

REFUGEE

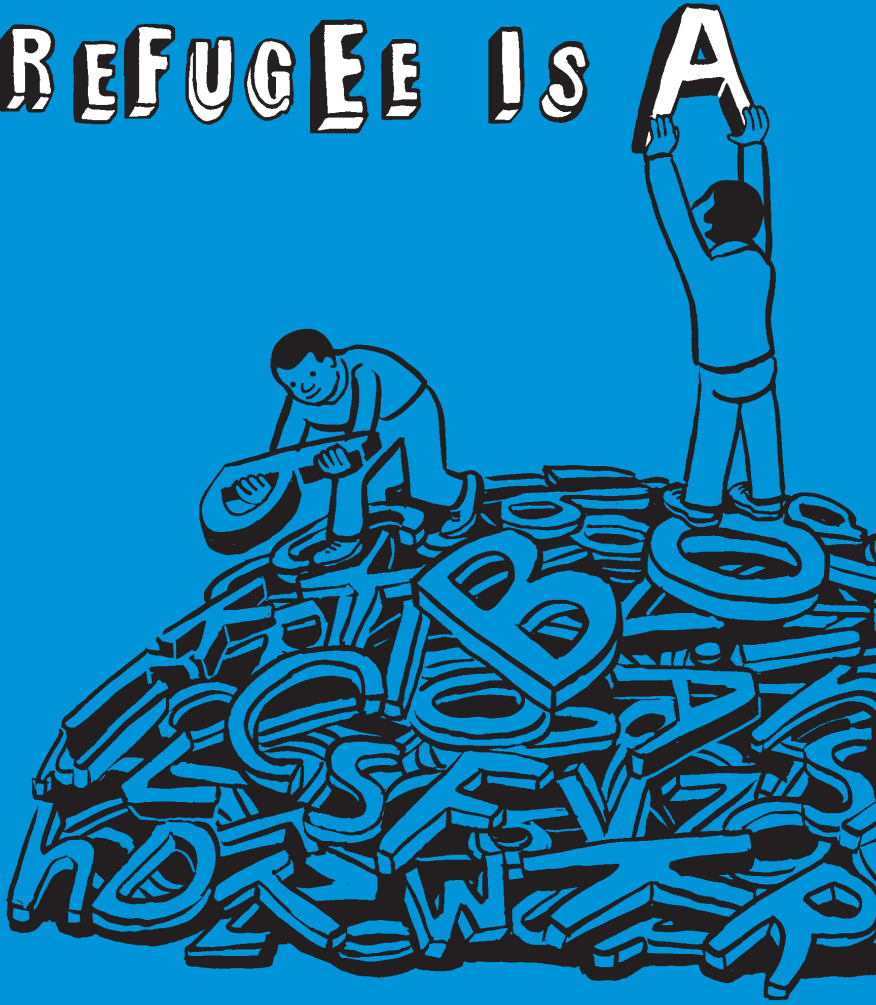


Information Guide 2009



Lawyers for Human Rights

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How to use this guide

The Guide is divided into two parts:

The first part provides important information on how to apply for asylum and seek legal assistance, where to find material assistance, how to access social assistance such as health, education, employment, trauma- and psychological support both from government and non-governmental sources. It also provides general information about South Africa.

The second part consists of a detailed directory of the relevant government departments, international organisations, non-governmental organisations (NGOs), and community-based and religious organisations offering assistance to the refugee community in South Africa.

Please note that the South African government's policies and practices may change. Please check the Lawyers for Human Rights (LHR) website, www.lhr.org.za, for the most up-to-date information.

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Acronyms and definitions

Acronyms

- DHA → Department of Home Affairs
ICRC → International Committee for the Red Cross
RRO → Refugee reception officer

Definitions

- **Asylum seeker:** A person who has lodged an asylum application with the Department of Home Affairs and who is waiting for a decision on refugee status
- **Department of Home Affairs (DHA):** The South African government department responsible for the administration of asylum applications and refugee matters
- **Durable solution:** Long-term solutions to problems experienced by refugees, generally involving movement back to home country or third country of asylum or integration locally
- **Eligibility determination form (form BI-1590):** The form you have to fill out the first time you report to any of the seven refugee reception offices in the country
- **Family reunification:** The bringing together of members of the same nuclear family with the help of the UNHCR and/or the ICRC after approval by the DHA
- **Family tracing:** The attempt to locate and link up members of the same nuclear family (father, mother, brother and sister) with or without the help of the UNHCR and/or the ICRC
- **Immigration Act:** The new law that has replaced the Aliens Control Act. This law regulates who may enter South Africa and how and also covers deportations
- **Non-refoulement:** The fundamental principle that prohibits states from returning asylum seekers or refugees to countries where their lives and freedoms may be threatened
- **Permanent resident:** A person who has been given permission to live in South Africa on a permanent basis
- **Persecution:** Severe violation of human rights for reasons of race, religion, nationality, political opinion or membership of a social group
- **Prohibited person:** A person without any legal documents allowing him or her to stay in South Africa lawfully. It can also cover people who are not allowed in SA such as deportees or people with infectious diseases.
- **Recognised refugee:** A person who has been granted refugee status in terms of section 24 of the Refugees Act
- **Refugees Act No.130 of 1998:** Law passed by the parliament of South Africa that governs the treatment of refugees in the country
- **Refugee:** A person who is forced to flee his/her country due to a well-founded fear of persecution or disasters of human origin such as armed conflicts, civil upheavals and generalised violence
- **Relocation:** An internal transfer of a refugee or asylum seeker from one part of South Africa to another, with the help of the UNHCR
- **Resettlement:** The relocation of a refugee from South Africa to a second country of asylum with the approval of the UNHCR and the country of resettlement
- **Section 22 permit:** Temporary, renewable permit, described in Section 22 of the Refugees Act, which is issued to asylum seekers while they await a decision on their asylum application and allows the bearer to reside in South Africa and to work and study
- **Section 24 permit:** Renewable permit, issued in terms of Section 24 of the Refugees Act, which grants refugee status to the bearer and allows him/her to reside in South Africa for a period of two years
- **Temporary resident:** Person with a legal permit that allows him or her to stay in the country for a limited period of time. Tourists, foreign students and business people would typically apply for temporary resident permits
- **The Standing Committee for Refugee Affairs:** Committee that reviews any refugee applications that have been rejected on the basis of being manifestly unfounded and that provides certification that a refugee will remain a refugee indefinitely for the purposes of applying for permanent residence
- **Unaccompanied minor:** A child under the age of 18 who is in South Africa without the company of his/her parents or guardians
- **Undocumented migrant:** A person who is not in possession of the requisite visa or residence permit that is required to be in the country legally
- **UNHCR:** The United Nations High Commissioner for Refugees is an international organisation mandated to provide international protection to refugees and to promote long-term durable solutions to their problems
- **Voluntary repatriation:** Voluntary return of refugee from country of asylum to country of origin

Employment

All asylum seekers and refugees are authorised to work while they are in South Africa

You have a right to work

Refugees and asylum seekers are allowed to work. The right to work is specifically endorsed on both the asylum seeker and refugee permits. The following laws protect you from discrimination in the workplace and require employers to treat you fairly:

- The **Employment Equity Act** ensures that no employer can discriminate against you on account of your immigration status.
- The **Labour Relations Act** protects you from unfair labour practices and dismissals.
- The **Basic Conditions of Employment Act** specifies the minimum working standards, which include leave arrangements, hours of work etc.

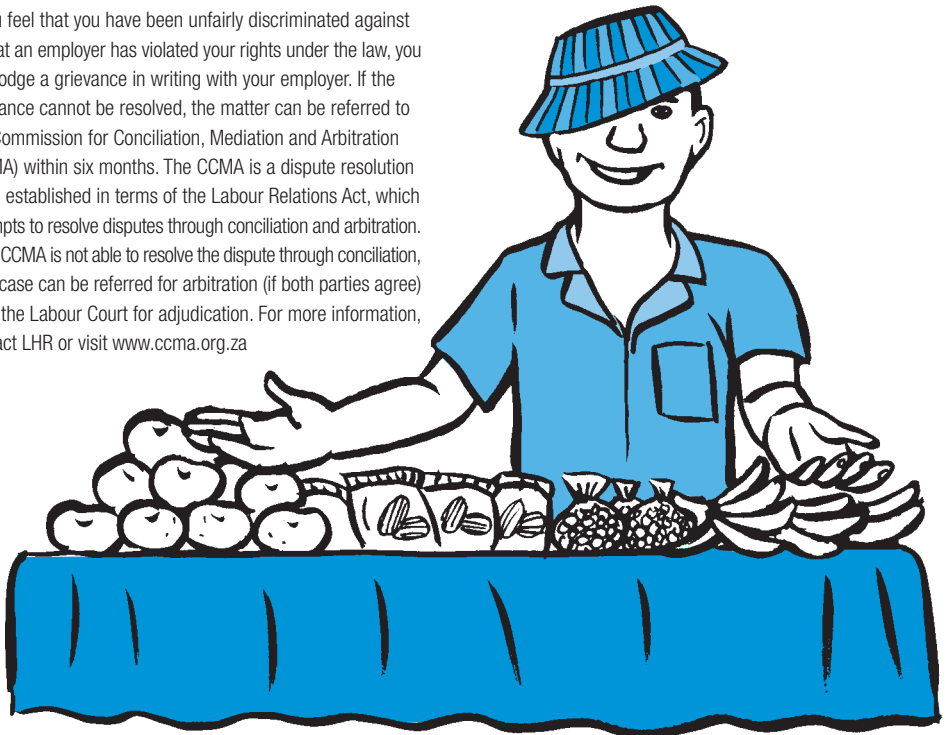
Unfair discrimination?

If you feel that you have been unfairly discriminated against or that an employer has violated your rights under the law, you can lodge a grievance in writing with your employer. If the grievance cannot be resolved, the matter can be referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) within six months. The CCMA is a dispute resolution body, established in terms of the Labour Relations Act, which attempts to resolve disputes through conciliation and arbitration. If the CCMA is not able to resolve the dispute through conciliation, your case can be referred for arbitration (if both parties agree) or to the Labour Court for adjudication. For more information, contact LHR or visit www.ccma.org.za

Getting a job

South Africa has a high unemployment rate, and finding a permanent job in South Africa is a problem for many South Africans. Asylum seekers and refugees may face even greater difficulties in getting formal, permanent employment because the permits and documents issued by the DHA are frequently not recognised by employers.

Employers often require students to have their academic records from foreign universities certified by the South African Qualification Authority (SAQA) – see the previous section for details. SAQA may request that you complement your foreign degree with some specific courses before they allow you to practise your profession in South Africa. Because it is very difficult for even those asylum seekers and refugees with valuable skills to get formal employment, many depend on the informal sector for survival.



Many refugees and asylum seekers have found employment in the following sectors:

Street trading

A number of asylum seekers and refugees have taken up street trading to earn a living. This is a means of informal trading out of sidewalk stalls. In recent years, municipalities have developed a number of laws and regulations about street trading. These vary from city to city, and you should make sure to learn about the specific laws and regulations that apply in your location. In most instances, you will need a street trading licence or permit, which you can get from your local council or municipality. Very often, street trading has to be conducted in a designated area.

If you trade or sell goods without a valid licence or in an area that is not designated as a trading area, be aware that you run the risk of being fined and having your goods taken away by the police

Security and car guarding

Another popular way for asylum seekers and refugees to earn money is to take up employment in the security sector or watch parked cars for money. These two occupations used to be easily accessible to asylum seekers and refugees, as they require no specific South African experience. Currently, however, the South African government has restricted access to the security industry. The law states that any person who works in the security sector – car guards, security guards in shopping malls or wherever – must register with the Security Industry Regulatory Authority (SIRA); to date SIRA has unfortunately not allowed asylum seekers or refugees registration. If you are not registered with SIRA and you work in the security sector, you face the risk of being arrested.

Nursing

Before you may register with the South African Nursing Council, a foreign nurse must have his or her qualifications certified by SAQA. To apply for registration as a nurse with the South African Nursing Council, you must fill out an application form and send it to the council together with the following documents: proof of payment of the application fee (approximately R400), your curriculum vitae, a certified copy of your refugee permit,

a certified copy of your nursing qualification and registration with the nursing regulatory authority of your country of origin, SAQA document certifying your qualification, English-language proficiency certificate and a letter from the Department of Health.

After submitting the application, the council will evaluate your qualifications and experience and decide on the appropriate nursing category. If the council decides that you meet the education requirements, you must submit an application for a theoretical and clinical assessment. After successful completion of these assessments, the Nursing Council will provide you with a registration certificate as a nurse in the relevant category. You will then be required to contact the Department of Health's foreign workforce management programme to apply for a position at a government health institution. The Nursing Council can be contacted on 012 420 1000 or registrar@sanc.co.za

Medicine

If you are a qualified medical doctor with refugee status, you may apply for registration as a medical practitioner in South Africa. Due to the shortage of medical practitioners in this country, the Department of Health regularly appoints foreign doctors who have the necessary qualifications and experience to work in government hospitals. To be registered, you need to contact the Department of Health's Foreign Workforce Management Programme in Pretoria who will provide you with detailed information about the registration process. Contact the Foreign Workforce Management Programme on 012 312 0467. In short, to be registered, you need to obtain an offer of employment from one of the provincial government hospitals or health departments. Once you have a job offer, you need to apply for a formal endorsement from the Foreign Workforce Management Programme. Once you've obtained the endorsement, you must then apply for registration with the Health Professions Council of South Africa. Their contact number is 012 338 9350.