

South Africa

Refugees Act, 1998

Refugees Regulations, 2018

Government Notice R1707 of 2019

Legislation as at 27 December 2019

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Refugees Regulations, 2018

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I, Dr P A Motsoaledi, the Minister of Home Affairs has, in terms of section [38](#) of the Refugees Act, 1998 ([Act No. 130 of 1998](#)), made the Regulations in the Schedule.

1. Definitions

In these Regulations a word or expression to which a meaning has been assigned in the Act bears the meaning so assigned and unless the context otherwise indicates—

“**appeal determination**” means a determination by the Refugee Appeals Authority in accordance with section [8C\(2\)](#) of the Act, either based on oral evidence following an inquisitorial process, or determined on the papers comprising the application for appeal, or both;

“**appellant**” means a person who, within the stipulated period referred to in regulation [16\(1\)\(a\)](#), lodges an appeal to the Refugee Appeals Authority in terms of section 24B(1), based on the outcome of the determination hearing;

“**educational institution**”, in relation to asylum seekers, means a school as defined in the South African Schools Act, 1996 ([Act No. 84 of 1996](#)) where basic education is offered;

“**foreigner**” means any person who is not a citizen of the Republic;

“**health establishment**” means a health establishment contemplated in section [5](#) of the Mental Health Care Act, 2002 ([Act No. 17 of 2002](#));

“**Hearing before Refugee Status Determination Officer**” means one or more interviews between an asylum seeker and a Refugee Status Determination Officer which is recorded either digitally or otherwise, and which is intended to determine whether or not the applicant may be granted refugee status in the Republic as contemplated in section [24\(3\)](#) of the Act;

“**Identification Act**” means the Identification Act, 1997 ([Act No. 68 of 1997](#));

“**marriage certificate**”, for purposes of these regulations, means a certificate issued after a marriage is recorded on the National Population Register in accordance with the laws governing marriages in the Republic;

“**notarial agreement**” means a formal written agreement entered into by two parties to a monogamous homosexual or heterosexual relationship setting out the terms of their relationship and which is notarized by a South African Notary Public;

“**paternity test**” means a test conducted, using the deoxyribonucleic acid (DNA) of a mother, child and father, to establish whether or not a man or woman is the biological father or mother of such child;

“**person with mental disability**” means a person who suffers from mental illness as defined in the Mental Health Care Act, 2002 ([Act No. 17 of 2002](#));

“**South African Passport and Travel Documents Act**” means the South African Passport and Travel Documents Act, 1994 ([Act No. 4 of 1994](#));

“the Act” means the Refugees Act, 1998 ([Act No. 130 of 1998](#)); and

“unaccompanied child” means a child under the age of 18 who is not accompanied by his or her biological parents or adoptive parents or legal guardian.

2. Authenticity and termination of marriage

- (1) The existence of a marriage contemplated in paragraph (b) of the definition of “spouse” in section 1 of the Act must be proved, to the satisfaction of the Director-General, by a party to that marriage.
- (2) In determining the authenticity of a marriage declared at the time of making an application for asylum, the Refugee Status Determination Officer or any other authorised official of the Department must—
 - (a) authenticate the marriage certificate; and
 - (b) conduct an interview with both the parties to the marriage to ascertain the existence of a genuine marriage relationship.
- (3) Notwithstanding subregulation 2(a), where a marriage was concluded outside of the Republic, and where an original marriage certificate is unavailable, the parties to such a marriage shall submit an affidavit indicating the vital details of their marriage, including the date and place of the solemnisation of the marriage, prior to being interviewed as contemplated in subregulation 2(b).
- (4) When conducting the interview contemplated in subregulation 2(b) both parties must be interviewed separately, on the same date, by the same Refugee Status Determination Officer or other authorized official to determine the existence of a genuine marriage relationship, and the outcome of such interviews shall, notwithstanding the production of an authentic marriage certificate or affidavit, be regarded as definitive for the purposes of the relevant application.
- (5) Either spouse to a marriage must—
 - (a) in the case of divorce, submit a copy of the divorce order; or
 - (b) in the case of death, submit a copy of the death certificate,in person to the Refugee Reception Office within six months of the occurrence of the relevant event, failing which any dependant spouse may be dealt with as an illegal foreigner in terms of the provisions of the Immigration Act.
- (6) Any person contemplated in section 21B(4) of the Act may, upon providing the notification as required in subregulation (5), forthwith apply to continue to remain in the Republic for a period coinciding with the remaining period of his or her asylum seeker visa or certificate of refugee status and in accordance with Form 2 (DHA-1590) and must forthwith, notwithstanding the provisions of section 21(1)(a) of the Act—
 - (a) apply in person for asylum at the Refugee Reception Office where his or her asylum seeker visa or certificate of refugee status was issued; or
 - (b) depart the Republic,failing which such person must be dealt with as an illegal foreigner in terms of the provisions of the Immigration Act.
- (7) Both parties to a marriage who have been issued with an asylum seeker visa or granted refugee status in terms of the Act must, at the renewal of his or her asylum seeker visa or refugee status, as the case may be, inform the Refugee Status Determination Officer whether or not the marriage still exists by submitting to the Refugee Status Determination Officer an affidavit on a Form substantially corresponding to Form 1 contained in the Annexure.

3. Authenticity and notification of termination of permanent homosexual or heterosexual relationship

- (1) The existence of a permanent homosexual or heterosexual relationship contemplated in paragraph (b) of the definition of “spouse” in section 1 of the Act must be proved, to the satisfaction of the Director-General, by a party to that relationship.
- (2) The onus rests with any person claiming a permanent homosexual or heterosexual relationship to produce evidence of the existence of such permanent relationship in regard to subregulation (1).
- (3) In determining the authenticity of a permanent homosexual or heterosexual relationship declared at the time of submitting an application for asylum, the Refugee Status Determination Officer or any other authorized official of the Department must—
 - (a) authenticate the notarial agreement signed by both parties; and
 - (b) conduct an interview with both parties to the relationship to determine the existence of a genuine permanent relationship.
- (4) When conducting the interview contemplated in subregulation 3(b) both parties must be interviewed separately, on the same date, by the same Refugee Status Determination Officer or other authorized official and the determination made arising from such interview, shall, notwithstanding the production of an authentic notarial agreement, be definitive for the purposes of the relevant application.
- (5) Both parties to a homosexual or heterosexual relationship who have been issued with an asylum seeker visa or granted refugee status in terms of the Act must, at the renewal of his or her asylum seeker visa or refugee status, as the case may be, inform the Refugee Status Determination Officer whether or not the good faith relationship still exists by submitting to the Refugee Status Determination Officer an affidavit on a Form substantially corresponding to Form 1 contained in the Annexure.
- (6) Either party to a permanent homosexual or heterosexual relationship must—
 - (a) in the case of termination of relationship, submit an affidavit indicating that the relationship has been terminated; and
 - (b) in the case of death, submit a copy of the death certificate,in person to the Refugee Reception Office within six months of the occurrence of the relevant event.
- (7) The provisions of regulation 2(6) shall apply *mutatis mutandis* to a dependent spouse in a permanent heterosexual or homosexual relationship.

4. Cessation of refugee status

- (1) The circumstances as contemplated in section 5(1)(a) of the Act in terms of which a person may be deemed to have re-availed himself or herself of the protection of the country of his or her origin, nationality or residence shall, amongst others, relate to where such person voluntarily—
 - (a) seeks consular services at any diplomatic mission representing his or her country of origin or nationality;
 - (b) applies for any assistance or official document, such as a travel document or citizenship related document, at any diplomatic mission representing his or her country of origin or nationality whether in the Republic or any other country;
 - (c) avails himself or herself of any assistance of any State official or State institution associated with or in his or her country of origin or nationality;
 - (d) presents himself or herself on the premises of any diplomatic mission representing his or her country of origin or nationality in the Republic or in any other territory;

- (e) travels abroad other than with a refugee travel document issued in terms of section [31](#) of the Act;
 - (f) applies for and receives any benefit afforded to citizens of his or her country of nationality;
 - (g) stands for political office or votes in any election in respect of his or her country of nationality, without the approval of the Minister;
 - (h) whether through a port of entry or irregularly enters the territory of his or her country of origin or nationality or countries where he or she previously resided prior to entering the Republic to apply for asylum or takes measures or prepares to do so;
 - (i) participates in any political campaign or activity related to his or her country of origin or nationality whilst in the Republic without the permission of the Minister; or
 - (j) travels abroad in violation of the conditions endorsed on his or her refugee travel document.
- (2) No refugee or asylum seeker may participate in any political activity or campaign in furtherance of any political party or political interests in the Republic.
- (3) The Standing Committee may withdraw the refugee status of any person who participated in any political activity or campaign in furtherance of any political party or political interests in the Republic, or who has been found to have acted as contemplated in subregulation [\(1\)](#).
- (4) Any person whose refugee status has been withdrawn shall be dealt with as an illegal foreigner in terms of the provisions of the Immigration Act.

5. Standing Committee for Refugee Affairs

- (1) The Standing Committee may determine its own procedure and make its own rules which may not be in conflict with the provisions of the Act.
- (2) Rules made under subregulation [\(1\)](#) must be published in the *Gazette*.
- (3) (a) The Standing Committee must determine—
- (i) the conditions under which qualifying asylum seekers may be employed or study; and
 - (ii) the sectors within which an asylum seeker is not permitted to work or study, in the Republic whilst awaiting the outcome of his or her application for asylum.
- (b) The Standing Committee may, from time to time, publish in the *Gazette* the list of sectors in which asylum seekers may not be employed or study.

6. Integrity measures

- (1) All members and administrative staff of the Standing Committee, Refugee Appeals Authority and all members of staff at any Refugee Reception Office, including persons who perform any function in such Office, but who are not employed by the Department, must—
- (a) at the request of the Director-General, submit themselves to—
- (i) any interview relating to establishing integrity; or
 - (ii) an interview arising from a reasonable suspicion of undue gratification, fraud, corruption or any crime of which dishonesty is an element;
- (b) complete any disclosure form required, which disclosure shall be updated from time to time; and
- (c) from time to time, as determined by the Director-General, submit to a polygraph test.

- (2) When gathering information contemplated in section [20A\(2\)\(a\)](#) of the Act in order to establish the integrity of a person as contemplated in section [20A\(1\)](#) of the Act, such person will be required to disclose, to a duly authorised person, information regarding his or her—
 - (a) interview, conduct, association or consultation with any person during the course of his or her tenure with the Department;
 - (b) assets, liabilities, gifts, donations, loans or any benefits received or derived during such tenure;
 - (c) involvement with or implication in any criminal act, matter or investigation or any pending criminal case or conviction; and
 - (d) any pending or finalised civil judgment.
- (3) Any information on personal finances, gifts or health records and history related to members of staff, and their family in relation to terminal health, at any Refugee Reception Office or members of the Standing Committee and Refugee Appeals Authority, shall be held securely and may only be accessed by the Director-General, an authorised official of the Department, an officer of the South African Police Service or any other authorised law enforcement officer.
- (4) The Director-General must—
 - (a) take the necessary steps to ensure that any information gathered in accordance with this regulation, including the information contemplated in section [20A\(2\)](#) of the Act, is stored in such a secure manner as would preclude access to such information by a person or authority other than those referred to in section [20A\(3\)\(b\)](#) of the Act, read with subregulation [\(3\)](#); and
 - (b) keep, maintain and safeguard the information obtained in accordance with this regulation.
- (5) The records contemplated in this regulation, read with section [20A](#) of the Act, shall be stored for the duration of employment of any concerned member of staff at any Refugee Reception Office or members of the Standing Committee and Refugee Appeals Authority and shall be archived within 5 years of the member leaving the employ of the Department, the Standing Committee or the Refugee Appeals Authority.

7. Asylum transit visa

Any person who intends to apply for asylum must declare his or her intention, while at a port of entry, before entering the Republic and provide his or her biometrics and other relevant data as required, including—

- (a) fingerprints;
- (b) photograph;
- (c) names and surname;
- (d) date of birth and age;
- (e) nationality or origin; and
- (f) habitual place of residence prior to travelling to the Republic.

and must be issued with an asylum transit visa contemplated in section 23 of the Immigration Act.

8. Application for asylum

- (1) An application for asylum in terms of section [21](#) of the Act must—
 - (a) be made in person by the applicant upon reporting to a Refugee Reception Office or on a date allocated to such a person upon reporting to the Refugee Reception Office;

- (b) be made in a form substantially corresponding with Form 2 (DHA-1590) contained in the Annexure;
- (c) be submitted together with—
 - (i) a valid asylum transit visa issued at a port of entry in terms of section 23 of the Immigration Act, or under permitted circumstances, a valid visa issued in terms of the Immigration Act;
 - (ii) proof of any form of a valid identification document: Provided that if the applicant does not have proof of a valid identification document, a declaration of identity must be made in writing before an immigration officer; and
 - (iii) the biometrics of the applicant, including any dependant.
- (2) Any person who submits a visa other than an asylum transit visa issued in terms of section 23 of the Immigration Act must provide proof of change of circumstances in the period between the date of issue of the visa and the date of application for asylum.
- (3) Any person who upon application for asylum fails at a Refugee Reception Office to produce a valid visa issued in terms of the Immigration Act must prior to being permitted to apply for asylum, show good cause for his or her illegal entry or stay in the Republic as contemplated in Article 31(1) of the 1951 United Nations Convention Relating to the Status of Refugees.
- (4) A judicial officer must require any foreigner appearing before the court, who indicates his or her intention to apply for asylum, to show good cause as contemplated in subregulation (3).
- (5) An applicant must indicate his or her language of proficiency on Form 2 (DHA-1590), which language will be presumed to be the language which the applicant understands.
- (6) All information contained on Form 2 (DHA-1590) or any documentation submitted together with, or in support of, the application for asylum, is binding on the applicant and may not be amended.
- (7) A Refugee Status Determination Officer may require any person who made an assertion in his or her application for asylum, to furnish him or her with proof or corroboration of the correctness of the assertion.
- (8) If at any stage a Refugee Status Determination Officer reasonably suspects that a child, who has been declared a dependant in any application for asylum, has been trafficked or smuggled into the Republic, he or she may require proof of relationship in the form of the results of a paternity test, and must refer such child to into the care of a representative of the Department of Social Development.
- (9) Any person who fails to declare a dependant child as contemplated in section 21(2A) and subsequently returns to the Refugee Reception Office to make a claim in terms of section 3(c) of the Act on behalf of such dependant child, he or she shall be required to provide proof of relationship in the form of the results of a paternity test, failing which, such child shall be dealt with as an unaccompanied child as contemplated in regulation 10.
- (10) When required to do so by a Refugee Status Determination Officer, the principal asylum seeker or a dependant must provide proof of their relationship.
- (11) Each dependant included on an asylum application shall be issued an asylum seeker visa and must comply with the terms of the visa.
- (12) Any dependant of an asylum seeker contemplated in section 3(c) of the Act must appear in person for a hearing before a Refugee Status Determination Officer.

9. Abandoned application

- (1) The endorsement by the Standing Committee of an application as an abandoned application as contemplated in section 22(12) of the Act must be made on Form 3 contained in the Annexure.

- (2) The Refugee Reception Office Manager shall refer or cause an abandoned application to be referred following an endorsement by the Standing Committee as contemplated in subregulation (1), to an immigration officer to deal with such a person as contemplated in section 22(13) of the Act.
- (3) Compelling reasons as contemplated in section 22(12) of the Act shall relate to—
 - (a) entry into a Witness Protection Programme;
 - (b) quarantine;
 - (c) arrest without bail; or
 - (d) any other similar compelling reasons,and must be supported by documentary evidence.

10. Unaccompanied child and person with mental disability

- (1) An unaccompanied child must forthwith be referred to the Department of Social Development to be assisted in accordance with the provisions of the Children's Act, 2005 ([Act No. 38 of 2005](#)), and where necessary, after an investigation by a social worker into the status and circumstances of the child, may be assisted by a person appointed by the Children's court to act on behalf of such child to apply for asylum where such person is a person envisaged in section 3 of the Act.
- (2) Where it is apparent from the circumstances that an unaccompanied child is an asylum seeker as contemplated in section 3 of the Act, an asylum seeker visa shall be issued and handed to the representative of the Department of Social Development, in whose care such child is entrusted.
- (3) A person with a mental disability contemplated in section 21A(2) of the Act must forthwith be referred to a relevant health establishment to be assisted in terms of the Mental Health Care Act, 2002, and where necessary, after an investigation by a representative of the health establishment into the status and circumstances of the person with mental disability, may be assisted by a next-of-kin or person appointed by the competent court to apply for asylum where such person is a person envisaged in section 3 of the Act.
- (4) Where unless it is apparent from the circumstances that a person contemplated in subregulation (3) is an asylum seeker as contemplated in section 3 of the Act, an asylum seeker visa shall be issued and handed to the representative of the health establishment, in whose care such a person is entrusted.
- (5) The Director-General must, on referral of an unaccompanied child or a person with mental disability to the Department of Social Development or the relevant health establishment, record the name of the official who received the child or person with mental disability, in the register contemplated in subregulation (6).
- (6) The Director-General must keep a register of unaccompanied children and persons with mental disability who are referred to the Department of Social Development or any relevant health establishment, as the case may be.
- (7) Any person claiming to be an adoptive parent or legal guardian of a child must provide proof of relationship to the satisfaction of the Director-General.

11. Termination of dependency of children of asylum seekers and refugees

- (1) Any person contemplated in section 21B(3A) of the Act must within six months of the termination of dependency, and notwithstanding the provisions of section 21(1)(a), apply in person for asylum at the Refugee Reception Office where his or she asylum seeker visa was issued.
- (2) Any person contemplated in section 21B(3) of the Act must, within six months of termination of dependency, apply to the Refugee Status Determination Officer, on a Form substantially corresponding to Form 4 contained in the Annexure, to be permitted to continue to remain in the

Republic for a period coinciding with the remaining period of his or her certificate of refugee status, and must forthwith apply for asylum, notwithstanding the provisions of section [21\(1\)\(a\)](#) of the Act.

- (3) Any person who fails to apply as contemplated in subregulation [\(1\)](#) or [\(2\)](#) or whose application has been refused must forthwith depart the Republic, failing which such person must be dealt with as an illegal foreigner in terms of the Immigration Act.

12. Asylum seeker visa

- (1) A visa in terms of section [22](#) of the Act shall be issued to an applicant on a Form substantially corresponding to Form 5 contained in the Annexure.
- (2) A visa contemplated in subregulation [\(1\)](#) shall contain—
 - (a) the conditions upon which asylum seekers may—
 - (i) temporarily reside in the Republic; and
 - (ii) where appropriate, seek employment and obtain basic education; and
 - (b) the obligations and rights of the holder thereof;
 - (c) a requirement for the applicant to appear in person for each scheduled appointment; and
 - (d) the consequences of failure to comply with any of the conditions of the visa or instructions issued by the Refugee Status Determination Officer or any other authorised official of the Refugee Reception Office.
- (3) An asylum seeker visa may be issued to a failed asylum seeker upon service of a notice of motion indicating an application for judicial review: Provided that such visa may be issued for a period not exceeding 30 days at a time.
- (4) An asylum seeker must at all times be in possession of the original visa, issued in terms of section [22](#) of the Act, as proof of his or her legal status in the Republic.
- (5) Prior to issuing any right to seek employment to any asylum seeker, an assessment contemplated in section [22\(6\)](#) of the Act must be completed on a Form substantially corresponding to Parts A3 and B3 of Form DHA-1590 contained in the Annexure to establish such person's ability to sustain himself or herself and any dependants.
- (6) The letter of employment contemplated in section [22\(9\)](#) of the Act shall be on a Form substantially corresponding to Form 6 contained in the Annexure.
- (7) The letter of enrolment at an educational institution contemplated in section [22\(9\)](#) of the Act shall be on a Form substantially corresponding to Form 7 contained in the Annexure.
- (8) Any extension of an asylum seeker visa must be made at the Refugee Reception Office where the application was submitted.

13. Withdrawal of asylum seeker visa

- (1) The Director-General must, before withdrawing an asylum seeker visa as contemplated in section [22\(5\)](#) of the Act—
 - (a) notify the asylum seeker in question, in writing, of his or her intention to withdraw such visa;
 - (b) provide the asylum seeker with reasons, in writing, for such withdrawal; and
 - (c) notify the asylum seeker of his or her right to make written representations within seven working days of receipt of the notification contemplated in paragraph [\(a\)](#).

- (2) The Director-General must, after consideration of the representations referred to in subregulation 2(c), in writing; furnish the asylum seeker with the final decision regarding the withdrawal of the asylum seeker visa.
- (3) The Director-General must withdraw an asylum seeker visa following an order by the Minister contemplated in section 28(2) of the Act and, notwithstanding the provisions of any other law, forthwith facilitate the removal of such asylum seeker from the Republic.

14. Hearing before Refugee Status Determination Officer

- (1) Except for cases decided under section 35(1) of the Act, any application for asylum must be determined after an interview before the Refugee Status Determination Officer.
- (2) An applicant for asylum must, on any specified date and time, report in person for an interview before the Refugee Status Determination Officer in respect of his or her application.
- (3) The Refugee Status Determination Officer must, before the commencement of any hearing, inform the asylum seeker of the procedure to be followed in considering his or her application for asylum.
- (4) The proceedings of any interview must be recorded.
- (5) During the interview, the Refugee Status Determination Officer may—
 - (a) require further information, evidence or clarification from the asylum seeker; and
 - (b) require further information, evidence, clarification or corroboration from any other relevant person, body or source.
- (6) In deciding the application, the Refugee Status Determination Officer—
 - (a) must test any claim made by an applicant for asylum against any information, evidence, research or documents at the disposal of the Refugee Status Determination Officer;
 - (b) must determine and record the outcome of the application in accordance with section 24(3) of the Act; and
 - (c) may obtain legal advice, where necessary;
 - (d) may consider the decisions of the Standing Committee and Refugee Appeals Authority; or
 - (e) may consider any other relevant information.
- (7) The record of the interview and a copy of the reasons referred to in section 24(3)(b) of the Act must, within five working days of the date of rejection, be submitted to the Standing Committee for review in terms of section 24A of the Act.
- (8) Any asylum seeker must report in person to the Refugee Reception Office where his or her application for asylum was made, to receive, in writing, the outcome of his or her application.

15. Review of applications

- (1) The Standing Committee must, in terms of section 24A(4) of the Act—
 - (a) inform the Refugee Reception Office concerned of its decision contemplated in section 24(3)(b) of the Act; and
 - (b) record such decision on the relevant system used for the management of asylum seekers and refugees on a Form substantially corresponding to Form 8 (DHA-1691) contained in the Annexure.
- (2) Any decision made by the Standing Committee shall be issued to an asylum seeker at the Refugee Reception Office where the application for asylum was submitted.

16. Appeals to Refugee Appeals Authority

- (1) An appeal in terms of section [24B\(1\)](#) of the Act must—
 - (a) be submitted within 10 working days of receipt of the letter of rejection from the Refugee Status Determination Officer;
 - (b) state the grounds for the appeal; and
 - (c) be submitted on a Form substantially corresponding to Form 9 (RAA-01) contained in the Rules of the Refugee Appeals Authority.
- (2) Failure to lodge an appeal as referred to in subregulation [\(1\)](#) shall result in the decision of the Refugee Status Determination Officer being considered as a final decision.
- (3) An asylum seeker who fails to lodge an appeal within the period referred to in subregulation [\(1\)](#) due to—
 - (a) institutionalisation;
 - (b) entry into a Witness Protection Programme;
 - (c) quarantine;
 - (d) arrest without bail; or
 - (e) any other similar compelling reasons,must make an application for condonation, supported by documentary evidence, in accordance with the Rules of the Refugee Appeals Authority.
- (4) An asylum seeker who has failed to lodge an appeal or whose appeal has been rejected must be referred to an immigration officer to be dealt with as an illegal foreigner in terms of the provisions of the Immigration Act.
- (5) Any asylum seeker who, having been called to appear at an appeal determination by the Refugee Appeals Authority, fails to appear at the appointed date and time, may have his or her appeal determined on the basis of documents already before the Refugee Appeals Authority at the discretion of the presiding member of the Refugee Appeals Authority.

17. Formal recognition of refugee status

- (1) For purposes of these regulations, a formal recognition of refugee status referred to in section [27\(a\)](#) of the Act, shall be a certificate of recognition of refugee status on a Form substantially corresponding to Form 10 (DHA-1693) contained in the Annexure.
- (2) Upon being granted refugee status, a refugee, and where applicable his or her dependants, must be issued, in person, with a certificate of recognition as a refugee.
- (3) The certificate contemplated in subregulation [\(1\)](#) will be valid for a period of four years from the date on which it is issued, unless the refugee status of the holder is withdrawn or ceased in terms of the Act, prior to the expiry date.
- (4) A refugee must apply for renewal of the certificate contemplated in subregulation [\(1\)](#) at least 90 days prior to the expiry thereof.

18. Identity document

- (1) Any refugee who is 16 years or older must, immediately upon receipt of his or her certificate of recognition of refugee status, apply for an identity card or document on a Form substantially corresponding to Form 11 (DHA-1687) contained in the Annexure.

- (2) An application for an identity card or document must be accompanied by—
 - (a) a copy of the applicant's certificate referred to in regulation [17](#); and
 - (b) the biometrics that conform to the identity specifications contemplated in the Identification Act.
- (3) The identity card or document contemplated in subregulation [\(1\)](#) must be endorsed with a validity date corresponding to the date on the certificate referred to in regulation [17](#).
- (4) A fee, as contemplated in the Identification Act, shall be charged for any application for a reissue of a lost, stolen or damaged identity document or card.

19. Travel documents for refugees

- (1) An application for a travel document must be made on a Form substantially corresponding to Form 12 (DHA-1705) contained in the Annexure.
- (2) An application contemplated in subregulation [\(1\)](#) must be accompanied by—
 - (a) a copy of the applicant's certificate of recognition as a refugee, referred to in regulation [17](#), which must be valid for a period not less than 180 days at the time of submission of the application for a refugee travel document;
 - (b) a copy of a valid identity card or document issued to a refugee in terms of section [30](#) of the Act; and
 - (c) the biometrics of the refugee as contemplated in the South African Passport and Travel Documents Act.
- (3) A travel document issued to a refugee may contain such endorsements and conditions considered necessary.
- (4) An application for a refugee travel document by a person who is under the age of 16 years, must be made with the assistance of the applicant's parents or legal guardian and must be accompanied by—
 - (a) where applicable, a copy of the birth certificate of such person;
 - (b) a copy of the certificate as contemplated in regulation [17](#) which was issued to such person; and
 - (c) the biometrics of the refugee as contemplated in the South African Passport and Travel Documents Act.
- (5) In the case of children in alternative care as defined in the Children's Act, 2005, an application for a travel document must, in addition to the requirements contemplated in subregulation [\(2\)](#), be accompanied by a certified copy of the authorisation letter from the Provincial Head of the Department of Social Development where the child resides.
- (6) A fee, as contemplated in the South African Passport and Travel Documents Act, shall be charged for any application for a travel document.

20. Surrender of documents

- (1) Where refugee status of a person is withdrawn or cease in terms of the Act, any documents issued to such a person in terms of regulations [17](#), [18](#) and [19](#) must be surrendered by such person to an authorised official upon receipt of notification of termination of refugee status.
- (2) A refugee whose documents have been surrendered must be dealt with in terms of the provisions of the Immigration Act.

21. Detention and removal of refugees and asylum seekers relating to national security threat

- (1) The Minister may issue an order contemplated in section [28\(1\)](#) of the Act requiring the Director-General to immediately detain and remove, from the Republic, any asylum seeker or refugee named in such order.
- (2) Upon receipt of the order issued by the Minister in terms of subregulation [\(1\)](#), the Director-General —
 - (a) must forthwith withdraw any asylum seeker visa or certificate of recognition of refugee status, identity document or card or travel document issued to any person named in order;
 - (b) must forthwith submit a copy of the order to a representative of the UNHCR;
 - (c) may enlist the assistance of any law enforcement officer or structure to trace, arrest, and detain the person;
 - (d) may collaborate with any state officer or any other person to transport the person to any destination within the Republic, and to remove the person from the territory of the Republic; and
 - (e) may take any steps necessary to execute the order, including contracting the services of any private service provider.
- (3) The UNHCR may, upon receipt of the notification contemplated in subregulation [\(2\)](#), inform the Director-General of its intention to remove or resettle such person to another country, within an agreed period, which period shall not exceed two calendar weeks: Provided that such person must be held in detention until his or her removal by the UNHCR from the Republic.
- (4) Any application for judicial review emanating, directly or indirectly, from the order referred to in subregulation [\(1\)](#) may only be lodged by or on behalf of the person named in such order before a High Court of the Republic, within 48 hours of the arrest of the person.
- (5) Any order made by a High Court shall be confirmed by the Constitutional Court, within two calendar weeks from the date of the issue of the order contemplated in [28\(1\)](#), failing which the order of the High Court shall lapse and the Director-General must, notwithstanding the legal status of the order issued by the Minister, proceed with the removal of the person from the territory of the Republic, in the national interest.
- (6) The person whose removal is ordered by the Minister may, in writing, indicate to the Director-General his or her intention to voluntarily depart the Republic, in which event the Director-General, may at his or her discretion afford such person and any family member, assistance with travel and other related matters, including a relocation stipend that may not exceed any amount approved in writing by the Minister, provided that the person shall remain in detention until his or her departure from the Republic.

22. Change of address and contact details

- (1) The notice of change of address and contact details contemplated in section [34\(1\)\(b\)](#) of the Act shall be made on a form substantially corresponding to Form 13 contained in the Annexure and must be submitted to a Refugee Reception Office.

23. Withdrawal of refugee status

- (1) Before refugee status may be withdrawn in terms of section [36\(1\)](#) of the Act, the Standing Committee must provide written notice to the refugee indicating—
 - (a) the intention of the Standing Committee to withdraw his or her status;

- (b) the reasons for the intended withdrawal; and
 - (c) that he or she has the right to make written representations to the Standing Committee within 30 calendar days of the date of receipt of the notice.
- (2) Upon receipt of representations from a refugee, the Standing Committee may—
 - (a) uphold the refugee status; or
 - (b) withdraw the refugee status and notify the Head of a Refugee Reception Office who must refer the matter to an immigration officer for purposes of detention and deportation of such person in terms of the provisions of the Immigration Act.
- (3) Following an order by the Minister in terms of section [36\(3\)](#) of the Act, the Standing Committee must cause a notice to be published in the *Gazette* calling on the affected refugees to make representations as to why their refugee status should not be withdrawn within the period indicated in the said notice.
- (4) The Standing Committee may, notwithstanding the order from the Minister, after considering the representations referred to in subregulation [\(4\)](#),—
 - (a) confirm the withdrawal of the refugee status;
 - (b) decide not to withdraw the refugee status on humanitarian grounds; or
 - (c) certify a refugee as contemplated in section [27\(c\)](#) of the Act.
- (5) The humanitarian grounds referred to in subregulation [\(5\)](#) shall include—
 - (a) a child who has no relatives or extended family in his or her country of origin;
 - (b) a person who is receiving life-saving medical treatment which is unavailable in his or her country of origin; or
 - (c) any other similar grounds.
- (6) If a refugee fails to make representations within the period mentioned in subregulation [\(1\)](#) or [\(3\)](#), his or her refugee status shall automatically lapse and he or she will be regarded as an illegal foreigner and be dealt with in terms of the Immigration Act.

24. Repeal of laws

The Refugees Regulations (Forms and Procedure), 2000 published in Government Notice No. R. 366 of 6 April 2000, are hereby repealed.

25. Short title and commencement

These Regulations are called the Refugees Regulations, 2018 and comes into operation on 1 January 2020.

Annexure

Form 1 (a)	Affidavit in respect of marriage concluded outside the Republic
Form 1 (b)	Affidavit in respect of parties to permanent homosexual or heterosexual relationship
Form 2	Application for Asylum
Form 3	Notification of abandoned application
Form 4	Application for asylum: Previously dependant person
Form 5	Asylum Seeker Visa
Form 6	Letter of employment
Form 7	Letter of enrolment at educational School
Form 8	Decision of the Standing Committee
Form 9	Notice of appeal
Form 10	Certificate of recognition as a refugee
Form 11	Application for refugee Identity Document
Form 12	Application for document for travel purpose for refugee or persons who acquired permanent residence permit after certification as refugee independently
Form 13	Notice of change of address
Form 14	Application to be allowed to remain in the Republic after termination of dependency

Forms 1 - 14

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