



# Nationality, Immigration and Asylum Act 2002

## 2002 CHAPTER 41

### PART 5

#### [<sup>F1</sup>APPEALS IN RESPECT OF PROTECTION AND HUMAN RIGHTS CLAIMS]

##### *Exceptions and limitations*

#### 94 [<sup>F1</sup>Certification of human rights or protection claims as unfounded or removal to safe country]

[<sup>F2</sup>(1) The Secretary of State may certify a protection claim or human rights claim as clearly unfounded.]

(3) If the Secretary of State is satisfied that [<sup>F3</sup>a] claimant is entitled to reside in a State listed in subsection (4) he shall certify the claim under [<sup>F4</sup>subsection (1)] unless satisfied that it is not clearly unfounded.

[<sup>F5</sup>(3A) A person may not bring an appeal under section 82 against a decision if the claim to which the decision relates has been certified under subsection (1).]

(4) [<sup>F6</sup>The States] are—

- (a) <sup>F7</sup> .....
- (b) <sup>F7</sup> .....
- (c) <sup>F7</sup> .....
- (d) <sup>F7</sup> .....
- (e) <sup>F7</sup> .....
- (f) <sup>F7</sup> .....
- (g) <sup>F7</sup> .....
- (h) <sup>F7</sup> .....
- (i) <sup>F7</sup> .....

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- (j) <sup>F7</sup> .....
  - [<sup>F8</sup>(k) the Republic of Albania,
  - (l) <sup>F9</sup> .....
  - (m) <sup>F10</sup> .....
  - (n) Jamaica,
  - (o) Macedonia,
  - (p) the Republic of Moldova, and
  - (q) <sup>F9</sup> .....]
  - [<sup>F11</sup>(r) <sup>F12</sup> .....
  - (s) Bolivia,
  - (t) Brazil,
  - (u) Ecuador,
  - (v) <sup>F13</sup> .....
  - (w) South Africa, and
  - (x) Ukraine.]
  - [<sup>F14</sup>(y) India.]
  - [<sup>F15</sup>(z) Mongolia,
  - (aa) Ghana (in respect of men),
  - (bb) Nigeria (in respect of men).]
  - [<sup>F16</sup>(cc) Bosnia-Herzegovina,
  - (dd) Gambia (in respect of men),
  - (ee) Kenya (in respect of men),
  - (ff) Liberia (in respect of men),
  - (gg) Malawi (in respect of men),
  - (hh) Mali (in respect of men),
  - (ii) Mauritius,
  - (jj) Montenegro,
  - (kk) Peru,
  - (ll) Serbia,
  - (mm) Sierra Leone (in respect of men).]
  - [<sup>F17</sup>(nn) Kosovo,
  - (oo) South Korea.]
- (5) The Secretary of State may by order add a State, or part of a State, to the list in subsection (4) if satisfied that—
- (a) there is in general in that State or part no serious risk of persecution of persons entitled to reside in that State or part, and
  - (b) removal to that State or part of persons entitled to reside there will not in general contravene the United Kingdom’s obligations under the Human Rights Convention.
- [<sup>F18</sup>(5A) If the Secretary of State is satisfied that the statements in subsection (5) (a) and (b) are true of a State or part of a State in relation to a description of person, an order under subsection (5) may add the State or part to the list in subsection (4) in respect of that description of person.
- (5B) Where a State or part of a State is added to the list in subsection (4) in respect of a description of person, subsection (3) shall have effect in relation to a claimant only if

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the Secretary of State is satisfied that he is within that description (as well as being satisfied that he is entitled to reside in the State or part).

(5C) A description for the purposes of subsection (5A) may refer to—

- (a) gender,
- (b) language,
- (c) race,
- (d) religion,
- (e) nationality,
- (f) membership of a social or other group,
- (g) political opinion, or
- (h) any other attribute or circumstance that the Secretary of State thinks appropriate.

[ In deciding whether the statements in subsection (5) (a) and (b) are true of a State or <sup>F19</sup>(5D) part of a State, the Secretary of State –

- (a) shall have regard to all the circumstances of the State or part (including its laws and how they are applied), and
- (b) shall have regard to information from any appropriate source (including <sup>F20</sup>... member States and international organisations).]

[<sup>F21</sup>(6) The Secretary of State may by order amend the list in subsection (4) so as to omit a State or part added under subsection (5); and the omission may be—

- (a) general, or
- (b) effected so that the State or part remains listed in respect of a description of person.]

[<sup>F22</sup>(6A) Subsection (3) shall not apply in relation to [<sup>F23</sup>a] claimant who—

- (a) is the subject of a certificate under section 2 or 70 of the Extradition Act 2003 (c. 41),
- (b) is in custody pursuant to arrest under section 5 of that Act,
- (c) is the subject of a provisional warrant under section 73 of that Act,
- [ is the subject of a certificate under section 74B of that Act,]

<sup>F24</sup>(ca)

- (d) is the subject of an authority to proceed under section 7 of the Extradition Act 1989 (c. 33) or an order under paragraph 4(2) of Schedule 1 to that Act, or
- (e) is the subject of a provisional warrant under section 8 of that Act or of a warrant under paragraph 5(1)(b) of Schedule 1 to that Act.]

(7) [<sup>F25</sup>The Secretary of State may certify a protection claim or human rights claim made by a person if] —

- (a) it is proposed to remove the person to a country of which he is not a national or citizen, and
- (b) there is no reason to believe that the person's rights under the Human Rights Convention will be breached in that country.

(8) In determining whether a person in relation to whom a certificate has been issued under subsection (7) may be removed from the United Kingdom, the country specified in the certificate is to be regarded as—

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- (a) a place where a person's life and liberty is not threatened by reason of his race, religion, nationality, membership of a particular social group, or political opinion, and
- (b) a place from which a person will not be sent to another country otherwise than in accordance with the Refugee Convention [<sup>F26</sup>or with the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection].

<sup>F27</sup>(9) .....

### Textual Amendments

- F1** S. 94 heading substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), **ss. 28(3)(c)**, 87(5)(a) (with s. 28(4))
- F2** S. 94(1) substituted for s. 94(1)-(2) (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 38(3)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F3** Word in s. 94(3) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 38(4)(a)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F4** Words in s. 94(3) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 38(4)(b)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F5** S. 94(3A) inserted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), **ss. 28(3)(a)**, 87(5)(a) (with s. 28(4))
- F6** Words in s. 94(4) substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), **ss. 28(3)(b)**, 87(5)(a) (with s. 28(4))
- F7** S. 94(4)(a)-(j) repealed (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 27(4), 47, 48(1)-(3), **Sch. 4**; S.I. 2004/2523, **art. 2**, Sch.
- F8** S. 94(4)(k)-(q) added (1.4.2003) by [The Asylum \(Designated States\) Order 2003 \(S.I. 2003/970\)](#), **art. 3**
- F9** S. 94(4)(l)(q) omitted (1.1.2007) by virtue of [The Asylum \(Designated States\) \(Amendment\) Order 2006 \(S.I. 2006/3215\)](#), **art. 2**
- F10** S. 94(4)(m) omitted (27.7.2007) by virtue of [The Asylum \(Designated States\) Order 2007 \(S.I. 2007/2221\)](#), **art. 3** (with art. 1)
- F11** S. 94(4)(r)-(x) added (23.7.2003) by [The Asylum \(Designated States\) \(No. 2\) Order 2003 \(S.I. 2003/1919\)](#), **art. 2**
- F12** S. 94(4)(r) omitted (22.4.2005) by virtue of [The Asylum \(Designated States\) \(Amendment\) Order 2005 \(S.I. 2005/1016\)](#), **art. 2**
- F13** S. 94(4)(v) omitted (13.12.2006) by virtue of [The Asylum \(Designated States\) \(Amendment\) \(No. 2\) Order 2006 \(S.I. 2006/3275\)](#), **art. 2**
- F14** S. 94(4)(y) added (15.2.2005) by [The Asylum \(Designated States\) Order 2005 \(S.I. 2005/330\)](#), **art. 2** (with art. 1)
- F15** S. 94(4)(z)-(bb) added (2.12.2005) by [The Asylum \(Designated States\) \(No. 2\) Order 2005 \(S.I. 2005/3306\)](#), **art. 2**
- F16** S. 94(4)(cc)-(mm) added (27.7.2007) by [The Asylum \(Designated States\) Order 2007 \(S.I. 2007/2221\)](#), **art. 2** (with art. 1)
- F17** S. 94(4)(nn)(oo) inserted (3.3.2010) by [The Asylum \(Designated States\) Order 2010 \(S.I. 2010/561\)](#), arts. 2, 3 (with art. 2)

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- F18** S. 94(5A)-(5C) inserted (1.10.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **ss. 27(5)**, 48(1)-(3); S.I. 2004/2523, **art. 2**, Sch.
- F19** S. 94(5D) inserted (1.12.2007) by The Asylum (Procedures) Regulations 2007 (S.I. 2007/3187), **reg. 3**
- F20** Word in s. 94(5D) omitted (31.12.2020) by virtue of The Immigration, Nationality and Asylum (EU Exit) Regulations 2019 (S.I. 2019/745), regs. 1(2), **50(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** S. 94(6) substituted (1.10.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **ss. 27(6)**, 48(1)-(3); S.I. 2004/2523, **art. 2**, Sch.
- F22** S. 94(6A) inserted (1.10.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **ss. 27(7)**, 48(1)-(3); S.I. 2004/2523, **art. 2**, Sch.
- F23** Word in s. 94(6A) substituted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(5)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F24** S. 94(6A)(ca) inserted (31.12.2020) by Extradition (Provisional Arrest) Act 2020 (c. 18), s. 2(4), **Sch. para. 9**; S.I. 2020/1652, reg. 2(1)(b)
- F25** Words in s. 94(7) substituted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(6)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F26** Words in s. 94(8)(b) inserted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(7)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F27** S. 94(9) omitted (20.10.2014) by virtue of Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 38(8)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

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

- C1** Ss. 82-99 restricted (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040, S.I. 2003/1339 and S.I. 2003/2993))

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**Commencement Information**

- I1** S. 94 wholly in force at 1.4.2003; s. 94 not in force at Royal Assent see s. 162(2); s. 94(5) in force for certain purposes at 10.2.2003 by S.I. 2003/249, **art. 2**, Sch.; s. 94 in force at 1.4.2003 insofar as not already in force by virtue of S.I. 2003/754, **art. 2**, Sch. 1

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**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))