



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART I

IMMIGRATION: GENERAL

Offences

31 Defences based on Article 31(1) of the Refugee Convention.

- (1) It is a defence for a refugee charged with an offence to which this section applies to show that, having come to the United Kingdom directly from a country where his life or freedom was threatened (within the meaning of the Refugee Convention), he—
 - (a) presented himself to the authorities in the United Kingdom without delay;
 - (b) showed good cause for his illegal entry or presence; and
 - (c) made a claim for asylum as soon as was reasonably practicable after his arrival in the United Kingdom.
- (2) If, in coming from the country where his life or freedom was threatened, the refugee stopped in another country outside the United Kingdom, subsection (1) applies only if he shows that he could not reasonably [^{F1}be expected to have sought] protection under the Refugee Convention in that other country.
- (3) In England and Wales and Northern Ireland the offences to which this section applies are any offence, and any attempt to commit an offence, under—
 - (a) Part I of the ^{M1}Forgery and Counterfeiting Act 1981 (forgery and connected offences);
 - [^{F2}(aa) section 4 or 6 of the Identity Documents Act 2010;]
 - (b) section 24A of the 1971 Act (deception); or
 - (c) section 26(1)(d) of the 1971 Act (falsification of documents).
- (4) In Scotland, the offences to which this section applies are those—
 - (a) of fraud,
 - (b) of uttering a forged document,

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- [^{F3}(ba) under section 4 or 6 of the Identity Documents Act 2010,]
 (c) under section 24A of the 1971 Act (deception), or
 (d) under section 26(1)(d) of the 1971 Act (falsification of documents),
 and any attempt to commit any of those offences.
- [^{F4}(4A) But this section does not apply to an offence committed by a refugee in the course of an attempt to leave the United Kingdom.]
- (5) A refugee who has made a claim for asylum is not entitled to the defence provided by subsection (1) in relation to any offence committed by him after making that claim.
- (6) “Refugee” has the same meaning as it has for the purposes of the Refugee Convention.
- (7) If the Secretary of State has refused to grant a claim for asylum made by a person who claims that he has a defence under subsection (1), that person is to be taken not to be a refugee unless he shows that he is.
- (8) A person who—
 (a) was convicted in England and Wales or Northern Ireland of an offence to which this section applies before the commencement of this section, but
 (b) at no time during the proceedings for that offence argued that he had a defence based on Article 31(1),
 may apply to the Criminal Cases Review Commission with a view to his case being referred to the Court of Appeal by the Commission on the ground that he would have had a defence under this section had it been in force at the material time.
- (9) A person who—
 (a) was convicted in Scotland of an offence to which this section applies before the commencement of this section, but
 (b) at no time during the proceedings for that offence argued that he had a defence based on Article 31(1),
 may apply to the Scottish Criminal Cases Review Commission with a view to his case being referred to the High Court of Justiciary by the Commission on the ground that he would have had a defence under this section had it been in force at the material time.
- (10) The Secretary of State may by order amend—
 (a) subsection (3), or
 (b) subsection (4),
 by adding offences to those for the time being listed there.
- (11) Before making an order under subsection (10)(b), the Secretary of State must consult the Scottish Ministers.

Textual Amendments

- F1** Words in s. 31(2) substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 37\(5\)\(a\)](#), 87(1); [S.I. 2022/590](#), [regs. 1\(2\), 2](#), [Sch. 1 para. 19](#) (with [Sch. 2 para. 6](#))
- F2** [S. 31\(3\)\(aa\)](#) substituted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\)](#), [s. 14\(2\)](#), [Sch. para. 10\(2\)](#)
- F3** [S. 31\(4\)\(ba\)](#) substituted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\)](#), [s. 14\(2\)](#), [Sch. para. 10\(3\)](#)
- F4** [S. 31\(4A\)](#) inserted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 37\(5\)\(b\)](#), 87(1); [S.I. 2022/590](#), [regs. 1\(2\), 2](#), [Sch. 1 para. 19](#) (with [Sch. 2 para. 6](#))

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Marginal Citations

M1 1981 c. 45.

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

- Act excluded by [2024 c. 8 s. 2\(5\)\(a\)5](#)

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

- s. 10(12) inserted by [2023 c. 37 s. 10\(6\)](#)
- s. 40(1)-(1C) substituted for s. 40(1) by [2022 c. 36 s. 76\(2\)](#)
- s. 40(4A)(4B) inserted by [2022 c. 36 s. 76\(5\)](#)
- s. 72(10) repealed by [2004 c. 19 Sch. 4](#)
- s. 94(2A)-(2C) inserted by [2016 c. 19 Sch. 11 para. 3\(3\)](#)
- s. 94(2D) inserted by [2016 c. 19 Sch. 11 para. 7\(4\)](#)
- s. 94(3)(3A) substituted for s. 94(3) by [2002 c. 41 s. 44\(4\)](#) (This amendment is repealed (prosp.) by [2016 c. 19, Sch. 11 para. 41](#))
- s. 94(3A)-(3D) inserted by [2016 c. 19 Sch. 11 para. 3\(5\)](#)
- s. 95A inserted by [2016 c. 19 Sch. 11 para. 9](#)
- s. 96(1A) inserted by [2016 c. 19 Sch. 11 para. 10\(3\)](#)
- s. 97(3A)(b)(iv) inserted by [2022 c. 36 s. 13\(2\)\(c\)\(ii\)](#)
- s. 97(8)(9) inserted by [2016 c. 19 Sch. 11 para. 11\(4\)](#)
- s. 98A inserted by [2016 c. 19 Sch. 11 para. 13](#)
- s. 98A(5) inserted by [2022 c. 36 s. 13\(4\)](#)
- s. 103(4)(a) words substituted by [2004 c. 19 s. 10\(4\)\(b\)](#)
- s. 103(5)(b) word substituted by [S.I. 2008/2833 Sch. 3 para. 183\(ii\)](#)
- s. 103A(1) words substituted by [2004 c. 19 s. 10\(5\)](#)
- s. 103A(1) heading words substituted by [2004 c. 19 s. 10\(5\)](#)
- s. 103A(1) words substituted by [S.I. 2008/2833 Sch. 3 para. 184](#)
- s. 125(2)(ba) inserted by [2016 c. 19 Sch. 11 para. 22\(3\)\(b\)](#)
- s. 146(2)(za) inserted by [2016 c. 19 s. 44\(9\)](#)
- s. 166(5)(ca) substituted for word in s. 166(5)(c) by [2016 c. 19 Sch. 11 para. 24\(2\)](#)
- s. 166(5A)(5B) inserted by [2016 c. 19 Sch. 11 para. 24\(3\)](#)
- s. 166(6)(aa) substituted for word in s. 166(6)(a) by [2016 c. 19 Sch. 11 para. 24\(4\)](#)
- Sch. 2 para. 21 modified by [2002 c. 41 s. 23\(2\)\(a\)](#)
- Sch. 3 para. 2(5) modified by [2002 c. 41 s. 23\(2\)\(b\)](#)