dependant children would receive a reduction in their level of payments from 6 April 2015 until the later date when the payment levels were adjusted back to the level they were at before 6 April 2015.

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.

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 (prior to the proposed amendment by the Asylum Support (Amendment) Regulations 2015) 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) should be raised to £36.95.

7.6. The review has also looked at the payment rates provided to family households (asylum seekers with dependants). The precise amounts provided to families depends on the size and composition of the particular household - with each member of the family attracting a payment in line with the amounts set out in the table at paragraph 7.2 above.

7.7. The review found that the payments provided to families are more than sufficient to meet their essential living needs. However, on reflection, it has been decided that the payments should remain at present levels for the time being. The Home Office is giving further consideration to whether any changes should be made in the longer term.

Consolidation

7.8. 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 Still 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.