

2023 No. 283 (C. 14)

IMMIGRATION AND ASYLUM

**The Nationality and Borders Act 2022 (Commencement No. 5
and Transitional Provisions) Regulations 2023**

Made - - - -

8th March 2023

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 84(1) and 87(1) of the Nationality and Borders Act 2022(a).

Citation, interpretation and extent

1.—(1) These Regulations may be cited as the Nationality and Borders Act 2022 (Commencement No. 5 and Transitional Provisions) Regulations 2023.

(2) In these Regulations, “the 2022 Act” means the Nationality and Borders Act 2022.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Provisions coming into force on 31 March 2023

2. The following provisions of the 2022 Act come into force on 31 March 2023—

- (a) section 49(5) (substitution of section 94(7) of the Immigration and Asylum Act 1999)(b);
- (b) section 50 (persons subject to immigration control: referral or assessment by local authority etc), so far as not already in force;
- (c) section 51 (persons subject to immigration control: assessment for immigration purposes).

Provisions coming into force on 12 April 2023

3. The following provisions of the 2022 Act come into force on 12 April 2023—

- (a) section 43 (working in United Kingdom waters: arrival and entry), so far as not already in force;
- (b) Schedule 6 (working in United Kingdom waters: consequential and related amendments), so far as not already in force.

Transitional provision in relation to section 50 of the 2022 Act

4. Until sections 54 (appeals relating to age assessments) and 56 (new information following age assessment or appeal) of the 2022 Act come into force, section 50 of the 2022 Act is to be read as if—

- (a) in subsection (7), the words from “But this” to the end were omitted;

(a) 2022 c. 36.
(b) 1999 c. 33.

(b) after subsection (7), there were inserted—

“(7A) Subsection (7) does not prevent a designated person from carrying out a further age assessment on an age-disputed person (“P”) if they become aware of new information in relation to P’s age which is significant new evidence.

(7B) New information is “significant new evidence” if there is a realistic prospect that, if a further age assessment were to be conducted on P, taking into account the new information, P’s age would be assessed as different from the age determined in the first age assessment.

(7C) Subsection (7) applies to a further age assessment carried out under subsection (7A) as it applies to an age assessment conducted by a designated person following a referral from a local authority under subsection (1) or (3)(a).”.

Transitional provision in relation to section 51 of the 2022 Act

5. Until sections 54 and 56 of the 2022 Act come into force, section 51 of the 2022 Act is to be read as if—

(a) in subsection (3), the words from “But this” to the end were omitted;

(b) after subsection (3), there were inserted—

“(3A) Subsection (3) does not prevent a designated person from carrying out a further age assessment on an age-disputed person (“P”) if they become aware of new information in relation to P’s age which is significant new evidence.

(3B) New information is “significant new evidence” if there is a realistic prospect that, if a further age assessment were to be conducted on P, taking into account the new information, P’s age would be assessed as different from the age determined in the first age assessment.

(3C) Subsection (3) applies to a further age assessment carried out under subsection (3A) as it applies to an age assessment conducted by a designated person under subsection (1).”.

Robert Jenrick
Minister of State
Home Office

8th March 2023

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force provisions of the Nationality and Borders Act 2022 (c. 36) (“the 2022 Act”). They are the fifth commencement regulations to be made under the 2022 Act. These Regulations also contain transitional provisions in relation to certain provisions of the 2022 Act being brought into force by these Regulations.

Regulation 2 of these Regulations brings sections 49(5) (substitution of section 94(7) of the Immigration and Asylum Act 1999 (c. 33), 50 (persons subject to immigration control: referral or assessment by local authority etc), so far as not already in force, and 51 (persons subject to immigration control: assessment for immigration purposes) into force on 31 March 2023. Section 50 confers a power on a designated person (defined in section 49(2) of the 2022 Act) to conduct age assessments on age-disputed persons (defined in section 49(1) of the 2022 Act) upon referral from a local authority in England, Wales and Scotland or a Health and Social Care Trust in Northern Ireland. Section 51 confers a power on a designated person to conduct age assessments on age-disputed persons for the purposes of deciding whether or how the Secretary of State should exercise any immigration functions in relation to the person.

Regulation 3 of these Regulations brings section 43 (working in United Kingdom waters: arrival and entry) of the 2022 Act, so far as not already in force, and Schedule 6 (working in United Kingdom waters: consequential and related amendments) to that Act, so far as not already in force, into force on 12 April 2023. Section 43 and Schedule 6 clarify the legal framework around the requirement that individuals working in United Kingdom waters need permission to do so.

Sections 50(7) and 51(3) of the 2022 Act cross refer to section 54 (appeals relating to age assessments) and section 56 (new information following age assessment or appeal) of that Act, which are not yet in force and are not being brought into force by these Regulations. Regulations 4 and 5 make transitional provision so that, pending the coming into force of sections 54 and 56, sections 50(7) and 51(3) are to be read as omitting the reference to section 54 (judicial review will continue to be available) and as ensuring that a designated person is not prevented from carrying out a further age assessment on an age-disputed person if they become aware of new information in relation to that person's age which is significant new evidence.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Nationality and Borders Act 2022 (c. 36) have been brought into force by commencement regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1	28.06.22.	2022/590
Section 2	28.06.22.	2022/590
Section 3	23.11.22.	2022/1056
Section 4 (partially)	28.06.22.	2022/590
Section 4 (remainder)	23.11.22.	2022/1056
Section 5	28.06.22.	2022/590
Section 6	28.06.22.	2022/590
Section 7	28.06.22.	2022/590
Section 8	28.06.22.	2022/590
Section 9 and Schedule 1 (partially)	28.06.22.	2022/590
Section 11	28.06.22.	2022/590
Section 12	28.06.22.	2022/590
Section 13(1) and (3)	28.06.22.	2022/590
Section 14(1), (2), (6) and (7) (remainder)	28.06.22.	2022/590
Section 14(3) and (5) (partially)	28.06.22.	2022/590
Section 15	28.06.22.	2022/590
Section 16	28.06.22.	2022/590
Section 17	28.06.22.	2022/590
Section 29 (remainder) and Schedule 4 (partially)	28.06.22.	2022/590
Section 30(3)	28.06.22.	2022/590
Section 37	28.06.22.	2022/590
Section 40 (partially)	28.06.22.	2022/590
Section 41	28.06.22.	2022/590
Section 42 (partially) and Schedule 5 (partially)	13.02.23.	2023/33
Section 43(2) and Schedule 6 (partially)	24.08.22.	2022/912
Section 45 and Schedule 7	28.06.22.	2022/590
Section 46(6)	28.06.22.	2022/590
Section 47 and Schedule 8	28.06.22.	2022/590
Section 48	28.06.22.	2022/590

Section 60	30.01.23.	2023/33
Section 61	30.01.23.	2023/33
Section 62	30.01.23.	2023/33
Section 63	30.01.23.	2023/33
Section 64	30.01.23.	2023/33
Section 65	30.01.23.	2023/33
Section 68	30.01.23.	2023/33
Section 69 (remainder)	30.01.23.	2023/33
Section 75	28.06.22.	2022/590
Section 77	28.06.22.	2022/590
Section 79	28.06.22.	2022/590
Section 82 (remainder)	28.06.22.	2022/590

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