



Nationality and Borders Act 2022

2022 CHAPTER 36

PART 2

ASYLUM

PROSPECTIVE

Supporting evidence

18 Provision of evidence in support of protection or human rights claim

- (1) The Secretary of State or an immigration officer may serve an evidence notice on a person who has made a protection claim or a human rights claim.
- (2) An “evidence notice” is a notice requiring the recipient to provide, before the specified date, any evidence in support of the claim.
- (3) Subsection (5) applies if the recipient of an evidence notice provides the Secretary of State or an immigration officer with evidence in support of the claim on or after the specified date.
- (4) Subsection (5) also applies if the recipient of an evidence notice provides the First-tier Tribunal, the Upper Tribunal (when acting in the circumstances mentioned in section 22(9)) or the Special Immigration Appeals Commission with evidence in support of the claim where the evidence—
 - (a) should have been provided in response to the evidence notice but was not, and
 - (b) is provided on or after the specified date.
- (5) The recipient must also provide a statement setting out their reasons for not providing the evidence before the specified date (and see section 26 of this Act and section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004).
- (6) In this section, “specified date” means the date specified in an evidence notice.

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: Nationality and Borders Act 2022, Cross Heading: Supporting evidence is up to date with all changes known to be in force on or before 17 August 2023. 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

Commencement Information

II S. 18 not in force at Royal Assent, see [s. 87\(1\)](#)

19 Asylum or human rights claim: damage to claimant's credibility

(1) Section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (claimant's credibility) is amended in accordance with subsections (2) to (6).

(2) After subsection (1) insert—

“(1A) Tribunal Procedure Rules must secure that, where the deciding authority is the First-tier Tribunal, it must include, as part of its reasons for a decision that disposes of proceedings, a statement explaining—

- (a) whether it considers that the claimant has engaged in behaviour to which this section applies, and
- (b) if it considers that the claimant has engaged in such behaviour, how it has taken account of the behaviour in making its decision.

(1B) Rules under section 5 of the Special Immigration Appeals Commission Act 1997 (SIAC procedure rules) must secure that, where the deciding authority is the Special Immigration Appeals Commission, it must include, as part of its reasons for a decision that determines proceedings, a statement explaining the matters mentioned in subsection (1A)(a) and (b).”

(3) After subsection (3) insert—

“(3A) This section also applies to any relevant behaviour by the claimant that the deciding authority thinks is not in good faith.

(3B) In subsection (3A) “relevant behaviour” means behaviour—

- (a) in connection with the asylum claim or human rights claim in question or (in the case of an appeal relating to such a claim) the appeal in question,
- (b) in any dealings with a person exercising immigration and nationality functions, or
- (c) in connection with—
 - (i) a claim made, or civil proceedings brought, under any provision of immigration legislation, or
 - (ii) judicial review proceedings, or (in Scotland) an application to the supervisory jurisdiction of the Court of Session, relating to a decision taken by a person in exercise of immigration and nationality functions.”

(4) After subsection (6) insert—

“(6A) This section also applies to the late provision by the claimant of evidence in relation to the asylum claim or human rights claim in question, unless there are good reasons why the evidence was provided late.

(6B) For the purposes of subsection (6A), evidence is provided “late” by the claimant if—

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- (a) it is provided pursuant to an evidence notice served on the claimant under section 18(1) of the Nationality and Borders Act 2022, and
 - (b) it is provided on or after the date specified in the notice.”
- (5) In subsection (7), at the appropriate places insert—
 - ““immigration and nationality functions” means functions exercisable by virtue of—
 - (a) the Immigration Acts (but see subsection (9B)), or
 - (b) the Nationality Acts;”;
 - ““immigration legislation” means—
 - (a) the Immigration Acts,
 - (b) the Nationality Acts, and
 - (c) rules under section 3(2) of the Immigration Act 1971 (general immigration rules);”;
 - ““Nationality Acts” means—
 - (a) the British Nationality Act 1981,
 - (b) the Hong Kong Act 1985,
 - (c) the Hong Kong (War Wives and Widows) Act 1996, and
 - (d) the British Nationality (Hong Kong) Act 1997;”.
- (6) After subsection (9A) insert—
 - “(9B) In paragraph (a) of the definition of “immigration and nationality functions” in subsection (7), the reference to the Immigration Acts does not include a reference to—
 - (a) sections 28A to 28K of the Immigration Act 1971 (powers of arrest, entry and search, etc), or
 - (b) section 14 of this Act (power of arrest).”
- (7) The amendments made by this section apply in relation to a determination mentioned in section 8(1) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 only where—
 - (a) the asylum claim or human rights claim to which the determination relates was made, or
 - (b) if the determination is made in appeal proceedings, the appeal was brought, on or after the day on which this section comes into force.

Commencement Information

I2 S. 19 not in force at Royal Assent, see [s. 87\(1\)](#)

Status:

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Changes to legislation:

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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\(12\)](#)