

Immigration Act 2016

Factsheet – Support for certain categories of migrants (Section 66)

What will we do?

- Expect more illegal migrants to leave the UK rather than access support.

How will we do it?

- Restrict the support we give to people whose claims for asylum have been rejected (and their dependants) to those who are destitute and face a genuine obstacle to leaving the UK, through changes to the Immigration and Asylum Act 1999.

Immigration Minister James Brokenshire said:

“We will introduce new rules to support those who genuinely need it, but send out a very clear message to those who seek to exploit the system that Britain is not a soft touch.

“The UK has a proud history of offering sanctuary to those who need it – but people who do not need our help and who refuse to return home are here illegally.”

Background

- The UK provides support for asylum seekers who would otherwise be destitute until their claim is finally determined, in line with our international obligations.
- However, the Immigration and Asylum Act 1999 provides support in broader circumstances. Section 94(5) allows failed asylum seekers with children to continue to receive the same support once their asylum claim has been finally rejected.
- Section 4 of the 1999 Act provides support for other failed asylum seekers and other categories of migrants.
- In 2014-15, an estimated £73 million was spent supporting failed asylum seekers and their dependants.
- At 31 March 2015, an estimated 15,000 failed asylum seekers and their dependants were receiving Home Office support.
- The Immigration Act aims to reduce the scope for such support to remove incentives for failed asylum seekers to remain in the UK illegally.
- The Act will make these key changes to the existing support framework:
 - Those with children with them when their asylum claim and any appeal are rejected will no longer be treated as though they were still asylum seekers and will cease to be eligible for support under section 95.
 - Section 4 will be repealed and support will only be available to failed asylum seekers and any dependent children if there is a genuine obstacle that prevents them from leaving the UK at the point their appeal rights are exhausted.

Key Questions and Answers

- **Won't these measures simply pass the cost of supporting failed asylum seekers and their families to local authorities?**

The measures have been carefully framed to avoid that. The Home Office has consulted local authorities and will continue to work closely with them on the detail of the new arrangements and implementation. There is no general obligation on local authorities to support illegal migrants who intentionally make themselves destitute by refusing to leave the UK when it is clear they are able to.
- **Will the new measures apply retrospectively to families currently receiving support?**

No. There will be transitional arrangements for failed asylum seekers already in receipt of support under section 95 or section 4 of the 1999 Act when the new measures come into force. This will prevent large numbers of families losing support abruptly. Existing powers to manage these cases off support, if they refuse to take steps to leave the UK voluntarily, will be used on a case-by-case basis.
- **Why can't you just return failed asylum seekers to their own countries?**

We are doing so as a priority. From April 2013 to March 2015 there were more than 8,700 enforced removals of migrants who had sought asylum at some stage and been found not to need it. In the same period there were more than 6,000 voluntary departures of migrants who had sought asylum at some stage. But the process of enforced removal is administratively difficult and often hampered by a lack of co-operation from the people concerned. People who do not need our protection and who can and should leave the UK voluntarily cannot expect to be supported by the taxpayer until they have to be forcibly removed.
- **Won't families who have their support cut simply end up destitute?**

The Home Office will continue to support failed asylum seekers with children if they cannot leave the UK because of a genuine obstacle beyond their control (for example because they are unable to travel for medical reasons or because they are waiting for their national embassy to issue them with travel documents). Local authorities will continue to be able to support other migrant families without immigration status who cannot avoid the risk of destitution here by leaving the UK.
- **How will these measures affect asylum seekers and refugees?**

They won't. We will continue to meet our international obligations to both groups. Asylum seekers who are destitute are provided with accommodation, where needed, and a weekly allowance to cover essential living needs. If they are granted refugee status, they have access to the labour market and are eligible to apply for mainstream benefits.
- **Will there be a right of appeal for the refusal of support?**

Asylum seekers who are refused support will retain their right of appeal. Failed asylum seekers seeking support because they have lodged further submissions as to why they need protection will also retain their right of appeal. The Act does not provide a right of appeal to failed asylum seekers, who have already exhausted appeal rights against the refusal of their asylum claim, who are then refused further support because they do not face a genuine obstacle that prevents them from leaving the UK. These are generally straightforward matters of fact (e.g. medical evidence shows the person is unfit to travel) and we do not consider that a right of appeal is necessary.