

## Changes to asylum support brought in by the Immigration Act 2016

The table below gives an overview of the upcoming changes to Asylum Support brought in by the Immigration Act 2016, as understood by ASAP in February 2017. The 2016 Immigration Act will rely on detailed regulations outlining the operation of the new support arrangements. These regulations have yet to be published; some of the changes described below are based on government documents produced during the consultation process. Where there is an area of uncertainty (because a particular detail needs to be confirmed in regulations) this has been indicated as 'TBC in regulations' in this document. Please see our website for further updates on the upcoming changes to Asylum Support. The paragraphs in blue indicate where a form of support is to be withdrawn and not amended or replaced.

Old Law	New Law
<b>Support for asylum seekers</b>	
Section 95 – support for asylum seekers	Eligibility criteria for s95 support expanded to include two new categories of refused asylum seeker: 1) those with outstanding 'protection-based' <sup>1</sup> further submissions 2) those with permission to proceed with a judicial review (JR) against the refusal of 'protection-based' further submissions  'Grace period' <sup>2</sup> following refusal of asylum claim extended to 90 days for families with children (TBC in regulations).
Section 95 – support for refused asylum seeker families with children born before their appeal rights were exhausted <sup>3</sup>	Gone – In England, this is replaced by a new local authority administered support ('para 10A support'). In Wales, Scotland and Northern Ireland local authorities might have a duty under the existing social care provisions for children.
Section 98 – accommodation for asylum seekers waiting for a decision on s95 application	Will also be available to the two new categories of refused asylum seeker described above.
Right of Appeal	No change
<b>Support for refused asylum seekers</b>	
Section 4	Repealed – replaced by s95A, provided to a limited group of people (see below)
Section 4(2) – people taking all reasonable steps to leave the UK	Replaced with support under s95A
Section 4(2) – people with a medical impediment to travel	Replaced with support under s95A
Section 4(2) – people with permission to proceed with a JR against a refusal of 'protection-based' further submissions	Will get support under s95. There is uncertainty as to whether the Home Office will allow a grace period before ending support when the JR has failed (TBC in regulation).
Section 4(2) – people who have started the JR process but not yet got permission	Gone - no support, unless they have children and qualify under para 10A (TBC in regulation)
Section 4(2) – people with 'protection-based' further submissions outstanding	Will get support under s95 but will only become eligible 2 or 5 days after the further submissions were made (TBC in

<sup>1</sup> A protection-based claim is where an applicant applies to be recognised under the Refugee Convention or applies for Humanitarian Protection, see s82(2) of NIAA 2002

<sup>2</sup> The 'grace period' is currently defined in regulation 3 of the Asylum Support (Amendment) Regulations 2002

<sup>3</sup> s94(5) IAA 1999

	regulations). There is uncertainty as to whether the Home Office will allow a grace period before ending support when further submissions are rejected.
Section 4(2) – people with further submissions outstanding that are not ‘protection-based’, such claims under Article 8 ECHR	Gone - no support, unless they have children and qualify under para 10A (TBC in regulation)
Section 4(2) – other breach of human rights (for example some people with severe medical problems)	Gone - no support, unless they have children and qualify under para 10A (TBC in regulations)
Right of appeal	Gone – only way of challenging s95A decisions is JR
Section 98 support: not available under current law for people waiting for a decision on section 4 application	Section 98A support - accommodation whilst waiting for a decision on s95A application
<b>Support for people on immigration bail or temporary admission</b>	
Section 4(1)(a) and (b) – support for people on temporary admission	Gone - no support, unless they have children and qualify under para 10A
Section 4(1)(c) – support for people on bail	Gone - but there is a new power to provide support in ‘exceptional circumstances’ within the bail provisions <sup>4</sup>

### When will these changes come into force?

The changes described above are subject to detailed regulations which are yet to be published. Once the regulations are published, they will be subject to a process of parliamentary approval (there is no definitive time-frame for this process). None of the changes to asylum support will come into force until Parliament approves the regulations that accompany the Act.

### What about people already on support?

Those already on support will keep their support under the old law. However, any decision to discontinue support will not carry a right of appeal. The transitional provisions also suggest that for refused asylum seekers with children, the continued provision of support will be linked to them taking reasonable steps to leave the UK. These provisions will apply to families supported under s4 or s95.

### Additional points

The two new forms of support (s95 and s95A support) should be subject to the same set of rules and provided in the same way. The idea is that the few people who qualify for support under s95A will remain in their s95 accommodation so will see no change in their circumstances. This also means that:

- Azure cards may disappear
- Everyone should be able to apply for subsistence only support
- Everyone will be able to apply for emergency accommodation

There are no changes to the support provisions for adults with care needs. Those that qualify will continue to be entitled to local authority support.

Asylum seeking children who are unaccompanied will continue to be supported by local authorities. In England only, support will stop at 18, although at that point they might be entitled to continued support from the local authority under para 10B. In Scotland, Wales and Northern Ireland support for care leavers stays the same for the moment. However, the Act gives the Government the power to extend the changes to Wales, Scotland and Northern Ireland.

<sup>4</sup> Immigration Act 2016 Sch 10 para 9(3)