

Submission from the Refugee Council on the Draft Asylum Seekers (Reception Conditions) (Amendment) Regulations 2026

1. The Refugee Council supports refugees and people seeking asylum in the UK. This includes people who apply for protection through the asylum system and those who have arrived on safe and legal routes. As part of our work, we support asylum applicants who access Home Office provided accommodation and financial support.
2. We request that the Secondary Legislation Scrutiny Committee draw the draft Asylum Seekers (Reception Conditions) (Amendment) Regulations 2026¹, to the special attention of the House for the reason that that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation.
3. The draft regulations are very short. They revoke regulation 5 of the Asylum Seekers (Reception Conditions) Regulations 2005, which turned the discretionary power to provide accommodation and support to asylum applicants who would otherwise be destitute into a duty. This change was made as part of the UK's process for incorporating the EU Reception Conditions Directive. The draft regulations would return the duty to a discretionary power, as it was when the current asylum support system was introduced through the Immigration and Asylum Act 1999. The 2005 regulations are assimilated EU law, and so regulation 5 is revoked using the power in section 14 of the Retained EU Law (Revocation & Reform) Act 2023.
4. The UK Government has highlighted what it sees as the importance of this measure. It was a key proposal in the Restoring Order and Control policy statement² in November 2025 and the draft regulations were accompanied by a Home Office press release with the headline 'Asylum handouts and accommodation removed for illegal migrants abusing Britain's generosity'.³ However, the explanatory memorandum explains that the Home Office isn't able to set out what the impact of the revocation of regulation 5 will be.⁴ At paragraph 9.2 of the explanatory memorandum it is said that a full impact assessment has not been produced "as no impact on business is anticipated and the policy

¹ <https://www.legislation.gov.uk/ukdsi/2026/9780348280296/contents>

² <https://www.gov.uk/government/publications/asylum-and-returns-policy-statement/restoring-order-and-control-a-statement-on-the-governments-asylum-and-returns-policy>

³ <https://www.gov.uk/government/news/asylum-handouts-and-accommodation-removed-for-illegal-migrants-abusing-britains-generosity>

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https://www.legislation.gov.uk/ukdsi/2026/9780348280296/pdfs/ukdsiem_9780348280296_en_001.pdf

framework is not yet sufficiently defined to provide any basis for forecasting impacts on the private sector, public sector, and households.”

5. Paragraph 5.3 of the explanatory memorandum argues that the revocation of regulation 5 “will facilitate and strengthen the effective delivery of asylum support and will allow the Secretary of State to reshape the asylum support framework to respond to current pressures and future demands.” At the time of laying the regulations, the Home Office is unable to say how the asylum support framework will be reshaped. The explanatory memorandum does offer some ideas of what the future framework may look like. It could, for example, allow the Home Office:

“to deny support to those who have the right to work and could therefore support themselves, including those who enter the country on a work or student visa with permission to work before claiming asylum, or those granted permission to work while their claim has been outstanding for more than 12 months through no fault of their own.”⁵

6. However, without understanding the detail of the future framework, it is impossible to know whether the revocation of regulation 5 is required, or what the impact of the revocation will be. In *Restoring Order and Control*, it was argued that “moving from a ‘duty’ to a ‘power’... will ensure asylum support is reserved only for those who need it and comply with the system.” It said that “this follows the compliance-based approach taken in Denmark, Netherlands and France.” Given the Netherlands and France both opted into the measures of the Common European Asylum System, of which the Reception Conditions Directive were a part, it is unclear how those governments can run a “compliance-based approach” but the UK cannot without revoking regulation 5.
7. In the view of the Refugee Council, without the further detail about the future framework, it is impossible to understand the impact of the draft regulations. Removing the duty to provide support should, in our view, only be taken if needed to implement a new framework that has the approval of parliament. That would allow parliament to take a view on revoking the duty to provide support with a full understanding of the implications.
8. The explanatory memorandum explains why the Home Office is not waiting until it has developed the future framework before revoking the duty to provide support. As the 2005 regulations are assimilated EU law, the power to revoke or replace any provisions through the Retained EU Law (Revocation & Reform) Act 2023 expires on 23 June 2026. After that date, primary legislation would be required to make any changes. The explanatory memorandum argues that needing primary legislation would be “more complex and resource intensive.” It would seem that the Home

⁵ Paragraph 5.4

Office are introducing measures before their impact can be known so as to avoid a more complex legislative process and the scrutiny that comes with it. The Government is expected to introduce primary legislation in the next session of parliament to implement other aspects of the Restoring Order and Control policy statement, so there will be a legislative vehicle that could be used to make the change once the full new asylum support framework has been developed, and if the removal of the duty is, as a result, required.

9. For the above reasons, we respectfully request that the committee draws the draft Asylum Seekers (Reception Conditions) (Amendment) Regulations 2026 to the special attention of the House.

12 March 2026

Response from the Home Office

Q: The submission argues that the comparison with the “compliance-based approach” taken in Denmark, the Netherlands and France is fallacious because the Netherlands and France retain the duty to provide support to asylum seekers who would otherwise be destitute, through the EU Reception Conditions Directive. If the Netherlands and France can run a compliance-based system while retaining that duty, why cannot the UK?

A: There are many differences between systems in Netherlands and France, and the UK system, which impact our ability to successfully operate a compliance-based system, such as legal systems. Whilst it may be possible to run a compliance-based system under the duty, we have concluded that revoking the duty improves our ability to successfully operate that compliance-based system.

Q: The submission suggests that primary legislation will be brought forward to implement other aspects of the asylum policy statement.

- **Is that correct?**
- **If so, why could the changes in this instrument not have been incorporated in that primary legislation, so as to allow a fuller understanding of the changed framework?**

A: An existing legislative vehicle is available in order to revoke these regulations, as such, the Home Office has decided to utilise it, rather than pursuing an alternative approach which would likely be more complex and risk delaying delivery.

Q: The change is being brought in ahead of the details of wider reform to the system, as a result of the need to reform assimilated EU law before 23 June 2026. When is the wider framework expected to be in place?

A: Work is ongoing, with details to be provided in due course.

17 March 2026