



# Nationality and Borders Act 2022

## 2022 CHAPTER 36

### PART 5

#### MODERN SLAVERY

#### **63 Identified potential victims etc: disqualification from protection**

- (1) A competent authority may determine that subsection (2) is to apply to a person in relation to whom a positive reasonable grounds decision has been made if the authority is satisfied that the person—
    - (a) is a threat to public order, or
    - (b) has claimed to be a victim of slavery or human trafficking in bad faith.
  - (2) Where this subsection applies to a person the following cease to apply—
    - (a) any prohibition on removing the person from, or requiring them to leave, the United Kingdom arising under section 61 or 62, and
    - (b) any requirement under section 65 to grant the person limited leave to remain in the United Kingdom.
  - (3) For the purposes of this section, the circumstances in which a person is a threat to public order include, in particular, where—
    - (a) the person has been convicted of a terrorist offence;
    - (b) the person has been convicted of any other offence listed in Schedule 4 to the Modern Slavery Act 2015 anywhere in the United Kingdom, or of a corresponding offence;
    - (c) the person is subject to a TPIM notice (within the meaning given by section 2 of the Terrorism Prevention and Investigation Measures Act 2011);
    - (d) there are reasonable grounds to suspect that the person is or has been involved in terrorism-related activity within the meaning given by section 4 of that Act (whether or not the terrorism-related activity is attributable to the person being, or having been, a victim of slavery or human trafficking);
- [<sup>F1</sup>(da) the person is subject to a notice under Part 2 of the National Security Act 2023;

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**Changes to legislation:** Nationality and Borders Act 2022, Section 63 is up to date with all changes known to be in force on or before 04 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

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- (db) there are reasonable grounds to suspect that the person is or has been involved in foreign power threat activity within the meaning given by section 33 of that Act (whether or not the foreign power threat activity is attributable to the person being, or having been, a victim of slavery or human trafficking);]
  - (e) the person is subject to a temporary exclusion order imposed under section 2 of the Counter-Terrorism and Security Act 2015;
  - (f) the person is a foreign criminal within the meaning given by section 32(1) of the UK Borders Act 2007 (automatic deportation for foreign criminals);
  - (g) the Secretary of State has made an order in relation to the person under section 40(2) of the British Nationality Act 1981 (order depriving person of citizenship status where to do so is conducive to the public good);
  - (h) the Refugee Convention does not apply to the person by virtue of Article 1(F) of that Convention (serious criminals etc);
  - (i) the person otherwise poses a risk to the national security of the United Kingdom.
- (4) In subsection (3)(a), “terrorist offence” means any of the following (whenever committed)—
- (a) an offence listed in—
    - (i) Schedule A1 to the Sentencing Code (terrorism offences: England and Wales), or
    - (ii) Schedule 1A to the Counter-Terrorism Act 2008 (terrorism offences: Scotland and Northern Ireland);
  - (b) an offence that was determined to have a terrorist connection under—
    - (i) section 69 of the Sentencing Code (in the case of an offender sentenced in England and Wales), or
    - (ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Northern Ireland, or an offender sentenced in England and Wales before the Sentencing Code applied);
  - (c) an offence that has been proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland);
  - (d) an act constituting an offence under the law in force in a country outside the United Kingdom that—
    - (i) would have constituted an offence within paragraph (a) if it had been committed in any part of the United Kingdom, or
    - (ii) was, or took place in the course of, an act of terrorism or was done for the purposes of terrorism.
- (5) In subsection (3)(b) “corresponding offence” means—
- (a) an offence under the law of Scotland or of Northern Ireland which corresponds to an offence listed in Schedule 4 to the Modern Slavery Act 2015;
  - (b) an act constituting an offence under the law in force in a country outside the United Kingdom that would have constituted an offence listed in that Schedule if it had been committed in England or Wales.
- (6) For the purposes of this section an act punishable under the law in force in a country outside the United Kingdom is regarded as constituting an offence under that law however it is described in that law.
- (7) In this section—

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“act” includes an omission;

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and its Protocol;

“terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1 of that Act).

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#### Textual Amendments

- F1** S. 63(3)(da)(db) inserted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023 \(S.I. 2023/1386\)](#), reg. 1(2), **Sch. para. 34**
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#### Commencement Information

- I1** S. 63 not in force at Royal Assent, see [s. 87\(1\)](#)
- I2** S. 63 in force at 30.1.2023 by [S.I. 2023/33](#), **reg. 3(d)**

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 63(1) word substituted by [2023 c. 37 s. 29\(2\)\(a\)](#)
- s. 63(1) words inserted by [2023 c. 37 s. 29\(2\)\(b\)](#)
- s. 63(3)(f) substituted by [2023 c. 37 s. 29\(4\)\(a\)](#)

**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\(12\)](#)