



Nationality and Borders Act 2022

2022 CHAPTER 36

PART 2

ASYLUM

Inadmissibility

15 Asylum claims by EU nationals: inadmissibility

(1) After Part 4 of the Nationality, Immigration and Asylum Act 2002 insert—

“PART 4A

INADMISSIBLE ASYLUM CLAIMS

80A Asylum claims by EU nationals

- (1) The Secretary of State must declare an asylum claim made by a person who is a national of a member State inadmissible.
- (2) An asylum claim declared inadmissible under subsection (1) cannot be considered under the immigration rules.
- (3) A declaration under subsection (1) that an asylum claim is inadmissible is not a decision to refuse the claim and, accordingly, no right of appeal under section 82(1)(a) (appeal against refusal of protection claim) arises.
- (4) Subsection (1) does not apply if there are exceptional circumstances as a result of which the Secretary of State considers that the claim ought to be considered.
- (5) For the purposes of subsection (4) exceptional circumstances include where the member State of which the claimant is a national—
 - (a) is derogating from any of its obligations under the Human Rights Convention, in accordance with Article 15 of the Convention;

Changes to legislation: Nationality and Borders Act 2022, Section 15 is up to date with all changes known to be in force on or before 22 April 2024. 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

- (b) is the subject of a proposal initiated in accordance with the procedure referred to in Article 7(1) of the Treaty on European Union and—
- (i) the proposal has yet to be determined by the Council of the European Union or (as the case may be) the European Council,
 - (ii) the Council of the European Union has determined, in accordance with Article 7(1), that there is a clear risk of a serious breach by the member State of the values referred to in Article 2 of the Treaty, or
 - (iii) the European Council has determined, in accordance with Article 7(2), the existence of a serious and persistent breach by the member State of the values referred to in Article 2 of the Treaty.

(6) In this section—

“asylum claim”, “the Human Rights Convention” and “the Refugee Convention” have the meanings given by section 113;

“immigration rules” means rules under section 3(2) of the Immigration Act 1971;

“the Treaty on European Union” means the Treaty on European Union signed at Maastricht on 7 February 1992 as it had effect immediately before IP completion day.”

- (2) In consequence of the amendment made by subsection (1), in regulation 4(4)(d) of the Asylum Support Regulations 2000 (S.I. 2000/704) (persons excluded from support), for “under the immigration rules” substitute “(see section 80A of the Nationality, Immigration and Asylum Act 2002)”.

Commencement Information

11 S. 15 not in force at Royal Assent, see **s. 87(1)**

12 S. 15 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 14** (with Sch. 2 para. 4(3))

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\(12\)](#)