



Nationality and Borders Act 2022

2022 CHAPTER 36

PART 2

ASYLUM

Interpretation of Refugee Convention

37 Article 31(1): immunity from penalties

- (1) A refugee is not to be taken to have come to the United Kingdom directly from a country where their life or freedom was threatened if, in coming from that country, they stopped in another country outside the United Kingdom, unless they can show that they could not reasonably be expected to have sought protection under the Refugee Convention in that country.
- (2) A refugee is not to be taken to have presented themselves without delay to the authorities unless—
 - (a) in the case of a person who became a refugee while they were outside the United Kingdom, they made a claim for asylum as soon as reasonably practicable after their arrival in the United Kingdom;
 - (b) in the case of a person who became a refugee while they were in the United Kingdom—
 - (i) if their presence in the United Kingdom was lawful at that time, they made a claim for asylum before the time when their presence in the United Kingdom became unlawful;
 - (ii) if their presence in the United Kingdom was unlawful at that time, they made a claim for asylum as soon as reasonably practicable after they became aware of their need for protection under the Refugee Convention.
- (3) For the purposes of subsection (2)(b), a person's presence in the United Kingdom is unlawful if they require leave to enter or remain and do not have it.

Changes to legislation: *Nationality and Borders Act 2022, Section 37 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*

- (4) A penalty is not to be taken as having been imposed on account of a refugee’s illegal entry or presence in the United Kingdom where the penalty relates to anything done by the refugee in the course of an attempt to leave the United Kingdom.
- (5) In section 31 of the Immigration and Asylum Act 1999 (defences based on Art.31(1) of the Refugee Convention)—
 - (a) in subsection (2), for “have expected to be given” substitute “be expected to have sought”;
 - (b) after subsection (4) insert—

“(4A) But this section does not apply to an offence committed by a refugee in the course of an attempt to leave the United Kingdom.”
- (6) In this section—
 - “claim for asylum” means a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention for the claimant to be removed from, or required to leave, the United Kingdom;
 - “country” includes any territory;
 - “refugee” has the same meaning as in the Refugee Convention.

Commencement Information

- I1** S. 37 not in force at Royal Assent, see [s. 87\(1\)](#)
- I2** [S. 37](#) in force at 28.6.2022 by [S.I. 2022/590](#), regs. 1(2), 2, [Sch. 1 para. 19](#) (with [Sch. 2 para. 6](#))

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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\(12\)](#)