



Nationality and Borders Act 2022

2022 CHAPTER 36

PART 2

ASYLUM

Interpretation of Refugee Convention

32 Article 1(A)(2): well-founded fear

- (1) In deciding for the purposes of Article 1(A)(2) of the Refugee Convention whether an asylum seeker's fear of persecution is well-founded, the following approach is to be taken.
- (2) The decision-maker must first determine, on the balance of probabilities—
 - (a) whether the asylum seeker has a characteristic which could cause them to fear persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion (or has such a characteristic attributed to them by an actor of persecution), and
 - (b) whether the asylum seeker does in fact fear such persecution in their country of nationality (or in a case where they do not have a nationality, the country of their former habitual residence) as a result of that characteristic.

(See also section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (asylum claims etc: behaviour damaging to claimant's credibility).)

- (3) Subsection (4) applies if the decision-maker finds that—
 - (a) the asylum seeker has a characteristic mentioned in subsection (2)(a) (or has such a characteristic attributed to them), and
 - (b) the asylum seeker fears persecution as mentioned in subsection (2)(b).
- (4) The decision-maker must determine whether there is a reasonable likelihood that, if the asylum seeker were returned to their country of nationality (or in a case where they do not have a nationality, the country of their former habitual residence)—

Changes to legislation: Nationality and Borders Act 2022, Section 32 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) they would be persecuted as a result of the characteristic mentioned in subsection (2)(a), and
 - (b) they would not be protected as mentioned in section 34.
- (5) The determination under subsection (4) must also include a consideration of the matter mentioned in section 35 (internal relocation).

Commencement Information

II [S. 32](#) 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\(12\)](#)