

**Extracts from the Immigration and Asylum Act 1999**

**Part I IMMIGRATION: GENERAL**

**4. Accommodation.**

(1) The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of persons—

(a) temporarily admitted to the United Kingdom under paragraph 21 of Schedule 2 to the 1971 Act;

(b) released from detention under that paragraph; or

(c) released on bail from detention under any provision of the Immigration Acts.

(2) The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of a person if—

(a) he was (but is no longer) an asylum-seeker, and

(b) his claim for asylum was rejected.

(3) The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of a dependant of a person for whom facilities may be provided under subsection (2).

(4) The following expressions have the same meaning in this section as in Part VI of this Act (as defined in section 94)—

(a) asylum-seeker,

(b) claim for asylum, and

(c) dependant.

(5) The Secretary of State may make regulations specifying criteria to be used in determining—

(a) whether or not to provide accommodation, or arrange for the provision of accommodation, for a person under this section;

(b) whether or not to continue to provide accommodation, or arrange for the provision of accommodation, for a person under this section.

(6) The regulations may, in particular—

(a) provide for the continuation of the provision of accommodation for a person to be conditional upon his performance of or participation in community activities in accordance with arrangements made by the Secretary of State;

(b) provide for the continuation of the provision of accommodation to be subject to other conditions;

(c) provide for the provision of accommodation (or the continuation of the provision of accommodation) to be a matter for the Secretary of State's discretion to a specified extent or in a specified class of case.

(7) For the purposes of subsection (6)(a)—

(a) “*community activities*” means activities that appear to the Secretary of State to be beneficial to the public or a section of the public, and

(b) the Secretary of State may, in particular—

(i) appoint one person to supervise or manage the performance of or participation in activities by another person;

(ii) enter into a contract (with a local authority or any other person) for the provision of services by way of making arrangements for community activities in accordance with this section;

(iii) pay, or arrange for the payment of, allowances to a person performing or participating in community activities in accordance with arrangements under this section.

(8) Regulations by virtue of subsection (6)(a) may, in particular, provide for a condition

requiring the performance of or participation in community activities to apply to a person only if the Secretary of State has made arrangements for community activities in an area that includes the place where accommodation is provided for the person.

(9) A local authority or other person may undertake to manage or participate in arrangements for community activities in accordance with this section.

(10) The Secretary of State may make regulations permitting a person who is provided with accommodation under this section to be supplied also with services or facilities of a specified kind.

(11) Regulations under subsection (10)–

(a) may, in particular, permit a person to be supplied with a voucher which may be exchanged for goods or services,

(b) may not permit a person to be supplied with money,

(c) may restrict the extent or value of services or facilities to be provided, and

(d) may confer a discretion.

## **Part VI SUPPORT FOR ASYLUM-SEEKERS**

### **Interpretation**

#### **95.— Persons for whom support may be provided.**

(1) The Secretary of State may provide, or arrange for the provision of, support for—

(a) asylum-seekers, or

(b) dependants of asylum-seekers,

who appear to the Secretary of State to be destitute or to be likely to become destitute within such period as may be prescribed.

(2) In prescribed circumstances, a person who would otherwise fall within subsection (1) is excluded.

(3) For the purposes of this section, a person is destitute if—

(a) he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or

(b) he has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs.

(4) If a person has dependants, subsection (3) is to be read as if the references to him were references to him and his dependants taken together.

(5) In determining, for the purposes of this section, whether a person's accommodation is adequate, the Secretary of State—

(a) must have regard to such matters as may be prescribed for the purposes of this paragraph; but

(b) may not have regard to such matters as may be prescribed for the purposes of this paragraph or to any of the matters mentioned in subsection (6).

(6) Those matters are—

(a) the fact that the person concerned has no enforceable right to occupy the accommodation;

(b) the fact that he shares the accommodation, or any part of the accommodation, with one or more other persons;

(c) the fact that the accommodation is temporary;

(d) the location of the accommodation.

(7) In determining, for the purposes of this section, whether a person's other essential

living needs are met, the Secretary of State—

(a) must have regard to such matters as may be prescribed for the purposes of this paragraph; but

(b) may not have regard to such matters as may be prescribed for the purposes of this paragraph.

(8) The Secretary of State may by regulations provide that items or expenses of such a description as may be prescribed are, or are not, to be treated as being an essential living need of a person for the purposes of this Part.

(9) Support may be provided subject to conditions.

(9A) A condition imposed under subsection (9) may, in particular, relate to—

(a) any matter relating to the use of the support provided, or

(b) compliance with a restriction imposed under paragraph 21 of Schedule 2 to the 1971 Act (temporary admission or release from detention) or paragraph 2 or 5 of Schedule 3 to that Act (restriction pending deportation).

(10) The conditions must be set out in writing.

(11) A copy of the conditions must be given to the supported person.

(12) Schedule 8 gives the Secretary of State power to make regulations supplementing this section.

(13) Schedule 9 makes temporary provision for support in the period before the coming into force of this section.

**96.— Ways in which support may be provided.**

(1) Support may be provided under section 95—

(a) by providing accommodation appearing to the Secretary of State to be adequate for the needs of the supported person and his dependants (if any);

(b) by providing what appear to the Secretary of State to be essential living needs of the supported person and his dependants (if any);

(c) to enable the supported person (if he is the asylum-seeker) to meet what appear to the Secretary of State to be expenses (other than legal expenses or other expenses of a prescribed description) incurred in connection with his claim for asylum;

(d) to enable the asylum-seeker and his dependants to attend bail proceedings in connection with his detention under any provision of the Immigration Acts; or

(e) to enable the asylum-seeker and his dependants to attend bail proceedings in connection with the detention of a dependant of his under any such provision.

(2) If the Secretary of State considers that the circumstances of a particular case are exceptional, he may provide support under section 95 in such other ways as he considers necessary to enable the supported person and his dependants (if any) to be supported.

**97.— Supplemental.**

(1) When exercising his power under section 95 to provide accommodation, the Secretary of State must have regard to—

(a) the fact that the accommodation is to be temporary pending determination of the asylum-seeker's claim;

(b) the desirability, in general, of providing accommodation in areas in which there is a ready supply of accommodation; and

(c) such other matters (if any) as may be prescribed.

(2) But he may not have regard to—

(a) any preference that the supported person or his dependants (if any) may have as to the locality in which the accommodation is to be provided; or

(b) such other matters (if any) as may be prescribed.

(3) The Secretary of State may by order repeal all or any of the following—

(a) subsection (1)(a);

(b) subsection (1)(b);

(c) subsection (2)(a).

(4) When exercising his power under section 95 to provide essential living needs, the Secretary of State—

(a) must have regard to such matters as may be prescribed for the purposes of this paragraph; but

(b) may not have regard to such other matters as may be prescribed for the purposes of this paragraph.

(5) In addition, when exercising his power under section 95 to provide essential living needs, the Secretary of State may limit the overall amount of the expenditure which he incurs in connection with a particular supported person—

(za) to such portion of the maximum amount of an award of universal credit under section 8(1) of the Welfare Reform Act 2012, or

(a) to such portion of the income support applicable amount provided under section 124 of the Social Security Contributions and Benefits Act 1992, or

(b) to such portion of any components or elements of that amount,

as he considers appropriate having regard to the temporary nature of the support that he is providing.

(6) For the purposes of subsection (5), any support of a kind falling within section 96(1)(c) is to be treated as if it were the provision of essential living needs.

(7) In determining how to provide, or arrange for the provision of, support under section 95, the Secretary of State may disregard any preference which the supported person or his dependants (if any) may have as to the way in which the support is to be given.

**98.— Temporary support.**

(1) The Secretary of State may provide, or arrange for the provision of, support for—

(a) asylum-seekers, or

(b) dependants of asylum-seekers,

who it appears to the Secretary of State may be destitute.

(2) Support may be provided under this section only until the Secretary of State is able to determine whether support may be provided under section 95.

(3) Subsections (2) to (11) of section 95 apply for the purposes of this section as they apply for the purposes of that section.

**103.— Appeals.**

(1) If, on an application for support under section 95, the Secretary of State decides that the applicant does not qualify for support under that section, the applicant may appeal to the First-tier Tribunal.

(2) If the Secretary of State decides to stop providing support for a person under section 95 before that support would otherwise have come to an end, that person may appeal to the First-tier Tribunal.

(2A) If the Secretary of State decides not to provide accommodation for a person under section 4, or not to continue to provide accommodation for a person under section 4, the person may appeal to the First-tier Tribunal.

(3) On an appeal under this section, the First-tier Tribunal may—

(a) require the Secretary of State to reconsider the matter;



(b) substitute its decision for the decision appealed against; or

(c) dismiss the appeal.

(5) The decision of the First-tier Tribunal is final.

(6) If an appeal is dismissed, no further application by the appellant for support under section 4 or 95 is to be entertained unless the Secretary of State is satisfied that there has been a material change in the circumstances.

(7) The Secretary of State may by regulations provide for decisions as to where support provided under section 4 or 95 is to be provided to be appealable to the First-tier Tribunal under this Part.

(8) Regulations under subsection (7) may provide for any provision of this section to have effect, in relation to an appeal brought by virtue of the regulations, subject to such modifications as may be prescribed.

(9) The Secretary of State may pay any reasonable travelling expenses incurred by an appellant in connection with attendance at any place for the purposes of an appeal under this section.

**ANNEX 2**

**Sathananthan and others: Tables Disclosed June 2016**

**Level 2 Offers Made**

**Level 3 Offers Made**

Month	Offers	Over 91 days	Over 182 days	Average (Days)	Month	Offers	Over 91 days	Over 182 days	Average (Days)
Jan-14	40	5	2	61.8	Jan-14	1	1	1	328
Feb-14	32	9	0	60.8	Feb-14	0	0	0	0
Mar-14	39	11	3	68.7	Mar-14	0	0	0	0
Apr-14	62	13	4	65	Apr-14	1	1	0	133
May-14	69	17	5	65.5	May-14	1	1	0	97
Jun-14	58	7	2	49.4	Jun-14	2	0	0	79.5
Jul-14	58	7	1	42.1	Jul-14	1	0	0	17
Aug-14	39	5	1	44.7	Aug-14	1	0	0	76
Sep-14	58	11	2	61.5	Sep-14	0	0	0	0
Oct-14	67	17	6	77.7	Oct-14	3	2	0	0
Nov-14	49	9	2	62.9	Nov-14	3	2	1	156
Dec-14	43	11	4	83.4	Dec-14	1	1	1	202
Jan-15	56	10	3	57	Jan-15	4	2	1	92.3
Feb-15	35	7	3	62.1	Feb-15	2	2	2	226
Mar-15	50	15	7	77.2	Mar-15	2	2	2	336
Apr-15	58	18	10	80.4	Apr-15	0	0	0	0
May-15	44	13	6	90.5	May-15	2	1	0	102
Jun-15	50	12	6	79	Jun-15	2	1	1	205.5
Jul-15	43	9	5	86.4	Jul-15	4	4	3	350
Aug-15	40	14	12	117.4	Aug-15	2	1	1	133
Sep-15	29	10	3	86.7	Sep-15	3	2	1	119.7
Oct-15	40	14	7	88.9	Oct-15	2	1	1	221
Nov-15	36	8	4	68.3	Nov-15	0	0	0	0
Dec-15	44	15	9	110.3	Dec-15	1	1	1	499
Jan-16	32	13	7	120.9	Jan-16	1	1	1	262
Feb-16	17	8	4	113.5	Feb-16	3	2	2	451
Mar-16	12	7	3	159.5	Mar-16	2	2	2	333
Apr-16	21	15	9	166.1	Apr-16	2	1	1	166.5
May-16	19	10	4	119.5	May-16	1	1	1	203
<b>Total</b>	<b>1240</b>	<b>320</b>	<b>134</b>	<b>76.8</b>	<b>Total</b>	<b>47</b>	<b>32</b>	<b>23</b>	<b>168.2</b>

ANNEX 3. Sathananthan and other cases. Chronological Table of 3 cases

ANNEX 3: BA = Ali; SS = Sathananthan; VO.

Time taken:	Policy timeframe	Calendar days (Level 2 or 3) (Checks by NOMS or police)		
		BA (L2) NOMS	SS (L2) Police	VO (L3) NOMS
For UKVI s.4 Bail Team (S4) to refer case to Criminal Casework (CCD) to complete proforma (date received to date referred)		2	33	1
For CCD to complete and return proforma to S4 (date referred to date of response)	10d (CCD p9)	35	3	19
For S4 to request an address (date of CCD's response to S4's request)		4	3	0
For COMPASS contractor to propose 1st address (from date requested to date proposed)	9 wd (L2) (COMPASS contract spec)	2	73	205
For NOMS/ police to check 1st address (from date referred to date of response)	NOMS - normally 2 weeks (CCD p11)	107	140	33
For S4 to request a further address (from date of NOMS/ police response to fresh request)		0	0	52
For COMPASS contractor to propose 2nd address (from date requested to date proposed)	9 wd (L2)	2	92	13
For S4 to request NOMS/ police checks on 2nd address (from date address proposed to date requested)		7	55	4
For NOMS/ police to check 2nd address	2 wks (see above)	9	198	45
For S4 to request a further address (from date of NOMS/ police response to fresh request)		1	SS then released	4
For COMPASS contractor to propose 3rd address (from date requested to date proposed)	9 wd (L2) (see above)	1		32
For NOMS/ police to check 3rd address (in VO's case at 29 June 2016)	2 wks (see above)	55		159

ANNEX 3. Sathananthan and other cases. Chronological Table of 3 cases

For S4 to request a further address (from date of NOMS/ police response to fresh request)		245		Checks remain pending
For COMPASS contractor to propose 4th address (from date requested to date proposed)	9 wd (L2) (see above)	0		
To offer proposed address to applicant (from date proposed to date offered)		6		
Total days:		476	597	567
<b><u>Calendar months:</u></b>		<b><u>15.6</u></b>	<b><u>19.6</u></b>	<b><u>18.6</u></b>