



Nationality and Borders Act 2022

2022 CHAPTER 36

PART 2

ASYLUM

Treatment of refugees; support for asylum-seekers

12 Differential treatment of refugees

- (1) For the purposes of this section—
 - (a) a refugee is a Group 1 refugee if they have complied with both of the requirements set out in subsection (2) and, where applicable, the additional requirement in subsection (3);
 - (b) otherwise, a refugee is a Group 2 refugee.
- (2) The requirements in this subsection are that—
 - (a) they have come to the United Kingdom directly from a country or territory where their life or freedom was threatened (in the sense of Article 1 of the Refugee Convention), and
 - (b) they have presented themselves without delay to the authorities.

Subsections (1) to (3) of section 37 apply in relation to the interpretation of paragraphs (a) and (b) as they apply in relation to the interpretation of those requirements in Article 31(1) of the Refugee Convention.

- (3) Where a refugee has entered or is present in the United Kingdom unlawfully, the additional requirement is that they can show good cause for their unlawful entry or presence.
- (4) For the purposes of subsection (3), a person's entry into or presence in the United Kingdom is unlawful if they require leave to enter or remain and do not have it.
- (5) The Secretary of State or an immigration officer may treat Group 1 and Group 2 refugees differently, for example in respect of—

Changes to legislation: Nationality and Borders Act 2022, Section 12 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

- (a) the length of any period of limited leave to enter or remain which is given to the refugee;
 - (b) the requirements that the refugee must meet in order to be given indefinite leave to remain;
 - (c) whether a condition under section 3(1)(c)(ii) of the Immigration Act 1971 (no recourse to public funds) is attached to any period of limited leave to enter or remain that is given to the refugee;
 - (d) whether leave to enter or remain is given to members of the refugee’s family.
- (6) The Secretary of State or an immigration officer may also treat the family members of Group 1 and Group 2 refugees differently, for example in respect of—
 - (a) whether to give the person leave to enter or remain;
 - (b) the length of any period of limited leave to enter or remain which is given to the person;
 - (c) the requirements that the person must meet in order to be given indefinite leave to remain;
 - (d) whether a condition under section 3(1)(c)(ii) of the Immigration Act 1971 (no recourse to public funds) is attached to any period of limited leave to enter or remain that is given to the person.
- (7) But subsection (6) does not apply to family members who are refugees themselves.
- (8) Immigration rules may include provision for the differential treatment allowed for by subsections (5) and (6).
- (9) In this section—
 - “limited leave” and “indefinite leave” have the same meaning as in the Immigration Act 1971 (see section 33 of that Act);
 - “refugee” has the same meaning as in the Refugee Convention.

Commencement Information

- I1** S. 12 not in force at Royal Assent, see [s. 87\(1\)](#)
- I2** [S. 12](#) in force at 28.6.2022 by [S.I. 2022/590](#), regs. 1(2), 2, [Sch. 1 para. 10](#) (with [Sch. 2 para. 4\(1\)](#))

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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\(12\)](#)