



# Illegal Migration Act 2023

## 2023 CHAPTER 37

### *Inadmissibility of certain asylum and human rights claims*

#### **59 Inadmissibility of certain asylum and human rights claims**

- (1) Part 4A of the Nationality, Immigration and Asylum Act 2002 (inadmissible asylum claims) is amended as follows.
- (2) In section 80A (asylum claims by EU nationals)—
  - (a) in subsection (1)—
    - (i) after “claim” insert “or a human rights claim”;
    - (ii) for “member State” substitute “State listed in section 80AA(1)”;
  - (b) in subsection (2), for “An asylum” substitute “A”;
  - (c) in subsection (3)—
    - (i) for “an asylum” substitute “a”;
    - (ii) after “82(1)(a)” insert “or (b)”;
    - (iii) after “protection claim” insert “or human rights claim”;
  - (d) in subsection (5)—
    - (i) in the words before paragraph (a), omit from “where” to “national”;
    - (ii) in paragraph (a), at the beginning insert “in a case where the claimant is a national of a State that is a signatory to the Human Rights Convention, where that State”;
    - (iii) in paragraph (b), at the beginning insert “in a case where the claimant is a national of a member State, where that State”;
  - (e) in subsection (6)—
    - (i) after “this section” insert “and section 80AA”;
    - (ii) after “claim,” insert ““human rights claim””;
    - (iii) at the appropriate place insert—

““national” includes citizen”;
  - (f) for the heading, substitute “Claims by nationals of listed safe States”.
- (3) After section 80A insert—

**“80AA Safe States for the purposes of section 80A**

- (1) The States are—
- (a) Albania,
  - (b) Austria,
  - (c) Belgium,
  - (d) Bulgaria,
  - (e) Republic of Croatia,
  - (f) Republic of Cyprus,
  - (g) Czech Republic,
  - (h) Denmark,
  - (i) Estonia,
  - (j) Finland,
  - (k) France,
  - (l) Germany,
  - (m) Greece,
  - (n) Hungary,
  - (o) Iceland,
  - (p) Republic of Ireland,
  - (q) Italy,
  - (r) Latvia,
  - (s) Principality of Liechtenstein,
  - (t) Lithuania,
  - (u) Luxembourg,
  - (v) Malta,
  - (w) Netherlands,
  - (x) Norway,
  - (y) Poland,
  - (z) Portugal,
  - (z1) Romania,
  - (z2) Slovak Republic,
  - (z3) Slovenia,
  - (z4) Spain,
  - (z5) Sweden,
  - (z6) Switzerland.
- (2) The Secretary of State may by regulations amend the list in subsection (1) so as to add or remove a State.
- (3) The Secretary of State may add a State to the list only if satisfied that—
- (a) there is in general in that State no serious risk of persecution of nationals of that State, and
  - (b) removal to that State of nationals of that State will not in general contravene the United Kingdom’s obligations under the Human Rights Convention.

- (4) In deciding whether the statements in subsection (3)(a) and (b) are true of a State, the Secretary of State—
    - (a) must have regard to all the circumstances of the State (including its laws and how they are applied), and
    - (b) must have regard to information from any appropriate source (including member States and international organisations).
  - (5) Regulations under this section—
    - (a) must be made by statutory instrument;
    - (b) may include transitional or saving provision.
  - (6) A statutory instrument containing—
    - (a) regulations which add a State to the list in subsection (1), or
    - (b) regulations which both add a State to, and remove a State from, that list,may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
  - (7) A statutory instrument containing regulations under this section, other than one to which subsection (6) applies, is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (4) In the heading to Part 4A, after “Asylum” insert “and Human Rights”.