

Kevin Foster MP
Minister for Safe and Legal Migration
Home Office
2 Marsham Street
London SW1P 4DF

**AMNESTY
INTERNATIONAL**



1 June 2022

Dear Minister,

Re: Nationality and Borders Act 2022: commencement of various asylum provisions

Breaking with the Refugee Convention:

I am writing to you about the Nationality and Borders Act 2022. Amnesty International is deeply dismayed at the Government's intention to fundamentally break with its obligations under the Refugee Convention on 28 June 2022. This will be the effect of implementing various measures in the Nationality and Borders Act 2022 on that date. Even at this very late stage, we would urge you to think again and desist from their implementation.

Not only will these measures harm many refugees by depriving them of their rights under the Convention – in full or in part. These measures are also a dreadful invitation to other nations to similarly attempt to unilaterally redefine their shared obligations under that international agreement and effectively thereby withdraw from those obligations. While we will strive to avoid such a calamitous result, it is a matter of grave concern that the Government of the United Kingdom is taking such a lawless and reckless step. That is all the more so given the United Kingdom's standing as one of the very few nations to have both participated in negotiating, drafting and making the Convention in 1951 and ratified it ahead of the Convention's taking effect in 1954.

Nothing in the remainder of this letter should be understood as resiling from our position that what is being done is contrary to the Convention and wholly improper.

The impact of the commencement date:

Our concern for the rights, interests and needs of refugees simply compels us to make enquiry as to the Government's intentions and how these will affect refugees from 28 June 2022.

We have taken note of your intention to give effect to various of the asylum provisions of the Nationality and Borders Act 2022 on 28 June 2022. Importantly, many of the provisions concerning how a person's asylum claim will be considered and determined are to take effect only in relation to claims made on or after that date. Provisions concerning the quality and conditions of asylum granted to a person found to be entitled to asylum are to take effect in similar fashion.

We have taken note of your Written Answer on 24 May 2022 to UIN 3781 tabled on 17 May 2022 by Olivia Blake MP. The question that was asked was:

“To ask the Secretary of State for the Home Department, what her policy is on people who contacted the Department before 28 June 2022 to claim asylum, but have been unable to complete the application process due to delays in the provision of screening interviews.”

Your response was:

“The guidance on the differentiation policy will be published on 28 June 2022.

“Those who have contacted the Home Office to claim asylum before 28 June 2022 and are currently awaiting an appointment for screening will be treated as having claimed asylum before the



implementation of the Nationality and Borders Act 2022. These transitional arrangements will be outlined in the aforementioned guidance."

We understand your reference to the "differentiation policy" to refer to your policy on implementation of section 12 of the Nationality and Borders Act 2022 ("*Differential treatment of refugees*"); and the changes to immigration rules that are intended to take effect on 28 June 2022 that derive specifically from section 12.

If that understanding is incorrect and your reference to the "differentiation policy" relates to other measures (including other provisions of the Nationality and Borders Act 2022) would you please identify each of these measures?

In any event, would you please address the following questions in relation to other measures that are restricted to claims made on or after 28 June 2022, including sections 30 to 38 of the Nationality and Borders Act 2022 ("*Interpretations of the Refugee Convention*"):

- (1) Is it the Government's intention that these measures will not apply to people who have contacted the Home Office for the purpose of making an asylum claim before 28 June 2022, but have been made to wait until on or after that date for an appointment at which to make that claim?
- (2) If that is not the Government's intention, what steps will be made to ensure that people who wish to make their claim before 28 June 2022 are able to do so – including without having to wait for an appointment?
- (3) If, on the other hand, that is the Government's intention, what transitional measures in either primary or delegated legislation made under the Nationality and Borders Act 2022 will give effect to that? If these measures are yet to be made or laid before Parliament, will you please confirm that they will be so made and laid to be commenced on 28 June 2022?

We have considered the provisions of the Act, the Commencement Order and your Written Answer (all referred to in this letter) before writing. We have identified nothing that would provide for the necessary transitional measures, which would need to be implemented by exercise of powers under section 84 of the Act.

We look forward to hearing from you urgently in view of the imminence of 28 June 2022 and the intended commencement on that date of various measures by section 87(5) of the Nationality and Borders Act 2022 and the Nationality and Borders Act 2022 (Commencement No. 1, Transitional and Saving Provisions) Regulation 2022, SI 2022/590.

I look forward to your response.

Yours sincerely,

Sacha Deshmukh
Interim CEO