
Changes to legislation: There are currently no known outstanding effects for the Nationality and Borders Act 2022, SCHEDULE 4. (See end of Document for details)

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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- 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)”.

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

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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).

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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\(5\)\(b\)](#)

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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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