



# Nationality and Borders Act 2022

## 2022 CHAPTER 36

### PART 2

#### ASYLUM

##### *Inadmissibility*

#### **16 Asylum claims by persons with connection to safe third State: inadmissibility**

In Part 4A of the Nationality, Immigration and Asylum Act 2002 (as inserted by section 15), after section 80A insert—

##### **“80B Asylum claims by persons with connection to safe third State**

- (1) The Secretary of State may declare an asylum claim made by a person (a “claimant”) who has a connection to a safe third State inadmissible.
- (2) Subject to subsection (7), an asylum claim declared inadmissible under subsection (1) cannot be considered under the immigration rules.
- (3) A declaration under subsection (1) that an asylum claim is inadmissible is not a decision to refuse the claim and, accordingly, no right of appeal under section 82(1)(a) (appeal against refusal of protection claim) arises.
- (4) For the purposes of this section, a State is a “safe third State” in relation to a claimant if—
  - (a) the claimant’s life and liberty are not threatened in that State by reason of their race, religion, nationality, membership of a particular social group or political opinion,
  - (b) the State is one from which a person will not be sent to another State—
    - (i) otherwise than in accordance with the Refugee Convention, or
    - (ii) in contravention of their rights under Article 3 of the Human Rights Convention (freedom from torture or inhuman or degrading treatment), and

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*Changes to legislation: There are currently no known outstanding effects for the Nationality and Borders Act 2022, Section 16. (See end of Document for details)*

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- (c) a person may apply to be recognised as a refugee and (if so recognised) receive protection in accordance with the Refugee Convention, in that State.
- (5) For the purposes of this section, a claimant has “a connection” to a safe third State if they meet any of conditions 1 to 5 set out in section 80C in relation to the State.
- (6) The fact that an asylum claim has been declared inadmissible under subsection (1) by virtue of the claimant’s connection to a particular safe third State does not prevent the Secretary of State from removing the claimant to any other safe third State.
- (7) An asylum claim that has been declared inadmissible under subsection (1) may nevertheless be considered under the immigration rules—
  - (a) if the Secretary of State determines that there are exceptional circumstances in the particular case that mean the claim should be considered, or
  - (b) in such other cases as may be provided for in the immigration rules.
- (8) In this section and section 80C—
  - (a) “asylum claim”, “Human Rights Convention”, “immigration rules” and “the Refugee Convention” have the same meanings as in section 80A;
  - (b) 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.

### **80C Meaning of “connection” to a safe third State**

- (1) Condition 1 is that the claimant—
  - (a) has been recognised as a refugee in the safe third State, and
  - (b) remains able to access protection in accordance with the Refugee Convention in that State.
- (2) Condition 2 is that the claimant—
  - (a) has otherwise been granted protection in a safe third State as a result of which the claimant would not be sent from the safe third State to another State—
    - (i) otherwise than in accordance with the Refugee Convention, or
    - (ii) in contravention of their rights under Article 3 of the Human Rights Convention, and
  - (b) remains able to access that protection in that State.
- (3) Condition 3 is that the claimant has made a relevant claim to the safe third State and the claim—
  - (a) has not yet been determined, or
  - (b) has been refused.
- (4) Condition 4 is that—
  - (a) the claimant was previously present in, and eligible to make a relevant claim to, the safe third State,

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- (b) it would have been reasonable to expect them to make such a claim, and
  - (c) they failed to do so.
- (5) Condition 5 is that, in the claimant's particular circumstances, it would have been reasonable to expect them to have made a relevant claim to the safe third State (instead of making a claim in the United Kingdom).
- (6) For the purposes of this section, a "relevant claim" to a safe third State is a claim—
  - (a) to be recognised as a refugee in the State for the purposes of the Refugee Convention, or
  - (b) for protection in the State of the kind mentioned in subsection (2)(a).
- (7) For the purposes of this section "claimant" and "safe third State" have the same meanings as in section 80B; and see subsection (8) of that section."

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**Commencement Information**

- I1** S. 16 not in force at Royal Assent, see [s. 87\(1\)](#)
- I2** [S. 16](#) in force at 28.6.2022 by [S.I. 2022/590](#), regs. 1(2), 2, [Sch. 1 para. 15](#) (with [Sch. 2 para. 4\(3\)](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Nationality and Borders Act 2022, Section 16.