



Nationality and Borders Act 2022

2022 CHAPTER 36

PART 2

ASYLUM

Interpretation of Refugee Convention

31 Article 1(A)(2): persecution

- (1) For the purposes of Article 1(A)(2) of the Refugee Convention, persecution can be committed by any of the following (referred to in this Part as “actors of persecution”)
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- (a) the State,
 - (b) any party or organisation controlling the State or a substantial part of the territory of the State, or
 - (c) any non-State actor, if it can be demonstrated that the actors mentioned in paragraphs (a) and (b), including any international organisation, are unable or unwilling to provide reasonable protection against persecution.
- (2) For the purposes of that Article, the persecution must be—
- (a) sufficiently serious by its nature or repetition as to constitute a severe violation of a basic human right, in particular a right from which derogation cannot be made under Article 15 of the Human Rights Convention, or
 - (b) an accumulation of various measures, including a violation of a human right, which is sufficiently severe as to affect an individual in a similar manner as specified in paragraph (a).
- (3) The persecution may, for example, take the form of—
- (a) an act of physical or mental violence, including an act of sexual violence;
 - (b) a legal, administrative, police or judicial measure which in itself is discriminatory or which is implemented in a discriminatory manner;
 - (c) prosecution or punishment which is disproportionate or discriminatory;

Changes to legislation: *Nationality and Borders Act 2022, Section 31 is up to date with all changes known to be in force on or before 15 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*

- (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;
- (e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts as described in Article 1(F) of the Refugee Convention (on which, see section 36).

Commencement Information

II S. 31 in force at 28.6.2022, see s. 87(5)(d)

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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\(12\)](#)