**EXPLANATORY MEMORANDUM TO**

**THE ASYLUM SUPPORT (AMENDMENT) REGULATIONS 2022**

**2022 No. 78**

## 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 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 £39.63 per week to £40.85 per week.

2.2 The statutory instrument amends regulation 10(2) of the Asylum Support Regulations 2000 (SI 704/2000) (as amended last by the Asylum Support (Amendment) Regulations 2021), which currently sets out that as a general rule the weekly payment is £39.63 per person.

## 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 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 to these individuals is usually provided in the form of free 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 full-board accommodation, where some of their needs are provided in kind.

6.3 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).

6.4 The level of the cash allowance is generally reviewed annually, and increases 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. Following this year's review, Home Office Ministers have decided to raise the weekly level of the allowance from £39.63 to £40.85 per person.

7.2 This increase (3.1%) is based on the September 2021 Consumer Price Index (CPI) level of inflation. The use of the CPI rate for September of the relevant year is a common public sector method of adjusting welfare benefits and other social entitlements to take account of increases in the cost of living.

7.3 In undertaking the review, full consideration has been given to the duty to have due regard to the need to safeguard and promote the welfare of children. The £40.85 rate will be provided for each child in the household of a supported asylum seeker and will ensure that sufficient funds are provided to cover their essential living needs, as well as those of their parents.

7.4 Additional support will continue to be available to families with very young children (£5 per week for children aged under 1 and £3 for children aged between 1 and 3), as provided for in regulation 10A of the 2000 Regulations.

***Explanations***

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

7.5 The Asylum Support Regulations 2000 (as amended by the Asylum Support (Amendment) Regulations 2021) 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 £39.63 per week.

*What will it now do?*

7.6 The statutory instrument will amend the Asylum Support Regulations 2000 so the weekly cash allowance is increased to £40.85 per week per person.

## 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) 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. This suggestion has been considered in previous years, 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 free 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.

## 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 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.

## 15. Contact

15.1 Amy-Jo Cooper at the Home Office, email Amy-Jo.Cooper7@homeoffice.gov.uk can be contacted regarding the instrument.

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

15.3 Kevin Foster MP, Parliamentary Under-Secretary of State for Safe and Legal Migration at the Home Office can confirm this Explanatory Memorandum meets the required standard.