

South Africa

Refugees Act, 1998

Refugee Appeals Authority of South Africa Rules, 2013

Government Notice 955 of 2013

Legislation as at 20 November 2020

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South Africa

Refugees Act, 1998

Refugee Appeals Authority of South Africa Rules, 2013 Government Notice 955 of 2013

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[Amended by Refugee Appeals Authority of South Africa Rules, 2013: Amendment (Government Notice 1234 of 2020) on 20 November 2020]

In the exercise of the powers conferred by section 14(2) of the Refugees Act, 1998 (Act No 130 of 1998), the Refugee Appeal Board hereby publishes the Rules in the Schedule, in terms of section 14(3) of the Refugees Act, 1998 (Act No 130 of 1998).

1. Definitions

In these rules a word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned to it, and unless the context otherwise indicates:

“**the Act**” means the Refugees Act, No. 130 of 1998;

“**Appeal**” means any appeal directed to the “Refugee Appeals Authority of South Africa” in terms of section 24B(1) of the Act;

[definition of “Appeal” substituted by section 1(b) of Government Notice 1234 of 2020]

“**Appellant**” means an asylum seeker who has lodged an appeal in accordance with section 24B(1) of the Act;

[definition of “Appellant” substituted by section 1(c) of Government Notice 1234 of 2020]

“**Chairperson**” means a member of the “Refugee Appeals Authority” designated by the Minister of Home Affairs as Chairperson of the Refugee Appeals Authority of South Africa;

[definition of “Chairperson” substituted by section 1(d) of Government Notice 1234 of 2020]

“**determination**” means an appeal hearing or the consideration of evidence on paper pertaining to the appeal;

[definition of “determination”, previously “Hearing” or “Hear”, substituted by section 1(e) of Government Notice 1234 of 2020]

“**Member**” as a legally qualified adjudicator appointed by the Minister of Home Affairs and designated in terms of section 8B(i)(b) of the Act;

[definition of “Member” inserted by section 1(f) of Government Notice 1234 of 2020]

“**Refugee Appeals Authority of South Africa**” means “Refugee Appeals Authority” as established in terms of section 8A(1) of the Act;

[definition of “Refugee Appeals Authority of South Africa”, previously “Appeal Board” substituted by section 1(a) of Government Notice 1234 of 2020]

“**Refugee Reception Office**” means the Refugee Reception Office where the asylum application was lodged;

“**Registrar**” as an official designated as such by the Chairperson of the Refugee Appeals Authority of South Africa;

[definition of “Registrar” inserted by section 1(g) of [Government Notice 1234 of 2020](#)]

“**Representative**” means a person as contemplated in Rule 9;

“**Serve**” or “lodge” has the same meaning within the context of these rules

Any reference to a rule in these Rules is a reference to a Rule contained herein;

Any reference to a form in these rules is a reference to a Form set out in the Annexure to these rules;

“**UNHCR**” means United Nations High Commissioner for Refugees.

2. Timeframes

1. For the purpose of calculating any period of time in terms of these Rules—

(a) a day means a working day excluding Saturdays, Sundays and public holidays; and

[paragraph (a) substituted by section 2(a) of [Government Notice 1234 of 2020](#)]

(b) the first day is excluded and the last day is included subject to Rule 2(2).

2. The last day of any period must be excluded if it falls on a Saturday, Sunday or Public Holiday.

[Note: section 2(b) of [Government Notice 1234 of 2020](#) instructs to delete sub-rule 2(b)'. However, there is no subrule (b) in rule 2.]

3. Authority of the Refugee Appeals Authority of South Africa and General Powers

[heading substituted by section 3(a) of [Government Notice 1234 of 2020](#)]

1. In exercising its authority pursuant to section 8C of the Act, the Refugee Appeals Authority of South Africa may:

(a) set or postpone the time and venue fixed for the hearing of an appeal;

(b) convene for meetings as required by the chairperson with minimum of two meetings per annum;

[paragraph (b) substituted by section 3(c) of [Government Notice 1234 of 2020](#)]

(c) give directions to any party to the appeal on any matter within its jurisdiction arising in connection with an appeal;

(d) at any time request any party to the appeal to furnish any particulars which may be relevant for the determination of an appeal; thereupon that party shall direct the particulars to the Refugee Appeals Authority of South Africa within a period agreed by the parties, which may not be longer than 30 days, failing which the matter will be finalized unless agreed otherwise;

[paragraph (d) substituted by section 3(d) of [Government Notice 1234 of 2020](#)]

(e) postpone the hearing for any material evidence or representations for the consideration of an appeal to such date as the Refugee Appeals Authority of South Africa may determine; and

[paragraph (e) substituted by section 3(e) of [Government Notice 1234 of 2020](#)]

[subrule (1) amended by section 3(b) of [Government Notice 1234 of 2020](#)]

2. If for any reason the Chairperson of the Refugee Appeals Authority of South Africa is unavailable to convene or attend any meeting of the Refugee Appeals Authority South Africa, the Chairperson may

designate one of the members of the Refugee Appeals Authority of South Africa to act as presiding officer.

[subrule (2) substituted by section 3(f) of [Government Notice 1234 of 2020](#)]

3. In the event of the Refugee Appeals Authority of South Africa setting aside the decision of a Refugee Status Determination Officer, the matter may be referred back to the Refugee Status Determination Officer for determination.” (deletion of sub-rule 2 and 3) The decision to refer the matter back to the RSDO shall be accompanied by reasons and the appellant shall be afforded the opportunity object, which objection must be considered.

[subrule (3) substituted by section 3(g) of [Government Notice 1234 of 2020](#)]

4. Lodging an appeal

1. An appeal in terms of section [24B](#) of the Act shall be lodged within 10 days. Such appeal may be lodged in person with the Refugee Appeals Authority of South Africa or at the Refugee Reception Office where the letter of rejection was issued by the Refugee Status Determination Officer or by email to an email address designated by the Refugee Appeals Authority of South Africa for that purpose in the practice note.

[subrule (1) substituted by section 4(a) of [Government Notice 1234 of 2020](#)]

2. The notice of appeal shall be in the form RAA(01) as prescribed in the Regulations and shall include:—
 - (a) the full name, current address, date of birth and nationality of the Appellant.
 - (b) an affidavit in which the reasons for appeal are set out and documents or certified copies thereof on which the Appellant seeks to rely; and such documents must be in duplicate;
 - (c) the signature of the Appellant and in the case of a minor or a person who is incapable of acting on his or her own behalf, the signature of the Guardian/Curator acting on behalf of the Appellant.

[subrule (2) amended by section 4(a) of [Government Notice 1234 of 2020](#)]

3. The designated Appeal Clerk shall record on the notice of appeal the date of lodgment of the notice of appeal.
4. The designated Appeal Clerk shall submit the notice of appeal together with copies of the relevant file to the Refugee Appeals Authority of South Africa within 10 days after the notice of appeal is lodged.

[subrule (4) substituted by section 4(a) of [Government Notice 1234 of 2020](#)]

5.
 - (a) Where good cause is shown the Refugee Appeals Authority of South Africa may condone non-compliance with the 10 day period provided in Rule 4(1). The Refugee Appeals Authority of South Africa will determine condonation together with the appeal.
 - (b) Where an appellant lodges a notice of appeal after the expiry of the period stipulated in Rule 4, the Appellant must serve an affidavit with the notice of appeal showing good cause for the delay, supported by documentary evidence where appropriate.
 - (c) The designated Appeal Clerk must submit the documents referred in subrule 5(b) to the Refugee Appeals Authority of South Africa within 10 days of receipt.

[subrule (5) substituted by section 4(b) of [Government Notice 1234 of 2020](#)]

5. Service of documents

1. The Refugee Appeals Authority of South Africa may serve and accept service of any document in a manner it deems fit.

[subrule (1) substituted by section 5(a) of [Government Notice 1234 of 2020](#)]

2. Where any party serves a document on another party, a copy of that document shall also be filed with the Registrar of the Refugee Appeals Authority of South Africa.

[subrule (2) substituted by section 5(a) of [Government Notice 1234 of 2020](#)]

3. A party must serve all documents arising out or relating to an appeal on the Refugee Appeals Authority, specific details of which will be provided in the practice note as follows:

- (i) personally on the Registrar of the Refugees Appeals Authority of South Africa; or
- (ii) by facsimile to the Registrar of the Refugee Appeals Authority of South Africa; or
- (iii) by sending a copy of the document by registered post to the Registrar of the Refugee Appeals Authority of South Africa
- (iv) by email to the Registrar

[subrule (3) substituted by section 5(a) of [Government Notice 1234 of 2020](#)]

4. The Refugee Appeals Authority of South Africa may accept proof of service of any document in a manner it deems fit.

[subrule (4) substituted by section 5(a) of [Government Notice 1234 of 2020](#)]

6. ***

[rule 6 repealed by section 6 of [Government Notice 1234 of 2020](#)]

7. Parties to the appeal

1. The Appellant and the Refugee Status Determination Officer are parties to the appeal.

[subrule (1) substituted by section 7(a) of [Government Notice 1234 of 2020](#)]

2. If any party intends submitting heads of argument, they must do so within 3 days prior to the hearing;

[subrule (2) substituted by section 7(b) of [Government Notice 1234 of 2020](#)]

3. *[subrule (3) repealed by section 7(c) of [Government Notice 1234 of 2020](#)]*

8. Change in address

1. The Appellant must notify the Registrar of the Refugee Appeals Authority of South Africa of any change in his or her address or personal contact details provided in the Notice of Appeal, within 30 days of knowing such change.

[subrule (1), previously unnumbered, numbered and substituted by section 8(a) of [Government Notice 1234 of 2020](#)]

2. The address and personal details contemplated in sub-rule 1 is, for the purposes of these Rules, deemed to be the address to which the service of processes or correspondence may be made.

[subrule (2) added by section 8(b) of [Government Notice 1234 of 2020](#)]

9. Right to legal representation

[heading substituted by section 9 of [Government Notice 1234 of 2020](#)]

1. The appellant is entitled to legal representation at no expense to the Refugee Appeals Authority of South Africa.

[subrule (1) substituted by section 9(a) of [Government Notice 1234 of 2020](#)]

2. An advocate, a practicing attorney or a candidate attorney with a right of appearance may provide such representation.

3. *[subrule (3) repealed by section 9(b) of [Government Notice 1234 of 2020](#)]*

4. Representation referred to in Rule 9(2) must be duly authorized by the Appellant by way of a Power of Attorney as prescribed in Form RAA(02).

[subrule (4) substituted by section 9(c) of [Government Notice 1234 of 2020](#)]

10. Notification of Determination

[heading amended by section 10(a) of [Government Notice 1234 of 2020](#)]

1. Where the Refugee Appeals Authority of South Africa decides to conduct a hearing or make a determination on paper, it will serve written notice on the Appellant at least 30 days prior to the scheduled hearing. Such notice shall contain the date, time and venue for the hearing as prescribed in Form RAA(03) attached to the Rules.

[subrule (1) substituted by section 10(b) of [Government Notice 1234 of 2020](#)]

2. The Appellant shall acknowledge receipt of the notice of hearing by signing it and affixing his or her left thumb print thereon.

3. The parties may, by agreement, waive the time periods contemplated in subrule 10(1).

[subrule (3) added by section 10(c) of [Government Notice 1234 of 2020](#)]

11. Postponement of a hearing

1. The Refugee Appeals Authority of South Africa may grant an application for the postponement of a hearing upon being satisfied that there is good cause for the postponement requested.

[subrule (1) substituted by section 11(a) of [Government Notice 1234 of 2020](#)]

2. The Refugee Appeals Authority of South Africa may also postpone the hearing on its own accord.

[subrule (2) substituted by section 11(a) of [Government Notice 1234 of 2020](#)]

3. Where a hearing is postponed, the Refugee Appeals Authority of South Africa shall notify the Appellant either orally or in writing of such postponement.

[subrule (3) substituted by section 11(a) of [Government Notice 1234 of 2020](#)]

4. Application for postponement of an appeal hearing must be done in person by the appellant and if he or she is represented, by his/her representative on the date of the scheduled hearing before the appointed member or members concerned.

[subrule (4) added by section 11(b) of [Government Notice 1234 of 2020](#)]

5. If the appellant or his/her representative is unable to appear on the date scheduled for the appeal hearing, the written application for postponement must be submitted to the registrar 5 days prior to the hearing date, if possible.

[subrule (5) added by section 11(b) of [Government Notice 1234 of 2020](#)]

6. Failure to comply with any provision of the Rules relating to postponement may result in the member or members concerned determining the appeal on paper.

[subrule (6) added by section 11(b) of [Government Notice 1234 of 2020](#)]

12. Non-appearance of Appellant

1. Where an Appellant is duly served with a Notice of Hearing in terms of Rule 10 but fails to attend the hearing and has neither notified the Refugee Appeals Authority of South Africa nor given any satisfactory explanation for such failure, the Refugee Appeals Authority of South Africa may consider the appeal on paper subject to Rule 12(2).

[subrule (1) substituted by section 12(a) of [Government Notice 1234 of 2020](#)]

2. Where an appellant fails to attend a hearing as set out in Rule 12(1), the appellant may within 30 days of the scheduled hearing provide and serve in terms of Rule 5 the Refugee Appeals Authority of South Africa with reasons for no-appearance in writing.

[subrule (2) added by section 12(b) of [Government Notice 1234 of 2020](#)]

3. In exercising its discretion whether or not to grant a hearing of the appeal, the Refugee Appeals Authority of South Africa shall give due consideration to the reasons for failure to appear as scheduled.

[subrule (3) added by section 12(b) of [Government Notice 1234 of 2020](#)]

4. Where a member decides to make a determination on paper, the appellant must be provided with a notification of his/her decision and be given an opportunity to provide an additional affidavit within 10 days

[subrule (4) added by section 12(b) of [Government Notice 1234 of 2020](#)]

5. The affidavit referred above may contain additional information for the member to consider before finalizing the matter.

[subrule (5) added by section 12(b) of [Government Notice 1234 of 2020](#)]

13. Conduct of proceedings at hearings

1. The Refugee Appeals Authority of South Africa shall conduct its proceedings in a manner appropriate for the purposes of determining the appeal before it and in line with the practice notes developed for this purpose.

[subrule (1) substituted by section 13(a) of [Government Notice 1234 of 2020](#)]

2. An appeal determination will take the form of a hearing in person, as part of the inquisitorial process.

[subrule (2) substituted by section 13(a) of [Government Notice 1234 of 2020](#)]

3. The Refugee Appeals Authority of South Africa will require any party or any witness to give evidence under oath or affirmation.

[subrule (3) substituted by section 13(a) of [Government Notice 1234 of 2020](#)]

4. The Chairperson may designate one or more members of the Refugee Appeals Authority of South Africa to hear and determine any appeal lodged.

[subrule (4) substituted by section 13(a) of [Government Notice 1234 of 2020](#)]

13A. Determination on paper

1. A member may determine a matter on paper provided there is sufficient information on the file to make a determination.
2. Where a member decides to conduct a paper determination the Registrar will serve a written notice on the appellant in the Form of RAA(05) to the last confirmed contact details or on the appellant's file. Within 30 days of receipt of such notice the appellant will have a right to submit a supplementary affidavit.
3. Prior to making a final determination on paper the appellant will be afforded an opportunity to submit an affidavit explaining whether he/she objects to a determination on paper and provide reasons for such objection. In the affidavit the appellant may include additional information for a member's consideration.

[rule 13A inserted by section 13 of [Government Notice 1234 of 2020](#)]

14. Confidential proceedings

1. The proceedings of the Refugee Appeals Authority of South Africa are confidential and are only open to parties to the proceedings. The Refugee Appeals Authority of South Africa may on application or on its own accord allow any persons to attend a hearing.

[subrule (1) substituted by section 14(a) of [Government Notice 1234 of 2020](#)]

2. Where such persons are permitted to attend the hearing in terms of Rule 14(1) above, the Refugee Appeals Authority of South Africa may nonetheless exclude any person behaving in a manner likely to interfere with the proper conduct of the proceedings.

[subrule (2) substituted by section 14(a) of [Government Notice 1234 of 2020](#)]

3. Where an application is made to attend confidential proceedings in terms of section 21(5) of the Act, such an application must be heard prior to the hearing of the appeal. A decision in this regard must be rendered within 10 days of the application.

[subrule (3) added by section 14(b) of [Government Notice 1234 of 2020](#)]

15. Subpoena of witnesses

1. The Refugee Appeals Authority of South Africa may either of its own volition or on the request of any party to the appeal, subject to the approval of the Refugee Appeals Authority of South Africa, subpoena any person to serve as a witness at a hearing of the Refugee Appeals Authority of South Africa at such time and place as may be specified in the subpoena which shall be issued in Form RAA(4) attached to the Rules.

[subrule (1) substituted by section 15(a) of [Government Notice 1234 of 2020](#)]

2. The Refugee Appeals Authority of South Africa may require a witness to answer any questions and/or to provide and any relevant documentation related to an appeal.

[subrule (2) substituted by section 15(b) of [Government Notice 1234 of 2020](#)]

3. No person shall be required to travel more than 50 kilometres from his or her place of residence in obedience to a subpoena unless the party at the request of which the subpoena is issued, pays the reasonable expenses of such attendance as determined by the Refugee Appeals Authority of South Africa.

[subrule (3) substituted by section 15(c) of [Government Notice 1234 of 2020](#)]

4. Service of any such subpoena issued shall be effected by a member of the South Africa Police Services, the Sherriff of the Court or in a manner determined by the Refugee Appeals Authority of South Africa.

[subrule (4) substituted by section 15(d) of [Government Notice 1234 of 2020](#)]

16. Consolidated proceedings

[heading substituted by section 16 of [Government Notice 1234 of 2020](#)]

The Refugee Appeals Authority of South Africa may, make a ruling in terms of the practice note that two or more appeals be determined together where it appears to the Refugee Appeals Authority of South Africa that—

1. a common question of law or fact arises; or
2. they relate to decisions or actions taken in respect of persons who are members of the same family; or
3. for some reason it is practical and efficient to proceed with two or more appeals under this rule.

[subrule (3) substituted by section 16(a) of [Government Notice 1234 of 2020](#)]

[rule 16 amended by section 16 of [Government Notice 1234 of 2020](#)]

17. Record of decisions and reasons

The Refugee Appeals Authority of South Africa shall record the decision of any appeal. The Registrar is to update the system in order for the decision to be served by the Department of Home Affairs.

[rule 17 substituted by section 17(a) of [Government Notice 1234 of 2020](#)]

18. Cancellation of appeal

1. An appeal is deemed cancelled if the Appellant gives notice in the form of an affidavit to the Refugee Appeals Authority of South Africa or to a designated Refugee Appeals Authority of South Africa official, in writing of his/her cancellation of the appeal.

[subrule (1), previously unnumbered, numbered and substituted by section 18(a) of [Government Notice 1234 of 2020](#)]

2. Such notification must be accompanied by the Appellant's affidavit, together with the Appellant's asylum permit, travel ticket or travel document (passport).

[subrule (2) added by section 18(b) of [Government Notice 1234 of 2020](#)]

3. Refugee Appeals Authority South Africa will issue the appellant with a letter signed by a member confirming the decision of the Refugee Status Determination Officer and the Registrar shall update the system accordingly

[subrule (3) added by section 18(c) of [Government Notice 1234 of 2020](#)]

19. Review of decisions

1. Where the Refugee Appeals Authority of South Africa has conveyed its appeal decision to the Appellant, the Refugee Appeals Authority of South Africa shall be *functus officio*.

[subrule (1), previously unnumbered, numbered and substituted by section 19(a) of [Government Notice 1234 of 2020](#)]

2. The Refugee Appeals Authority of South Africa may on application re-hear an appeal after a decision has been issued under the following circumstances:
 - (i) where the party fails to appear for a scheduled hearing and complies with the provisions of Rule 12.
 - (ii) where judicial review has been instituted and a settlement agreement has been reached as per a decision of the High Court.

[subrule (2) added by section 19(b) of [Government Notice 1234 of 2020](#)]

20. Correction of errors

Clerical errors in any decision, or errors from any omission, may at any time be corrected and any correction made hereto, or to a record of the decision, shall be deemed to be part of the decision or record and a written notice of it shall be given as soon as practicable to the parties if the Refugee Appeals Authority of South Africa deems it necessary.

[rule 20 substituted by section 20(a) of [Government Notice 1234 of 2020](#)]

21. General

1. An Appellant or his/her legal representative may request copies of all relevant documents, transcripts or the contents of the file on payment of a fee determined by the Refugee Appeals Authority of South Africa.

[subrule (1) substituted by section 21(a) of [Government Notice 1234 of 2020](#)]

2. *[subrule (2) repealed by section 21(b) of [Government Notice 1234 of 2020](#)]*

3. Refugee Appeals Authority of South Africa's Practice Notes issued by Refugee Appeals Authority of South Africa from time to time will fully set out the conduct of its proceedings.

[subrule (3) added by section 21(c) of [Government Notice 1234 of 2020](#)]

22. Forms

The Forms referred to in these Rules shall conform substantially to the Forms in the annexure to these Rules with such variations as circumstances may require.

23. Citation and commencement

These Rules may be cited as the Refugee Appeals Authority of South Africa Rules, 2013 as amended and shall come into operation on publication.

[rule 23 substituted by section 22(a) of [Government Notice 1234 of 2020](#)]

Schedule

Forms RAA(01) - RAA(05)

[Editorial note: The forms have not been reproduced.]

[Forms RAB(01) - RAB(04) amended and Form RAA(05) added by [Government Notice 1234 of 2020](#)]