

# REFUGEE

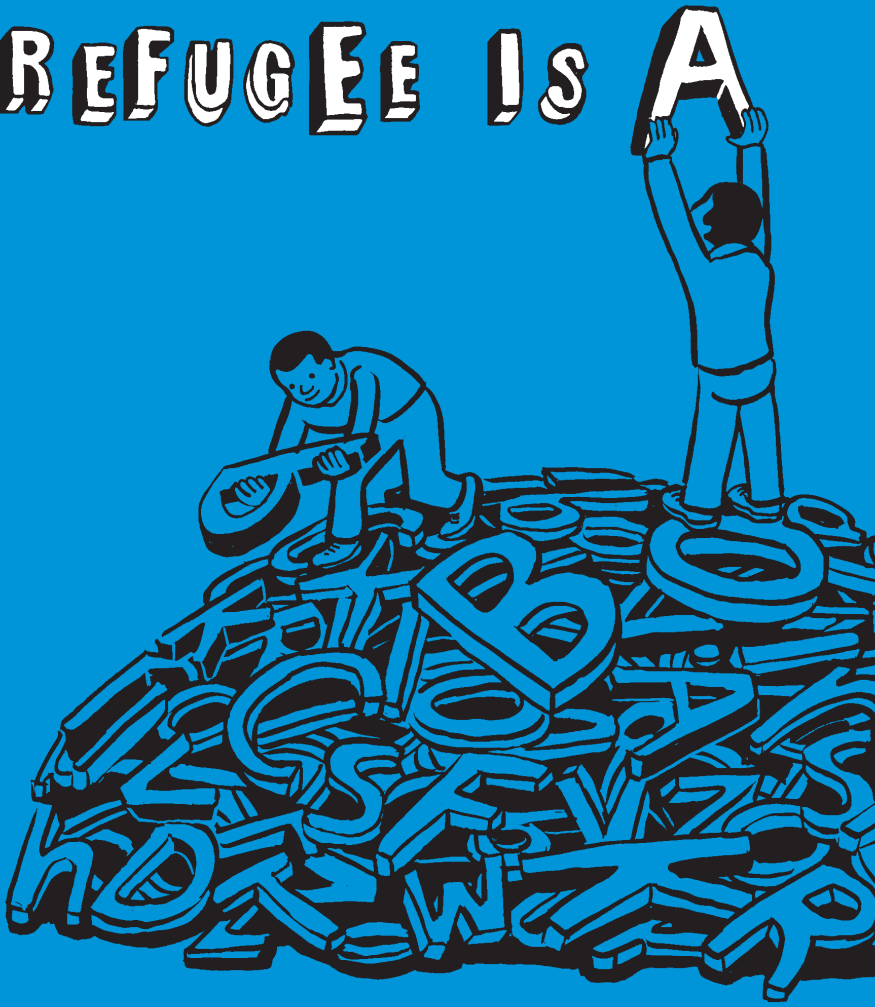


Information Guide 2009



Lawyers for Human Rights

A REFUGEE IS A



## 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](http://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

## Permits



### Renewal of permits

You must apply for renewal of your Section 22 asylum permit at one of the refugee reception offices before it expires. In most refugee reception offices there is a separate queue for people who want to renew their asylum permits. At some offices, a DHA official may collect all the permits that need to be renewed and ask you to return to the office a few hours later to collect your renewed permit.

The DHA issues Section 24 refugee status permits for the duration of two years. You must apply for the renewal of your refugee status permit three months before it expires at the refugee reception office. The DHA will reassess your refugee status in South Africa based on the situation in your country of origin.

Ask whether there is a separate queue for renewal of permits. Remember to bring your original documentation when renewing your permit.

The DHA recently started issuing fines to asylum seekers who do not renew their permits before they expire. The fine must be paid in order to have your asylum seeker permit renewed. The letter will be issued by an officer at the refugee reception office, who will then direct you to a specific police station or magistrates' court to pay the fines. The fines range from R500 to R3 000. It is unclear whether this procedure is lawful. You do have a right to contest this fine if you think that it was unjustly issued to you. You should speak to a lawyer if you are concerned about a fine that you have been given.

Asylum seekers and refugees enjoy the right to freedom of movement in South Africa. This means that you can live wherever you want. You may renew your permit at any of the seven refugee reception offices in the country. A refugee reception office should never refuse to renew your permit because you first applied for asylum at a different reception office.

**It is very important that you renew your permits before they expire. Permits are not renewed automatically. If you are stopped by a police or immigration officer and you are in possession of an expired permit, you could be arrested.**

### Lost permits

It is not easy to replace lost permits. Make as many certified copies of your permit as possible and distribute them among friends and relatives or keep them in a safe place. Remember the file number and the case number on your permit.

If you lose your permit, you must report the loss to the nearest police station and get a statement or affidavit from them. You should bring the police statement/affidavit together with a copy of your permit (if you have one) to a refugee reception office, and you will be issued with a new permit.

### Permanent residency

As a recognised refugee, you have the right to apply for a permanent residence permit after five years of continuous residence in South Africa from the date that you were granted refugee status. You should consult the Immigration Act for the specific requirements that must be fulfilled to apply for permanent residence.

One of the key requirements for permanent residence is certification that you will remain a refugee indefinitely. You must obtain this certification from the Standing Committee for Refugee Affairs. To apply, write a letter to the Standing Committee

stating that you intend to apply for permanent residency in South Africa and that you want the Standing Committee to issue you with certification of your refugee status. You can also ask a legal counsellor to help you with this application.

Once you have obtained this certification and compiled the other required documents as stipulated in the Immigration Act of 2002, you should submit your application for permanent residency to a regional DHA office (not one of the refugee reception offices).

There are two requirements under the Immigration Act that have been waived for refugees. First, although the Act states that payment is required to apply for permanent residence, refugees do not have to pay to lodge an application for permanent residence. Secondly, the Act requires that an individual applying for permanent residence obtain a security clearance from his or her country of origin.

As a refugee, you do not have to get this security clearance certificate from your country of origin. You must, however, provide an affidavit stating whether you have ever had a criminal record in your country of origin. You must also obtain a security clearance certificate from the police for the time that you lived in South Africa.

→ Refugees do NOT have to pay to apply for permanent residence.

→ Refugees do NOT have to provide a security clearance certificate from their country of origin. They must, however, obtain a police affidavit and a security clearance certificate from the South African police.