

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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THE PRESIDENCY

No. 689

26 August 2011

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

No. 12 of 2011: Refugees Amendment Act, 2011.



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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 21 August 2011)

ACT

To amend the Refugees Act, 1998, so as to amend, insert and delete certain definitions; to clarify how applications for refugee status rejected as manifestly unfounded and unfounded must be dealt with; to empower the Director-General to establish the Status Determination Committee; to revise the provisions relating to withdrawal of refugee status; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 130 of 1998, as amended by section 1 of Act 33 of 2008

1. Section 1 of the Refugees Act, 1998 (hereinafter referred to as the principal Act), 5 is hereby amended—

- (a) by the substitution for the definition of “biometrics” of the following definition:

“‘biometrics’ means [the measurable physiological or behavioural characteristics that can be used in verifying the identity of individuals, and may include the use of] photographs, fingerprints 10 (including palm prints), hand measurements, signature verification [, facial patterns and] or retinal patterns, that may be used to verify the identity of individuals;”;

- (b) by the substitution for the definition of “dependant” of the following 15 definition:

“‘dependant’, in relation to an asylum seeker or a refugee, [includes] means any unmarried dependant child or any destitute, aged or infirm member of the immediate family of such asylum seeker or refugee who 20 is dependent on him or her;”;

- (c) by the substitution for the definition of “manifestly unfounded application” of the following definition:

“‘manifestly unfounded application’ means an application for asylum made on grounds other than those contemplated in section 3;”;

- (d) by the deletion of the definition of “Refugee Status Determination Officer”; 25

- (e) by the insertion after the definition of “spouse” of the following definition:
“ ‘Status Determination Committee’ means the Status Determination Committee or any of its subcommittees contemplated in section 8(2);”; and
- (f) by the substitution for the definition of “unfounded application” of the following definition: 5
“ ‘unfounded application’, in relation to an application for asylum in terms of section 21, means an application[—
 (a) made on the grounds other than those contemplated in section 3; or 10
 (b)] made on the grounds contemplated in section 3, but which is without merit;”.

Amendment of section 4 of Act 130 of 1998, as amended by section 5 of Act 33 of 2008

2. Section 4 of the principal Act is hereby amended— 15
 (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
“A person does not qualify for refugee status for the purposes of this Act if the [Refugee Status Determination Officer] Status Determination Committee has reason to believe that he or she—”; and 20
 (b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
“(b) has committed [a serious non-political crime outside the country of refuge prior to his or her admission to that country as a refugee] a crime which is not of a political nature and which, if committed in the Republic, would be punishable by imprisonment without the option of a fine; or”. 25

Amendment of section 8 of Act 130 of 1998, as amended by section 10 of Act 33 of 2008

3. Section 8 of the principal Act is hereby amended— 30
 (a) by the substitution for subsection (2) of the following subsection:
“(2) Each Refugee Reception Office must consist of at least one Status Determination Committee established by the Director-General in the prescribed manner to consider and deal with applications for asylum in accordance with section 24: Provided that the Status Determination Committee may establish subcommittees consisting of no less than two members.”; and 35
 (b) by the deletion of subsection (3).

Amendment of section 8C of Act 130 of 1998, as inserted by section 11 of Act 33 of 2008 40

4. Section 8C of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
“(2) An appeal contemplated in subsection (1)(a) must be determined by a single member or such number of members of the Refugee Appeals Authority as the chairperson may deem necessary: Provided that at least one of such members is legally qualified.”. 45

Amendment of section 8E of Act 130 of 1998, as inserted by section 11 of Act 33 of 2008

5. Section 8E of the principal Act is hereby amended by the substitution for paragraph (f) of the following paragraph: 50
“(f) is a political office bearer holding a position in the national executive structure of any political party.”.