



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

VOL. 402

CAPE TOWN, 2 DECEMBER 1998

KAAPSTAD, 2 DESEMBER 1998

No. 19544

OFFICE OF THE PRESIDENT

No. 1558.

2 December 1998

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 130 of 1998: Refugees Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 1558.

2 Desember 1998

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 130 van 1998: Wet op Vluchteling, 1998.

*(English text signed by the President.)
(Assented to 20 November 1998.)*

ACT

To give effect within the Republic of South Africa to the relevant international legal instruments, principles and standards relating to refugees; to provide for the reception into South Africa of asylum seekers; to regulate applications for and recognition of refugee status; to provide for the rights and obligations flowing from such status; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the Republic of South Africa has acceded to the 1951 Convention Relating to Status of Refugees, the 1967 Protocol Relating to the Status of Refugees and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa as well as other human rights instruments, and has in so doing, assumed certain obligations to receive and treat in its territory refugees in accordance with the standards and principles established in international law,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF ACT

CHAPTER 1

INTERPRETATION, APPLICATION AND ADMINISTRATION OF ACT 5

1. Definitions
2. General prohibition of refusal of entry, expulsion, extradition or return to other country in certain circumstances
3. Refugee status
4. Exclusion from refugee status 10
5. Cessation of refugee status
6. Interpretation, application and administration of Act
7. Delegation of powers and duties

CHAPTER 2

REFUGEE RECEPTION OFFICES, STANDING COMMITTEE FOR REFUGEE AFFAIRS AND REFUGEE APPEAL BOARD 15

8. Refugee Reception Office
9. Standing Committee for Refugee Affairs
10. Composition of Standing Committee
11. Powers and duties of Standing Committee 20
12. Establishment of Refugee Appeal Board
13. Composition of Appeal Board
14. Powers and duties of Appeal Board

*(Engelse teks deur die President geteken.)
(Goedgekeur op 20 November 1998.)*

WET

Om in die Republiek van Suid-Afrika uitvoering te gee aan die tersaaklike internasionale regsdokumente, -beginsels en -standaarde met betrekking tot vlugtelinge; om voorsiening te maak vir die ontvangs van asielversoekers in Suid-Afrika; om aansoeke om en erkenning van vlugtelingstatus te reël; om voorsiening te maak vir die regte en verpligtinge wat uit daardie status voortvloei; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

AANHEF

NADEMAAL die Republiek van Suid-Afrika toetree het tot die 1951 Konvensie met Betrekking tot die Status van Vlugtelinge, die 1967 Protokol met Betrekking tot die Status van Vlugtelinge en die 1969 Organisasie vir Eenheid in Afrika Konvensie met Betrekking tot die Spesifieke Aspekte van Vlugtelingprobleme in Afrika sowel as ander mensegedokumente, en daardeur bepaalde verpligtinge aanvaar het om vlugtelinge in sy territoriale gebied ooreenkomstig die standaarde en beginsels neergelê in die volkereg, te ontvang en te behandel;

WORD DAAR DERHALWE BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

INDELING VAN WET

HOOFSTUK 1

5 UITLEG, TOEPASSING EN UITVOERING VAN WET

1. Woordomskrywing
2. Algemene verbod op weiering van binnekoms, uitsetting, uitlewering of terugsending na ander land in sekere omstandighede
3. Vlugtelingstatus
- 10 4. Uitsluiting van vlugtelingstatus
5. Beëindiging van vlugtelingstatus
6. Uitleg, toepassing en uitvoering van Wet
7. Delegering van bevoegdhede en pligte

HOOFSTUK 2

15 VLUGTELINGONTVANGSKANTORE; STAANDE KOMITEE VIR VLUGTELINGSKE EN APPÈLRAAD OOR VLUGTELINGE

8. Vlugtelingontvangskantoor
9. Staande Komitee vir Vlugtelingsake
10. Samestelling van Staande Komitee
- 20 11. Bevoegdhede en pligte van Staande Komitee
12. Instelling van Appèlraad oor Vlugtelinge
13. Samestelling van Appèlraad
14. Bevoegdhede en pligte van Appèlraad

- | | |
|---|---|
| 15. Meetings of Standing Committee and Appeal Board | |
| 16. Periods of office of members of Standing Committee and Appeal Board | |
| 17. Removal from office of member of Standing Committee or Appeal Board | |
| 18. Filling of vacancies in Standing Committee or Appeal Board | |
| 19. Remuneration of members of Standing Committee and Appeal Board | 5 |
| 20. Administrative staff of Standing Committee and Appeal Board | |

CHAPTER 3

APPLICATION FOR ASYLUM

- | | |
|---|----|
| 21. Application for asylum | |
| 22. Asylum seeker permit | 10 |
| 23. Detention of asylum seeker | |
| 24. Decision regarding application for asylum | |

CHAPTER 4

REVIEWS AND APPEALS

- | | |
|----------------------------------|----|
| 25. Review by Standing Committee | 15 |
| 26. Appeals to Appeal Board | |

CHAPTER 5

RIGHTS AND OBLIGATIONS OF REFUGEES

- | | |
|--|----|
| 27. Protection and general rights of refugees | |
| 28. Rights of refugees in respect of removal from Republic | 20 |
| 29. Restriction of detention | |
| 30. Identity document to refugee | |
| 31. Travel document to refugee | |
| 32. Unaccompanied child and mentally disabled person | |
| 33. Dependants of refugee | 25 |
| 34. Obligations of refugees | |

CHAPTER 6

SUPPLEMENTARY AND GENERAL PROVISIONS

- | | |
|---|----|
| 35. Reception and accommodation of asylum seekers in event of mass influx | |
| 36. Withdrawal of refugee status | 30 |
| 37. Offences and penalties | |
| 38. Regulations | |
| 39. Training of staff | |
| 40. Transitional arrangements | |
| 41. Short title and commencement | 35 |

CHAPTER 1

INTERPRETATION, APPLICATION AND ADMINISTRATION OF ACT

Definitions

1. In this Act, unless the context shows that another meaning is intended—
 - (i) “abusive application for asylum” means an application for asylum made—
 - (a) with the purpose of defeating or evading criminal or civil proceedings or the consequences thereof; or
 - (b) after the refusal of one or more prior applications without any substantial change having occurred in the applicant’s personal circumstances or in the situation in his or her country of origin; (xiv) 45
 - (ii) “Aliens Control Act, 1991,” means the Aliens Control Act, 1991 (Act No. 96 of 1991); (xxiv) 40

- 15. Vergaderings van Staande Komitee en Appèlraad
- 16. Ampstermyn van lede van Staande Komitee en Appèlraad
- 17. Verwydering uit amp van lid van Staande Komitee of Appèlraad
- 18. Vul van vakatures in Staande Komitee of Appèlraad
- 5 19. Vergoeding van lede van Staande Komitee en Appèlraad
- 20. Administratiewe personeel van Staande Komitee en Appèlraad

HOOFSTUK 3

AANSOEK OM ASIEL

- 21. Aansoek om asiel
- 10 22. Asielversoekerspermit
- 23. Aanhouding van asielversoeker
- 24. Besluit rakende aansoek om asiel

HOOFSTUK 4

HERSIENINGS EN APPÈLLE

- 15 25. Hersiening deur Staande Komitee
- 26. Appèlle na Appèlraad

HOOFSTUK 5

REGTE EN VERPLIGTINGE VAN VLUGTELINGE

- 27. Beskerming en algemene regte van vlugtelinge
- 20 28. Regte van vlugtelinge met betrekking tot verwydering uit Republiek
- 29. Beperking op aanhouding
- 30. Identiteitsdokument aan vlugteling
- 31. Reisdokument aan vlugteling
- 32. Onvergeselde kind en geestesgestremde persoon
- 25 33. Afhanklikes van vlugteling
- 34. Verpligtinge van vlugtelinge

HOOFSTUK 6

AANVULLENDE EN ALGEMENE BEPALINGS

- 35 35. Ontvangs en akkommodering van asielversoekers in geval van massa-instroming
- 36. Intrekking van vlugtelingstatus
- 37. Misdrywe en strawwe
- 38. Regulasies
- 39. Opleiding van personeel
- 35 40. Oorgangsmatreëls
- 41. Kort titel en inwerkingtreding

HOOFSTUK 1

UITLEG, TOEPASSING EN UITVOERING VAN WET

Woordomskrywing

- 40 1. (1) In hierdie Wet, tensy uit die samehang 'n ander bedoeling blyk, beteken—
 - (i) “afhanklike”, met betrekking tot 'n asielversoeker of 'n vlugteling, ook die gade, enige ongetroude afhanklike kind of enige behoeftige, bejaarde of verswakte familielid van daardie asielversoeker of vlugteling; (ix)
 - (ii) “Appèlraad” die Appèlraad oor Vlughtelinge, by artikel 12 ingestel; (iii)
 - 45 (iii) “asiel” vlugtelingstatus ingevolge hierdie Wet erken; (iv)
 - (iv) “asielversoeker” 'n persoon wat erkenning as vlugteling in die Republiek verlang; (v)
 - (v) “asielversoekerspermit” 'n permit in artikel 22 beoog; (vi)

- (iii) "Appeal Board" means the Refugee Appeal Board, established by section 12; (ii)
- (iv) "asylum" means refugee status recognised in terms of this Act; (iii)
- (v) "asylum seeker" means a person who is seeking recognition as a refugee in the Republic; (iv) 5
- (vi) "asylum seeker permit" means a permit contemplated in section 22; (v)
- (vii) "child" means any person under the age of 18 years; (x)
- (viii) "Department" means the Department of Home Affairs; (vii)
- (ix) "dependant", in relation to an asylum seeker or a refugee, includes the spouse, any unmarried dependent child or any destitute, aged or infirm 10 member of the family of such asylum seeker or refugee; (i)
- (x) "Director-General" means the Director-General of the Department; (viii)
- (xi) "fraudulent application for asylum" means an application for asylum based without reasonable cause on facts, information, documents or representations which the applicant knows to be false and which facts, information, 15 documents or representations are intended to materially affect the outcome of the application; (vi)
- (xii) "manifestly unfounded application" means an application for asylum made on grounds other than those on which such an application may be made under this Act; (xi) 20
- (xiii) "Minister" means the Minister of Home Affairs; (xiii)
- (xiv) "prescribed" means prescribed by regulation; (xxiii)
- (xv) "refugee" means any person who has been granted asylum in terms of this Act; (xviii)
- (xvi) "Refugee Reception Office" means a Refugee Reception Office established 25 under section 8(1); (xx)
- (xvii) "Refugee Reception Officer" means a Refugee Reception Officer referred to in section 8(2); (xix)
- (xviii) "Refugee Status Determination Officer" means a Refugee Status Determination Officer referred to in section 8(2); (xxi) 30
- (xix) "regulation" means any regulation made under this Act; (xvi)
- (xx) "rules" means the rules made by the Appeal Board under section 14(2); (xv)
- (xxi) "social group" includes, among others, a group of persons of particular gender, sexual orientation, disability, class or caste; (xii)
- (xxii) "Standing Committee" means the Standing Committee for Refugee Affairs, 35 established by section 9; (xvii)
- (xxiii) "this Act" includes the regulations; (ix)
- (xxiv) "UNHCR" means the United Nations High Commissioner for Refugees. (xxii)

General prohibition of refusal of entry, expulsion, extradition or return to other country in certain circumstances 40

2. Notwithstanding any provision of this Act or any other law to the contrary, no person may be refused entry into the Republic, expelled, extradited or returned to any other country or be subject to any similar measure, if as a result of such refusal, expulsion, extradition, return or other measure, such person is compelled to return to or 45 remain in a country where—

- (a) he or she may be subjected to persecution on account of his or her race, religion, nationality, political opinion or membership of a particular social group; or
- (b) his or her life, physical safety or freedom would be threatened on account of 50 external aggression, occupation, foreign domination or other events seriously disturbing or disrupting public order in either part or the whole of that country.

Refugee status

3. Subject to Chapter 3, a person qualifies for refugee status for the purposes of this Act if that person— 55

- (a) owing to a well-founded fear of being persecuted by reason of his or her race, tribe, religion, nationality, political opinion or membership of a particular social group, is outside the country of his or her nationality and is unable or unwilling to avail himself or herself of the protection of that country, or, not having a nationality and being outside the country of his or her former habitual 60 residence is unable or, owing to such fear, unwilling to return to it; or

- (vi) "bedrieglike aansoek om asiel" 'n aansoek om asiel wat sonder redelike oorsaak gebaseer is op feite, inligting, dokumente of voorstellings wat die applikant weet vals is en welke feite, inligting, dokumente of voorstellings bedoel is om die uitslag van die aansoek wesenlik te raak; (xi)
- 5 (vii) "Departement" die Departement van Binnelandse Sake; (viii)
- (viii) "Direkteur-generaal" die Direkteur-generaal van die Departement; (x)
- (ix) "hierdie Wet" ook die regulasies; (xxiii)
- (x) "kind" 'n persoon onder die ouderdom van 18 jaar; (vii)
- 10 (xi) "klaarblyklik ongegronde aansoek" 'n aansoek om asiel wat gedoen word op ander gronde as dié op grond waarvan so 'n aansoek kragtens hierdie Wet gedoen kan word; (xii)
- (xii) "maatskaplike groep" ook, onder andere, 'n groep persone van 'n bepaalde geslag, seksuele oriëntering, gestremdheid, klas of kaste; (xxi)
- (xiii) "Minister" die Minister van Binnelandse Sake; (xiii)
- 15 (xiv) "misbruikte aansoek om asiel" 'n aansoek om asiel gedoen—
 - (a) met die doel om straf- of siviele verrigtinge of die gevolge daarvan te verydel of te vermy; of
 - (b) na die weiering van een of meer voorafgaande aansoeke sonder dat 'n wesenlike verandering in die applikant se persoonlike omstandighede of
- 20 in die toestand in sy of haar land van oorsprong ingetree het; (i)
- (xv) "reëls" die reëls deur die Appèlraad kragtens artikel 14(2) uitgevaardig; (xx)
- (xvi) "regulasie" 'n regulasie kragtens hierdie Wet uitgevaardig; (xix)
- (xvii) "Staande Komitee" die Staande Komitee vir Vluchtelingsake by artikel 9 ingestel; (xxii)
- 25 (xviii) "vlugteling" enige persoon aan wie asiel ingevolge hierdie Wet verleen is; (xv)
- (xix) "Vluchtelingontvangsbeampte" 'n Vluchtelingontvangsbeampte in artikel 8(2) bedoel; (xvii)
- (xx) "Vluchtelingontvangskantoor" 'n Vluchtelingontvangskantoor kragtens artikel
- 30 8(1) ingestel; (xvi)
- (xxi) "Vluchtelingstatusbepalingsbeampte" 'n Vluchtelingstatusbepalingsbeampte in artikel 8(2) bedoel; (xviii)
- (xxii) "VNHKV" die Verenigde Nasies Hoë Kommissaris vir Vluchtelinge; (xxiv)
- (xxiii) "voorgeskryf" by regulasie voorgeskryf; (xiv)
- 35 (xxiv) "Wet op Vreemdelinge-beheer, 1991" die Wet op Vreemdelinge-beheer, 1991 (Wet No. 96 van 1991). (ii)

Algemene verbod op weiering van toegang, uitsetting, uitlewering of terugsending na ander land in sekere omstandighede

2. Ondanks enige bepaling van hierdie Wet of enige ander wet tot die teendeel mag
- 40 geen persoon toegang tot die Republiek verbied word of uitgesit, uitgelewer of na 'n ander land teruggestuur of aan enige dergelike maatreeël onderwerp word nie indien sodanige persoon weens sodanige verbod, uitsetting, uitlewering, terugsending of ander maatreeël genoep word om terug te keer of te bly in 'n land waar—
- 45 (a) hy of sy op grond van sy of haar ras, geloof, nasionaliteit, politieke mening, of lidmaatskap van 'n bepaalde maatskaplike groep aan vervolging onderwerp kan word; of
- (b) sy of haar lewe, fisiese veiligheid of vryheid bedreig word op grond van eksterne aggressie, besetting, buitelandse oorheersing of ander gebeure wat die openbare orde óf in 'n deel óf in die geheel van daardie land ernstig
- 50 versteur of ontwrig.

Vluchtelingstatus

3. Behoudens Hoofstuk 3 kwalifiseer 'n persoon by die toepassing van hierdie Wet vir vluchtelingstatus indien daardie persoon—
- 55 (a) weens 'n gegronde vrees vir vervolging weens sy of haar ras, stam, geloof, nasionaliteit, politieke mening of lidmaatskap van 'n bepaalde maatskaplike groep, buite die land van sy of haar nasionaliteit is en nie in staat is nie of onwillig is om gebruik te maak van die beskerming van daardie land, of nie oor 'n nasionaliteit beskik nie en buite die land van sy of haar gewese gewone verblyf is en nie in staat is nie of, weens daardie vrees, onwillig is om
- 60 daarheen terug te keer; of

- (b) owing to external aggression, occupation, foreign domination or events seriously disturbing or disrupting public order in either a part or the whole of his or her country of origin or nationality, is compelled to leave his or her place of habitual residence in order to seek refuge elsewhere; or
- (c) is a dependant of a person contemplated in paragraph (a) or (b). 5

Exclusion from refugee status

4. (1) A person does not qualify for refugee status for the purposes of this Act if there is reason to believe that he or she—
- (a) has committed a crime against peace, a war crime or a crime against humanity, as defined in any international legal instrument dealing with any such crimes; 10
 - or
 - (b) has committed a crime which is not of a political nature and which, if committed in the Republic, would be punishable by imprisonment; or
 - (c) has been guilty of acts contrary to the objects and principles of the United Nations Organisation or the Organisation of African Unity; or 15
 - (d) enjoys the protection of any other country in which he or she has taken residence.
- (2) For the purposes of subsection (1)(c), no exercise of a human right recognised under international law may be regarded as being contrary to the objects and principles of the United Nations Organisation or the Organisation of African Unity. 20

Cessation of refugee status

5. (1) A person ceases to qualify for refugee status for the purposes of this Act if—
- (a) he or she voluntarily reavails himself or herself of the protection of the country of his or her nationality; or
 - (b) having lost his or her nationality, he or she by some voluntary and formal act reacquires it; or 25
 - (c) he or she becomes a citizen of the Republic or acquires the nationality of some other country and enjoys the protection of the country of his or her new nationality; or
 - (d) he or she voluntarily re-establishes himself or herself in the country which he or she left; or 30
 - (e) he or she can no longer continue to refuse to avail himself or herself of the protection of the country of his or her nationality because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist and no other circumstances have arisen which justify his or her continued recognition as a refugee. 35
- (2) Subsection (1)(e) does not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself of the protection of the country of nationality.
- (3) The refugee status of a person who ceases to qualify for it in terms of subsection (1) may be withdrawn in terms of section 36. 40

Interpretation, application and administration of Act

6. (1) This Act must be interpreted and applied with due regard to—
- (a) the Convention Relating to the Status of Refugees (UN, 1951);
 - (b) the Protocol Relating to the Status of Refugees (UN, 1967); 45
 - (c) the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU, 1969);
 - (d) the Universal Declaration of Human Rights (UN, 1948); and
 - (e) any other relevant convention or international agreement to which the Republic is or becomes a party. 50
- (2) The Minister is responsible for the administration of this Act.

Delegation of powers and duties

7. (1) The Minister may delegate any power granted to, or duty imposed upon, him or her in terms of this Act, except the duty referred to in section 6(2), to an officer in the Department. 55

- (b) weens eksterne aggressie, besetting, buitelandse oorheersing of gebeure wat die openbare orde óf in 'n deel óf in die geheel van die land van sy of haar herkoms of nasionaliteit, ernstig versteur of ontwrig, genoop is om sy of haar plek van gewone verblyf te verlaat ten einde elders beskerming op te soek; of
- 5 (c) 'n afhanklike is van 'n persoon beoog in paragraaf (a) of (b).

Uitsluiting van vlugtelingstatus

4. (1) By die toepassing van hierdie Wet kwalifiseer 'n persoon nie vir vlugtelingstatus nie indien daar rede is om te glo dat hy of sy—
- 10 (a) 'n misdryf teen die vrede, 'n oorlogsmisdad of 'n misdad teen die mensdom soos omskryf in 'n internasionale regsdokument wat vir sulke misdade voorsiening maak, gepleeg het; of
- (b) 'n misdad gepleeg het wat nie van 'n politieke aard is nie en waarvoor, indien dit in die Republiek gepleeg was, gevangenisstraf opgelê sou word; of
- 15 (c) skuldig was aan dade in stryd met die oogmerke en beginsels van die Verenigde Nasies Organisasie of die Organisasie vir Eenheid in Afrika; of
- (d) die beskerming van enige ander land waar hy of sy gaan woon het, geniet.
- (2) By die toepassing van subartikel (1)(c) mag geen uitoefening van 'n mensereg wat kragtens die volkereg erken word, gereken word as synde in stryd te wees met die
- 20 oogmerke en beginsels van die Verenigde Nasies Organisasie of die Organisasie vir Eenheid in Afrika nie.

Beëindiging van vlugtelingstatus

5. (1) By die toepassing van hierdie Wet hou 'n persoon op om vir vlugtelingstatus te kwalifiseer indien hy of sy—
- 25 (a) sigself vrywillig aan die beskerming van die land van sy of haar nasionaliteit heronderwerp; of
- (b) na verlies van sy of haar nasionaliteit dit weer deur die een of ander vrywillige en formele handeling verkry; of
- (c) 'n burger van die Republiek word of die nasionaliteit van 'n ander land
- 30 verkry en die beskerming van die land van sy of haar nuwe nasionaliteit geniet; of
- (d) sigself vrywillig hervestig in die land wat hy of sy verlaat het; of
- (e) nie langer kan weier om sigself aan die beskerming van die land van sy of haar nasionaliteit te onderwerp nie aangesien die omstandighede met
- 35 betrekking waartoe hy of sy as 'n vlugteling erken is, ophou bestaan het en geen ander omstandighede opgeduik het wat sy of haar voortgesette erkenning as 'n vlugteling regverdig nie.
- (2) Subartikel (1)(e) is nie op 'n vlugteling van toepassing nie wat sigself op dwingende redes kan beroep wat voortspruit uit vorige vervolging weens weiering om
- 40 gebruik te maak van die beskerming van die land van nasionaliteit.
- (3) Die vlugtelingstatus van 'n persoon wat ingevolge subartikel (1) ophou om daarvoor te kwalifiseer, kan ingevolge artikel 36 ingetrek word.

Uitleg, toepassing en uitvoering van Wet

6. (1) Hierdie Wet word uitgelê en toegepas met behoorlike inagneming van—
- 45 (a) die Konvensie met Betrekking tot die Status van Vluchteling (VN, 1951);
- (b) die Protokol met Betrekking tot die Status van Vluchteling (VN, 1967);
- (c) die OEA Konvensie met Betrekking tot die Spesifieke Aspekte van Vluchtelingprobleme in Afrika (OEA, 1969);
- (d) die Universele Verklaring van Menseregte (VN, 1948); en
- 50 (e) enige ander tersaaklike konvensie of internasionale ooreenkoms waartoe die Republiek 'n lid is of word.
- (2) Die Minister is vir die uitvoering van hierdie Wet verantwoordelik.

Delegering van bevoegdhede en pligte

7. (1) Die Minister kan enige bevoegdheid of plig wat aan hom of haar ingevolge
- 55 hierdie Wet verleen of opgelê is, behalwe die plig bedoel in artikel 6(2), aan 'n beampte in die Departement deleger.

(2) A power or duty so delegated must be exercised or performed in accordance with the directions of the Minister, who may at any time withdraw such delegation.

(3) A delegation under subsection (1) does not prevent the Minister from exercising the power or performing the duty in question himself or herself.

CHAPTER 2

5

REFUGEE RECEPTION OFFICES, STANDING COMMITTEE FOR REFUGEE AFFAIRS AND REFUGEE APPEAL BOARD

Refugee Reception Office

8. (1) The Director-General may establish as many Refugee Reception Offices in the Republic as he or she, after consultation with the Standing Committee, regards as necessary for the purposes of this Act. 10

(2) Each Refugee Reception Office must consist of at least one Refugee Reception Officer and one Refugee Status Determination Officer who must—

- (a) be officers of the Department, designated by the Director-General for a term of office determined by the Director-General; and 15
- (b) have such qualifications, experience and knowledge of refugee matters as makes them capable of performing their functions.

(3) The Director-General must, with the approval of the Standing Committee, ensure that each officer appointed under this section receives the additional training necessary to enable such officer to perform his or her functions properly. 20

Standing Committee for Refugee Affairs

9. (1) There is hereby established a Standing Committee for Refugee Affairs.

(2) The Standing Committee must function without any bias and must be independent.

(3) The headquarters of the Standing Committee must be determined by the Minister. 25

Composition of Standing Committee

10. (1) The Standing Committee must consist of—

- (a) a chairperson; and
- (b) such number of other members as the Minister may determine, having regard to the likely volume of work to be performed by the Committee. 30

(2) The chairperson and other members of the Standing Committee must be appointed by the Minister with due regard to their experience, qualifications and expertise, as well as their ability to perform the functions of their office properly.

(3) A person may not be appointed as a member of the Standing Committee if he or she— 35

- (a) is not a South African citizen;
- (b) has been sentenced to imprisonment without the option of a fine during the preceding four years.

(4) At least one of the members of the Standing Committee must be legally qualified.

Powers and duties of Standing Committee

40

11. The Standing Committee—

- (a) may formulate and implement procedures for the granting of asylum;
- (b) may regulate and supervise the work of the Refugee Reception Offices;
- (c) may liaise with representatives of the UNHCR or any nongovernmental organisation; 45
- (d) must advise the Minister or Director-General on any matter referred to it by the Minister or Director-General;
- (e) must review decisions by Refugee Status Determination Officers in respect of manifestly unfounded applications;

(2) 'n Bevoegdheid of plig wat aldus gedelegeer is, moet ooreenkomstig die Minister se lasgewings uitgeoefen of verrig word, welke Minister so 'n delegasie te eniger tyd kan intrek.

(3) 'n Delegasie kragtens subartikel (1) verhoed nie die Minister om self die betrokke bevoegdheid uit te oefen of die betrokke plig te verrig nie.

HOOFTUK 2

VLUGTELINGONTVANGSKANTORE, STAANDE KOMITEE VIR VLUGTELINGSKE EN APPELRAAD OOR VLUGTELINGE

Vlugtelingontvangskantoor

10 8. (1) Die Direkteur-generaal kan soveel Vlughtelingontvangskantore in die Republiek instel as wat hy of sy, na oorleg met die Staande Komitee, nodig ag vir die doeleindes van hierdie Wet.

(2) Elke Vlughtelingontvangskantoor moet uit minstens een Vlughtelingontvangs-beampte en een Vlughtelingstatusbepalingsbeampte bestaan wat—

15 (a) beamptes van die Departement moet wees wat deur die Direkteur-generaal aangewys word vir 'n ampstermyn deur die Direkteur-generaal bepaal; en
(b) die kwalifikasies, ondervinding en kennis van vlughteling-aangeleenthede moet besit wat hulle bevoeg maak om hulle werksaamhede te kan verrig.

(3) Die Direkteur-generaal moet, met die goedkeuring van die Staande Komitee,
20 verseker dat elke beampte wat kragtens hierdie artikel aangestel word die aanvullende opleiding ontvang wat nodig is om sy of haar werksaamhede behoorlik te kan verrig.

Staannde Komitee vir Vlughtelingsake

9. (1) Hierby word 'n Staande Komitee vir Vlughtelingsake ingestel.

(2) Die Staande Komitee moet sonder enige vooroordeel funksioneer en onafhanklik
25 wees.

(3) Die hoofkantoor van die Staande Komitee word deur die Minister bepaal.

Samestelling van Staande Komitee

10. (1) Die Staande Komitee bestaan uit—

(a) 'n voorsitter; en
30 (b) die getal ander lede wat die Minister bepaal, met inagneming van die waarskynlike hoeveelheid werk wat die Komitee moet verrig.

(2) Die Voorsitter en ander lede van die Staande Komitee word deur die Minister aangestel met behoorlike inagneming van hulle ondervinding, kwalifikasies en kundigheid, asook hulle vermoë om die werksaamhede van hulle amp behoorlik te kan
35 verrig.

(3) 'n Persoon mag nie as lid van die Staande Komitee aangestel word nie indien hy of sy—

(a) nie 'n Suid-Afrikaanse burger is nie;
40 (b) gedurende die voorafgaande vier jaar tot gevangenisstraf sonder die keuse van 'n boete gevonnis is.

(4) Ten minste een van die lede van die Staande Komitee moet in die regte gekwalifiseer wees.

Bevoegdhede en pligte van Staande Komitee

11. Die Staande Komitee—

45 (a) kan prosedures vir die verlening van asiel formuleer en implementeer;
(b) kan die werk van die Vlughtelingontvangskantore reguleer en daarvoor toesig hou;
(c) kan met verteenwoordigers van die VNHKV of enige nie-regerings-organisasie skakel;
50 (d) moet die Minister of Direkteur-generaal oor enige aangeleentheid adviseer wat na hom deur die Minister of Direkteur-generaal verwys is;
(e) moet beslissings betreffende klaarblyklik ongegronde aansoeke deur Vlughtelingstatusbepalingsbeamptes hersien;

- (f) must decide any matter of law referred to it by a Refugee Status Determination Officer;
- (g) must monitor the decisions of the Refugee Status Determination Officers; and
- (h) must determine the conditions relating to study or work in the Republic under which an asylum seeker permit may be issued. 5

Establishment of Refugee Appeal Board

- 12. (1) There is hereby established a Refugee Appeal Board.
- (2) The headquarters of the Appeal Board must be determined by the Minister.
- (3) The Appeal Board must function without any bias and must be independent.

Composition of Appeal Board 10

- 13. (1) The Appeal Board must consist of a chairperson and at least two other members, appointed by the Minister with due regard to a person's suitability to serve as a member by virtue of his or her experience, qualifications and expertise and his or her capability to perform the functions of the Appeal Board properly.
- (2) At least one of the members of the Appeal Board must be legally qualified. 15
- (3) A person may not be appointed as a member of the Appeal Board if he or she—
 - (a) is not a South African citizen;
 - (b) has been sentenced to imprisonment without the option of a fine during the preceding four years.

Powers and duties of Appeal Board 20

- 14. (1) The Appeal Board must—
 - (a) hear and determine any question of law referred to it in terms of this Act;
 - (b) hear and determine any appeal lodged in terms of this Act;
 - (c) advise the Minister or Standing Committee regarding any matter which the Minister or Standing Committee refers to the Appeal Board. 25
- (2) The Appeal Board may determine its own practice and make its own rules.
- (3) Rules made under subsection (2) must be published in the *Gazette*.

Meetings of Standing Committee and Appeal Board

- 15. In the case of both the Standing Committee and the Appeal Board—
 - (a) meetings must be convened by the chairperson; 30
 - (b) the majority of members constitutes a quorum;
 - (c) decisions must be taken by a majority of votes, and in the case of an equality of votes, the chairperson has a casting vote.

Periods of office of members of Standing Committee and Appeal Board

- 16. In the case of both the Standing Committee and the Appeal Board—
 - (a) a member is appointed for five years; 35
 - (b) any member is eligible for reappointment upon expiry of his or her term of office;
 - (c) any member may resign by tendering a written notice of resignation to the Minister. 40

Removal from office of member of Standing Committee or Appeal Board

- 17. (1) Any member of the Standing Committee or Appeal Board may be removed from office by the Minister on account of misconduct or inability to perform the functions of his or her office properly.
- (2) The Minister may only act in terms of subsection (1) if the member concerned and the relevant chairperson have been given an opportunity to make representations or comments on the matter and the Minister has taken any such representations and comments into consideration. 45

- (f) moet 'n regspraak wat deur 'n Vlughtelingstatusbepalingsbeampte na hom verwys is, beslis;
- (g) moet die beslissings van die Vlughtelingstatusbepalingsbeamptes monitor; en
- (h) moet die voorwaardes met betrekking tot studie of werk in die Republiek waaronder 'n asielversoekepermit uitgereik word, bepaal.

Instelling van Appèlraad oor Vlughtelinge

- 12. (1) Hierby word 'n Appèlraad oor Vlughtelinge ingestel.
- (2) Die hoofkantoor van die Appèlraad word deur die Minister bepaal.
- (3) Die Appèlraad moet sonder enige vooroordeel funksioneer en onafhanklik wees.

10 Samestelling van Appèlraad

- 13. (1) Die Appèlraad bestaan uit 'n voorsitter en minstens twee ander lede, deur die Minister aangestel, met behoorlike inagneming van 'n persoon se geskiktheid om as 'n lid te dien uit hoofde van sy of haar ondervinding, kwalifikasies en kundigheid, en sy of haar vermoë om die werksaamhede van die Appèlraad behoorlik te kan verrig.
- 15 (2) Ten minste een van die lede van die Appèlraad moet in die regte gekwalifiseerd wees.
- (3) 'n Persoon mag nie as lid van die Staande Komitee aangestel word nie indien hy of sy—
 - (a) nie 'n Suid-Afrikaanse burger is nie;
 - 20 (b) gedurende die voorafgaande vier jaar tot gevangenisstraf sonder die keuse van 'n boete gevonnis is.

Bevoegdhede en pligte van Appèlraad

- 14. (1) Die Appèlraad moet—
 - (a) 'n regspraak beslis wat ingevolge hierdie Wet wat na hom verwys is;
 - 25 (b) 'n appèl wat ingevolge hierdie Wet aangeteken is, beslis;
 - (c) die Minister of Staande Komitee adviseer oor enige aangeleentheid wat die Minister of die Staande Komitee na die Appèlraad verwys.
- (2) Die Appèlraad kan sy eie praktyk bepaal en sy eie reëls maak.
- (3) Reëls wat kragtens subartikel (2) gemaak is, moet in die *Staatskoerant* 30 gepubliseer word.

Vergaderings van Staande Komitee en Appèlraad

- 15. In die geval van sowel die Staande Komitee as die Appèlraad—
 - (a) word vergaderings deur die voorsitter belê;
 - (b) vorm die meerderheid van die lede 'n kworum;
 - 35 (c) word besluite geneem deur 'n meerderheid van stemme, en in die geval van 'n staking van stemme, het die voorsitter 'n beslissende stem.

Ampstermyn van lede van Staande Komitee en Appèlraad

- 16. In die geval van sowel die Staande Komitee as die Appèlraad—
 - (a) word 'n lid vir vyf jaar aangestel;
 - 40 (b) is 'n lid bevoeg om weer aangestel te word by die verstryking van sy of haar ampstermyn;
 - (c) kan 'n lid bedank deur 'n skriftelike bedankingskennisgewing by die Minister in te dien.

Verwydering uit amp van lid van Staande Komitee of Appèlraad

- 45 17. (1) 'n Lid van die Staande Komitee of Appèlraad kan deur die Minister uit sy of haar amp verwyder word op grond van wangedrag of onvermoë om die werksaamhede verbonde aan sy of haar amp behoorlik te verrig.
- (2) Die Minister kan slegs ingevolge subartikel (1) optree indien die betrokke lid en die tersaaklike voorsitter die geleentheid gegun is om oor die aangeleentheid vertoë te rig of kommentaar te lewer en die Minister daardie vertoë en kommentaar in 50 aanmerking geneem het.

Filling of vacancies in Standing Committee or Appeal Board

18. The Minister may appoint a suitable person in a vacancy arising from the death, resignation or removal from office of a member of the Standing Committee or Appeal Board, for the remainder of the term of office of the member in respect of whom the vacancy has occurred.

5

Remuneration of members of Standing Committee and Appeal Board

19. The members of the Standing Committee and the Appeal Board must receive such remuneration, allowances and other benefits as may be determined by the Minister with the approval of the Minister of Finance.

Administrative staff of Standing Committee and Appeal Board

10

20. The administrative work connected with the performance of the functions of the Standing Committee and the Appeal Board, must be performed by officers of the Department, designated by the Director-General for that purpose.

CHAPTER 3**APPLICATION FOR ASYLUM**

15

Application for asylum

21. (1) An application for asylum must be made in person in accordance with the prescribed procedures to a Refugee Reception Officer at any Refugee Reception Office.

(2) The Refugee Reception Officer concerned—

- (a) must accept the application form from the applicant; 20
- (b) must see to it that the application form is properly completed, and, where necessary, must assist the applicant in this regard;
- (c) may conduct such enquiry as he or she deems necessary in order to verify the information furnished in the application; and
- (d) must submit any application received by him or her, together with any information relating to the applicant which he or she may have obtained, to a Refugee Status Determination Officer, to deal with it in terms of section 24. 25

(3) When making an application for asylum, every applicant must have his or her fingerprints or other prints taken in the prescribed manner and every applicant who is 16 years old or older must furnish two recent photographs of himself or herself of such dimensions as may be prescribed. 30

(4) Notwithstanding any law to the contrary, no proceedings may be instituted or continued against any person in respect of his or her unlawful entry into or presence within the Republic if—

- (a) such person has applied for asylum in terms of subsection (1), until a decision has been made on the application and, where applicable, such person has had an opportunity to exhaust his or her rights of review or appeal in terms of Chapter 4; or 35
- (b) such person has been granted asylum.

(5) The confidentiality of asylum applications and the information contained therein must be ensured at all times. 40

Asylum seeker permit

22. (1) The Refugee Reception Officer must, pending the outcome of an application in terms of section 21(1), issue to the applicant an asylum seeker permit in the prescribed form allowing the applicant to sojourn in the Republic temporarily, subject to any conditions, determined by the Standing Committee, which are not in conflict with the Constitution or international law and are endorsed by the Refugee Reception Officer on the permit. 45

(2) Upon the issue of a permit in terms of subsection (1), any permit issued to the applicant in terms of the Aliens Control Act, 1991, becomes null and void, and must forthwith be returned to the Director-General for cancellation. 50

Vul van vakatures in Staande Komitee of Appèlraad

18. Die Minister kan 'n geskikte persoon aanstel in 'n vakature wat ontstaan het uit die dood of bedanking van 'n lid van die Staande Komitee of Appèlraad of die verwydering van so 'n lid uit sy of haar amp; vir die oorblywende gedeelte van die ampstermyn van die lid ten opsigte van wie die vakature ontstaan het.

Vergoeding van lede van Staande Komitee en Appèlraad

19. Die lede van die Staande Komitee en Appèlraad ontvang die besoldiging, toelaes en ander voordele wat die Minister, met die goedkeuring van die Minister van Finansies, bepaal.

10 Administratiewe personeel van Staande Komitee en Appèlraad

20. Die administratiewe werk verbonde aan die verrigting van die werksaamhede van die Staande Komitee en die Appèlraad word deur beamptes van die Departement wat deur die Direkteur-generaal vir daardie doel aangewys is, verrig.

HOOFSTUK 3**15 AANSOEK OM ASIEL****Aansoek om asiel**

21. (1) 'n Aansoek om asiel moet persoonlik ooreenkomstig die voorgeskrewe prosedures by 'n Vluchtelingontvangsbeampte by 'n Vluchtelingontvangskantoor gedoen word.
- 20 (2) Die betrokke Vluchtelingontvangsbeampte—
- (a) moet die aansoekvorm van die applikant ontvang;
 - (b) moet toesien dat die aansoekvorm behoorlik voltooi is en, waar nodig, die applikant in hierdie opsig bystaan;
 - (c) kan die ondersoek doen wat hy of sy nodig ag ten einde die inligting wat in die aansoek verskaf is, te bevestig; en
 - 25 (d) moet 'n aansoek wat deur hom of haar ontvang is, saam met enige inligting met betrekking tot die applikant wat hy of sy bekom het, aan 'n Vluchteling-statusbepalingsbeampte voorlê om ingevolge artikel 24 daarmee te handel.
- (3) Wanneer 'n aansoek om asiel gedoen word, moet elke applikant sy of haar
- 30 vingerafdrukke of ander afdrukke op die voorgeskrewe wyse laat neem en moet elke applikant wat 16 jaar oud of ouer is twee onlangse foto's van homself of haarself met die voorgeskrewe afmetings verskaf.
- (4) Ondanks enige andersluidende wet, mag geen geregtelike stappe ingestel of voortgesit word teen enige persoon betreffende sy of haar onwettige binnekoms of
- 35 teenwoordigheid in die Republiek nie indien—
- (a) daardie persoon ingevolge subartikel (1) aansoek om asiel gedoen het en alvorens 'n besluit oor die aansoek geneem is en, waar van toepassing, daardie persoon die geleentheid gehad het om sy of haar hersieningsreg of reg tot appèl ingevolge Hoofstuk 4 uit te put; of
 - 40 (b) asiel aan daardie persoon verleen is.
- (5) Die vertroulikheid van asielaansoeke en die inligting daarin vervat, moet te alle tye verseker word.

Asielversoekerspermit

22. (1) Die Vluchtelingontvangsbeampte moet, hangende die uitslag van 'n aansoek
- 45 ingevolge artikel 21(1), 'n asielversoekerspermit in die voorgeskrewe vorm aan die applikant uitreik wat die applikant toelaat om tydelik in die Republiek te vertoef behoudens enige voorwaardes deur die Staande Komitee bepaal en wat nie met die Grondwet of volkereg in stryd is nie en deur Vluchtelingontvangsbeampte op die permit geëndosseer is.
- 50 (2) By die uitreiking van 'n permit ingevolge subartikel (1) word 'n permit aan die applikant ingevolge die Wet op Vreemdelinge-beheer, 1991, uitgereik, nietig en moet dit dadelik aan die Direkteur-generaal vir kansellering terugbesorg word.

(3) A Refugee Reception Officer may from time to time extend the period for which a permit has been issued in terms of subsection (1), or amend the conditions subject to which a permit has been so issued.

(4) The permit referred to in subsection (1) must contain a recent photograph and the fingerprints or other prints of the holder thereof as prescribed. 5

(5) A permit issued to any person in terms of subsection (1) lapses if the holder departs from the Republic without the consent of the Minister.

(6) The Minister may at any time withdraw an asylum seeker permit if—

- (a) the applicant contravenes any conditions endorsed on that permit; or
- (b) the application for asylum has been found to be manifestly unfounded, abusive or fraudulent; or 10
- (c) the application for asylum has been rejected; or
- (d) the applicant is or becomes ineligible for asylum in terms of section 4 or 5.

(7) Any person who fails to return a permit in accordance with subsection (2), or to comply with any condition set out in a permit issued in terms of this section, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment. 15

Detention of asylum seeker

23. If the Minister has withdrawn an asylum seeker permit in terms of section 22(6), he or she may, subject to section 29, cause the holder to be arrested and detained pending the finalisation of the application for asylum, in the manner and place determined by him or her with due regard to human dignity. 20

Decision regarding application for asylum

24. (1) Upon receipt of an application for asylum the Refugee Status Determination Officer— 25

- (a) in order to make a decision, may request any information or clarification he or she deems necessary from an applicant or Refugee Reception Officer;
- (b) where necessary, may consult with and invite a UNHCR representative to furnish information on specified matters; and
- (c) may, with the permission of the asylum seeker, provide the UNHCR representative with such information as may be requested. 30

(2) When considering an application the Refugee Status Determination Officer must have due regard for the rights set out in section 33 of the Constitution, and in particular, ensure that the applicant fully understands the procedures, his or her rights and responsibilities and the evidence presented. 35

(3) The Refugee Status Determination Officer must at the conclusion of the hearing—

- (a) grant asylum; or
- (b) reject the application as manifestly unfounded, abusive or fraudulent; or
- (c) reject the application as unfounded; or
- (d) refer any question of law to the Standing Committee. 40

(4) If an application is rejected in terms of subsection (3)(b)—

- (a) written reasons must be furnished to the applicant within five working days after the date of the rejection or referral;
- (b) the record of proceedings and a copy of the reasons referred to in paragraph (a) must be submitted to the Standing Committee within 10 working days after the date of the rejection or referral. 45

CHAPTER 4

REVIEWS AND APPEALS

Review by Standing Committee

25. (1) The Standing Committee must review any decision taken by a Refugee Status Determination Officer in terms of section 24(3)(b). 50

(2) Before reaching a decision, the Standing Committee may—

(3) 'n Vlughtelingontvangsbeampte kan van tyd tot tyd die tydperk waarvoor 'n permit ingevolge subartikel (1) uitgereik is, verleng, of die voorwaardes waaronder 'n permit aldus uitgereik is, wysig.

(4) Die permit bedoel in subartikel (1) moet 'n onlangse foto en die vingerafdrukke 5 of ander afdrukke van die houer daarvan bevat, soos voorgeskryf.

(5) 'n Permit wat ingevolge subartikel (1) aan 'n persoon uitgereik is, verval indien die houer sonder die Minister se toestemming uit die Republiek vertrek.

(6) Die Minister kan te eniger tyd 'n asielversoekerspermit intrek indien—

- (a) die applikant enige voorwaardes op die permit geëndosseer, verontagsaam; of
- 10 (b) daar bevind is dat die aansoek om asiel klaarblyklik ongegrond, misbruik of bedrieglik is; of
- (c) die aansoek om asiel afgekeur is; of
- (d) die applikant ingevolge artikel 4 of 5 ongeskik is of word vir asiel.

(7) Enigiemand wat versuim om 'n permit ooreenkomstig subartikel (2) terug te 15 handig, of om te voldoen aan 'n voorwaarde wat uiteengesit word in 'n permit wat ingevolge hierdie artikel uitgereik is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of met beide 'n boete en daardie gevangenisstraf.

Aanhouding van asielversoeker

20 23. Indien die Minister 'n asielversoekerspermit ingevolge artikel 22(6) ingetrek het, kan hy of sy, behoudens artikel 29, die houer laat arresteer en laat aanhou hangende die afhandeling van die aansoek om asiel, op die wyse en by die plek wat die Minister bepaal, met behoorlike inagneming van die houer se menswaardigheid.

Besluit rakende aansoek om asiel

25 24. (1) Die Vlughtelingstatusbepalingsbeampte kan by ontvangs van 'n aansoek om asiel—

- (a) ten einde 'n beslissing te neem, enige inligting of verduideliking wat hy of sy nodig ag van 'n applikant of Vlughtelingontvangsbeampte versoek;
- (b) wanneer nodig, met 'n verteenwoordiger van die VNHKV oorleg pleeg en 30 hom of haar uitnooi om inligting oor bepaalde aangeleenthede te verskaf; en
- (c) met die toestemming van die asielversoeker die verteenwoordiger van die VNHKV voorsien van die inligting wat versoek mag word.

(2) Wanneer 'n aansoek oorweeg word, moet die Vlughtelingstatusbepalingsbeampte die regte uiteengesit in artikel 33 van die Grondwet behoorlik in ag neem en, in 35 besonder, verseker dat die applikant die prosedures, sy of haar regte en verantwoordelikhede en die getuienis wat aangebied is, ten volle verstaan.

(3) Die Vlughtelingstatusbepalingsbeampte moet aan die einde van die verhoor—

- (a) asiel verleen; of
- (b) die aansoek as klaarblyklik ongegrond, misbruik of bedrieglik afkeur; of
- 40 (c) die aansoek as ongegrond afkeur; of
- (d) enige regsvraag na die Staande Komitee verwys.

(4) Indien 'n aansoek ingevolge subartikel (3)(b) afgekeur word—

- (a) moet skriftelike redes binne vyf werksdae na die datum van die afkeuring of verwysing aan die applikant verskaf word;
- 45 (b) moet die oorkonde van die verrigtinge en 'n afskrif van die redes in paragraaf (a) bedoel binne 10 werksdae na die datum van die afkeuring of verwysing aan die Staande Komitee voorgelê word.

HOOFSTUK 4

HERSIENINGS EN APPELLE

50 Hersiening deur Staande Komitee

25. (1) Die Staande Komitee moet 'n beslissing wat ingevolge artikel 24(3)(b) deur 'n Vlughtelingstatusbepalingsbeampte gevel is, hersien.

(2) Die Staande Komitee kan, alvorens hy tot 'n beslissing kom—

- (a) invite the UNHCR representative to make oral or written representations;
 - (b) request the attendance of any person who is in a position to provide it with information relevant to the matter being dealt with;
 - (c) on its own accord make such further enquiry and investigation into the matter being dealt with as it may deem appropriate; and
 - (d) request the applicant to appear before it and to provide such other information as it may deem necessary. 5
- (3) The Standing Committee—
- (a) may confirm or set aside a decision made in terms of section 24(3)(b); and
 - (b) must decide on a question of law referred to it in terms of section 24(3)(d). 10
- (4) The Standing Committee must inform the Refugee Status Determination Officer concerned of its decision in the prescribed manner and within the prescribed time.
- (5) After the Standing Committee has decided a question of law referred to it in terms of section 24(3)(d), the Standing Committee must refer the application back to the Refugee Status Determination Officer with such directives as are necessary and the Refugee Status Determination Officer must decide the application in terms of the directives. 15

Appeals to Appeal Board

26. (1) Any asylum seeker may lodge an appeal with the Appeal Board in the manner and within the period provided for in the rules if the Refugee Status Determination Officer has rejected the application in terms of section 24(3)(c). 20
- (2) The Appeal Board may after hearing an appeal confirm, set aside or substitute any decision taken by a Refugee Status Determination Officer in terms of section 24(3).
- (3) Before reaching a decision, the Appeal Board may—
- (a) invite the UNHCR representative to make oral or written representations;
 - (b) refer the matter back to the Standing Committee for further inquiry and investigation;
 - (c) request the attendance of any person who, in its opinion, is in a position to provide the Appeal Board with relevant information;
 - (d) of its own accord make further inquiry or investigation;
 - (e) request the applicant to appear before it and to provide any such other information as it may deem necessary. 25 30
- (4) The Appeal Board must allow legal representation upon the request of the applicant.

CHAPTER 5

35

RIGHTS AND OBLIGATIONS OF REFUGEES

Protection and general rights of refugees

27. A refugee—
- (a) is entitled to a formal written recognition of refugee status in the prescribed form;
 - (b) enjoys full legal protection, which includes the rights set out in Chapter 2 of the Constitution and the right to remain in the Republic in accordance with the provisions of this Act;
 - (c) is entitled to apply for an immigration permit in terms of the Aliens Control Act, 1991, after five years' continuous residence in the Republic from the date on which he or she was granted asylum, if the Standing Committee certifies that he or she will remain a refugee indefinitely;
 - (d) is entitled to an identity document referred to in section 30;
 - (e) is entitled to a South African travel document on application as contemplated in section 31; 40 45 50

- (a) die verteenwoordiger van die VNHKV uitnooi om mondelinge of skriftelike voorleggings te doen;
 - (b) die teenwoordigheid van 'n persoon versoek wat in staat is om die Staande Komitee van inligting te voorsien wat betrekking het op die aangeleentheid wat gehanteer word;
 - (c) uit eie beweging die verdere navraag doen, en die ondersoek betreffende die aangeleentheid wat gehanteer word, instel, wat die Staande Komitee toepaslik ag; en
 - (d) die applikant versoek om voor die Staande Komitee te verskyn en die ander inligting wat die Staande Komitee nodig ag, te verskaf.
- (3) Die Staande Komitee—
- (a) kan 'n beslissing wat ingevolge artikel 24(3)(b) gevel is, bekragtig of tersyde stel; en
 - (b) moet 'n regspraak beslis wat ingevolge artikel 24(3)(d) na hom verwys is.
- (4) Die Staande Komitee moet die betrokke Vluchtelingstatusbepalingsbeampte oorsy beslissing op die voorgeskrewe wyse en binne die voorgeskrewe tydperk inlig.
- (5) Nadat die Staande Komitee oor 'n regspraak beslis het wat ingevolge artikel 24(3)(d) na hom verwys is, moet die Staande Komitee die aansoek na die Vluchtelingstatusbepalingsbeampte terugverwys met die aanwysings wat nodig is en die Vluchtelingstatusbepalingsbeampte moet die aansoek ingevolge die aanwysings beslis.

Appèlle na Appèlraad

26. (1) Enige asielversoeker kan 'n appèl by die Appèlraad op die wyse en binne die tydperk voorgeskryf deur die reëls aanteken, indien die Vluchtelingstatusbepalingsbeampte die aansoek ingevolge artikel 24(3)(c) afgekeur het.
- (2) Die Appèlraad kan, nadat hy 'n appèl aangehoor het, enige besluit deur 'n Vluchtelingstatusbepalingsbeampte ingevolge artikel 24(3) bekragtig, tersyde stel of vervang.
- (3) Die Appèlraad kan, alvorens hy tot 'n beslissing kom—
- (a) die verteenwoordiger van die VNHKV uitnooi om 'n mondelinge of skriftelike voorleggings te doen;
 - (b) die aangeleentheid na die Staande Komitee vir verdere navraag en ondersoek terugverwys;
 - (c) die teenwoordigheid van enige persoon versoek wat na die Appèlraad se mening in staat is om die Appèlraad van tersaaklike inligting te voorsien;
 - (d) uit eie beweging verdere navraag doen of ondersoek instel;
 - (e) die applikant versoek om voor die Appèlraad te verskyn en enige ander inligting wat die Appèlraad nodig ag, te verstrek.
- (4) Die Appèlraad moet op versoek van die applikant regsvertenwoordiging toelaat.

HOOFSTUK 5

40 REGTE EN VERPLIGTINGE VAN VLUGTELINGE

Beskerming en algemene regte van vlugtelinge

27. 'n Vluchteling—
- (a) is geregtig op 'n formele skriftelike erkenning van vluchtelingstatus in die voorgeskrewe vorm;
 - (b) geniet volle wetlike beskerming wat die regte uiteengesit in Hoofstuk 2 van die Grondwet, en die reg om in ooreenstemming met die bepalinge van hierdie Wet in die Republiek te bly, insluit;
 - (c) is geregtig om aansoek om 'n immigrasiepermit ingevolge die Wet op Vreemdelinge-beheer, 1991, te doen, na vyf jaar ononderbroke verblyf in die Republiek vanaf die datum waarop hy of sy asiel verleen is indien die Staande Komitee sertifiseer dat hy of sy onbepaald 'n vluchteling sal bly;
 - (d) is geregtig op 'n identiteitsdokument bedoel in artikel 30;
 - (e) is geregtig op 'n Suid-Afrikaanse reisdokument by aansoek soos beoog in artikel 31;

- (f) is entitled to seek employment; and
- (g) is entitled to the same basic health services and basic primary education which the inhabitants of the Republic receive from time to time.

Rights of refugees in respect of removal from Republic

28. (1) Subject to section 2, a refugee may be removed from the Republic on grounds of national security or public order. 5

(2) A removal under subsection (1) may only be ordered by the Minister with due regard for the rights set out in section 33 of the Constitution and the rights of the refugee in terms of international law.

(3) If an order is made under this section for the removal from the Republic of a refugee, any dependant of such refugee who has not been granted asylum, may be included in such an order and removed from the Republic if such dependant has been afforded a reasonable opportunity to apply for asylum but has failed to do so or if his or her application for asylum has been rejected. 10

(4) Any refugee ordered to be removed under this section may be detained pending his or her removal from the Republic. 15

(5) Any order made under this section must afford reasonable time to the refugee concerned to obtain approval from any country of his or her own choice, for his or her removal to that country.

Restriction of detention

20

29. (1) No person may be detained in terms of this Act for a longer period than is reasonable and justifiable and any detention exceeding 30 days must be reviewed immediately by a judge of the High Court of the provincial division in whose area of jurisdiction the person is detained, designated by the Judge President of that division for that purpose and such detention must be reviewed in this manner immediately after the expiry of every subsequent period of 30 days. 25

(2) The detention of a child must be used only as a measure of last resort and for the shortest appropriate period of time.

Identity document to refugee

30. (1) A refugee must be issued with an identity document which must contain— 30

- (a) an identity number of the holder compiled in the prescribed manner;
- (b) the holder's surname, full forenames, gender, date of birth and the place or country where he or she was born;
- (c) the country of which the holder is a citizen, if any;
- (d) a recent photograph of the holder; and 35
- (e) the holder's fingerprints or other prints, taken and displayed in the prescribed manner.

(2) An identity document referred to in subsection (1) must be in the prescribed form.

Travel document to refugee

31. A refugee may apply for a travel document in the prescribed manner. 40

Unaccompanied child and mentally disabled person

32. (1) Any child who appears to qualify for refugee status in terms of section 3, and who is found under circumstances which clearly indicate that he or she is a child in need of care as contemplated in the Child Care Act, 1983 (Act No. 74 of 1983), must forthwith be brought before the Children's Court for the district in which he or she was found. 45

(2) The Children's Court may order that a child contemplated in subsection (1) be assisted in applying for asylum in terms of this Act.

(3) Any mentally disabled person who appears to qualify for refugee status in terms of section 3 must be assisted in applying for asylum in terms of this Act. 50

- (f) is geregtig om werk te soek; en
- (g) is geregtig op dieselfde basiese gesondheidsorg en primêre onderwys as wat die Republiek se inwoners van tyd tot tyd ontvang.

Regte van vlugteling met betrekking tot verwydering uit Republiek

- 5 **28.** (1) Behoudens artikel 2 kan 'n vlugteling op grond van nasionale veiligheid of openbare orde uit die Republiek verwyder word.
- (2) 'n Verwydering kragtens subartikel (1) mag slegs deur die Minister beveel word met behoorlike inagneming van die regte in artikel 33 van die Grondwet uiteengesit en die regte van die vlugteling ingevolge die volkereg.
- 10 (3) Indien 'n bevel vir die verwydering van 'n vlugteling uit die Republiek kragtens hierdie artikel gemaak word, kan enige afhanklike van daardie vlugteling aan wie asiel nie verleen is nie, by so 'n bevel ingesluit word en vanuit die Republiek verwyder word indien so 'n afhanklike redelike geleentheid gegun is om om asiel aansoek te doen maar versuim het om dit te doen of indien sy of haar aansoek om asiel afgekeur is.
- 15 (4) Enige vlugteling wat kragtens hierdie artikel beveel is om verwyder te word, kan hangende sy of haar verwydering vanuit die Republiek, aangehou word.
- (5) Enige bevel kragtens hierdie artikel gegee, moet die betrokke vlugteling redelike tyd gun om toestemming van enige land van sy of haar keuse om na daardie land verwyder te word, te verkry.

20 Beperking op aanhouding

- 29.** (1) Niemand mag ingevolge hierdie Wet vir 'n langer tydperk as wat redelik en regverdigbaar is, aangehou word nie en enige aanhouding vir langer as 30 dae moet onmiddellik hersien word deur 'n regter van die Hoë Hof van die provinsiale afdeling binne wie se regsgebied daardie persoon aangehou word, deur die Regter-president van
- 25 daardie afdeling vir daardie doel aangewys, en sodanige aanhouding moet op dieselfde wyse onmiddellik na verstryking van elke daaropvolgende tydperk van 30 dae hersien word.
- (2) Die aanhouding van 'n kind moet slegs as 'n laaste uitweg gevolg word en vir die kortste moontlike tydperk.

30 Identiteitsdokument aan vlugteling

- 30.** (1) Daar word aan 'n vlugteling 'n identiteitsdokument uitgereik, bevattende—
- (a) 'n identiteitsnommer van die houer wat op die voorgeskrewe wyse saamgestel word;
 - (b) die houer se van, volle voorname, geslag, geboortedatum en plek of land

35 waar hy of sy gebore is;

 - (c) die land waarvan die houer 'n burger is, indien enige;
 - (d) 'n onlangse foto van die houer; en
 - (e) die vingerafdrukke of ander afdrukke van die houer, geneem en vertoon op die voorgeskrewe wyse.
- 40 (2) 'n Identiteitsdokument in subartikel (1) bedoel, moet in die voorgeskrewe vorm wees.

Reisdokument aan vlugteling

- 31.** 'n Vlugteling kan op die voorgeskrewe wyse aansoek om 'n reisdokument doen.

Onvergeselde kind en geestesgestremde persoon

- 45 **32.** (1) Enige kind wat vir vlugtelingstatus ingevolge artikel 3 blyk te kwalifiseer, en wat onder omstandighede gevind word wat duidelik aandui dat hy of sy 'n sorgbehoewende kind is soos in die Wet op Kindersorg, 1983 (Wet No. 74 van 1983), beoog, moet onmiddellik voor die Kinderhof vir die distrik waarin hy of sy gevind is, gebring word.
- (2) Die Kinderhof kan gelas dat 'n kind beoog in subartikel (1) bygestaan word in 'n aansoek om asiel ingevolge hierdie Wet.
- 50 (3) Enige geestesgestremde persoon wat vir vlugtelingstatus ingevolge artikel 3 blyk te kwalifiseer, moet by 'n aansoek om asiel ingevolge hierdie Wet bygestaan word.

Dependants of refugee

33. (1) A person who qualifies for refugee status in terms of section 3(a) or (b) and who would like one or more of his or her dependants who have accompanied him or her to the Republic to receive asylum must, when applying for asylum, also assist every such dependant to apply for asylum in terms of this Act or apply on behalf of any such dependant who is not able to apply by himself or herself. 5

(2) Where a dependant of a recognised refugee is within the Republic in accordance with an asylum seeker permit or has been granted asylum in terms of this Act, and ceases to be a dependant by reason of his or her marriage, his or her attaining the age of majority or the cessation of his or her dependence upon the recognised refugee, as the case may be, he or she may be permitted to continue to remain within the Republic in accordance with the provisions of this Act. 10

(3) Upon the death of a recognised refugee or upon his or her divorce, every person who, immediately before such death or divorce was within the Republic in terms of this Act as a dependant of such recognised refugee, may be permitted to continue to remain within the Republic in accordance with the provisions of this Act. 15

(4) Nothing contained in this Act may prevent a dependant of a recognised refugee or a person who has, in terms of subsection (2) or (3), been permitted to continue to remain in the Republic from applying for recognition as a refugee in accordance with the provisions of this Act. 20

Obligations of refugees

34. A refugee must abide by the laws of the Republic.

CHAPTER 6**SUPPLEMENTARY AND GENERAL PROVISIONS****Reception and accommodation of asylum seekers in event of mass influx 25**

35. (1) The Minister may, if he or she considers that any group or category of persons qualify for refugee status as is contemplated in section 3, by notice in the *Gazette*, declare such group or category of persons to be refugees either unconditionally or subject to such conditions as the Minister may impose in conformity with the Constitution and international law and may revoke any such declaration by notice in the *Gazette*. 30

(2) The Minister may, after consultation with the UNHCR representative and the Premier of the province concerned, designate areas, centres or places for the temporary reception and accommodation of asylum seekers or refugees or any specific category or group of asylum seekers or refugees who entered the Republic on a large scale, pending the regularisation of their status in the Republic. 35

(3) The Minister may appoint any person as a manager of an area, centre or place designated under subsection (2).

(4) The Minister may at any time withdraw the designation of an area, centre or place contemplated in subsection (2). 40

Withdrawal of refugee status

36. (1) If a person has been recognised as a refugee erroneously on an application which contains any materially incorrect or false information, or was so recognised due to fraud, forgery, a false or misleading representation of a material or substantial nature in relation to the application or if such person ceases to qualify for refugee status in terms of section 5— 45

- (a) the Standing Committee must inform such person of its intention of withdrawing his or her classification as refugee and the reasons therefor; and
- (b) such person may, within the prescribed period, make a written submission with regard thereto. 50

(2) After consideration of all material facts and with due regard for the rights set out in section 33 of the Constitution, the Standing Committee may withdraw such

Afhanklikes van vlugteling

33. (1) Iemand wat ingevolge artikel 3(a) of (b) vir vlugtelingstatus kwalifiseer en wat verkies dat een of meer van sy of haar afhanklikes wat hom of haar na die Republiek vergesel het asiel verleen moet word, moet, wanneer hy of sy om asiel
5 aansoek doen, ook elke sodanige afhanklike bystaan om vir asiel ingevolge hierdie Wet aansoek te doen of moet namens enige sodanige afhanklike wat nie in staat is om self aansoek te doen nie, aansoek doen.

(2) Waar 'n afhanklike van 'n erkende vlugteling op sterkte van 'n asielversoeker-spermit in die Republiek is of indien aan hom of haar asiel toegestaan is, en hy of sy
10 as gevolg van sy of haar huwelik, die bereiking van meerderjarigheid of omdat hy of sy nie meer van die erkende vlugteling afhanklik is nie, na gelang van die geval, ophou om 'n afhanklike te wees, kan hy of sy toegelaat word om ooreenkomstig die bepalings van hierdie Wet binne die Republiek te bly.

(3) By die afsterwe van 'n erkende vlugteling of indien hy of sy sou skei, kan elke
15 persoon wat, onmiddellik voor sodanige afsterwe of egskeiding ingevolge hierdie Wet as 'n afhanklike van daardie erkende vlugteling binne die Republiek was, toegelaat word om binne die Republiek ooreenkomstig hierdie Wet te bly.

(4) Niks in hierdie Wet vervat, verhoed 'n afhanklike van 'n erkende vlugteling, of
20 'n persoon wat ingevolge subartikel (2) of (3) toegelaat is om binne die Republiek te bly, om aansoek om erkenning as 'n vlugteling in ooreenstemming met die bepalings van hierdie Wet te doen nie.

Verpligtinge van vlugteling

34. 'n Vlugteling moet aan die wette van die Republiek gehoorsaam wees.

HOOFSTUK 6**25 AANVULLENDE EN ALGEMENE BEPALINGS****Ontvangs en akkommodering van asielversoeke in geval van massa-instroming**

35. (1) Die Minister kan, indien hy of sy van mening is dat enige groep of kategorie persone vir vlugtelingstatus soos beoog in artikel 3 kwalifiseer, so 'n groep of kategorie
30 persone by kennisgewing in die *Staatskoerant* onvoorwaardelik of onderworpe aan die voorwaardes wat die Minister ooreenkomstig die Grondwet en die volkereg op lê, tot vlugteling verklaar en kan so 'n verklaring by kennisgewing in die *Staatskoerant* herroep.

(2) Die Minister kan, na oorleg met die verteenwoordiger van die VNHKV en met die Premier van die betrokke provinsie, gebiede, sentrums of plekke vir die tydelike
35 ontvangs en akkommodering van asielversoeke of vlugteling van enige spesifieke kategorie of groep asielversoeke of vlugteling wat die Republiek op groot skaal binnegekom het, aanwys, hangende die regulering van hulle status in die Republiek.

(3) Die Minister kan enige persoon aanstel as 'n bestuurder van 'n gebied, sentrum of plek kragtens subartikel (2) aangewys.

40 (4) Die Minister kan te eniger tyd die aanwysing van 'n gebied, sentrum of plek beoog in subartikel (2), intrek.

Intrekking van vlugtelingstatus

36. (1) Indien iemand verkeerdlik as 'n vlugteling erken is op 'n aansoek wat wesenlike verkeerde of valse inligting bevat, of aldus erken is weens bedrog,
45 vervalsing, 'n valse of misleidende voorstelling wat in verhouding tot die aansoek van 'n wesenlike en substansiële aard is, of indien sodanige persoon ingevolge artikel 5 ophou om vir vlugtelingstatus te kwalifiseer—

(a) moet die Staande Komitee daardie persoon in kennis stel van sy voorneme om sy of haar klassifikasie as 'n vlugteling in te trek en van die redes
50 daarvoor; en

(b) kan daardie persoon 'n geskrewe voorlegging in verband daarmee binne die voorgeskrewe tydperk maak.

(2) Na oorweging van alle wesenlike feite en met behoorlike inagneming van die regte in artikel 33 van die Grondwet uiteengesit, kan die Staande Komitee daardie

Act No. 130, 1998

REFUGEES ACT, 1998

recognition and such person may be dealt with as a prohibited person under the Aliens Control Act, 1991.

(3) Any refugee whose recognition as such is withdrawn in terms of subsection (1) may be arrested and detained pending being dealt with in terms of the Aliens Control Act, 1991.

5

Offences and penalties

37. Any person who—

- (a) for the purpose of entering, or remaining in, the Republic or of facilitating or assisting the entry into or residence in the Republic of himself or herself or any other person, commits any fraudulent act or makes any false representation by conduct, statement or otherwise; or 10
- (b) fails to comply with or contravenes the conditions subject to which any permit has been issued to him or her under this Act; or
- (c) without just cause refuses or fails to comply with a requirement of this Act; or
- (d) contravenes or fails to comply with any provision of this Act, if such 15

contravention or failure is not elsewhere declared an offence, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

Regulations

38. (1) The Minister may make regulations relating to— 20

- (a) a large-scale influx of asylum seekers into the Republic;
- (b) the manner in which and period within which a matter must be referred to the Standing Committee;
- (c) the forms to be used under certain circumstances and the permit to be issued pending the outcome of an application for asylum; 25
- (d) the manner and the period in which applications for asylum which are manifestly unfounded, fraudulent or abusive, must be dealt with;
- (e) the conditions of sojourn in the Republic of an asylum seeker, while his or her application is under consideration;
- (f) the provision of interpreters at all levels of the determination process; and 30
- (g) any other matter which is necessary or expedient to prescribe in order that the objects of this Act may be achieved.

(2) A regulation under subsection (1)(a) may only be made in consultation with the Premier of any province into which the influx takes place.

Training of staff

35

39. The Director-General must, in consultation with the Standing Committee, take such steps as to ensure the appropriate training of any person—

- (a) to whom powers are delegated in terms of this Act; or
- (b) who is appointed in any capacity in terms of this Act.

Transitional arrangements

40

40. Any person who, immediately before the commencement of this Act, was in the process of applying for asylum or was a recognised refugee must be regarded as having applied for asylum or as having been recognised as a refugee in terms of this Act, and the provisions of this Act apply in all respects to such applicant and his or her application and such refugee, as the case may be. 45

Short title and commencement

41. This is the Refugees Act, 1998, which comes into operation on a date determined by the President by proclamation in the *Gazette*.

erkenning intrek en so 'n persoon kan kragtens die Wet op Vreemdelinge-beheer, 1991, soos 'n verbode persoon mee gehandel word.

- (3) 'n Vlughteling wie se erkenning as sodanig ingevolge subartikel (1) ingetrek word, kan, hangende optrede teen hom of haar ingevolge die Wet op Vreemdelinge-beheer, 1991, gearresteer en aangehou word.

Misdrywe en strawwe

37. Enigiemand wat—

- (a) ten einde die Republiek binne te kom of daarin aan te bly, of ten einde die binnekoms of verblyf in die Republiek van homself of haarself of iemand anders te vergemaklik of te bevorder, 'n bedrieglike handeling verrig, of deur gedrag, 'n verklaring of andersins, 'n wanvoorstelling doen; of
- (b) versuim om aan die voorwaardes waaronder 'n permit aan hom of haar kragtens hierdie Wet uitgereik is, te voldoen of dit oortree; of
- (c) sonder gegronde rede weier of versuim om aan 'n vereiste van hierdie Wet te voldoen; of
- (d) 'n bepaling van hierdie Wet oortree of versuim om daaraan te voldoen, indien die oortreding of versuim nog nie elders tot 'n misdryf verklaar is nie, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of met beide 'n boete en sodanige gevangenisstraf

Regulasies

38. (1) Die Minister kan regulasies uitvaardig aangaande—

- (a) 'n grootskaalse instroming van asielverzoekers in die Republiek;
- (b) die wyse waarop en tydperk waarbinne 'n aangeleentheid na die Staande Komitee verwys moet word;
- (c) die vorms wat onder sekere omstandighede gebruik moet word en die permit wat hangende die uitslag van 'n aansoek om asiel uitgereik moet word;
- (d) die wyse waarop en tydperk waarbinne aansoeke om asiel wat klaarblyklik ongegrond, bedrieglik of misbruik is, afgehandel moet word;
- (e) die voorwaardes van verblyf in die Republiek van 'n asielverzoeker terwyl sy of haar aansoek onder oorweging is;
- (f) die verskaffing van tolke op alle vlakke in die bepalingsproses; en
- (g) enige ander aangeleentheid wat nodig of dienstig is om voorgeskryf te word ten einde die oogmerke van hierdie Wet te bereik.
- (2) 'n Regulasie kragtens subartikel (1)(a) mag slegs in oorleg met die Premier van die betrokke provinsie waarbinne die instroming plaasvind, uitgevaardig word.

Opleiding van personeel

39. Die Direkteur-generaal moet, in oorleg met die Staande Komitee, die nodige stappe doen ten einde te verseker dat gepaste opleiding verskaf word aan enige persoon—

- (a) aan wie bevoegdhede ingevolge hierdie Wet gedelegeer is; of
- (b) wat in enige hoedanigheid ingevolge hierdie Wet aangestel is.

Oorgangsmaatreëls

40. Enige persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet in die proses was om om asiel aansoek te doen of as 'n vlughteling erken was, word geag om om asiel aansoek te gedoen het of om as 'n vlughteling erken te gewees het ingevolge hierdie Wet, en die bepalings van hierdie Wet is in alle opsigte van toepassing op so 'n applikant en sy of haar aansoek en so 'n vlughteling, na gelang van die geval.

Kort titel en inwerkingtreding

41. Hierdie Wet heet die Wet op Vlughtelinge, 1998, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

