

Zambia

## Refugees Act, 2017

Act 1 of 2017

Legislation as at 13 April 2017

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# Zambia

## Refugees Act, 2017

### Act 1 of 2017

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**Commenced on 13 April 2017**

*[This is the version of this document from 13 April 2017.]*

## ACT

An Act to establish the office of the Commissioner for Refugees and provide for its functions, provide for the recognition, protection and control of refugees, provide for the rights and responsibilities of refugees, establish the Refugees Fund, domesticate the United Nations Convention relating to the Status of Refugees, 1951 and its Protocol of 1967, and the Organisation of African Unity Convention Governing the Specific Aspects of Refugees Problems in Africa, 1969, repeal and replace the Refugees (Control) Act, 1970, and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

### Part I – Preliminary Provisions

#### 1. Short title

This Act may be cited as the Refugees Act, 2017.

#### 2. Interpretation

(1) In this Act, unless the context otherwise requires—

“**Adverse effect**” has the meaning assigned to it in the Environmental Management Act, 2011.

*[Act No. 12 of 2011]*

“**Asylum**” means shelter and protection granted by the Government to persons seeking refugee status in accordance with the provisions of this Act.

“**Asylum seeker**” means a person seeking refugee status in accordance with the provisions of this Act and whose refugee claim is not determined,

“**Authorised officer**” means a police officer, an immigration officer or a public officer appointed as such under section 8;

“**child**” has the meaning assigned to it in the Constitution;

*[Cap. 1]*

“**Civil Service Commission**” means the Civil Service Commission established by the Constitution;

*[Cap. 1]*

“**combatant**” means a member of a regular or irregular force or armed group or a person who has been participating actively in military activities or recruitment to military activities;

“**Commissioner**” means the Commissioner for Refugees appointed under section 3;

“**Committee**” means the Refugee Status Determination Committee established under section 5;

“**Country of nationality**” in relation to a person who has more than one nationality, means each of the countries of which that person is a national;

“**Country of origin**” means the country of nationality of the refugee or asylum seeker, or if the refugee or asylum seeker has no country of nationality, the country of former ordinary residence;

“**Crime against peace**” means an act relating to the planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements and assurances on peace, or participation in a common plan or conspiracy for the accomplishment of any of these acts;

“**Crime against humanity**” means any of the following acts committed as part of a widespread or systematic attack directed against a civilian population:

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation or forcible transfer of population;
- (e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) torture;
- (g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity;
- (h) persecution against an identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognised as impermissible under international law, in connection with an act referred to in this definition;
- (i) enforced disappearance of persons;
- (j) the crime of apartheid; or
- (k) other inhuman acts of a similar character intentionally causing great suffering or serious injury to the body or to mental or physical health;

“**dependent**” in relation to a refugee, means—

- (a) a spouse, parent or grandparent of the refugee; or
- (b) a son, daughter, grandson or granddaughter, brother, sister, nephew or niece of the refugee who is of, or below, the age of eighteen or is below the age of twenty-five and undergoing full time education and is wholly dependent on the refugee;

“**electronic communication**” has the meaning assigned to it in the Information and Communication Technologies Act, 2009;

[Act No. 15 of 2009]

“**electronic communications apparatus**” has the meaning assigned to it in the Information and Communication Act No. 15 Technologies Act, 2009;

[Act No. 15 of 2009]

“**electronic communication network**” has the meaning assigned to it in the Information and Communication Act No. 15 Technologies Act, 2009;

[Act No. 15 of 2009]

“**environment**” has the meaning assigned to it in the Environmental Management Act, 2011;

[Act No. 12 of 2011]

“**Emoluments Commission**” means the Emoluments Commission established under the Constitution;

[Cap. 1]

“**Fund**” means the Refugees Fund established under section 55;

“**member**” means a member of the Committee;

“**naturalisation**” means the legal process by which a refugee becomes a citizen of Zambia;

“**Public interest**” means—

- (a) the general welfare of the public that warrants recognition and protection;
- (b) something in which the public as a whole has a stake, especially an interest that justifies governmental regulation;
- (c) an interest relating to the general welfare of the community as a whole as opposed to individual interest.

“**Radio apparatus**” has the meaning assigned to it in the Act No. 15 Information and Communication Technologies Act, 2009;

[Act No. 15 of 2009]

“**recognised refugee**” means a person who—

- (a) is recognised as a refugee under section 13; or
- (b) is a member of a class of persons declared as refugees under section 16;

“**refugee**” means a person who owing to—

- (a) a well-founded fear of being persecuted for reasons of race, religious beliefs, nationality, membership of a particular social group or political opinion is outside the country of nationality and is unable, or owing to that fear is unwilling, to be protected by that country;
- (b) not having a nationality and being outside the country of that person’s former habitual residence is—
  - (i) unable to return to that country; or
  - (ii) unwilling to return to that country due to a wellfounded fear of being persecuted for reasons of race, religion, membership of a particular social group or political opinion;
- (c) external aggression, occupation, foreign domination or serious disturbance of public order in part or the whole of that person’s country of origin or nationality, is compelled to leave that person’s place of habitual residence in order to seek refuge in a place outside that person’s country of origin or nationality; or
- (d) internal conflict, generalised violence, massive violation of human rights or other circumstances that have seriously disturbed public order in that person’s country of origin, that person’s life, safety or freedom has been threatened;

“**refugee officer**” means a person appointed as a refugee officer under section 3;

“**refugee reception area**” means a place or area designated as a refugee reception area under section 9;

“**refugee settlement**” means a place or area designated as a refugee settlement under section 9;

“**Register**” means the Register of Refugees established pursuant to section 24;

“**serious non-political crime**” means a felony as defined in section 4 of the Penal Code;

*[Cap. 87]*

“**subversive acts**” means acts directed towards the overthrow of a government, and includes the crimes of treason, sedition, sabotage or an act likely to cause tension through the use of arms, press and radio in a member State of the United Nations or the African Union;

“**Sustainable management**” has the meaning assigned to it in the Environmental Management Act, 2011, Act [No. 12 of 2011](#);

*[Act No. 12 of 2011]*

“**sustainable use**” has the meaning assigned to it in the Environmental Management Act, 2011;

*[Act No. 12 of 2011]*

“**travel document**” has the meaning assigned to it in the Passports Act, 2016; and

*[Act No. 28 of 2016]*

“**war crimes**” means grave breaches of the Geneva Conventions of 12 August 1949, such as—

- (a) willful killing;
  - (b) torture or inhuman treatment, including biological experiments;
  - (c) willfully causing great suffering or serious injury to body or health;
  - (d) extensive destruction and appropriation of property, which is not justified by military necessity and carried out unlawfully and wantonly;
  - (e) compelling a prisoner of war or other protected person to serve in the forces of a hostile power;
  - (f) willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
  - (g) unlawful deportation or transfer or unlawful confinement; and
  - (h) taking of hostages.
- (2) A person who has more than one nationality shall not be deemed to be lacking the protection of that person’s country of nationality if, without any reason based on a well-founded fear, that person does not benefit from, or avail oneself of, the protection of one of the countries of which that person is a national.

## Part II – The Commissioner for Refugees

### 3. Establishment of Office for Commissioner for Refugees

- (1) There is established the Office of the Commissioner for Refugees within the Ministry responsible for home affairs.

- (2) The Civil Service Commission shall appoint the Commissioner for Refugees as a public officer.
- (3) The Civil Service Commission shall appoint, as public officers, the Deputy Commissioner for Refugees, refugee officers and such other staff as it considers necessary for the proper administration of this Act.
- (4) The Commissioner shall provide a refugee officer with an identification card which shall be *prima facie* evidence of the refugee officer's appointment as such.
- (5) A refugee officer shall, in performing any function under this Act—
  - (a) be in possession of the identification card referred to in subsection (4); and
  - (b) show the identification card to a person who requests to see it or is subject to an investigation under this Act.

#### 4. Functions of Commissioner

- (1) The Commissioner is responsible for the recognition of refugees and ensuring the provision of adequate facilities and services for the reception into and care for refugees within Zambia.
- (2) Without prejudice to the generality of subsection (1), the functions of the Commissioner are to—
  - (a) co-ordinate activities and programmes for refugees and the provision of security, protection and assistance for refugees in refugee settlements;
  - (b) co-ordinate measures necessary for promoting the welfare of refugees and advise the Minister on all matters relating to refugees;
  - (c) manage refugee reception areas, refugee settlements and other facilities for refugees;
  - (d) receive and process applications for the recognition of refugees;
  - (e) issue refugee identification documents and process and recommend applications for the issuance of refugee travel documents;
  - (f) issue movement passes to refugees for travel outside the refugee settlements within Zambia;
  - (g) issue visitors permit for entry into refugee settlements;
  - (h) register and maintain a register of asylum seekers and refugees;
  - (i) ensure that refugee economic and productive activities do not have an adverse effect on host communities or the environment;
  - (j) ensure the sustainable use and sustainable management of the environment in refugee hosting areas;
  - (k) protect and assist vulnerable asylum seekers and refugees, especially women and children;
  - (l) ensure treatment of asylum seekers and refugees in compliance with the law;
  - (m) facilitate the safe return of Zambians living as refugees in other countries;
  - (n) administer and manage the Fund;
  - (o) cooperate with organisations and institutions with similar functions within and outside Zambia; and
  - (p) exercise such other functions as are incidental to the functions of the Commissioner or as may be assigned to the Commissioner by or under this Act.
- (3) The Commissioner shall, in the performance of the Commissioner's functions under this Act, be subject to the general or special directions of the Minister that are consistent with the provisions of this Act.

- (4) The functions of the Commissioner under this Act may be exercised and performed by the Commissioner personally or by the Deputy Commissioner or a refugee officer on such terms and conditions as the Commissioner may determine.

## 5. Establishment of Refugee Status Determination Committee

- (1) There is established the Refugee Status Determination Committee which consists of the following members appointed by the Minister:
  - (a) the Chairperson, who shall be a person with expertise in refugees matters; and
  - (b) one representative each of the—
    - (i) Attorney-General;
    - (ii) Zambia Police Service;
    - (iii) Ministry responsible for foreign affairs;
    - (iv) Immigration Department;
    - (v) Special Division of the Office of the President;
    - (vi) Department of National Registration, Passport and Citizenship; and
    - (vii) United Nations High Commissioner for Refugees, as *ex-officio* member.
- (2) The members shall elect the Vice-Chairperson from amongst themselves.
- (3) The Commissioner shall assign officers to perform such secretarial and administrative functions for purposes of or in connection with the Committee as may be necessary for the performance of its functions.
- (4) The provisions of the Schedule apply to the Committee.

## 6. Functions of Committee

The functions of the Committee are to—

- (a) receive and consider applications for the recognition of refugees referred to the Committee under section 11, and
- (b) perform such other functions as may be assigned to the Committee by or under this Act.

## 7. Sub-committees

- (1) The Committee may, for the purposes of performing its functions, establish such subcommittees as it considers necessary and delegate to any of those sub-committees any of its functions under this Act.
- (2) The Committee may appoint as members of a subcommittee persons who are or are not members of the Committee, except that at least one member of the Committee shall be a member of a subcommittee.
- (3) Despite the generality of subsections (1) and (2), the Committee may appoint special subcommittees, composed of some members of the Committee and persons representing relevant agencies, to carry out functions under this Act or perform such other functions that require collaborative effort with other agencies.
- (4) A person serving as a member of a subcommittee shall hold office for such period as the Committee may determine.

- (5) Subject to any specific or general direction of the Committee, a subcommittee may regulate its own procedure.

## 8. Authorised officers

- (1) The Minister may, by notice in the *Gazette*, appoint a public officer or a class of persons as authorised officers for the purposes of this Act on such terms as the Minister may determine.
- (2) An authorised officer or refugee officer may, for the purpose of exercising that officer's power or performing that officer's duties under this Act and subject to subsections (3) and (4)—
- (a) search a person or property;
  - (b) take the fingerprints, palmprints and photograph or other biometric information of a refugee or person who claims to be a refugee for the purposes of this Act or a dependant of that person; or
  - (c) question a refugee or person who claims to be a refugee for the purposes of this Act or any dependant of that person.
- (3) An authorised officer or refugee officer may search a person or property with or without a warrant under subsection (2)(a) where the authorised officer or refugee officer has reasonable grounds to believe that the search is necessary for the prevention, investigation or detection of—
- (a) a contravention of the provisions of this Act; or
  - (b) a fraudulent misstatement or concealment, by a recognised refugee or dependant of that recognised refugee, of any fact relevant to that recognised refugee's or dependant's identity or status for the purposes of this Act.
- (4) A person shall only be searched by an authorised officer or refugee officer of the same sex.

## Part III – Recognition of refugees

### 9. Designation of refugee resettlements

- (1) The Minister may, by notice in the *Gazette*, designate places and areas in Zambia as—
- (a) refugee reception areas, in which the following persons shall be received and temporarily accommodated:
    - (i) asylum seekers; and
    - (ii) persons who have applied for recognition as refugees under section 11 and dependants of those persons; and
  - (b) refugee settlements, where the following persons shall reside:
    - (i) recognised refugees and their dependants; and
    - (ii) any other class of persons as may be specified in the notice.
- (2) The Minister may establish, in a refugee reception area or other place, a refugee settlement and appoint a refugee officer to be in charge of that refugee settlement.
- (3) The Minister may make rules, and the Commissioner may issue directions consistent with the rules, for the control of refugee settlements and the rules and directions may make provision in respect of all or any of the following matters:
- (a) the organisation, safety, discipline and administration of the refugee settlements;
  - (b) the reception, treatment, health and well-being of refugees; and

- (c) the powers of refugee officers in respect of the refugee settlements.
- (4) A refugee officer may give such orders or directions, orally or in writing, to a refugee as may be necessary or expedient to—
  - (a) ensure that a refugee settlement is administered in an orderly and efficient manner;
  - (b) ensure the performance of any work or duty necessary for the maintenance of essential services in a refugee settlement or for the general welfare of the refugees;
  - (c) ensure that all proper precautions are taken to preserve the health and wellbeing of the refugees in the refugee settlement; and
  - (d) preserve orderly conduct and discipline in a refugee settlement.
- (5) A refugee commits an offence who, in a refugee settlement—
  - (a) disobeys a rule made by the Minister, a direction of the Commissioner or an order or direction of a refugee officer, made or given under this Act; or
  - (b) behaves in a manner prejudicial to good order and discipline in a refugee settlement.

## 10. Restrictions relating to refugee settlements

- (1) A person, except a recognised refugee required to reside in a refugee settlement or a person employed in a refugee settlement, shall not enter or be within the refugee settlement without the general or special permission of the Minister, the Commissioner or a refugee officer.
- (2) A person shall not, in a refugee settlement, address an assembly or meeting of ten or more recognised refugees without the permission of the Commissioner.
- (3) A person who contravenes this section commits an offence.

## 11. Application for the recognition as refugee

- (1) An asylum seeker or a person who is within Zambia, whether that person has entered Zambia lawfully or otherwise, and wishes to remain in Zambia as a recognised refugee under this Act may, within seven days of entering Zambia, apply for recognition as a refugee to the Commissioner or an authorised officer.
- (2) The Commissioner or an authorised officer, shall, within thirty days of the receipt of an application made under subsection (1), submit the application to the Committee.
- (3) An authorised officer to whom an application is made under subsection (1) shall—
  - (a) where the authorised officer is not an immigration officer, within five days of receipt of the application, notify an immigration officer that the applicant is within Zambia and has made the application; and
  - (b) within thirty days of receiving the application, submit the application with any documents or information in support of the application to the Commissioner who shall, upon consideration of the application and determination that it should be referred to the Committee, submit it to the Committee.
- (4) Despite section 22 of the Immigration and Deportation Act, 2010, or any other written law, a person who applies for recognition as a refugee under this section and a dependant of that person has the right to remain in Zambia—
  - (a) until that person is recognised as a refugee; or

- (b) where the application for recognition as a refugee is rejected, until that person has had an opportunity to exhaust that person's right of appeal under section [15](#).

[Act [No. 18 of 2010](#)]

## 12. Consideration of application by Committee

- (1) The Committee shall, within sixty days of receiving an application for refugee status, forwarded to it under section [11](#), consider the application and make recommendations to the Commissioner in relation to that application as it considers fit.
- (2) The Committee may, within the period referred to in subsection [\(1\)](#), inquire into or investigate the applicant as it may consider necessary for purposes of this Act.

## 13. Recognition of refugees

The Commissioner may, after considering the recommendation of the Committee made pursuant to section [12](#) on an application, recognise the applicant as a refugee if the applicant meets the requirements of this Act and shall, within seven days of the decision, inform the applicant accordingly, in writing.

## 14 Exclusion or refusal to grant recognition as refugee

- (1) The Commissioner shall exclude a person or asylum seeker from recognition of refugee status under this Act if there are reasonable grounds to believe that the person or asylum seeker—
  - (a) has committed a crime against peace, a war crime or crime against humanity;
  - (b) has committed a serious nonpolitical crime outside Zambia before that person's arrival in Zambia;
  - (c) has engaged in subversive acts against any State;
  - (d) is receiving protection or assistance from an agency of the United Nations, other than the United Nations High Commissioner for Refugees;
  - (e) is a combatant or continues to take part in armed activities; and
  - (f) has committed acts contrary to the purposes and principles of the United Nations or the African Union.
- (2) Where the protection or assistance referred to in subsection [\(1\)](#) ceases without the person's position being definitively settled, that person may apply for recognition as a refugee under this Act.
- (3) The Commissioner shall not grant a person or asylum seeker refugee status under this Act if that person or asylum seeker—
  - (a) having more than one nationality, had not availed oneself of the protection of one of the countries of which the person is a national, and has no valid reason, based on well-founded fear of persecution,
  - (b) has been granted refugee status or asylum in another country before that person's entry into Zambia, except that a person arriving from a territory where there has been serious breach of peace shall have that person's application for asylum considered, and
  - (c) has before that person's entry into Zambia transited through one or more countries and is unable to show reasonable cause for failure to seek asylum in those countries.
- (4) The Commissioner shall, where the Commissioner refuses to recognise a person's status as a refugee, state the reasons for the refusal and shall inform that person of the right to appeal to the Minister.

## 15. Appeal against refusal of grant of recognition as refugee

- (1) A person aggrieved with the refusal of the Commissioner to recognise that person as a refugee may, within fourteen days of the receipt of the decision of the Commissioner, appeal to the Minister, in writing.
- (2) The Minister may consider an appeal after the expiry of the period specified in subsection (1) where the Minister determines that the appellant was prevented by justifiable cause from filing the appeal within the specified period.
- (3) The Minister may, before reaching a decision on an appeal—
  - (a) refer the matter to the Committee for further inquiry and investigation; or
  - (b) make such further inquiry and investigation into the matter.
- (4) The Minister may, in determining an appeal under subsection (1), confirm or set aside the decision of the Commissioner, and shall notify the appellant of the Minister's decision in the matter and the reasons for the decision.
- (5) Where a person appeals against the rejection of an application for recognition as a refugee and the appeal is unsuccessful, that person may be allowed to remain in Zambia for a period not exceeding three months, and if that person is in detention, that person shall be afforded reasonable facilities to seek admission to a country of that person's choice.
- (6) A person may apply to the Minister to extend the period of three months specified in subsection (5), and the Minister may extend that period if the Minister determines that there is a reasonable likelihood of the person being admitted to a country of that person's choice within that extended period.

## 16. Declaration of refugee status by statutory order

- (1) Subject to the other provisions of this Act, where the Minister considers that a class of persons are refugees, the Minister may, by statutory order, declare that class of persons to be recognised refugees for the purposes of this Act, and may in like manner amend or revoke the declaration.
- (2) An amendment or revocation of a declaration made under subsection (1) shall not affect the right of a person—
  - (a) who is a member of that class of persons and who entered Zambia before the date of the amendment or revocation, to continue to be regarded as a refugee for the purposes of this Act, or
  - (b) who is such a person as is referred to in paragraph (a), (b) or (c) of the definition of "refugee" to be recognised as a refugee for the purposes of this Act.
- (3) The Minister may exclude or exempt a person from a declaration made under subsection (1), but the exclusion or exemption shall not preclude that person from applying for recognition as a refugee under this Act.
- (4) The Minister shall cause a declaration made under subsection (1) and an amendment or revocation of the declaration to be published in the *Gazette* and in such other manner as the Minister considers will bring it to the attention of refugee officers, authorised officers and any other person to whom it relates.

## 17. Cancellation or revocation of recognition

- (1) The Commissioner may request the Committee to cancel or revoke the recognition of a person as a refugee where there are reasonable grounds to believe that the person concerned—
  - (a) has committed an offence under this Act or any other written law;

- (b) obtained the recognition through fraud, false submission of information or concealment of a material fact;
  - (c) should not have been recognised as a refugee; or
  - (d) has ceased to qualify for recognition as a refugee for the purposes of this Act.
- (2) The Committee shall, where a matter is referred to it under subsection (1)—
- (a) cause a written notice to be served upon the person whose status as a refugee is under review—
    - (i) informing that person that the person's recognition as a refugee is to be reviewed; and
    - (ii) inviting that person to make a written representation on the matter to the Committee within fourteen days of the date of receipt of the notice; and
  - (b) inquire into or investigate the matter and make recommendations to the Commissioner as it considers fit.
- (3) The Commissioner may, after considering the recommendations of the Committee on a matter referred to it under subsection (1), withdraw or uphold the recognition of the person concerned as a refugee.
- (4) The Commissioner shall, where the Commissioner withdraws the recognition of a person as a refugee, inform that person, in writing, within seven days of the decision and give the reasons for the withdrawal of the recognition.

## 18. Appeal against cancellation or revocation of recognition

- (1) A person who is aggrieved with the decision of the Commissioner to cancel or revoke the recognition of that person as a refugee may, within fourteen days of receipt of the Commissioner's decision, appeal to the Minister, in writing.
- (2) The Minister may, before reaching a decision on an appeal made under subsection (1)—
- (a) invite a representative of any institution or organisation in Zambia to make oral or written submissions on the matter, or
  - (b) make such further inquiry and investigation into the matter.
- (3) The Minister may, on an appeal made under subsection (1) uphold or set aside the decision of the Commissioner.

## 19. Effect of cancellation or revocation of recognition

- (1) Where the recognition of a person as a refugee is cancelled or revoked under section 17, that person shall cease to be a recognised refugee and that person's dependant shall cease to be recognised as such under this Act—
- (a) within seven days from the date of service of the notice of withdrawal of recognition; or
  - (b) where the person has appealed to the Minister under section 18, on the date of receipt of the Minister's notification that the Minister has upheld the decision of the Commissioner to cancel or revoke the recognition as a refugee.
- (2) Nothing in this Act prevents a dependent of a recognised refugee whose recognition is cancelled or revoked under section 17 from applying for recognition under section 11.
- (3) The Commissioner shall, in cooperation with the Immigration Department, remove from Zambia a refugee whose recognition has been cancelled or revoked under this section.

## 20. Cessation of recognition

- (1) A person shall cease to be a recognised refugee for purposes of this Act if that person—
  - (a) voluntarily reavails oneself of the protection of that person's country of nationality;
  - (b) having lost that person's nationality, voluntarily reacquires it;
  - (c) becomes a citizen of Zambia or acquires the nationality of another country and enjoys the protection of the country of that person's new nationality;
  - (d) voluntarily reestablishes oneself in the country which that person left, or outside of which that person remained owing to a well-founded fear of persecution, external aggression, occupation, foreign domination or serious disturbance of public order in either part, or the whole, of that country,
  - (e) voluntarily re-establishes oneself in another country other than that person's country of nationality;
  - (f) has had that person's recognition as a refugee cancelled or revoked; or
  - (g) can no longer continue to refuse to benefit from the protection of that person's country of nationality, because the circumstances in connection with which that person was recognised as a refugee have ceased to exist.
- (2) Subsection (1)(g) shall not apply to a person who demonstrates to the Commissioner that the person has compelling reasons, arising from previous persecution, for refusing to avail oneself to the protection of that person's country of nationality, or to return to that person's country of nationality.

## 21. Expulsion of recognised refugee

- (1) The Minister may order the expulsion of a recognised refugee from Zambia if the Minister considers that the expulsion is necessary or desirable on the grounds of national security or public order.
- (2) The Minister shall, before making an order under subsection (1), cause a written notice to be served upon the recognised refugee informing that recognised refugee of—
  - (a) the intention to expel that recognised refugee, stating the grounds for the expulsion; and
  - (b) the representation that the recognised refugee may make to the Minister against the expulsion in terms of subsection (3).
- (3) A recognised refugee upon whom a notice is served under subsection (2) may, in person or through a legal practitioner or the United Nations High Commissioner for Refugees, within fourteen days from the date of the service of the notice, make representations against the expulsion, in writing, to the Minister.
- (4) Where a recognised refugee makes representations to the Minister under subsection (3), the Minister shall, before ordering the expulsion of that recognised refugee from Zambia, consider the representations made and determine whether the recognised refugee should be expelled in accordance with the order made under subsection (1) or withdraw the order.
- (5) Where a representation is made by a recognised refugee under subsection (3), the order for the expulsion of that recognised refugee shall be suspended pending the determination of the Minister.
- (6) Despite the provisions of this section, a refugee who is considered to be a danger to national security or public order under subsection (1) is not entitled to make representations if there are compelling reasons on grounds of national security.

- (7) The execution of an order for the expulsion of a recognised refugee under this section may be delayed for a reasonable period to enable the recognised refugee to seek admission to a country other than the country to which it is proposed to expel that refugee.

## 22. Detention of refugee pending expulsion

- (1) An authorised officer may arrest and detain a recognised refugee whose expulsion has been ordered under section 21, pending the completion of arrangements for the expulsion of that recognised refugee from Zambia.
- (2) An officer-in-charge of a correctional centre or police station shall, when required, in writing, by an authorised officer receive into custody and retain in custody a recognised refugee detained or to be detained in terms of subsection (1).
- (3) A recognised refugee detained in a correctional centre or police station under this section shall be treated as a person awaiting trial.
- (4) A recognised refugee who is detained under this section may, if that recognised refugee so requests, be allowed a reasonable time not exceeding three months, and be afforded reasonable facilities to seek admission to a country other than the country to which that recognised refugee is to be expelled.
- (5) The Minister may, where a refugee applies for admission to another country under subsection (4), extend the three months' period referred to in that subsection if satisfied that there is a reasonable likelihood of the recognised refugee being admitted to the country of the recognised refugee's choice within the extended period.
- (6) In this section, "correctional centre" means a building, enclosure or place or part of the building, enclosure or place declared to be a correctional facility in the law relating to prisoners, and includes a correctional centre established for children in conflict with the law.

## 23. Publication of expulsion, extradition or refusal of entry of asylum seeker or refugee

- (1) Despite the provisions of any other law, a person shall not be refused entry into Zambia or be expelled, extradited or returned from Zambia to another country if that refusal, expulsion or return would compel that person to return to or remain in a country where—
  - (a) that person may be subjected to persecution on account of that person's race, religion, nationality, membership of a particular social group or political opinion; or
  - (b) that person's life, physical well-being or liberty is threatened by external aggression, occupation, foreign domination or event seriously disrupting public order in part or the whole of that country.
- (2) The Minister shall take such steps as the Minister considers necessary to ensure that the provisions of subsection (1) are applied in respect of persons to whom that subsection applies.
- (3) An asylum seeker or refugee shall not benefit from this provision where there are reasonable grounds to believe that the asylum seeker or refugee is a danger or threat to national security.

## 24. Register of refugees

The Commissioner shall establish and maintain a register which shall indicate—

- (a) the details of persons who are recognised as refugees;
- (b) the names and other particulars of asylum seekers whose applications are rejected;
- (c) the names of persons whose recognition is withdrawn or who have ceased to be recognised refugees; and

- (d) any other information that the Minister may prescribe.

## **Part IV – Rights and duties of recognised refugees**

### **25. Rights and duties of recognised refugees**

- (1) Subject to the Constitution and the other provisions of this Act, a recognised refugee and a dependant of the recognised refugee within Zambia are entitled to the rights and are subject to the duties contained in this Part, subject to the limitations-imposed [Cap. 1](#) on the rights by the Constitution and any other written law.
- (2) Where a question arises in any proceedings, or with reference to anything done or proposed to be done, under this Act regarding whether a person is a recognised refugee or not, the onus of proving that such person is a recognised refugee shall lie upon that person.

*[Cap. 1]*

### **26. Provisional measures for national security**

Nothing in this Act shall prevent the Minister, in time of war or other grave and exceptional circumstances, from taking provisional measures which are considered to be essential to national security in the case of a particular person pending a determination that the person is in fact a refugee and that the continuance of such measures is necessary in that person's case in the interest of national security.

### **27. Maintenance of public order**

A recognised refugee shall comply with the written laws and the measures taken for the maintenance of public order.

### **28. Right to life**

A recognised refugee has the right to life.

### **29. Non discrimination**

A recognised refugee shall not be discriminated against based on birth, race, sex, origin, nationality, colour, age, disability, religion, conscience, belief, culture, language, tribe, health, pregnancy or marital, ethnic, social or economic status.

### **30. Freedom of person**

A recognised refugee has the right to freedom of the person, which includes the right not to be deprived of that freedom arbitrarily.

### **31. Security of person and protection from inhuman treatment**

- (1) A recognised refugee has the right to security of the person, which includes the right not to be subjected to human trafficking.
- (2) A recognised refugee has the right not to be—
  - (a) subjected to torture; or
  - (b) treated or punished in a cruel, inhuman or degrading manner.

### **32. Protection from slavery, servitude and forced labour**

- (1) A recognised refugee shall not be held in slavery or servitude.

- (2) A recognised refugee shall not be required to perform forced labour.

### 33. Protection of privacy of person, home, property and communication

Subject to section 8, a recognised refugee has the right to privacy, which includes the right not to—

- (a) be searched;
- (b) have that recognised refugee's home or property searched;
- (c) have that recognised refugee's possessions seized;
- (d) have information relating to that recognised refugee's family, health status or private affairs unlawfully required or revealed; or
- (e) have the privacy of that recognised refugee's communications infringed.

### 34. Freedom of conscience, belief and religion

- (1) A recognised refugee has the right to freedom of conscience, belief and religion.
- (2) A recognised refugee has the right, individually or in community with others, publicly or privately, to manifest any religion or belief through worship, observance, practice or teaching, including the observance of a day of worship.
- (3) Subsection (2) does not extend to conduct or statements that infringe the enjoyment of freedom of conscience, belief and religion by others or that may incite religious wars.
- (4) A recognised refugee shall not be compelled to act or engage in an act that is contrary to that recognised refugee's conscience, belief or religion.
- (5) A recognised refugee shall not be deprived of access to an institution or a facility on the basis of that recognised refugee's belief or religion.

### 35. Freedom of expression

- (1) A recognised refugee has the right to freedom of expression which includes—
  - (a) freedom to hold an opinion;
  - (b) freedom to receive or impart information or ideas;
  - (c) freedom of artistic creativity;
  - (d) academic freedom; and
  - (e) freedom of scientific and technological research, as prescribed.
- (2) Subsection (1) does not extend to—
  - (a) conduct or statements which incite war, genocide, crimes against peace, crimes against humanity or other forms of violence, or
  - (b) statements which—
    - (i) vilify or disparage others; or
    - (ii) incite hatred.
- (3) A recognised refugee has the right to the protection of industrial property such as inventions, designs, models, trademarks, trade names and rights in literary, artistic and scientific works in accordance with the relevant law.

### 36. Freedom of association and assembly

- (1) A recognised refugee has the right to freedom of association and assembly, which includes the right to assemble freely and associate with other persons and in particular form, join or participate in the activities of an association.
- (2) A recognised refugee shall not be compelled to join an association.

### 37. Personal status

- (1) The personal status of a recognised refugee shall be governed by the laws of the country of the recognised refugee's domicile, or if the recognised refugee has no domicile, by the laws of Zambia.
- (2) The Government shall respect the rights previously acquired by a recognised refugee and dependant on personal status, more particularly rights attaching to marriage, subject to compliance with the requirements of the Marriage Act.

*[Cap. 50]*

### 38. Settlement

The Minister shall endeavour, consistent with the Constitution and other laws, to secure the settlement of refugees in Zambia.

*[Cap. 1]*

### 39. Acquisition of moveable property

- (1) A recognised refugee has, subject to any written law, the right, individually or in association with others, to own property in any part of Zambia.
- (2) The State or a person shall not arbitrarily deprive a recognised refugee of property.
- (3) The State shall not compulsorily acquire a recognised refugee's property unless the acquisition is in the public interest.
- (4) Where a recognised refugee's property is compulsorily acquired in accordance with subsection (3)—
  - (a) the State shall promptly, adequately and effectively compensate that recognised refugee; and
  - (b) the recognised refugee, or any person who has an interest in or right over that property, has a right of access to a court.
- (5) The right under this section do not extend to property that is unlawfully acquired.

### 40. Access to courts

- (1) A recognised refugee shall have free access to the courts.
- (2) A recognised refugee shall enjoy the same treatment as a citizen in matters pertaining to access to the courts, including legal aid and exemption from the payment of security for costs.

### 41. Employment and study permits

- (1) Subject to the other provisions of this Act, a recognised refugee lawfully living in Zambia may, upon producing an identity card issued under section 45, be issued with a work permit or study permit, as the case may be, in accordance with the Immigration Act No. 18 and Deportation Act, 2010.

*[Act No. 18 of 2010]*

- (2) A recognised refugee who is issued with a work permit or study permit under subsection (1) may engage in gainful employment or undertake studies at an educational institution or higher education institution and shall, in respect of the employment or education, be treated in the same way as nationals of a foreign country in the same circumstances.
- (3) A recognised refugee or a dependant of a recognised refugee may undertake studies in any primary school and shall not require a study permit to undertake such studies.

#### **42. Self-employment**

A recognised refugee has the right to establish commercial and industrial companies in accordance with the Immigration and Deportation Act, 2010, and any other written law, and to engage in Act No, 18 self-employments in agriculture, industry, handicrafts, commerce and of 2010 other activities.

#### **43. Practice of professions**

A recognised refugee who holds an educational qualification recognised by the relevant competent authorities, and who is desirous of practising a profession, has the right to choose a trade, an occupation or a profession, subject to limitations imposed by law.

#### **44. Rationing of supplies**

The Government shall, where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, accord recognised refugees the same treatment as citizens.

#### **45. Residence in Zambia**

- (1) Subject to the provisions of this Act, a recognised refugee and a dependant of that recognised refugee who has attained the age of sixteen—
  - (a) shall be permitted to remain within Zambia; and
  - (b) shall be issued with an identity card in the prescribed form.
- (2) A recognised refugee shall keep the identity card issued to that recognised refugee under subsection (1)(b) in one's possession at all times while in Zambia.
- (3) Subject to the other provisions of this Act, a dependant of a recognised refugee who is below the age of sixteen shall be issued with a refugee identification card and be permitted to enter and remain in Zambia.
- (4) A dependant of a recognised refugee who is within Zambia in terms of this section and who ceases to be a dependant of the recognised refugee shall, subject to the other provisions of this Act, be permitted to remain within Zambia and shall be entitled to the rights and duties provided for in this Act.
- (5) Where a recognised refugee dies, divorces or legally separates from the spouse, a person who, immediately before the death, divorce or legal separation, was within Zambia as a dependant of that recognised refugee in terms of this section shall, subject to the other provisions of this Act, be permitted to remain within Zambia.
- (6) A dependant of a recognised refugee who is permitted to remain in Zambia under this section may apply for recognition as a refugee under section 11.

#### 46. Prohibition of proceedings against refugees

Despite the provisions of Part V of the Immigration and Deportation Act, 2010, proceedings for unlawful entry or presence in Zambia shall not be instituted or continued against a person or a dependant of that person who enters or is present in Zambia without lawful authority if that person—

- (a) without delay, applies to an authorised officer for recognition as a refugee under section [11](#); or
- (b) has become a recognised refugee in accordance with this Act.

#### 47. Administrative assistance

- (1) Where the exercise of a right by a recognised refugee would normally require the assistance of authorities of a foreign country to whom the recognised refugee cannot have recourse, the Commissioner shall arrange for the assistance to be afforded to the recognised refugee by the relevant institution or authorities or by an international authority.
- (2) The authority or authorities mentioned in subsection [\(1\)](#) shall deliver or cause to be delivered under their supervision to recognised refugees such documents or certifications as would normally be delivered to foreigners by or through their national authorities.
- (3) Documents or certifications delivered under subsection [\(2\)](#) shall stand in the stead of the official instruments delivered to foreigners by or through their national authorities and shall be given credence in the absence of proof to the contrary.
- (4) Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned in this section, but such fees shall be moderate and commensurate with those charged to citizens for similar services.
- (5) The provisions of this section shall be without prejudice to section [35](#) and [37](#).

#### 48. Fiscal charges

- (1) The Government shall not impose upon recognised refugees' duties, charges or taxes of any description, other or higher than those which are or may be levied on citizens in similar situations.
- (2) Nothing in subsection [\(1\)](#) shall prevent the application of the laws and regulations to recognised refugees concerning charges in respect of the issue to foreigners of administrative documents, including identity papers.

#### 49. Naturalisation

- (1) The Minister shall, as far as possible, facilitate the assimilation and naturalisation of persons who have ceased to be recognised refugees in accordance with section [20](#), except section [20\(1\)\(f\)](#).
- (2) The Commissioner shall assist a person who has ceased to be recognised refugee who has met the conditions for the acquisition of Zambian citizenship to acquire citizenship.

#### 50. Travel documentations

- (1) The Commissioner may recommend to the Department of National Registration, Passport and Citizenship that a recognised refugee, lawfully living in Zambia or whose travel document is lost, be issued with a travel document in the prescribed form—
  - (a) for purposes of traveling outside Zambia; or
  - (b) to enable the refugee to return to the country of residence.
- (2) A travel document issued to a recognised refugee by a competent foreign authority shall be recognised in Zambia.

### **51. Identity documents**

The Commissioner may issue identity documents to a recognised refugee for purposes of movements within Zambia.

### **52. Transfer of assets**

- (1) The Minister may, in conformity with the relevant law, permit a recognised refugee to transfer assets which the recognised refugee has brought into Zambia to another country where the recognised refugee has been admitted for the purposes of resettlement.
- (2) The Minister may give consideration to the application by a recognised refugee for permission to transfer the recognised refugee's assets, wherever the assets maybe, which are necessary for the recognised refugee's resettlement in another country to which the recognised refugee has been admitted.

### **53. Refugee women and children**

- (1) The Commissioner shall ensure that specific measures are taken to ensure the safety of women and children seeking asylum status, at all times during their stay in designated areas.
- (2) The Commissioner shall ensure that a child who is in need of refugee status or who is considered a refugee shall, whether unaccompanied or accompanied by the parents or by any other person, receives appropriate protection and assistance.
- (3) The Commissioner shall, as far as possible, assist a child to trace the parents or other members of the family of the refugee child in order to obtain information necessary for the reunification of the child with the child's family.
- (4) Where the parents of the child or other members of the child's family cannot be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of the child's family.

### **54. Vulnerable groups**

The Commissioner shall ensure that measures are taken, having regard to the specific nature of every situation, to ensure the safety of asylum seekers and refugees who suffer from physical or mental disability and persons or groups of persons who have been traumatised or otherwise require special protection, at all times during admission into and residence in refugee reception areas or refugee settlements.

## **Part V – The Refugees Fund**

### **55. Establishment of Refugees Fund**

- (1) There is established the Refugees Fund which shall be used for the following purposes:
  - (a) provision of relief aid for refugees;
  - (b) establishment of refugee settlements; and
  - (c) financing programmes for the general welfare of refugees.
- (2) The Fund shall consist of—
  - (a) such monies as may be appropriated by Parliament for the purposes of the Fund;
  - (b) monies collected from such fees and levies as the Minister responsible for finance may prescribe, in consultation with the Minister;

- (c) such monies as may be received by the Fund from donations and grants from any source, with the approval of the Minister;
- (d) such other monies as may vest in, or accrue to, the Fund; and
- (e) such other monies as may, by or under any other law, be payable to the Fund.

#### **56. Administration of Fund**

- (1) The Minister may, by statutory instrument, on the recommendation of the Commissioner, make regulations to provide for—
  - (a) the programs and activities that the Fund shall finance and the manner of financing the programs and activities; and
  - (b) any other matter necessary for the efficient operation, administration and management of the Fund.
- (2) The Minister shall ensure that prudent controls are established for the Fund relating to—
  - (a) fiscal controls and accounting procedures governing the Fund;
  - (b) reporting procedures for matters relating to the Fund; and
  - (c) investment of the monies of the Fund.

#### **57. Accounts and Audit**

- (1) The Commissioner shall cause to be kept proper books of account and other records relating to the accounts of the Fund.
- (2) The Fund shall be audited annually by the Auditor-General.

#### **58. Annual report and statement of income and expenditure**

- (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Ministry responsible for refugees shall submit to the Minister responsible for finance, a report concerning the activities relating to the Fund during the financial year.
- (2) The report referred to in subsection (1) shall include information on the financial affairs of the Fund and there shall be appended to the report—
  - (a) an audited statement of financial position;
  - (b) an audited statement of comprehensive income; and
  - (c) such other information as the Minister responsible for finance may require.
- (3) The Minister responsible for finance shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.

### **Part VI – Offences and penalties**

#### **59. Restrictions on possessions of weapon, firearm or ammunition by refugee**

- (1) A refugee, whether recognised or not, shall not, while in Zambia, acquire or be in possession of a weapon, firearm or ammunition.
- (2) A refugee who brings a weapon, firearm or ammunition into Zambia shall immediately surrender the firearm or ammunition to an authorised officer.

- (3) The Minister may, by order in writing, direct a refugee to surrender to an authorised officer within such time as may be specified in the order, a weapon, an instrument or tool which is capable of being used as a weapon and which is in or comes into the refugee's possession, unless the refugee has written authority to retain the weapon, tool or instrument signed by an authorised officer.
- (4) A refugee who contravenes the provisions of this section commits an offence and is liable, upon conviction, to imprisonment for a term not exceeding three years.
- (5) In this section, "firearm" and "ammunition" have the meanings respectively assigned to them in the Firearms Act.

*[Cap. 110]*

#### **60. Sending of offensive messages on radio apparatus and electronic communication**

- (1) A refugee, whether recognised or not, who sends to a person by electronic communication, radio apparatus, electronic communication network or electronic communication device a message that is—
  - (a) intended to incite or promote war or civil strife in Zambia or another country; or
  - (b) offensive, indecent or false.

commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

- (2) A person who—
  - (a) is in unlawful possession of a radio apparatus or electronic communications apparatus; or
  - (b) unlawfully operates or receives any service by a radio apparatus, electronic communication, electronic communication network or electronic communications apparatus;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

#### **61. Prohibition of inciting or engaging in war activity**

A refugee, whether recognised or not, shall not engage in an activity which is intended to incite another person to war or to perpetrate war or civil strife in another country.

#### **62. False declaration**

A person shall not—

- (a) make a false declaration or statement to a refugee officer or authorised officer which that person knows or has reasonable cause to believe is false or misleading, for the purposes of obtaining or assisting another person to obtain recognition as an asylum seeker or refugee; or
- (b) knowingly mislead a refugee officer or authorised officer seeking information material to the exercise of any power under this Act.

#### **63. Residence outside refugee settlement and illegal residence**

A refugee or recognised refugee commits an offence who—

- (a) resides outside a refugee settlement without authority, or in a place other than the approved place of residence;
- (b) is unlawfully in Zambia in contravention of this Act; or

- (c) having left or been removed from Zambia pursuant to an order under this Act is found in Zambia while the order is in force.

#### **64. Failure to apply for recognition**

An asylum seeker who, upon entering Zambia with intention to seek asylum, fails to report immediately to a refugee officer or authorised officer to register and submit an application for recognition as a refugee commits an offence.

#### **65. Forging alteration, destruction and unlawful possession of identification documents**

- (1) A person shall not—
  - (a) forge, alter, destroy or willfully deface an identification document, asylum seekers pass, recognition, travel document, or any other document issued under this Act or any other written law for purposes of refugees;
  - (b) knowingly use or have in possession a forged refugee identification document, asylum seekers pass, movement pass or any other document issued under this Act or any other written law for purposes of refugees;
  - (c) give, sell or part with the possession of an identification document, asylum seekers pass, travel document, or any other document issued under this Act or any other law intending or knowing or having reasonable cause to believe that it will be used by another person;
  - (d) use an identification document, asylum seekers pass, travel document or any other document issued under this Act or any other law belonging to another asylum seeker or refugee;
  - (e) harbor an asylum seeker or refugee whom the person knows or has reasonable cause to believe to be a person who has committed an offence under this Act or any other law; or
  - (f) being a Zambian citizen, apply for or obtain recognition, admission or registration as an asylum seeker or a refugee.
- (2) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.

#### **66. Alteration and destruction of register**

A person commits an offence who—

- (a) submits false or misleading information for purposes of the Register;
- (b) makes an unlawful entry or alteration in the Register;
- (c) defaces, removes or damages information in the Register or any record or document kept for purposes of the Register or official record; or
- (d) damages or defaces the Register.

#### **67. Obstruction of officer**

- (1) A person commits an offence who—
  - (a) delays or obstructs an authorised officer or refugee officer in the performance of duties under this Act;

- (b) refuses to give an authorised officer or refugee officer such reasonable assistance as the authorised officer or refugee officer may require for the purposes of exercising powers under this Act;
  - (c) gives an authorised officer or refugee officer false or misleading information in answer to an inquiry made by the authorised officer or refugee officer; or
  - (d) impersonates or falsely presents oneself to be an authorised officer or refugee officer.
- (2) A person who commits an offence under subsection (1), is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or both.

#### **68. Disclose of confidential information**

A person who—

- (a) being a person employed for the purposes of this Act, publishes or communicates, without lawful authority, to another person information acquired by that person in the course of that person's employment; or
- (b) being in possession of information which, to the person's knowledge, had been disclosed in contravention of this Act, publishes or communicates that information to another person;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

#### **69. General penalty**

A person who commits an offence under this Act for which a penalty is not specifically provided is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or imprisonment for a term not exceeding four years, or to both.

### **Part VII – General provisions**

#### **70. Places of entry or departure**

- (1) The Minister may, by order, in writing direct that a refugee—
  - (a) entering or leaving Zambia enters or leaves by specified routes or at specified places; or
  - (b) moving from one part of Zambia to another moves by specified routes.
- (2) An Order made under this section may be subject to such terms and conditions as the Minister considers necessary.
- (3) A refugee who contravenes an order under this section commits an offence.

#### **71. Recruitment to reside in reception area or refugee settlement**

- (1) The Minister may, by order, require a refugee—
  - (a) to reside within a reception area or refugee settlement; or
  - (b) who is within a reception area or refugee settlement to move to and reside in some other place, being a reception area or refugee settlement.
- (2) A refugee to whom an order made under this section applies commits an offence if the refugee—
  - (a) fails to take steps to comply with the order;

- (b) fails to move as soon as reasonably possible to take up residence in a reception area or refugee settlement in accordance with the order; or
  - (c) having arrived at a reception area or refugee settlement in pursuance of the order, leaves or attempts to leave that reception area or settlement, except in pursuance of some other order made under this section.
- (3) An authorised officer shall issue a permit to a refugee to whom an order made under subsection (1) applies, authorising the refugee to—
- (a) reside in a reception area elsewhere than in the refugee settlement to which the order refers; or
  - (b) leave a reception area in which the refugee has been required to reside.
- (4) A permit issued under subsection (3) is subject to such terms and conditions as the authorised officer considers necessary and shall specify the destination to which and the route by which the refugee may proceed.
- (5) A refugee who fails to comply with the terms and conditions of a permit issued under this section commits an offence.

## 72. Regulations

- (1) The Minister may make regulations for the better carrying out of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), regulations made under that subsection may provide for—
- (a) the assignment to the Committee of functions relating to the investigation, inspection and supervision of the reception, treatment and welfare of refugees;
  - (b) the procedure for applying for recognition as refugee and the form in which the application shall be made;
  - (c) the manner and form in which appeals may be made to the Minister;
  - (d) the issue of identity documents to refugees and their dependants;
  - (e) the form of identification and travel documents to be issued to recognised refugees;
  - (f) the control and regulation of persons who are required to reside within reception areas or refugee settlements and the circumstances in which persons may reside outside those areas;
  - (g) the form of an order or notice required to be served on a person under this Act and the manner in which the order or notice may be served;
  - (h) the procedure and manner of affording persons who are detained under this Act facilities to seek admission to a country of their choice;
  - (i) the manner in which representations may be made by the United Nations High Commissioner for Refugees in relation to a person and the services and assistance that may be rendered by the United Nations High Commissioner for Refugees or on behalf of a persons for the purposes of this Act; and
  - (j) anything which may be prescribed for the better carrying out of the provisions of this Act.
- (3) The regulations made under this section may provide, in respect of any contravention, that the offender is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

### 73. Repeal of Cap. 120

The Refugees (Control) Act, 1970, is repealed.

## Schedule (Section 5)

### Part I – The Refugee Status Determination Committee

#### 1. Tenure of office and vacancy

- (1) A member shall hold office for a period of three years and may be re-appointed for one further period of three years.
- (2) A member may resign upon giving one month's notice, in writing, to the Minister.
- (3) The office of a member becomes vacant if the member—
  - (a) dies;
  - (b) resigns;
  - (c) is absent, without reasonable excuse, from three consecutive meetings of the Committee of which the member has had notice;
  - (d) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a period exceeding six months without the option of a fine;
  - (e) is removed by the Minister;
  - (f) has a mental or physical disability which makes the member incapable of performing the functions of a member; or
  - (g) ceases to represent the organisation from which a member was appointed.
- (4) A member shall, on the expiration of the period for which the member is appointed, continue to hold office until a successor is appointed, but in no case shall the further period exceed four months.
- (5) The Minister shall, whenever the office of a member becomes vacant before the expiry of the term of office, appoint another person in place of that member but that person shall hold office as a member only for the unexpired part of that member's term.
- (6) The Minister shall, as far as practicable when appointing members of the Committee in accordance with subsection (1), ensure that there is fifty percent representation of each gender.

#### 2. Proceedings of Committee

- (1) Subject to the other provisions of this Act, the Committee may regulate its own procedure.
- (2) The Committee shall meet for the transaction of business at least once in every three months at such places and times as the Committee may determine.
- (3) A meeting of the Committee may be called by the Chairperson upon giving notice of not less than seven days and shall be called by the Chairperson if one-third or more of the members so request in writing, except that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.
- (4) Four members shall constitute a quorum at a meeting of the Committee.

- (5) There shall preside at a meeting of the Committee—
  - (a) the Chairperson;
  - (b) in the absence of the Chairperson, the Vice Chairperson; and
  - (c) in the absence of the Chairperson and the Vice Chairperson, such other member as the members present may elect for the purpose of that meeting.
- (6) A decision of the Committee on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.
- (7) Where a member is for any reason unable to attend any meeting of the Committee, the member may, in writing, nominate another person from the same organisation to attend the meeting in that member's stead and that person shall be deemed to be a member for the purpose of that meeting.
- (8) The Committee may invite a person whose presence is in its opinion desirable to attend and to participate in the deliberations of the meeting of the Committee, but that person shall have no vote.
- (9) The validity of any proceedings, acts or decisions of the Committee shall not be affected by any vacancy in the membership of the Committee or by any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.
- (10) The Committee shall cause minutes to be kept of the proceedings of every meeting of the Committee and every meeting of any committee of the Committee.
- (11) Proceedings of the Committee shall be conducted with strict regard to the confidentiality of asylum applications.

### 3. Emoluments

A member of the Committee or any sub-committee of the Committee shall be paid such emoluments as the Emoluments Commission may determine.

### 4. Disclosure of interest

- (1) A person who is present at a meeting of the Committee or any sub-committee of the Committee at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Committee or the sub-committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.
- (2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.
- (3) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

### 5. Immunity

An action or other proceeding shall not lie or be instituted against a member of the Committee, a member of a sub-committee or a member of staff of the Office of the Commissioner for Refugees for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance, of any of the powers, functions or duties conferred under this Act.