Nationality, Immigration and Asylum Act 2002

2002 CHAPTER 41

PART 5

[F1 APPEALS IN RESPECT OF PROTECTION AND HUMAN RIGHTS CLAIMS]

Exceptions and limitations

94 [F1 Certification of human rights or protection claims as unfounded or removal to safe country]

[F2 (1) The Secretary of State may certify a protection claim or human rights claim as clearly unfounded.]

(3) If the Secretary of State is satisfied that [F3 a] claimant is entitled to reside in a State listed in subsection (4) he shall certify the claim under [F4 subsection (1)] unless satisfied that it is not clearly unfounded.

[F5 (3A) A person may not bring an appeal under section 82 against a decision if the claim to which the decision relates has been certified under subsection (1).]

(4) [F6 The States] are—

(a) F7 . . . . . .

(b) F7 . . . . . .

(c) F7 . . . . . .

(d) F7 . . . . . .

(e) F7 . . . . . .

(f) F7 . . . . . .

(g) F7 . . . . . .

(h) F7 . . . . . .

(i) F7 . . . . . .

Changes to legislation: *Nationality, Immigration and Asylum Act 2002, Section 94 is up to date with all changes known to be in force on or before 07 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(j) [F7] . . . . . .

[[F8](k) the Republic of Albania,

(l) [F9] . . . . . .

(m) [F10] . . . . . .

(n) Jamaica,

(o) Macedonia,

(p) the Republic of Moldova, and

(q) [F9] . . . . . .]

[[F11](r) [F12] . . . . . .

(s) Bolivia,

(t) Brazil,

(u) Ecuador,

(v) [F13] . . . . . .

(w) South Africa, and

(x) Ukraine.]

[[F14](y) India.]

[[F15](z) Mongolia,

(aa) Ghana (in respect of men),

(bb) Nigeria (in respect of men).]

[[F16](cc) Bosnia-Herzegovina,

(dd) Gambia (in respect of men),

(ee) Kenya (in respect of men),

(ff) Liberia (in respect of men),

(gg) Malawi (in respect of men),

(hh) Mali (in respect of men),

(ii) Mauritius,

(jj) Montenegro,

(kk) Peru,

(ll) Serbia,

(mm) Sierra Leone (in respect of men).]

[[F17](nn) Kosovo,

(oo) South Korea.]

(5) The Secretary of State may by order add a State, or part of a State, to the list in subsection (4) if satisfied that—

(a) there is in general in that State or part no serious risk of persecution of persons entitled to reside in that State or part, and

(b) removal to that State or part of persons entitled to reside there will not in general contravene the United Kingdom's obligations under the Human Rights Convention.

[[F18](5A) If the Secretary of State is satisfied that the statements in subsection (5) (a) and (b) are true of a State or part of a State in relation to a description of person, an order under subsection (5) may add the State or part to the list in subsection (4) in respect of that description of person.

(5B) Where a State or part of a State is added to the list in subsection (4) in respect of a description of person, subsection (3) shall have effect in relation to a claimant only if

Changes to legislation: *Nationality, Immigration and Asylum Act 2002, Section 94 is up to date with all changes known to be in force on or before 07 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

the Secretary of State is satisfied that he is within that description (as well as being satisfied that he is entitled to reside in the State or part).

(5C) A description for the purposes of subsection (5A) may refer to—

(a) gender,
(b) language,
(c) race,
(d) religion,
(e) nationality,
(f) membership of a social or other group,
(g) political opinion, or
(h) any other attribute or circumstance that the Secretary of State thinks appropriate.

[In deciding whether the statements in subsection (5) (a) and (b) are true of a State or [F19](5D) part of a State, the Secretary of State –

(a) shall have regard to all the circumstances of the State or part (including its laws and how they are applied), and
(b) shall have regard to information from any appropriate source (including [F20]... member States and international organisations).**]]**

[[F21](6) The Secretary of State may by order amend the list in subsection (4) so as to omit a State or part added under subsection (5); and the omission may be—

(a) general, or
(b) effected so that the State or part remains listed in respect of a description of person.**]**

[[F22](6A) Subsection (3) shall not apply in relation to **[**[F23]a**]** claimant who—

(a) is the subject of a certificate under section 2 or 70 of the Extradition Act 2003 (c. 41),
(b) is in custody pursuant to arrest under section 5 of that Act,
(c) is the subject of a provisional warrant under section 73 of that Act,
[F24](ca) **[** is the subject of a certificate under section 74B of that Act,**]**
(d) is the subject of an authority to proceed under section 7 of the Extradition Act 1989 (c. 33) or an order under paragraph 4(2) of Schedule 1 to that Act, or
(e) is the subject of a provisional warrant under section 8 of that Act or of a warrant under paragraph 5(1)(b) of Schedule 1 to that Act.**]**

(7) **[**[F25]The Secretary of State may certify a protection claim or human rights claim made by a person if**]** —

(a) it is proposed to remove the person to a country of which he is not a national or citizen, and
(b) there is no reason to believe that the person's rights under the Human Rights Convention will be breached in that country.

(8) In determining whether a person in relation to whom a certificate has been issued under subsection (7) may be removed from the United Kingdom, the country specified in the certificate is to be regarded as—

(a) a place where a person's life and liberty is not threatened by reason of his race, religion, nationality, membership of a particular social group, or political opinion, and

(b) a place from which a person will not be sent to another country otherwise than in accordance with the Refugee Convention **[**[F26]or with the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection**]**.

[F27](9) . . . . . .

Textual Amendments

F1 S. 94 heading substituted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 28(3)(c)**, 87(5)(a) (with s. 28(4))

F2 S. 94(1) substituted for s. 94(1)-(2) (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(3)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

F3 Word in s. 94(3) substituted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(4)(a)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

F4 Words in s. 94(3) substituted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(4)(b)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

F5 S. 94(3A) inserted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 28(3)(a)**, 87(5)(a) (with s. 28(4))

F6 Words in s. 94(4) substituted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 28(3)(b)**, 87(5)(a) (with s. 28(4))

F7 S. 94(4)(a)-(j) repealed (1.10.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 27(4), 47, 48(1)-(3), **Sch. 4**; S.I. 2004/2523, **art. 2**, Sch.

F8 S. 94(4)(k)-(q) added (1.4.2003) by The Asylum (Designated States) Order 2003 (S.I. 2003/970), **art. 3**

F9 S. 94(4)(l)(q) omitted (1.1.2007) by virtue of The Asylum (Designated States) (Amendment) Order 2006 (S.I. 2006/3215), **art. 2**

F10 S. 94(4)(m) omitted (27.7.2007) by virtue of The Asylum (Designated States) Order 2007 (S.I. 2007/2221), **art. 3** (with art. 1)

F11 S. 94(4)(r)-(x) added (23.7.2003) by The Asylum (Designated States) (No. 2) Order 2003 (S.I. 2003/1919), **art. 2**

F12 S. 94(4)(r) omitted (22.4.2005) by virtue of The Asylum (Designated States) (Amendment) Order 2005 (S.I. 2005/1016), **art. 2**

F13 S. 94(4)(v) omitted (13.12.2006) by virtue of The Asylum (Designated States) (Amendment) (No. 2) Order 2006 (S.I. 2006/3275), **art. 2**

F14 S. 94(4)(y) added (15.2.2005) by The Asylum (Designated States) Order 2005 (S.I. 2005/330), **art. 2** (with art. 1)

F15 S. 94(4)(z)-(bb) added (2.12.2005) by The Asylum (Designated States) (No. 2) Order 2005 (S.I. 2005/3306), **art. 2**

F16 S. 94(4)(cc)-(mm) added (27.7.2007) by The Asylum (Designated States) Order 2007 (S.I. 2007/2221), **art. 2** (with art. 1)

F17 S. 94(4)(nn)(oo) inserted (3.3.2010) by The Asylum (Designated States) Order 2010 (S.I. 2010/561), arts. 2, **3** (with art. 2)

F18 S. 94(5A)-(5C) inserted (1.10.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **ss. 27(5)**, 48(1)-(3); S.I. 2004/2523, **art. 2**, Sch.

F19 S. 94(5D) inserted (1.12.2007) by The Asylum (Procedures) Regulations 2007 (S.I. 2007/3187), **reg. 3**

F20 Word in s. 94(5D) omitted (31.12.2020) by virtue of The Immigration, Nationality and Asylum (EU Exit) Regulations 2019 (S.I. 2019/745), regs. 1(2), **50(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F21 S. 94(6) substituted (1.10.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **ss. 27(6)**, 48(1)-(3); S.I. 2004/2523, **art. 2**, Sch.

F22 S. 94(6A) inserted (1.10.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **ss. 27(7)**, 48(1)-(3); S.I. 2004/2523, **art. 2**, Sch.

F23 Word in s. 94(6A) substituted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(5)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

F24 S. 94(6A)(ca) inserted (31.12.2020) by Extradition (Provisional Arrest) Act 2020 (c. 18), s. 2(4), **Sch. para. 9**; S.I. 2020/1652, reg. 2(1)(b)

F25 Words in s. 94(7) substituted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(6)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

F26 Words in s. 94(8)(b) inserted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(7)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

F27 S. 94(9) omitted (20.10.2014) by virtue of Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(8)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

Modifications etc. (not altering text)

C1 Ss. 82-99 restricted (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), arts. 3, **4** (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040, S.I. 2003/1339 and S.I. 2003/2993))

Commencement Information

I1 S. 94 wholly in force at 1.4.2003; s. 94 not in force at Royal Assent see s. 162(2); s. 94(5) in force for certain purposes at 10.2.2003 by S.I. 2003/249, **art. 2**, Sch.; s. 94 in force at 1.4.2003 insofar as not already in force by virtue of S.I. 2003/754, **art. 2**, Sch. 1

Changes to legislation:
Nationality, Immigration and Asylum Act 2002, Section 94 is up to date with all changes known to be in force on or before 07 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by S.I. 2011/1043 art. 34

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(1)(1A) substituted for s. 18(1) by 2016 c. 19 Sch. 11 para. 31(2)
- s. 22A inserted by 2022 c. 36 s. 13(7)
- s. 27(ba) inserted by 2022 c. 36 s. 13(10)
- s. 51(2)(d) and word inserted by 2016 c. 19 Sch. 11 para. 26(6)
- s. 55(2)(aa) inserted by 2016 c. 19 Sch. 11 para. 26(7)
- s. 62(3A) inserted by 2023 c. 37 s. 11(8)
- s. 80A(5A) inserted by 2023 c. 37 s. 10(8)
- s. 82A inserted by 2022 c. 36 s. 23(1)
- s. 94(6B) inserted by 2006 c. 13 s. 13
- s. 106(2)(ua) inserted by 2007 c. 30 s. 19(3)
- s. 107(2A) inserted by 2022 c. 36 Sch. 3 para. 5(a)
- s. 126(2A) inserted by S.I. 2019/745 reg. 12(3)(b) (This amendment not applied to legislation.gov.uk. Reg. 12(2)(3) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 3 para. 1(1)(ga) inserted by 2016 c. 19 Sch. 12 para. 2(2) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(a))
- Sch. 3 para. 1(2A) inserted by 2016 c. 19 Sch. 12 para. 2(4) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(b))
- Sch. 3 para. 1A inserted by 2016 c. 19 Sch. 12 para. 3
- Sch. 3 para. 2(1)(ca) inserted by 2016 c. 19 Sch. 12 para. 4(3)
- Sch. 3 para. 2A inserted by 2016 c. 19 Sch. 12 para. 5
- Sch. 3 para. 3A-3C inserted by 2016 c. 19 Sch. 12 para. 6
- Sch. 3 para. 7B7C and cross-headings inserted by 2016 c. 19 Sch. 12 para. 9
- Sch. 3 para. 10A10B inserted by 2016 c. 19 Sch. 12 para. 10 (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(c))
- Sch. 3 para. 15(aa) inserted by 2016 c. 19 Sch. 12 para. 14(2)
- Sch. 3 para. 15(d)-(f) inserted by 2016 c. 19 Sch. 12 para. 14(4)
- Sch. 3 para. 7C(1)(c) word substituted by S.I. 2019/745 reg. 12(5)(d) (This amendment not applied to legislation.gov.uk. Reg. 12(5)(a)(c)(d) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 5 para. 3(1) Sch. 5 para. 3 renumbered as Sch. 5 para. 3(1) by 2005 c. 4 Sch. 4 para. 407(2) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(2)-(4) inserted by 2005 c. 4 Sch. 4 para. 407(4) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(1) words inserted by 2005 c. 4 Sch. 4 para. 407(3) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))