



# Nationality and Borders Act 2022

## 2022 CHAPTER 36

### PART 2

#### ASYLUM

##### *Interpretation of Refugee Convention*

#### **38 Article 33(2): particularly serious crime**

- (1) Section 72 of the Nationality, Immigration and Asylum Act 2002 (serious criminal) is amended as follows.
- (2) In subsection (1), for “protection” substitute “prohibition of expulsion or return”.
- (3) In subsection (2)—
  - (a) in the words before paragraph (a)—
    - (i) for “shall be presumed to have been” substitute “is”;
    - (ii) omit “and to constitute a danger to the community of the United Kingdom”;
  - (b) in paragraph (b), for “two years” substitute “12 months”.
- (4) In subsection (3)—
  - (a) in the words before paragraph (a)—
    - (i) for “shall be presumed to have been” substitute “is”;
    - (ii) omit “and to constitute a danger to the community of the United Kingdom”;
  - (b) in paragraph (b), for “two years” substitute “12 months”;
  - (c) in paragraph (c), for “two years” substitute “12 months”.
- (5) In subsection (4), in the words before paragraph (a)—
  - (a) for “shall be presumed to have been” substitute “is”;
  - (b) omit “and to constitute a danger to the community of the United Kingdom”.

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**Changes to legislation:** Nationality and Borders Act 2022, Section 38 is up to date with all changes known to be in force on or before 12 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

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(6) After subsection (5) insert—

“(5A) A person convicted by a final judgment of a particularly serious crime (whether within or outside the United Kingdom) is to be presumed to constitute a danger to the community of the United Kingdom.”

(7) In subsection (6), for “(2), (3) or (4)” substitute “(5A)”.

(8) In subsection (7), for “(2), (3) or (4)” substitute “(5A)”.

(9) In subsection (8), for “mentioned in subsection (6)” substitute “under subsection (5A)”.

(10) In subsection (9)(b), for “presumptions under subsection (2), (3) or (4) apply” substitute “a presumption under subsection (5A) applies”.

(11) In subsection (10)(b), for “presumptions under subsections (2), (3) or (4) apply” substitute “a presumption under subsection (5A) applies”.

(12) In subsection (11)(b)—

- (a) in the opening words, for “two years” substitute “12 months”;
- (b) in sub-paragraph (ia), for “two years”, in both places it occurs, substitute “12 months”;
- (c) in sub-paragraph (iii), for “two years” substitute “12 months”.

(13) The amendments made by this section apply only in relation to a person convicted on or after the date on which this section comes into force.

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#### Commencement Information

**II** S. 38 in force at 28.6.2022, see s. 87(5)(d)

**Changes to legislation:**

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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\(12\)](#)