Draft Order laid before Parliament under section 112(4)(b) of the Nationality, Immigration and Asylum Act 2002, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

IMMIGRATION

The Asylum (Designated States) Order 2010

Made - - - - ***

Coming into force in accordance with Article 2

The Secretary of State is satisfied that there is in general in the States to be added to section 94(4) of the Nationality, Immigration and Asylum Act 2002(**a**) by article 2 of this Order no serious risk of persecution of persons entitled to reside in those States and that removal to those States of persons entitled to reside there will not in general contravene the United Kingdom's obligations under the Human Rights Convention;

Therefore, the Secretary of State makes the following Order in exercise of the powers conferred on him by section 94(5) of that Act;

In accordance with section 112(4)(b) of that Act, a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Asylum (Designated States) Order 2010.

2. This Order comes into force on the day after it is made, but does not apply to an asylum claim or human rights claim made before that date.

Designated States – addition of States

3. In the list of States in section 94(4) of the Nationality, Immigration and Asylum Act 2002, at the end insert—

"(nn) Kosovo,

(oo) South Korea."

Home Office
Date

Name
Minister of State

(**a**) 2002 c.41 Section 94(4) has been amended by the Asylum (Designated States) Order 2003 (S.I. 2003/970), the Asylum (Designated States) (No. 2) Order 2003 (S.I. 2003/1919), the Asylum (Designated States) Order 2005 (S.I. 2005/330), the Asylum (Designated States) (Amendment) Order 2005 (S.I. 2005/1016), the Asylum (Designated States) (No. 2) Order 2005 (S.I. 2005/3306), the Asylum (Designated States) (Amendment) Order 2006 (S.I. 2006/3215), the Asylum (Designated States) (Amendment) (No. 2) Order 2006 (S.I. 2006/3275), the Asylum (Designated States) Order 2007 (S.I. 2007/2221) and sections 27(4) and 47 of and Schedule 4 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order adds the Republic of Kosovo and the Republic of South Korea to the list in section 94(4) of the Nationality, Immigration and Asylum Act 2002. Section 94 of the Nationality Immigration and Asylum Act 2002 concerns appeal rights for unfounded human rights and asylum claims.

Under section 94(2), a person may not bring an appeal under section 82(1) while in the United Kingdom where he has made a human rights claim or asylum claim, or both, and the Secretary of State certifies that the claim is, or the claims are, clearly unfounded. The Secretary of State must issue a certificate under section 94(2) if he is satisfied that the claimant is entitled to reside in a State listed in section 94(4), unless he is satisfied the claim is not clearly unfounded.

Section 94(5) allows the Secretary of State to add a State, or part of a State, to the list in section 94(4) if he is 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.

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£4.00

E5530 1/2010 105530T 19585