

Spouse and Dependents of Asylum Seekers and Refugees

A person applying for Refugee Status must include details of spouse or dependants requiring Refugee Status.

Any child of a Refugee born in South Africa must register the child's birth at any Refugee Reception office within one month of the child's birth.

If a dependent of a documented refugee divorces that person or they reach the age of maturity then that dependent may apply if they wish to remain within South Africa in terms of the Refugee Act

ALWAYS REMEMBER: Spouse and dependents must accompany the person applying for Refugee Status to the Refugee Reception Office

Unaccompanied Children

An unaccompanied child who is found in circumstances that indicate they are an Asylum Seeker and in need of care contemplated in the Children's Act, 2005 must

a) be issued with an Asylum Seeker Permit

AND

b) be brought before the Children's Court in the district in which he or she was found

Persons with a Mental Disability

Any person with a mental disability who is found under circumstances that indicate that they are an Asylum Seeker, must

a) be issued with an Asylum Seeker Permit

AND

b) be referred to a health establishment contemplated in the Mental Health Care Act, 2002

Key Rights of Refugees

1. Employment Rights

All Asylum Seekers and those awaiting Refugee Status have the right to employment before they have received a Section 22 or 24 permit. All employment contracts with a recognised employer will be recognised by labour law. The basic conditions of employment will apply in all cases except where the employee does not have legal permission to be in South Africa, and may risk deportation should they seek assistance for any unfair labour practice. You may not be dismissed for reasons pertaining to the expiration of any of your permit papers and should you require any representation to assist you any these issues, you should go to the CCMA or to a local advice office.

2. Health Care Rights

Enshrined in the South African Constitution is that all people in this country are entitled to health care and do not need documentation for emergency treatment. The Department of Health has instructed all health care institutions to admit and treat foreign-nationals. It is therefore illegal for them to refuse you treatment and you should then get legal assistance.

3. Education

An Asylum Seeker or Refugee may not be refused entry into a Public School or Public Educational Centre. They have the basic right to education, however the following documents are required in order to register at an educational institution:

- * a Section 22 or 24 Permit or your Letter of Recognition from Home Affairs
- * a completed application form for the institution
- * the last report or transfer card attained if available
- * proof that your child's immunization is up to date

Refugee Reception Offices

Pretoria Interim Reception Office

(SADC Nationals)
203 Soutter Street
Pretoria Showgrounds
Pretoria
(tel) 012 306 0900

Durban

Ms. Naleen Balgobind
132 Moore Road
Durban
4023 (tel) (031) 362 1205
(fax) (031) 362 1220
Naleen.balgobind@dha.gov.za

Port Elizabeth

Mr Sipho Lucas
KIC 5 Sidon Str,
North End
Port Elizabeth
6001 (tel) (041) 403 7412/13
(fax) (041) 403 7433
Sipho.Lucas@dha.gov.za

Pretoria

Ms. Solani Ntukwana
Cnr DF Malan & Struben Str
Pretoria West
0183
(tel) (012) 327 3515
(fax) (012) 327 5782
Solani.ntukwana@dha.gov.za

Cape Town

Mr Richard Sikakane
18 Montreal Road
Sturrock Building
Airport Industria
Nyanga
Cape Town (tel) (021) 380 5060
(fax) (021) 421 5028
Richard.Sikakane@dha.gov.za

Johannesburg

Ms Florencia Belvedere
19 Planet Avenue
Diepsprodakte
Building
Crown Mines
(tel) (011) 226 4600
(fax) (011) 226 4603/02
florencia.belvedere@dha.gov.za



Gisela Cairne
Director
Giesdoc@iafrica.com
Postnet Suite F 10223
Private Bag x 7095
Hillcrest
2058

The process of becoming a Refugee in South Africa

Legal Framework



Independent Projects Trust

Wishes to acknowledge the support of Atlantic Philanthropies in making this publication possible

Introduction

Many people have fled to South Africa to escape some form of atrocity and if they are seeking refuge in our country they have to be processed as an Asylum Seeker or Refugee.

Asylum Seekers

What is an Asylum Seeker?

An Asylum Seeker is a person who is seeking recognition as a Refugee in South Africa.

The General Rights of Asylum Seekers

An Asylum Seeker is entitled to the following, pending their application for asylum:

- A. Formal written recognition of their status as an Asylum Seeker
- B. The right to remain in South Africa
- C. The right not to be unlawfully arrested or detained
- D. The rights contained in the Constitution of the Republic of South Africa, 1996, in so far as those Rights apply to Asylum Seekers

'Asylum Seeker'

means a person who is seeking recognition as a refugee in South Africa

Refugees

What is a Refugee?

A Refugee is any person who has been granted asylum in terms of the Refugee Act.

The General Rights of Refugees

A Refugee is entitled to:

- A. Formal written recognition of their Refugee Status
- B. Full legal protection, including rights set out in Chapter 2 of the Constitution of the Republic of South Africa, 1996, except those rights which only apply to citizens
- C. Permanent residence in terms of Section 21 (d) of the Immigration Act after 5 years of continuous residence in South Africa from the date Asylum was granted
- D. A Refugee Identity Book
- E. Apply for travel documents
- F. Seek employment

'Refugee'

means any person who has been granted asylum in terms of the Refugee Act

Obligations of Refugees

A Refugee must:

- Abide by the laws of South Africa
- Provide their residential address, and any changes, to the Refugee Reception Office

What is Refugee Status?

In applying for Refugee Status, a person is seeking the protection of the South African government and once they have obtained Refugee Status, they are entitled to the same rights as South African citizens except the right to vote. They cannot be sent back to their home country until such time as the impending fear has subsided or been removed. This Status is designed to give those whose lives might be in danger in their own countries, a place to seek refuge and safety

Who can apply to become a Refugee?

Someone who has a well founded fear of being persecuted on the basis of their: Race, Religion, Nationality, Political Opinion or Membership of a particular social group

AND

Are outside the country of their nationality and unable/unwilling to get protection from, or return to that country

OR

Someone who believes their physical safety or freedom would be threatened by some form of aggression, occupation, foreign domination or any other type of event which disturbs the public order of their country

AND

They are compelled to leave their place of residence and seek refuge in a place outside their country of origin

OR

Someone who is a spouse or dependent of a person as set out above.

Obligations of Asylum Seekers

An Asylum Seeker must:

- Abide by the laws of South Africa
- Renew their permit in person at any Refugee Reception Office in South Africa
- Provide residential address and any changes to the Refugee Reception Office

NO PERSON MAY BE REFUSED ENTRY INTO SOUTH AFRICA, EXPELLED, EXTRADITED OR RETURNED TO ANOTHER COUNTRY FOR THE REASONS SET OUT ABOVE.

