



# Nationality and Borders Act 2022

## 2022 CHAPTER 36

### PART 2

#### ASYLUM

##### *Interpretation of Refugee Convention*

### 33 Article 1(A)(2): reasons for persecution

- (1) For the purposes of Article 1(A)(2) of the Refugee Convention—
  - (a) the concept of race may include consideration of matters such as a person's colour, descent or membership of a particular ethnic group;
  - (b) the concept of religion may include consideration of matters such as—
    - (i) the holding of theistic, non-theistic or atheistic beliefs,
    - (ii) the participation in formal worship in private or public, either alone or in community with others, or the abstention from such worship,
    - (iii) other religious acts or expressions of view, or
    - (iv) forms of personal or communal conduct based on or mandated by any religious belief;
  - (c) the concept of nationality is not confined to citizenship (or lack of citizenship) but may include consideration of matters such as membership of a group determined by its cultural, ethnic or linguistic identity, common geographical or political origins or its relationship with the population of another State;
  - (d) the concept of political opinion includes the holding of an opinion, thought or belief on a matter related to a potential actor of persecution and to its policies or methods, whether or not the person holding that opinion, thought or belief has acted upon it.
- (2) A group forms a particular social group for the purposes of Article 1(A)(2) of the Refugee Convention only if it meets both of the following conditions.
- (3) The first condition is that members of the group share—
  - (a) an innate characteristic,

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**Changes to legislation:** Nationality and Borders Act 2022, Section 33 is up to date with all changes known to be in force on or before 03 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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- (b) a common background that cannot be changed, or
  - (c) a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it.
- (4) The second condition is that the group has a distinct identity in the relevant country because it is perceived as being different by the surrounding society.
- (5) A particular social group may include a group based on a common characteristic of sexual orientation, but for these purposes sexual orientation does not include acts that are criminal in any part of the United Kingdom.

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#### **Commencement Information**

**II** [S. 33](#) in force at 28.6.2022, see [s. 87\(5\)\(d\)](#)

**Changes to legislation:**

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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\(12\)](#)