



Office of the Refugee Applications Commissioner

Amendments to Information Leaflet for Applicants 2012 (consolidation only)

This document is to be read in conjunction with the Information Leaflet for Applicants for Refugee Status in Ireland (dated September 2003).

Any reference to the Minister for Justice, Equality and Law Reform should be read as the Minister for Justice and Equality. Any reference to the Department of Justice, Equality and Law Reform should be read as the Department of Justice and Equality.

Legislation

The statutory functions of the Refugee Applications Commissioner are set out in the Refugee Act, 1996 as amended by the Immigration Act, 1999, the Illegal Immigrants (Trafficking) Act, 2000, the Immigration Act, 2003 and the Immigration Act, 2004. Throughout this report, the term "Refugee Act, 1996" means the Refugee Act, 1996 (as amended).

The Office also has regard or had regard, *inter alia*, to the following Statutory Instruments (S.I.) in the discharge of its business:

- S.I. No. 344 of 2000 - Refugee Act, 1996 (Places and Conditions of Detention) Regulations, 2000.
- S.I. No. 345 of 2000 - Refugee Act, 1996 (Application Form) Regulations, 2000.
- S.I. No. 346 of 2000 - Refugee Act, 1996 (Temporary Residence Certificate) Regulations, 2000.
- S.I. No. 415 of 2003 - Immigration Act, 2003 (Section 7) (Commencement) Order, 2003.
- S.I. No. 422 of 2003 - Refugee Act, 1996 (Safe Countries of Origin) Order, 2003.
- S.I. No. 423 of 2003 - Refugee Act, 1996 (Section 22) Order, 2003.
- S.I. No. 424 of 2003 - Refugee Act, 1996 (Appeals) Regulations, 2003.
- S.I. No. 714 of 2004 - Refugee Act, 1996 (Safe Countries of Origin) Order, 2004.
- S.I. No 518 of 2006 - European Communities (Eligibility for Protection) Regulations 2006.
- S.I. No 51 of 2011 - European Communities (Asylum Procedures) Regulations 2011.
- S.I. No 52 of 2011 - Refugee Act, 1996 (Asylum Procedures) Regulations 2011.

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Chapter 1 - Introduction

Additional information – paragraph 1.4

Information Note for Applicants

*(Please note that this note is for information and guidance purposes only.
It does not purport to give a legal interpretation of the Regulations.)*

European Communities (Asylum Procedures) Regulations 2011 (SI No 51 of 2011) and the Refugee Act 1996 (Asylum Procedures) Regulations 2011 (SI No 52 of 2011)

1. Introduction

The purpose of this note is to inform you about the Regulations which the Minister for Justice and Equality (“the Minister”) has made.

This note should be read with the Information Leaflet for Applicants for Refugee Status in Ireland.

2. Purpose of Regulations

These Regulations give further effect in Irish law to the EU Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status (Council Directive 2005/85/EC “The Asylum Procedures Directive”). The Regulations come into operation on 1st March 2011.

3. What do the Regulations cover?

These Regulations, inter alia, amend the Refugee Act, 1996 to provide

- that the Minister may, by order made after consultation with the Minister for Foreign Affairs, designate a country as a safe country of origin.
- that the Minister may, by order made after consultation with the Minister for Foreign Affairs, designate a country as a safe third country.
- an arrangement for facilitating the transfer of an application for asylum to a safe third country.
- that if a recommendation cannot be made within 6 months of the date of the application for a declaration, the Refugee Applications Commissioner shall, upon request from the applicant, provide information on the estimated time within which a recommendation may be made.
- that the Refugee Appeals Tribunal shall, where necessary for the purpose of ensuring appropriate communication during an appeal hearing, provide an appellant with the services of an interpreter.
- that the Refugee Applications Commissioner shall, where necessary for the purpose of ensuring appropriate communication during an interview, provide an applicant with the services of an interpreter.

- that the Refugee Applications Commissioner shall ensure an interview is conducted without the presence of family members save in certain circumstances where the Commissioner considers it necessary for an appropriate investigation.
- for a procedure for obtaining the consent of the Minister to the making of a subsequent application for refugee status.
- conditions for the conduct of an interview under section 11 of the Refugee Act 1996.
- procedures applicable when the applicant is an unaccompanied minor.
- that the recommendation of the Refugee Applications Commissioner when sent to the applicant shall be in a language that he or she may reasonably be supposed to understand, where the applicant is not assisted or represented by a legal adviser or other counsellor, and free legal assistance is not available to the applicant.
- that where the Minister sends a notification to a person, either granting or refusing consent to the making of a subsequent application, it shall be in a language that he or she may reasonably be supposed to understand, where the person is not assisted or represented by a legal adviser or other counsellor, and free legal assistance is not available to the person.

4. Do the Regulations affect the way applications for refugee status are investigated and determined?

4.1 Current practice in relation to the processing of asylum applications is in line with these Regulations.

4.2 The Regulations can be accessed in full on the Irish Naturalisation and Immigration Service website at www.inis.gov.ie.

Chapter 2 - Your rights and obligations

Amendments to paragraph 2.1

Dublin II Regulation/Dublin Convention should read as Dublin II Regulation

Please note that the Health Board is now called the Health Services Executive (HSE).

Additional information - paragraph 2.1

Should you wish to obtain legal advice or assistance in relation to your application/appeal, you may contact the Refugee Legal Service (RLS) which provides a subsidised legal service.

The RLS Information Leaflet which outlines the services provided, office locations and the fee(s) charged, has been given to you separately. The RLS can be contacted at their offices at 47-48 North Brunswick Street, Georges Place, Dublin 7. Phone 01 646 9600, Fax 01 671 0200.

You also have the option to engage private legal representation in relation to your application/appeal. However, you should note that the fees will not be refunded in respect of any legal costs incurred in engaging private legal representation.

A list of private solicitors who specialise in this area is available from the Law Society at:

The Law Society of Ireland
Blackhall Place,
Dublin 7,
Tel 01 6724800.

Additional information - Paragraph 2.1

Data Protection matters

1. The authorised officer of the Refugee Applications Commissioner who is taking your fingerprints will introduce himself/herself to you.
2. You have the right of access to, and the right to rectify, any data concerning you which is held on the EURODAC system.
3. You will be given the opportunity to view and rectify the data concerning you
 - (i) while you are in the Office of the Refugee Applications Commissioner or
 - (ii) you may contact the Office in writing to rectify any incorrect data. The address for correspondence is:

Office of the Refugee Applications Commissioner,
Timberlay House,
79-83 Lower Mount Street,
Dublin 2.

4. Your Temporary Residence Certificate (TRC) Card includes your Personal Identity number, which will be in the format of a number and the year of the earliest previous application to INIS or its agencies (e.g.: 643756-07). Please quote your Personal Identity number in full on all correspondence with this Office.
5. Please also note that your personal details, as provided by you, will also be checked against AVATS - the Automatic Visa Application Tracking System - used by the Irish Naturalisation and Immigration Service for the management of visa applications.

Additional information - Paragraph 2.1

6. **Right of Access, Correction and Deletion of Personal Information**
You have the right to access, correct and delete personal information which ORAC may hold on you, in accordance with your rights under the Data Protection Acts 1988 and 2003. To find out what personal data ORAC holds on you, or to make a request to have your personal data updated, amended or deleted from our records, please send an email to oracmail@orac.ie, or write to the Customer Service Centre, Office of the Refugee Applications Commissioner, 79-83 Lower Mount Street, Dublin 2. Please quote your Personal Identity number in full on all correspondence with this Office.

Chapter 3 - Making an application for a declaration as a refugee

Amendment to paragraph 3.3 Fingerprinting and Photograph

The process of taking fingerprints and photograph will take place before the initial interview is completed.

Amendment to paragraph 3.6 Unaccompanied Minors

Health Board should read as Health Service Executive.

Additional information in respect of Children

Please note the following:

1. Children accompanying you when making your application for asylum
If you are accompanied by your child/children to the Office of the Refugee Applications Commissioner on your initial visit, you will be asked to indicate whether you wish for your child/children to be included in your application for asylum or if you wish for your child/children to make a separate application.

2. Children born after your arrival in the State
If you, or your spouse/partner, give birth to a child following your arrival in Ireland, you should bring that child and the original of the child's Birth Certificate to the Office of the Refugee Applications Commissioner, at the earliest convenience, in order to make an application for asylum on his or her behalf.

3. Children joining you after your arrival in the State
If your child/children come to Ireland to join you after your arrival, you should, as soon as possible, bring that child/children to the Office of the Refugee Applications Commissioner, in order to make an application for asylum on his or her behalf.

Failure to attend this Office with your child, to clarify their position, may result in your child being illegal in the State.

Notice to Pregnant Applicants

Please note that the citizenship entitlement of every person born on the island of Ireland on or after 1 January 2005 is governed by the citizenship of the person's parents at the time of the person's birth or the residency history of one of the parents prior to the birth.

Please note that when your child is born you should, as soon as possible, after your child is born, bring your child to ORAC Reception Unit and declare your intentions as regards the child. You may wish to consult with your legal advisor.

Please bring your child's birth certificate with you when you attend Reception Unit, Office of the Refugee Applications Commissioner, so his/her details can be recorded.

Chapter 4 – Dublin II Regulation (Council Regulation (EC) No. 343/2003)

Amendment 1 to Chapter 4 regarding Council Regulation 343/2003 (Dublin II Regulation).

In relation to the operation of the Dublin II Regulation in Ireland, please note there has been a change to the information given to you in **Chapter 4 of your Information Leaflet for Applicants for Refugee Status in Ireland** concerning Denmark and the Dublin II Regulation.

Chapter 4 deals with the possibility that the Dublin II Regulation may apply in your case. The Dublin II Regulation may apply if, for example, you have claimed asylum in another Dublin II Regulation State before you claimed asylum in Ireland; or if you have family members in other Dublin II Regulation States; or if another Dublin II Regulation State issued you with a visa/permit before you claimed asylum in Ireland.

PLEASE NOTE that from 1 April 2006, Council Regulation 343/2003 (Dublin II Regulation) will now apply to Denmark.

Denmark will also, from 1 April 2006 participate in **EURODAC fingerprint system**, whereby all asylum seekers who claim asylum will have their fingerprints taken and these prints are sent to the EURODAC Central Fingerprint Database for comparison with fingerprints already entered on the EURODAC database.

The full list of countries bound by the Dublin II Regulation from 1 April 2006 are;-

<i>Austria</i>	<i>Latvia</i>
<i>Belgium</i>	<i>Lithuania</i>
<i>Cyprus</i>	<i>Luxembourg</i>
<i>Czech Republic</i>	<i>Malta</i>
<i>Denmark</i>	<i>Netherlands</i>
<i>Estonia</i>	<i>Norway</i>
<i>France</i>	<i>Poland</i>
<i>Hungary</i>	<i>Portugal</i>
<i>Greece</i>	<i>Slovakia</i>
<i>Germany</i>	<i>Slovenia</i>
<i>Finland</i>	<i>Spain</i>
<i>Iceland</i>	<i>Sweden</i>
<i>Ireland</i>	<i>United Kingdom</i>
<i>Italy</i>	

Amendment 2

Please note that:

- Bulgaria and Romania became Contracting States to the Dublin II Regulation on 1 January 2007.
- Switzerland became a Contracting State to the Dublin II Regulation on 12 December 2008.

Additional Information

**Addendum to Information Leaflet for applicants for refugee status in Ireland
(Appeals procedures - Dublin II Regulation)**

Data Protection matters

1. You have the right of access to, and the right to rectify, any data concerning you which is held on the EURODAC system.
2. You will be given the opportunity to view and rectify the data concerning you
 - (i) while you are in the Office of the Refugee Applications Commissioner or
 - (ii) you may contact the Office in writing to rectify any incorrect data. The address for correspondence is:

Office of the Refugee Applications Commissioner,
Timberlay House,
79-83 Lower Mount Street,
Dublin 2.

3. Your Temporary Residence Certificate (TRC) Card includes your Personal Identity number, which will be in the format of a number and the year of the earliest previous application to INIS or its agencies (e.g.: 643756-07). Please quote your Personal Identity number in full on all correspondence with this Office.

Chapter 9 - Decisions of the Minister for Justice and Equality

Additional information

Information Note for applicants

This note is for information and guidance only. It does not purport to give a legal interpretation of the Regulations.

European Communities (Eligibility for Protection) Regulations 2006

1. Introduction

The purpose of this note is to inform you about the regulations which the Minister for Justice and Equality has made. This note should be read in addition to the Information Leaflet for Applicants for Refugee Status in Ireland and updates Chapter 9 of that leaflet as to what happens if the Minister refuses to give you a declaration as a refugee.

2. Purpose of Regulations

The Regulations give effect in Irish law to Council Directive 2004/83/EC of 29 April 2004 and set out the minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection. The Regulations are operative from 10 October 2006. The Regulations do not operate retrospectively.

3. What do the Regulations cover?

3.1 The Regulations set out elements to be considered when determining applications for protection (including refugee status and subsidiary protection). These include:

- (a) assessment of facts and circumstances of the application
- (b) protection needs arising sur place
- (c) internal protection
- (d) acts of persecution
- (e) reasons for persecution.

3.2 The Regulations also provide for a system of subsidiary protection in the State and set out the entitlements of the persons granted such protection.

3.3 ***Nothing in these Regulations adds to or takes from the functions of the Refugee Applications Commissioner or the Refugee Appeals Tribunal in determining whether a person is a refugee or affects the substance of the consideration by these bodies of applications for refugee status.***

4. Do the Regulations affect the way applications for refugee status are investigated and determined?

The Regulations do not affect the way applications for refugee status are investigated and determined. The formal refugee determination processes currently operated by the Office of the Refugee Applications Commissioner and the Refugee Appeals Tribunal meet the requirements of the Council Directive and the Regulations.

5. What is subsidiary protection?

5.1 Subsidiary protection is protection **other than refugee status** against a real risk of suffering "serious harm" which consists of:

- (a) death penalty or execution; or
- (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or
- (c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

5.2 If you qualify for subsidiary protection you will be allowed to stay in the State and you will qualify for certain rights and entitlements. These rights and entitlements are set out in the Regulations.

6 How do I know whether I am eligible for subsidiary protection?

6.1 You are eligible for subsidiary protection if you satisfy the following three conditions:

- (a) you are not a national of a Member State of the European Union,
- (b) you have been refused a declaration as a refugee in Ireland, and
- (c) substantial grounds have been shown for believing that, if returned to your country of origin, or country of former habitual residence, you would face a real risk of suffering serious harm and you are unable, or, owing to such risk, unwilling to avail yourself of the protection of that country.

6.2 You are not eligible for subsidiary protection if there are serious reasons for considering that you - :

- (a) have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) have committed a serious crime;
- (c) have been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;
- (d) constitute a danger to the community or to the security of the State; or
- (e) have left your country of origin solely in order to avoid sanctions resulting from crimes committed prior to your entry into the State where such crimes would be punishable by imprisonment had they been committed in the State.

If you have instigated or otherwise participated in the commission of the acts mentioned in 6.2 above, you are not eligible for subsidiary protection.

7 At what stage in the process can I make an application for subsidiary protection?

7.1 You can only make an application for subsidiary protection to the Minister for Justice and Equality when your application for refugee status has been investigated and refused; the application must be in writing.

If the Minister decides not to give you a declaration as a refugee, you will be sent a notice in writing stating that:

- (a) your application for a declaration as a refugee has been refused;
- (b) the period of your entitlement to remain in the State has expired;
- (c) the Minister proposes to make a deportation order under section 3 of the Immigration Act 1999 requiring that you leave the State; and
- (d) you have the option of making representations to the Minister within 15 working days setting out why you should be allowed remain in the State.

7.2 The notice will also contain an application form for subsidiary protection. If you consider that you may be eligible for subsidiary protection, you should complete and return the form to the Minister for Justice and Equality.

7.3 Your application for subsidiary protection will be considered by the Irish Naturalisation and Immigration Service of the Department of Justice and Equality.

7.4 The regulations can be accessed in full on the Department of Justice and Equality website at <http://www.justice.ie>.

Chapter 10 - Important matters to be aware of while you are in the State

Amendment to paragraph 10.2

Dublin II Regulation/Dublin Convention State should read as Dublin II Regulation Contracting State.

Amendment to Appendix 1

State and other Organisations which you may be in contact with in connection with your application for refugee status

1. Irish Naturalisation and Immigration Service (INIS)

An application for a declaration as a refugee is made to the Minister for Justice and Equality, although the Refugee Applications Commissioner accepts the application and carries out the initial investigation. The Minister for Justice and Equality is the person who will make the decision to either grant or refuse a declaration as a refugee in accordance with section 17 of the Refugee Act, 1996 (as amended). The decision of the Minister will be based on the recommendation of the Refugee Applications Commissioner or the Refugee Appeals Tribunal (if appropriate). In the case of a person who has been issued a Notice of refusal for a declaration as a refugee, the Minister may make an order in accordance with section 3 of the Immigration Act, 1999 requiring that person to leave the State. The Minister also decides applications for leave to remain. Leave to remain is a status which is granted at the discretion of the Minister for Justice and Equality to persons whose claims to asylum are not considered to meet the criteria set out in the 1951 Geneva Convention but who are not returned home for humanitarian or for some other compelling reason. Persons granted leave to remain have many of the same rights as persons granted refugee status.

Irish Naturalisation and Immigration Service

Department of Justice and Equality,

13 - 14 Burgh Quay,

Dublin 2.

Ph: 01 616 7700

www.inis.gov.ie

2. Office of the Refugee Applications Commissioner (ORAC)

The principal function of the Refugee Applications Commissioner is to make recommendations to the Minister for Justice and Equality pursuant to the provisions of the Refugee Act, 1996 (as amended) as to whether an applicant for a declaration as a refugee should be granted such a declaration. The Refugee Applications

Commissioner is independent of the Minister for Justice and Equality in fulfilling the functions of the Commissioner under the Refugee Act, 1996 (as amended).

Refugee Applications Commissioner,

79-83 Lower Mount Street,

Dublin 2.

Ph: 01 602 8000

LoCall¹: 1890 202418

3. Refugee Appeals Tribunal (RAT)

The function of the Refugee Appeals Tribunal is to consider and decide appeals against recommendations of the Refugee Applications Commissioner and make recommendations to the Minister. An appeal is dealt with by a member of the Refugee Appeals Tribunal, a person independent of the Minister and the Refugee Applications Commissioner with at least 5 years experience as a practicing solicitor or barrister.

Refugee Appeals Tribunal,

6/7 Hanover Street,

Dublin 2.

LoCall¹: 1890 201458

4. The Reception and Integration Agency (RIA)

The Reception and Integration Agency is responsible for co-ordinating the services provided to asylum seekers. These services include the provision of accommodation, health care, education and welfare to asylum seekers.

Reception and Integration Agency,

PO Box 11487

Dublin 2.

Ph: 01 418 3200

¹ Please note that the rates charged for the use of the 1890 (LoCall) numbers may vary among different service providers. It is recommended that you only ring these numbers using a landline as calls made using mobiles may be expensive.

5. The United Nations High Commissioner for Refugees (UNHCR)

The United Nations High Commissioner for Refugees (UNHCR) was established in 1951 to protect the interests of refugees. The work of the UNHCR is defined as humanitarian, social and non-political. Its principal functions are to provide international protection to refugees, seek durable solutions to their plights and to furnish them with material assistance. Protection involves preventing refoulement i.e. the forcible return of the refugee to a country where he/she may have reason to fear persecution. Procedures are in place for keeping the UNHCR informed of the processing of applications at both first and appeal stage. The UNHCR may attend any interviews or appeal hearings or make written submissions in connection with any application.

United Nations High Commissioner for Refugees (UNHCR),

Suite 4,

Merrion House,

1 - 3 Lower Fitzwilliam St,

Dublin 2

Ph: 01 631 4510

Team for Separated Children seeking Asylum

Health Service Executive

Sir Patrick Dun's Hospital,

Lower Grand Canal Street

Dublin 2

Ph: 01 647 7000

Refugee Legal Service

48 - 49 North Brunswick St

Georges Lane,

Dublin 7

Free phone: 1800 238343

Ph: 01 646 9600

Irish Refugee Council/Irish Refugee Council Independent Law Centre

Floors 1 & 2

Ballast House

Aston Quay

Dublin 2

Ph: 01 764 5854

Amnesty International,

48 Fleet Street,

Dublin 2

Ph: 01 677 6361

Irish Red Cross Society

16 Merrion Square

Dublin 2

Ph: 01 676 5135

If you need counselling for rape or sexual abuse, contact:

The Dublin Rape Crisis Centre, 70 Lower Leeson Street, Dublin 2.

Ph: 01 661 4911

Counselling for female and male victims of sexual violence 24 hour helpline: For counselling and support FREEPHONE 1800 778888.

To arrange professional counselling, contact Helpline.

Fax: 01 661 0873, email rcc@indigo.ie. www.drcc.ie

Africa Centre

18 Stephen's Lane, Dublin 2.

Ph: 01-661 9289 Fax: 01-661 9332

Email: info@africacentre.ie

Clare Immigrant Support Centre

Unit 13, Carmody St Business Park

Ennis, Co. Clare. Ph: 065-682 2026

Mobile: 087-238 5990 Fax: 065-6822017, Email cisc@eircom.net

Doras Luimní

Mount St Vincent, O'Connell Avenue, Limerick

Ph: 061 310 328 Fax: 061 609960

Email: info@dorasluimni.org

The Integration Centre

20 Mountjoy Square East, Dublin 1.

Ph: 01 645 3070 Fax: 01 677 0061

Email: info@integrationcentre.ie

NASC - Irish Immigrant Support Centre

Enterprise House, 35 Mary St, Cork

Ph: 021 431 7411 Fax: 021 431 7002

Email: info@nascireland.org

SPIRASI

213 North Circular Road, Phibsboro, Dublin 7.

Ph: 01-838 9664 Fax: 01-882 3547

Email: info@spirasi.ie

Crosscare Refugee Service

1 Cathedral Street, Dublin 1

Ph: 01-8732844. Fax: 01-8727003

Email: refugeeservice@crosscare.ie

Drop-in Centre: 2 Sackville Place, Dublin 1

Mon/Tues/Thurs/Fri 10.00 am – 4pm (incl lunch time)

Wednesday: 2- 4 pm

AkiDwa

Unit 2, Killarney Court

Upper Buckingham Street, Dublin 1

Ph: 01 834 9851, email: info@akidwa.ie

Appendix 2

Notification where a recommendation cannot be made within six months of application

- i. Where a recommendation on an application for refugee status cannot be made by the Refugee Applications Commissioner within six months from the date of application, an applicant will receive, upon his/her request, information on the time-frame within which the decision on his/her application is to be expected.

- ii. Any information provided by the Refugee Applications Commissioner in respect of (i) shall not constitute an obligation on the Commissioner to make a recommendation within a particular time frame.