



# Nationality, Immigration and Asylum Act 2002

## 2002 CHAPTER 41

### PART 4

#### DETENTION AND REMOVAL

##### *Removal*

#### **77 No removal while claim for asylum pending**

- (1) While a person's claim for asylum is pending he may not be—
  - (a) removed from the United Kingdom in accordance with a provision of the Immigration Acts, or
  - (b) required to leave the United Kingdom in accordance with a provision of the Immigration Acts.
- (2) In this section—
  - (a) “claim for asylum” means a claim by a person that it would be contrary to the United Kingdom's obligations under the Refugee Convention to remove him from or require him to leave the United Kingdom, and
  - (b) a person's claim is pending until he is given notice of the Secretary of State's decision on it.

[<sup>F1</sup>(2A) This section does not prevent a person being removed to, or being required to leave to go to, a State falling within subsection (2B).

- (2B) A State falls within this subsection if—
- (a) it is a place where a person's life and liberty are not threatened by reason of the person's race, religion, nationality, membership of a particular social group or political opinion,
  - (b) it is a place from which a person will not be removed elsewhere other than in accordance with the Refugee Convention,

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, Section 77 is up to date with all changes known to be in force on or before 01 May 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*

- (c) it is a place—
    - (i) to which a person can be removed without their Convention rights under Article 3 (no torture or inhuman or degrading treatment or punishment) being contravened, and
    - (ii) from which a person will not be sent to another State in contravention of the person’s Convention rights, and
  - (d) the person is not a national or citizen of the State.
- (2C) For the purposes of this section—
- (a) any State to which Part 2 or 3 of Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 for the time being applies—
    - (i) is to be presumed to be a State falling within subsection (2B)(a) and (b), and
    - (ii) is, unless the contrary is shown by a person to be the case in their particular circumstances, to be presumed to be a State falling within subsection (2B)(c)(i) and (ii);
  - (b) any State to which Part 4 of that Schedule for the time being applies is to be presumed to be a State falling within subsection (2B)(a) and (b);
  - (c) a reference to anything being done in accordance with the Refugee Convention is a reference to the thing being done in accordance with the principles of the Convention, whether or not by a signatory to it;
  - (d) “State” includes any territory outside of the United Kingdom.]
- (3) In [F2 this section, “Convention rights” means the rights identified as Convention rights by section 1 of the Human Rights Act 1998 (whether or not in relation to a State that is a party to the Convention); and] “the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol.
- (4) Nothing in this section shall prevent any of the following while a claim for asylum is pending—
- (a) the giving of a direction for the claimant’s removal from the United Kingdom,
  - (b) the making of a deportation order in respect of the claimant, or
  - (c) the taking of any other interim or preparatory action.
- (5) Section 15 of the Immigration and Asylum Act 1999 (c. 33) (protection from removal or deportation) shall cease to have effect.

#### Textual Amendments

- F1** S. 77(2A)-(2C) inserted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), s. 87(1), [Sch. 4 para. 1](#); [S.I. 2022/590](#), reg. 2, [Sch. 1 para. 17](#) (with [Sch. 2 para. 4\(4\)](#))
- F2** Words in s. 77(3) substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), s. 87(1), [Sch. 4 para. 2](#); [S.I. 2022/590](#), reg. 2, [Sch. 1 para. 17](#) (with [Sch. 2 para. 4\(4\)](#))

#### Modifications etc. (not altering text)

- C1** S. 77 excluded by [1999 c. 33, s. 11\(2\)](#) (as substituted (1.4.2003) by [2002 c. 41, ss. 80, 162\(2\)](#) (with s. 159); [S.I. 2003/754](#), art. 2(1), [Sch. 1](#) (with [Sch. 2 paras. 5, 6\(3\)](#)))
- S. 77 extended (14.3.2003) by [The Nationality Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), art. 3, [Sch. 2 para. 1\(2\)](#) (with arts. 3, 4, [Sch. 2](#) (as amended by: [S.I. 2003/1040](#); [S.I. 2003/1339](#); and [S.I. 2003/2993](#)))

---

**Changes to legislation:** *Nationality, Immigration and Asylum Act 2002, Section 77 is up to date with all changes known to be in force on or before 01 May 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*

---

S. 77 restricted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#) (c. 19), ss. 33, 48(1)-(3), Sch. 3 paras. 4, 9, 14, **18**; S.I. 2004/2523, art. 2, **Sch.** (with art. 3)

**Changes to legislation:**

Nationality, Immigration and Asylum Act 2002, Section 77 is up to date with all changes known to be in force on or before 01 May 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(1)(1A) substituted for s. 18(1) by [2016 c. 19 Sch. 11 para. 31\(2\)](#)
- s. 22A inserted by [2022 c. 36 s. 13\(7\)](#)
- s. 27(ba) inserted by [2022 c. 36 s. 13\(10\)](#)
- s. 51(2)(d) and word inserted by [2016 c. 19 Sch. 11 para. 26\(6\)](#)
- s. 55(2)(aa) inserted by [2016 c. 19 Sch. 11 para. 26\(7\)](#)
- s. 62(3A) inserted by [2023 c. 37 s. 11\(8\)](#)
- s. 80A(5A) inserted by [2023 c. 37 s. 10\(8\)](#)
- s. 82A inserted by [2022 c. 36 s. 23\(1\)](#)
- s. 94(6B) inserted by [2006 c. 13 s. 13](#)
- s. 106(2)(ua) inserted by [2007 c. 30 s. 19\(3\)](#)
- s. 107(2A) inserted by [2022 c. 36 Sch. 3 para. 5\(a\)](#)
- s. 126(2A) inserted by [S.I. 2019/745 reg. 12\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 12(2)(3) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 3 para. 1(1)(ga) inserted by [2016 c. 19 Sch. 12 para. 2\(2\)](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(a))
- Sch. 3 para. 1(2A) inserted by [2016 c. 19 Sch. 12 para. 2\(4\)](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(b))
- Sch. 3 para. 1A inserted by [2016 c. 19 Sch. 12 para. 3](#)
- Sch. 3 para. 2(1)(ca) inserted by [2016 c. 19 Sch. 12 para. 4\(3\)](#)
- Sch. 3 para. 2A inserted by [2016 c. 19 Sch. 12 para. 5](#)
- Sch. 3 para. 3A-3C inserted by [2016 c. 19 Sch. 12 para. 6](#)
- Sch. 3 para. 7B7C and cross-headings inserted by [2016 c. 19 Sch. 12 para. 9](#)
- Sch. 3 para. 10A10B inserted by [2016 c. 19 Sch. 12 para. 10](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(c))
- Sch. 3 para. 15(aa) inserted by [2016 c. 19 Sch. 12 para. 14\(2\)](#)
- Sch. 3 para. 15(d)-(f) inserted by [2016 c. 19 Sch. 12 para. 14\(4\)](#)
- Sch. 3 para. 7C(1)(c) word substituted by [S.I. 2019/745 reg. 12\(5\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 12(5)(a)(c)(d) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 5 para. 3(1) Sch. 5 para. 3 renumbered as Sch. 5 para. 3(1) by [2005 c. 4 Sch. 4 para. 407\(2\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(2)-(4) inserted by [2005 c. 4 Sch. 4 para. 407\(4\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(1) words inserted by [2005 c. 4 Sch. 4 para. 407\(3\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))