

**EXPLANATORY MEMORANDUM TO  
THE IMMIGRATION AND ASYLUM (PROVISION OF SERVICES OR FACILITIES)  
REGULATIONS 2007**

**2007 No. 3627**

**1.** This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This statutory instrument enables the Home Office to provide specified services and facilities to unsuccessful asylum seekers accommodated by the Border and Immigration Agency while barriers to their removal are resolved and to others accommodated under the same provisions. It enables arrangements to be made for specified travel and communication and provides for additional assistance to pregnant women and children. There is also an additional provision to meet exceptional living needs.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 These regulations enable the Secretary of State to provide specified services and facilities to persons accommodated under section 4 of the Immigration and Asylum Act 1999, as amended. They are the first regulations to be made under section 4(10) of that Act.

**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 the negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

7.1 Section 4 of the Immigration and Asylum Act 1999 enables the Secretary of State to accommodate persons subject to immigration control who fall into one of a number of categories. These categories include former asylum seekers whose claim for asylum was rejected and who meet the eligibility criteria and their dependants. Others who may qualify for support include persons applying for immigration bail and those on temporary admission or temporarily released from detention. The majority of people currently supported under section 4 are unsuccessful asylum applicants who are temporarily unable to leave the UK as a result of circumstances beyond their control. To qualify for section 4 accommodation they must be destitute and meet one of the set eligibility criteria. The criteria are:

- Taking all reasonable steps to leave the UK
- Unable to leave the UK due to a physical impediment or for other medical reason
- In the opinion of the Secretary of State, there is no viable route of return

- In England, Wales or Northern Ireland have been given permission or leave to bring a judicial review relating to their asylum claim or in Scotland have made an application for a judicial review.
- Support is necessary to avoid a breach of ECHR.

Section 4 accommodation is intended as a temporary measure until the barrier to leaving the UK is resolved.

7.2 As the power under section 4 is one to provide accommodation or facilities for accommodation, there was no provision for non-accommodation related needs such as travel to medical appointments or needs relating to pregnancy and birth. The Immigration, Asylum and Nationality Act 2006 amended section 4 by introducing s4(10) and s4(11) which empowered the Secretary of State to make regulations to supply those accommodated with specified services and facilities. It was intended that these would be services and facilities which were not related directly to accommodation. These regulations are made pursuant to the power in section 4(10) and enable the Border and Immigration Agency to meet specific non-accommodation-related needs. In particular, the Regulations facilitate specified travel and communication and help meet the needs of pregnant women and children.

7.3 Before making these Regulations, we consulted with a range of stakeholders including voluntary sector organisations working with unsuccessful asylum seekers, local government organisations, the devolved administrations and other government departments.

## **8. Impact**

8.1 A Regulatory Impact Assessment is attached to this memorandum

## **9. Contact**

9.1 Ann Robertson in the Asylum Policy Team on Tel 0208 760 8612 or e-mail:  
Ann.Robertson@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.

## Summary: Intervention & Options

<b>Department /Agency:</b> Border and Immigration Agency	<b>Title:</b> Impact Assessment of proposed Immigration and Asylum (Provision of Services or Facilities) Regulations 2007
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<b>Stage:</b> Final proposal stage	<b>Version:</b> 1	<b>Date:</b> 14 December 2007
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### Related Publications:

### Available to view or download at:

<http://www.>

**Contact for enquiries:** Ann Robertson

**Telephone:** 020 8760 8612

### What is the problem under consideration? Why is government intervention necessary?

Section 4 of the Immigration and Asylum Act 1999 enables the Secretary of State to provide accommodation to a number of classes of person subject to immigration control. Currently 11,000 people are accommodated under this section, the great majority being destitute unsuccessful asylum seekers being supported while a temporary barrier to their leaving the UK is resolved. They have no access to cash to meet non-accommodation related needs. Primary legislation permits the Secretary of State to provide specified services and facilities, but regulations are required to implement this provision.

### What are the policy objectives and the intended effects?

To enable the Border and Immigration Agency to meet specific non accommodation related needs of those supported under section 4, particularly travel to medical appointments and the needs of pregnant women and their children.

### What policy options have been considered? Please justify any preferred option.

To maintain the current position. This option was not viable - frequent difficulties were arising for example around meeting the needs of children and travel to medical appointments and these had to be addressed. There was also a risk of judicial review.

To introduce regulations to implement the power in primary legislation to provide specific services or facilities.

### When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy will be reviewed regularly as part of the normal course of business.

**Ministerial Sign-off** For SELECT STAGE Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

..... Date:

## Summary: Analysis & Evidence

<b>Policy Option:</b>	<b>Description: To</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups'  Total cost to Border and Immigration Agency. Accommodation providers administering aspects of the scheme will incur administration costs which will be met via contract payments by Border and Immigration Agency.	
	<b>One-off (Transition) Yrs</b>		
	<b>£ Nil</b>		
	<b>Average Annual Cost (excluding one-off)</b>		
	<b>£ 933,780</b>	<b>Total Cost (PV)</b>	<b>£ 933,780</b>
Other <b>key non-monetised costs</b> by 'main affected groups'			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups'  The benefits will vary according to numbers on support and their specific needs	
	<b>One-off Yrs</b>		
	<b>£ n/a</b>		
	<b>Average Annual Benefit (excluding one-off)</b>		
	<b>£ 633,780.00</b>	<b>Total Benefit (PV)</b>	<b>£ 633,780.00</b>
Other <b>key non-monetised benefits</b> by 'main affected groups' Specific non accommodation needs of those supported under section 4 will be met.			

**Key Assumptions/Sensitivities/Risks** Costings are on current level of those supported which are likely to change.

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £ n/a	<b>NET BENEFIT (NPV Best estimate)</b>
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What is the geographic coverage of the policy/option?	United Kingdom			
On what date will the policy be implemented?	31 January 2008			
Which organisation(s) will enforce the policy?	BIA and contractors			
What is the total annual cost of enforcement for these organisations?	£ Nil			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	Yes			
What is the value of the proposed offsetting measure per year?	£ N/a			
What is the value of changes in greenhouse gas emissions?	£ n/a			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro n/a	Small n/a	Medium n/a	Large n/a
Are any of these organisations exempt?	Yes	Yes/No	N/A	N/A

<b>Impact on Admin Burdens Baseline (2005 Prices)</b>		(Increase - Decrease)	
Increase of	£ n/a	Decrease of	£ n/a
		<b>Net Impact</b>	<b>£ n/a</b>

Key: Annual costs and benefits: (Net) Present

## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Costings have been prepared based on numbers currently supported and estimates of numbers likely to require the services or facilities.

Private companies contracted to supply accommodation will be involved in the administration of the scheme and this will be reflected in the contractual arrangements.

Equality Impact Assessment has been concluded.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

<b>Type of testing undertaken</b>	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	Yes
Health Impact Assessment	No	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	No	No
Rural Proofing	No	No

**Equality Impact Assessment**

Preliminary Screening

Statistics & Research

Gathering Evidence through Community Engagement

Assessment & Analysis

Action Plan

The EIA Report



<b>EQUALITY IMPACT ASSESSMENT</b>
Border and Immigration Agency
Asylum Directorate
Asylum Policy Unit

**PRELIMINARY SCREENING**

<b>Date of Screening</b>	07/12/2007
<b>Name of Policy Writer</b>	Ann Robertson
<b>Director General</b>	

<b>Name of Policy</b>  <b>Specified Services for those accommodated under S4, Immigration and Asylum Act 1999</b>	<input type="checkbox"/>	This is a <b>new</b> policy
	<input checked="" type="checkbox"/>	This is a <b>change</b> to an existing policy
	<input type="checkbox"/>	This is an <b>existing</b> policy

<b>Policy Aims, Objectives &amp; Projected Outcomes</b>
To ensure that specific non accommodation related needs of those accommodated under section 4 can be met.

Will the policy have an impact on national or local people/staff?	YES/
Are particular communities or groups likely to have different needs, experiences and/or attitudes in relation to the policy	/NO
Are there any aspects of the policy that could contribute to equality or inequality?	YES/
Could the aims of the policy be in conflict with equal opportunity, elimination of discrimination, promotion of good relations?	/NO
If this is an amendment of an existing policy, was the original policy impact assessed?	Not known

If your answer to any of these questions is **YES, go on to the full EIA.**

If you have answered **NO to any particular questions**, please provide explanatory evidence.

If you have answered **NO to all of these questions** then you must also attach the following statement to all future submissions that are related to this policy and ensure it is signed off by senior management. You must also include this statement within any regulatory impact assessment that is related to this policy.

**“This policy was screened for impact on equalities on [insert date]. The following evidence [Evidence] has been considered. As a result of this screening, it has been decided that a full equality impact assessment is not required. “**

## FULL IMPACT ASSESSMENT

### STATISTICS & RESEARCH

#### What relevant quantitative & qualitative data do you have in relation to this policy?

Please site any quantitative (e.g. statistical research) and qualitative evidence (monitoring data, complaints, satisfaction surveys, focus groups, questionnaires, meetings, research interviews etc) of communities or groups having different needs, experiences or attitudes in relation to this policy area.

<b>Equality Target Areas</b>	<b>How does the data identify potential or known positive impacts?</b>  <b>How does the data identify any potential or known adverse impacts?</b>
<b>Race</b> (consider e.g. nationalities, Gypsies, Travellers, languages)	All those eligible may apply for section 4 support regardless of race.
<b>Disability</b> (consider social access and physical access)	Additional travel assistance will be given to those unable or virtually unable to walk and to those with children under 5 in circumstances where it will not be available to others.
<b>Gender</b>	Some of the provisions are gender specific, for example additional vouchers for pregnant women to assist with nutrition.
<b>Gender Identity</b>	No impact
<b>Religion and Belief</b>	No impact
<b>Sexual Orientation</b>	No impact
<b>Age</b>	Age may be a factor in accessing assistance with travel.

**What research have you considered commissioning to fill any data gaps?**

For example, you may need to ensure quantitative & qualitative data groups include stakeholders with respect to this policy.

N.B Include any recommendations in your action plan

Consultation with a range of stakeholders including staff, voluntary sector organisations involved in asylum support, local government organisations, other government departments, devolved administrations and accommodation providers. Voluntary sector organisations involved included Refugee Action, Refugee Council, Citizens Advice, Joint Council for Welfare of Immigrants, Scottish Refugee Council, Welsh Refugee Council, Childrens Society, Amnesty International and Medical Foundation for Victims of Torture. There were two written consultations and issues were also discussed at regular meetings between the Agency and stakeholders.

**Who are the stakeholders, community groups, staff or customers for this policy area?**

**Staff, unsuccessful asylum seekers, voluntary sector organisations involved with asylum support, members of National Asylum Stakeholders Forum, accommodation providers,.**

**What are the overall trends and patterns in this qualitative & quantitative data?**

Disproportionality; regional variations; different levels of access, experiences or needs; combined impacts.

It was agreed that there was a need for some non-accommodation related needs to be met. The issues raised did not indicate regional variations.

**Please list the specific equality issues that may need to be addressed through consultation (and further research)?**

- None

## GATHERING EVIDENCE THROUGH COMMUNITY ENGAGEMENT

**INTERNAL STAKEHOLDER ENGAGEMENT:** Consulting & involving Other Government Departments, Staff, Agencies & NDPBs

<b>Does this policy affect the experiences of staff? How? What are their concerns?</b>	
<b>Staff</b>	N/A
<b>Staff Networks &amp; Associations</b>	N/a
<b>Trade Unions</b>	N/a

<b>How have you consulted, engaged and involved internal stakeholders in considering the impact of this proposal on other public policies and services?</b> For example your policy may affect access to housing, education, health, employment services.
Policy and operational colleagues have been consulted on the policy. No specific impacts were established.

<b>What positive and adverse impacts were identified by your internal consultees? Did they provide any examples?</b>
N/a

**Feedback the results of this internal consultation and use it as a basis for work on external consultation**

## **EXTERNAL CONSULTATION & INVOLVEMENT**

<b>How did your engagement exercise highlight positive and negative impacts on different communities?</b>	
<b>Voluntary Organisations</b>	Voluntary sector welcomed proposed regulations but felt that further provision was needed.
<b>Race</b>	No aspects highlighted.
<b>Faith</b>	No aspects highlighted. Care is taken with the voucher regime to ensure that appropriate food is available.
<b>Disability Rights</b>	Concern that the threshold for assistance with travel was too high.
<b>Gender</b>	No aspects highlighted
<b>Gender Identity</b>	No aspects highlighted
<b>Sexual Orientation</b>	No aspects highlighted
<b>Age</b>	No aspects highlighted.

**Feedback the results of your community engagement (i.e. involvement and consultation) to all participants including internal and external stakeholders**

## ASSESSMENT & ANALYSIS

**Does the EIA show a potential for differential impact on any group(s) if this proposal is introduced? If Yes, state briefly whether impact is adverse or positive and in what equality areas.**

Additional travel assistance for those with mobility problems  
Additional support for pregnant women and their young children

**What were the main findings of the engagement exercise and what weight should they carry?**

Proposals were welcomed although suggestions were made for extending them.

**Does this policy have the potential to cause unlawful direct or indirect discrimination? Does this policy have the potential to exclude certain group of people from obtaining services, or limit their participation in any aspect of public life?**

No

**How does the policy promote equality of opportunity?**

N/a

**How does your policy promote good relations? How does this policy make it possible for different groups to work together, build bridges between parallel communities, or remove barriers that isolate groups and individuals from engaging in civic society more generally?**

N/a

**How can the policy be revised, or additional measures taken, in order for the policy to achieve its aims without risking any adverse impact?**

n/a

**Are there any concerns from data gathering, consultation and analysis that have not been taken on board?**

Consultation respondees suggested additional measures to be included. However, it is considered that regulations as drafted are sufficient to meet non- accommodation related needs of those accommodated under section 4, considering the temporary

nature of section 4 support. .

## ENSURING ACCESS TO INFORMATION

**How can you ensure that information used for this EIA is readily available in the future?**

(N.B. You will need to include this in your action plan)

- Consultation and response are public documents

**How will you ensure your stakeholders continue to be involved/ engaged in shaping the development/ delivery of this policy?**

(N.B. You will need to include this in your action plan)

- There are regular channels of communication with the external stakeholders.

**How will you monitor this policy to ensure that the policy delivers the equality commitments required?**

(N.B. You will need to include this in your action plan)

- Regular review as part of normal course of business.

**Now submit your EIA and related evidence for clearance.**

## ACTION PLAN

<b>Recommendations</b>	<b>Responsibility</b>	<b>Actions required</b>	<b>Success Indicators</b>	<b>Target Date</b>	<b>What progress has been made?</b>
Data Collection	Commercial Staff involved in administration of S4	Log concerns Deal with specific problems raised	Low level of concerns or case specific problems	6 months from implementation and ongoing	
Publication Arrangements	Asylum Communications to alert stakeholders Commercial to liaise with providers. Guidance to be issued to staff.	AOPU to complete guidance. Communications and Commercial to communicate with stakeholders.	Guidance and communications issued on time	By implementation (31 January 2008)	
Monitoring & Review Arrangements	Commercial and managers involved in S4.	To analyse operation of regulations and any concerns or problems		6 months from implementation and on going.	
List other recommendations that are required					

**Please ensure that the action plan is agreed by your Director/ Minister**

## **THE EQUALITY IMPACT ASSESSMENT REPORT**

The EIA report is a concise summary of the results of your EIA work. You should ensure that you cover the topics described below.

### **Background:**

- Context of policy/programme
- Link to strategic aims and objectives
- Scope of the EIA work (e.g. if linked to previous EIA or work delivered by another Government Department)

### **Methodology:**

- Approach to data collection and analysis
- Results of consideration of existing evidence

### **Consultation & Involvement:**

- Stakeholder/community involvement in developing proposals
- List of organisations engaged (optional)

### **Assessment & analysis**

- Key Findings from the data collection and community engagement
  - Positive impacts: existing or potential
  - Adverse impacts: existing or potential

### **Recommendations**

- Describe how you will respond to the key findings by:
  - strengthening the potential for positive impact,
  - removing areas that may exacerbate or engender adverse impact
  - including measures to mitigate any adverse impact that may occur
  - including measures that ensure ongoing compliance with statutory obligations
  - monitoring arrangements
  - ensuring continued public access to information about the policy/programme.
  - action plan (optional)

### **Date of EIA Report**

### **Date of Publication of Results**

**Ensure that the EIA Report is published on the Home Office website before your policy/programme is implemented.**

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