

Status: This version of this provision is prospective.

Changes to legislation: *Nationality and Borders Act 2022, Section 26 is up to date with all changes known to be in force on or before 18 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*



Nationality and Borders Act 2022

2022 CHAPTER 36

PART 2

ASYLUM

Late evidence

PROSPECTIVE

26 Late provision of evidence in asylum or human rights claim: weight

- (1) This section applies where—
 - (a) evidence is provided late by a claimant in relation to an asylum claim or a human rights claim, and
 - (b) the evidence falls to be considered by a deciding authority for the purpose of determining—
 - (i) the claim, or
 - (ii) where a decision in respect of the claim is the subject of a relevant appeal, the appeal.
- (2) Unless there are good reasons why the evidence was provided late, the deciding authority must, in considering it, have regard to the principle that minimal weight should be given to the evidence.
- (3) For the purposes of subsection (1)(a), evidence is provided “late” by a claimant if it is within subsection (4) or (5).
- (4) Evidence is within this subsection if—
 - (a) it is provided pursuant to an evidence notice served on the claimant under section 18(1), and
 - (b) it is provided on or after the date specified in the notice.
- (5) Evidence is within this subsection if—

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- (a) it is provided pursuant to a priority removal notice served on the claimant under section 20 in support of the matters mentioned in subsection (3)(a)(i) of that section (reasons and grounds for application), and
 - (b) it is provided on or after the PRN cut-off date.
- (6) The reference in subsection (1)(b)(i) to determining a claim includes a reference to determining—
- (a) whether to certify the claim under section 94(1) of the 2002 Act (unfounded claims);
 - (b) whether to accept or reject further submissions made by the claimant for the purposes of the immigration rules.
- (7) In this section—
- “the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;
 - “asylum claim” has the meaning given by section 113(1) of the 2002 Act;
 - “deciding authority” means—
 - (a) an immigration officer,
 - (b) the Secretary of State,
 - (c) the First-tier Tribunal,
 - (d) the Upper Tribunal in the circumstances described in subsection (8), or
 - (e) the Special Immigration Appeals Commission;
 - “PRN cut-off date” has the same meaning as in section 20;
 - “relevant appeal” means an appeal under—
 - (a) section 82 of the 2002 Act, or
 - (b) section 2 of the Special Immigration Appeals Commission Act 1997.
- (8) The circumstances are when the Upper Tribunal is acting—
- (a) under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007 (Upper Tribunal re-making First-tier Tribunal decision on finding of error of law), or
 - (b) in relation to—
 - (i) an expedited appeal within the meaning of section 82A of the Nationality, Immigration and Asylum Act 2002, or
 - (ii) an expedited related appeal within the meaning of section 24 that involves an asylum claim or a human rights claim.

Commencement Information

II S. 26 not in force at Royal Assent, see [s. 87\(1\)](#)

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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\(12\)](#)