
Changes to legislation: Nationality and Borders Act 2022, SCHEDULE 4 is up to date with all changes known to be in force on or before 19 April 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

SCHEDULES

SCHEDULE 4

Section 29

REMOVAL OF ASYLUM SEEKER TO SAFE COUNTRY

Amendments to section 77 of the Nationality, Immigration and Asylum Act 2002

- 1 In section 77 of the Nationality, Immigration and Asylum Act 2002 (no removal while claim for asylum pending), after subsection (2) insert—
- “(2A) This section does not prevent a person being removed to, or being required to leave to go to, a State falling within subsection (2B).
- (2B) A State falls within this subsection if—
- (a) it is a place where a person’s life and liberty are not threatened by reason of the person’s race, religion, nationality, membership of a particular social group or political opinion,
 - (b) it is a place from which a person will not be removed elsewhere other than in accordance with the Refugee Convention,
 - (c) it is a place—
 - (i) to which a person can be removed without their Convention rights under Article 3 (no torture or inhuman or degrading treatment or punishment) being contravened, and
 - (ii) from which a person will not be sent to another State in contravention of the person’s Convention rights, and
 - (d) the person is not a national or citizen of the State.
- (2C) For the purposes of this section—
- (a) any State to which Part 2 or 3 of Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 for the time being applies—
 - (i) is to be presumed to be a State falling within subsection (2B)(a) and (b), and
 - (ii) is, unless the contrary is shown by a person to be the case in their particular circumstances, to be presumed to be a State falling within subsection (2B)(c)(i) and (ii);
 - (b) any State to which Part 4 of that Schedule for the time being applies is to be presumed to be a State falling within subsection (2B)(a) and (b);
 - (c) a reference to anything being done in accordance with the Refugee Convention is a reference to the thing being done in accordance with the principles of the Convention, whether or not by a signatory to it;
 - (d) “State” includes any territory outside of the United Kingdom.”

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Commencement Information

- I1** Sch. 4 para. 1 not in force at Royal Assent, see **s. 87(1)**
- I2** Sch. 4 para. 1 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 17** (with Sch. 2 para. 4(4))

- 2 In subsection (3) of that section, for “subsection (2)” substitute “this section, “Convention rights” means the rights identified as Convention rights by section 1 of the Human Rights Act 1998 (whether or not in relation to a State that is a party to the Convention); and”.

Commencement Information

- I3** Sch. 4 para. 2 not in force at Royal Assent, see **s. 87(1)**
- I4** Sch. 4 para. 2 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 17** (with Sch. 2 para. 4(4))

Commencement Information

- I1** Sch. 4 para. 1 not in force at Royal Assent, see **s. 87(1)**
- I2** Sch. 4 para. 1 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 17** (with Sch. 2 para. 4(4))
- I3** Sch. 4 para. 2 not in force at Royal Assent, see **s. 87(1)**
- I4** Sch. 4 para. 2 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 17** (with Sch. 2 para. 4(4))

Amendments to Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004: introductory

- 3 Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (the “2004 Act”) (removal of asylum seeker to safe country) is amended as follows.

Commencement Information

- I5** Sch. 4 para. 3 not in force at Royal Assent, see **s. 87(1)**
- I6** Sch. 4 para. 3 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 17** (with Sch. 2 para. 4(4))

Amendments consequential on amendments to section 77 of the 2002 Act

- 4 Omit paragraphs 4, 9, 14 and 18.

Commencement Information

- I7** Sch. 4 para. 4 not in force at Royal Assent, see **s. 87(1)**
- I8** Sch. 4 para. 4 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 17** (with Sch. 2 para. 4(4))

Rebuttable presumption of safety of specified countries in relation to Convention rights

- 5 (1) Paragraph 3 (presumptions of safety) is amended as follows.
- (2) In sub-paragraph (1), in the opening words, after “human rights claim” insert “(the “claimant”)”.

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(3) After sub-paragraph (1) insert—

“(1A) Unless the contrary is shown by the claimant to be the case in their particular circumstances, a State to which this Part applies is to be treated, in so far as relevant to the question mentioned in sub-paragraph (1), as a place—

- (a) to which a person can be removed without their Convention rights under Article 3 (no torture or inhuman or degrading treatment or punishment) being contravened, and
- (b) from which a person will not be sent to another State in contravention of their Convention rights.”

(4) In sub-paragraph (2), omit paragraph (b) (but not the final “and”).

Commencement Information

I9 Sch. 4 para. 5 in force at 28.6.2022, see s. 87(5)(b)

6 In paragraph 5 (in country appeals in cases of removal to safe country)—

- (a) in sub-paragraph (3), omit paragraph (b) (together with the preceding “or”);
- (b) in sub-paragraph (4), in both places they appear, omit the words “to which this sub-paragraph applies”;
- (c) omit sub-paragraph (5).

Commencement Information

I10 Sch. 4 para. 6 in force at 28.6.2022, see s. 87(5)(b)

Commencement Information

I9 Sch. 4 para. 5 in force at 28.6.2022, see s. 87(5)(b)

I10 Sch. 4 para. 6 in force at 28.6.2022, see s. 87(5)(b)

Safe countries

7 In paragraph 1(1) (definitions), after the definition of “the Refugee Convention”, insert—

““State” includes any territory outside of the United Kingdom.”

Commencement Information

I11 Sch. 4 para. 7 in force at 28.6.2022, see s. 87(5)(b)

8 In paragraph 2 (countries to which presumptions of safety in Part 2 of Schedule 3 apply)—

- (a) after paragraph (ba) insert—
 - “(bb) Republic of Croatia,”;
- (b) after paragraph (o) insert—
 - “(oa) Principality of Liechtenstein,”.

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I12 Sch. 4 para. 8 in force at 28.6.2022, see s. 87(5)(b)

- 9 In paragraph 20(1) (powers to amend list of safe countries by order)—
- (a) the words from “add a State” to the end become paragraph (a);
 - (b) after that paragraph (a) insert “, or
 - (b) remove a State from that list.”

Commencement Information

I13 Sch. 4 para. 9 in force at 28.6.2022, see s. 87(5)(b)

- 10 In paragraph 21 (procedure for orders under paragraph 20)—
- (a) in sub-paragraph (1), in the opening words, for “20(1)” substitute “20(1)(a)”;
 - (b) in sub-paragraph (2), in the opening words, for “20(2)(b)” substitute “20(1)(b) or (2)(b)”.

Commencement Information

I14 Sch. 4 para. 10 in force at 28.6.2022, see s. 87(5)(b)

Commencement Information

I11 Sch. 4 para. 7 in force at 28.6.2022, see s. 87(5)(b)

I12 Sch. 4 para. 8 in force at 28.6.2022, see s. 87(5)(b)

I13 Sch. 4 para. 9 in force at 28.6.2022, see s. 87(5)(b)

I14 Sch. 4 para. 10 in force at 28.6.2022, see s. 87(5)(b)

Appeal rights

- 11 In paragraph 5 (appeal rights where person certified for removal to State to which Part 2 applies) in sub-paragraphs (3) and (4), omit “from within the United Kingdom”.

Commencement Information

I15 Sch. 4 para. 11 in force at 28.6.2022, see s. 87(5)(b)

- 12 Omit paragraph 6 (no out of country appeal rights).

Commencement Information

I16 Sch. 4 para. 12 in force at 28.6.2022, see s. 87(5)(b)

- 13 In paragraph 10 (appeal rights where person certified for removal to State to which Part 3 applies), in sub-paragraphs (3) and (4), omit “from within the United Kingdom”.

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I17 Sch. 4 para. 13 in force at 28.6.2022, see s. 87(5)(b)

14 Omit paragraph 11 (no out of country appeal rights).

Commencement Information

I18 Sch. 4 para. 14 in force at 28.6.2022, see s. 87(5)(b)

15 In paragraph 15 (appeal rights where person certified for removal to State to which Part 4 applies), in sub-paragraphs (3) and (4), omit “from within the United Kingdom”.

Commencement Information

I19 Sch. 4 para. 15 in force at 28.6.2022, see s. 87(5)(b)

16 Omit paragraph 16 (no out of country appeal rights).

Commencement Information

I20 Sch. 4 para. 16 in force at 28.6.2022, see s. 87(5)(b)

17 In paragraph 19 (appeal rights where person certified for removal to a State safe for that person)—
(a) in sub-paragraphs (b) and (c), omit “from within the United Kingdom”;
(b) omit sub-paragraph (d).

Commencement Information

I21 Sch. 4 para. 17 in force at 28.6.2022, see s. 87(5)(b)

Commencement Information

I15 Sch. 4 para. 11 in force at 28.6.2022, see s. 87(5)(b)

I16 Sch. 4 para. 12 in force at 28.6.2022, see s. 87(5)(b)

I17 Sch. 4 para. 13 in force at 28.6.2022, see s. 87(5)(b)

I18 Sch. 4 para. 14 in force at 28.6.2022, see s. 87(5)(b)

I19 Sch. 4 para. 15 in force at 28.6.2022, see s. 87(5)(b)

I20 Sch. 4 para. 16 in force at 28.6.2022, see s. 87(5)(b)

I21 Sch. 4 para. 17 in force at 28.6.2022, see s. 87(5)(b)

Consequential amendments

18 In section 92 of the Nationality, Immigration and Asylum Act 2002 (place from which an appeal may be brought), omit—
(a) subsection (2)(b) (and the preceding “or”);
(b) subsection (3)(b) (and the preceding “or”).

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I22 [Sch. 4 para. 18](#) in force at 28.6.2022, see [s. 87\(5\)\(b\)](#)

Transitional provision

- 19 (1) The amendments made by paragraph 6 do not apply to a case in which the Secretary of State made the certification under paragraph 5(1) of Schedule 3 to the 2004 Act before the coming into force of paragraph 6 of this Schedule.
- (2) The amendments made by paragraphs 11, 13, 15 and 17 to the following provisions of Schedule 3 to the 2004 Act do not apply to a case in which the claim was certified as clearly unfounded by the Secretary of State before the coming into force of those paragraphs—
- (a) paragraph 5(4);
 - (b) paragraph 10(4);
 - (c) paragraph 15(4);
 - (d) paragraph 19(c).

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I23 [Sch. 4 para. 19](#) in force at 28.6.2022, see [s. 87\(5\)\(b\)](#)

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

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

- s. 54(6)(c) and word inserted by [2023 c. 37 s. 57\(11\)\(b\)](#)
- s. 63(2A) inserted by [2023 c. 37 s. 29\(3\)](#)
- s. 63(3)(fa)(fb) inserted by [2023 c. 37 s. 29\(4\)\(b\)](#)
- s. 63(5A)(5B) inserted by [2023 c. 37 s. 29\(5\)](#)
- s. 63(8) inserted by [2023 c. 37 s. 28\(9\)](#)
- s. 65(8A) inserted by [2023 c. 37 s. 28\(12\)](#)