

Information Leaflet for Applicants for Refugee Status in Ireland

A GUIDE

to the procedures for processing applications for refugee status in Ireland in accordance with the provisions of the Refugee Act, 1996, as amended by the Immigration Act, 1999, the Illegal Immigrants (Trafficking) Act, 2000, and the Immigration Act, 2003

Office of the Refugee Applications Commissioner

September 2003

Important Notes

The law governing refugees and the processing of claims for refugee status in Ireland is set out in the Refugee Act, 1996 (as amended) * and in the Orders, Regulations and Directions made under that Act.

This Leaflet is for information and guidance only. It does not purport to give a legal interpretation of the Refugee Act. If you require further information about the provisions of the legislation, as it applies in your case, you should contact your solicitor/legal advisor.

* Reference throughout this Information Leaflet to ‘the Refugee Act’ is to the Refugee Act, 1996, as amended by section 11(1) of the Immigration Act, 1999 and by section 9 of the Illegal Immigrants (Trafficking) Act, 2000 and by section 7 of the Immigration Act, 2003. References to ‘sections’ throughout this Leaflet are to sections of the Refugee Act unless otherwise stated.

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Chapter 1. Introduction

1.1 *Who is an Asylum Seeker ?*

An asylum seeker in Irish law is a person who seeks to be recognised as a refugee in accordance with the provisions of the Refugee Act.

1.2 *Who is a refugee ?*

A refugee in Irish Law is a person who, “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence, is unable or, owing to such fear, is unwilling to return to it, but does not include a person who -

- (a) is receiving from organs or agencies of the United Nations (other than the High Commissioner) protection or assistance,
- (b) is recognised by the competent authorities of the country in which he or she has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country,
- (c) there are serious grounds for considering that he or she-
 - (i) has 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,
 - (ii) has committed a serious non-political crime outside the State prior to his or her arrival in the State, or,
 - (iii) has been guilty of acts contrary to the purposes and principles of the United Nations.”

[section 2 the Refugee Act]

“Membership of a particular social group” includes membership of a trade union and also includes membership of a group of persons whose defining characteristic is their belonging to the female or the male sex or having a particular sexual orientation.

“The High Commissioner” means the United Nations High Commissioner for Refugees and includes the Representative for Ireland of the High Commissioner.

[section 1 of the Refugee Act]

1.3 About applying for refugee status

If you believe that you qualify as a refugee as defined in section 2 of the Refugee Act, you may apply to the Minister for Justice, Equality and Law Reform¹ for a declaration as a refugee and seek the protection of the State.

This Information Leaflet is intended to help you understand the various procedures that apply to a person seeking a declaration as a refugee in Ireland.

These procedures will lead to a determination whether an asylum seeker can remain in Ireland as a refugee or whether he/she will be removed from Ireland and returned to his/her country of origin/residence arising from an investigation of an asylum application, or to a third country in accordance with the provisions of the Dublin II Regulation/Dublin Convention (see chapter 4).

It is in **your interest to read this Leaflet carefully**, to ensure you understand, amongst other things:

- **your rights, obligations and duties while you are in Ireland awaiting a final determination on your application for a declaration as a refugee**
- **the procedures in accordance with which your application for a declaration as a refugee will be processed**
- **the importance of complying with time limits and other requirements set out in the Act and responding promptly at each stage of the process.**

1.4 About the Refugee Act

The principal aim of the Refugee Act is to give statutory effect to the State’s obligations under the 1951 Geneva Convention Relating to the Status of Refugees and the related 1967 Protocol. Ireland signed the 1951 Convention on 29 November 1956 and the 1967 Protocol on 6 November 1968. The 1951 Convention defines a refugee and sets out the social, civil and economic rights of people in need of international protection.

¹ References to the Minister throughout this Leaflet are to the Minister for Justice, Equality and Law Reform

1.5 About the Refugee Applications Commissioner, the Refugee Appeals Tribunal and the Minister for Justice, Equality and Law Reform

The Office of the Refugee Applications Commissioner and the Refugee Appeals Tribunal are both statutorily independent offices established under the Refugee Act.

Your application for a declaration as a refugee will be dealt with in the first instance by the Refugee Applications Commissioner, who will make a recommendation in relation to your case. If the recommendation is negative and you are entitled to appeal, any such appeal will be dealt with by the Refugee Appeals Tribunal. Based on the recommendation of the Refugee Applications Commissioner or the decision of the Refugee Appeals Tribunal, as appropriate, a final decision on your application for refugee status will be taken by the Minister.

1.6 Working days

Reference in this Information Leaflet to ‘working days’ means any day not being a Saturday, Sunday or public holiday.

Chapter 2. Your rights and obligations

2.1 *Your rights :*

- Unless your case is to be dealt with in accordance with the Dublin II Regulation/Dublin Convention [see Chapter 4 of this Information Leaflet for more information], you will not be removed from the State until you have been given the opportunity to present your case fully to the Refugee Applications Commissioner or the Refugee Appeals Tribunal as appropriate.
- Every effort will be made to provide you with an interpreter, where necessary and possible.
- You are entitled to seek legal assistance. The **Refugee Legal Service** (R.L.S.) is an independent body which provides legal assistance to persons applying for a declaration as a refugee. An Information Leaflet about the R.L.S will be given to you when you make your initial application.
- You are entitled to consult the **United Nations High Commissioner for Refugees** (UNHCR), [see additional information at Appendix 1].
- The **Reception and Integration Agency** (R.I.A.) will provide you with accommodation (on a full board basis) in one of their accommodation centres while your application for asylum is being processed. Asylum seekers are not entitled to receive a rent supplement from the Health Board. Full details of your social welfare and health care entitlements are set out in the information pack of the **Reception and Integration Agency**. This will be given to you when you have made your application for a declaration as a refugee.
- All details provided in connection with your application will be treated in confidence. Information may, however, be disclosed to other public bodies which may be dealing with you, such as Irish Government Departments and Agencies including the Immigration Authorities, the Garda Síochána (the Irish Police), Local Authorities as well as to the UNHCR, to enable these organisations to carry out their functions including administration of the law relating to the entry and removal from the State of non-nationals. Some information may also be provided to other countries operating the Dublin II Regulation/Dublin Convention for the purpose of operating these arrangements.
- You will be notified in writing, at the most recent address given by you [see 2.2 below], of any appointments, any recommendations made or decisions taken in connection with your

application for a declaration as a refugee by the Refugee Applications Commissioner, the Refugee Appeals Tribunal and the Minister (as appropriate).

2.2 *Your Obligations:*

- **You must comply with the laws of the State.**
- **You must notify, in writing, the Refugee Applications Commissioner of your address (within 5 working days of making your application) and of any change of address.**
- **In all correspondence with the **Refugee Applications Commissioner** or the **Refugee Appeals Tribunal** you should clearly indicate **your name, address, nationality and the reference number shown on your Temporary Residence Certificate.****
- **You must not leave or attempt to leave the State,** without the consent of the Minister, while your application is under consideration.
- You are **not entitled to seek or enter employment or to carry on any business, trade or profession.**
- You or your solicitor must **retain all copies of documentation** given to you by the Refugee Applications Commissioner and the Refugee Appeals Tribunal. **Only in exceptional circumstances will additional copies of the documents be made available.**
- You **may be required to report at specified intervals** to an Immigration Officer, to a person(s) authorised by the Minister or to a member of the Garda Síochána (Irish Police).
- You are **required to reside or remain at the accommodation centre** allocated to you by the RIA.
- You can **only move from this accommodation with the permission of the RIA** and only in circumstances where the RIA is in a position to offer you alternative accommodation.
- You must be **truthful** at all times in the information you provide in connection with your application. If you are not it may lead to a finding that your application is manifestly unfounded. In such circumstances you would have a shorter period within which to appeal and any appeal you might make would be dealt with without an oral hearing.

- You must **co-operate fully** with the investigation of your application. Failure to do so could affect the credibility of your application or result in your application being deemed withdrawn. (See chapter 2.3)
- You should make **all information relevant to your application available to the Refugee Applications Commissioner** at the earliest opportunity. If you do not do so and seek to bring forward additional information at appeal stage, you will be required to explain why this information was not made available to the **Refugee Applications Commissioner**, and the **Refugee Appeals Tribunal** will be required to take this into account in assessing the credibility of your application.
- You must provide the **Refugee Applications Commissioner** or the **Refugee Appeals Tribunal**, (as appropriate), with details of **your legal representative** and **any change of legal representative** (name, address, phone number, etc.)

IMPORTANT

2.3 Applications which may be deemed to be withdrawn because of failure to comply with certain obligations.

There are a number of circumstances in which failure on your part to comply with your statutory obligations may result in your application for refugee status being deemed withdrawn and in which case, **the Minister shall refuse to give you a declaration.**

These are as follows:

- Failure to provide an address to the Commissioner within 5 working days of the making of your application;
- Failure to inform the Commissioner of a change of address;
- Failure to report when required to do so;
- Failure to reside or remain at a particular district or place in the State when required to do so;
- Leaving or attempting to leave the State without the consent of the Minister;

- Failure to co-operate with the Refugee Applications Commissioner or to furnish information relevant to your application;
- Failure to attend for interview with the Commissioner;
- Failure to co-operate with the Refugee Appeals Tribunal, or to furnish information relevant to your appeal;
- Failure to attend for an oral appeal hearing with the Tribunal.

Where an application is deemed withdrawn there is no appeal.

Please also see Chapter 10 of this Information Leaflet concerning offences under the Refugee Act.

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

3.1 At the Office of the Refugee Applications Commissioner /Port of Entry

If you indicate that you wish to apply for asylum you will be asked to complete an application form for a declaration as a refugee.

- **If you wish to make a separate application on behalf of your minor children (or dependant(s)), a separate application form for a declaration as a refugee must be completed for each minor child (or dependant). If not, your accompanying minor children (or dependant(s)) will be included in your application and all decisions taken in relation to your asylum application will apply to them.**
- Your application must be accompanied by any **original travel documents** (passports, laissez-passer) in your possession and, if appropriate, those of your children aged under 18 years. You must also furnish **originals of all identity documents**, birth and marriage certificates in your possession relating to you and/or your minor children (or dependant(s)).

3.2 Initial Interview

You will be given an initial interview, in accordance with section 8 of the Refugee Act, in order to establish whether you wish to make an application for a declaration, and, if so, to ascertain, among other things, the following:

- the general grounds upon which your application is based;
- your identity, nationality and country of origin;
- the method of your entry i.e. the mode of transport used and the route you travelled in to the State;
- the reason why you came to the State;
- the legal basis for your presence in the State;
- any other information which the Refugee Applications Commissioner requires.

At the end of your interview you will be advised of your right to seek legal assistance and to consult with the United Nations High Commissioner for Refugees (UNHCR).

Important - Application at Port of entry

If you have applied at the port of entry you are required to attend the Office of the Refugee Applications Commissioner to complete the initial asylum process. If you do not do so and do not provide an address to the Commissioner within 5 working days of making an application, your application will be deemed to be withdrawn.

3.3 Fingerprinting and Photograph

As part of the process you and your dependant minors will be required to have your **photograph** taken. You will also be required to have your fingerprints taken. Fingerprints of your dependant minors may also be taken. Your fingerprints may be disclosed in confidence to the relevant Irish authorities and to asylum authorities of other countries which may have responsibility for considering your application under the Dublin II Regulation/Dublin Convention (an electronic system - Eurodac - facilitates transfer of fingerprint information between Dublin II Regulation countries).

If **you refuse to** allow your fingerprints to be taken you will be deemed **not to have made reasonable effort to establish your true identity** and to have failed in your duty to co-operate in the investigation of your application. This may affect the credibility of your application and lead to your application being deemed withdrawn in which case the Minister shall refuse to give you a declaration. You should also note that, in accordance with section 9(8)(c) of the Refugee Act, where an Immigration Officer or a member of the Garda Siochana (Irish Police), with reasonable cause, suspects that an applicant has not made reasonable effort to establish his or her identity, he or she may **detain** the person concerned.

3.4 Questionnaire

You will be given a **Questionnaire** which you must complete and return at a date and time specified by the Refugee Applications Commissioner. All persons seeking a declaration as a refugee must complete a Questionnaire.

The information you supply in the Questionnaire will be considered in assessing your application. It is important, therefore, that you **answer all questions fully and truthfully.**

If you **fail to return your Questionnaire** by the specified date, you may be found to have failed in your duty to co-operate in the investigation of your application and your application may be deemed withdrawn, in which case the Minister shall refuse to give you a declaration.

3.5 Temporary Residence Certificate

Before you leave the Reception Unit at the Office of the Refugee Applications Commissioner you will be issued with a Temporary Residence Certificate setting out your personal details and containing your photograph. The Temporary Residence Certificate is not an identity document.

When you have received your Temporary Residence Certificate you will be referred to the **Reception and Integration Agency** counter in the Office of the Refugee Applications Commissioner where arrangements will be made for you to be taken to a Reception Centre in the Dublin area.

3.6 Unaccompanied Minors

A child under the age of 18, arriving at the frontiers of the State (Port of Entry) or at the Office of the Refugee Applications Commissioner, and who is not in the custody of an adult, will be referred to the Health Board. The Health Board may then decide that an application for a declaration as a refugee should be made on behalf of the minor. Specific arrangements will be made by the Health Board in conjunction with the Office of the Refugee Applications Commissioner for the processing of such an application.

3.7 Prioritisation of Applications

The Minister may give a direction in writing to the Commissioner or the Tribunal or to both which requires that certain classes of applications be dealt with as a priority.

In the event that your application is covered by such a direction you will be advised of this.

A Ministerial direction of this nature may be determined by reference to one or more of the following matters;

- (a) the grounds of the applications under section 8,

- (b) the country of origin or habitual residence of applicants,
- (c) any family relationship between applicants,
- (d) the ages of applicants and, in particular, of persons under the age of 18 years in respect of whom applications are made,
- (e) the dates on which applications were made,
- (f) considerations of national security or public policy
- (g) the likelihood that the applications are well-founded
- (h) if there are special circumstances regarding the welfare of applicants or the welfare of family members of applicants,
- (i) whether applications do not show on their face grounds for the contention that the applicant is a refugee,
- (j) whether applicants have made false or misleading representations in relation to their applications,
- (k) whether applicants had lodged prior applications for asylum in another country,
- (l) whether applications under section 8 of the Act were made at the earliest opportunity after arrival in the State,
- (m) whether applicants are nationals of, or have a right of residence in, a country of origin designated as safe under section 12(4)a of the Act,
- (n) if an applicant is a person to whom paragraph (a), (b) or (c) of section 2 of the Act applies.

Under the Act certain specific categories of application must also be prioritised as follows:

- applications from applicants in detention;
- appeals from applicants in respect of recommendations by the Commissioner which come within the categories described at Chapter 7.1 (iii) and 7.1(iv) of this Information Leaflet.

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

4.1 *What is the Dublin II Regulation?*

With effect from 1 September 2003, the Dublin II Regulation provides the legal basis for establishing the criteria and mechanism for determining the State responsible for examining an asylum application in one of the Member States of the EU (excluding Denmark but including Iceland and Norway) by a third country national. However, from that date, the Dublin Convention remains in force between Denmark and the other Member States of the EU (including Iceland and Norway) (see 4.8 below).

The Regulation will apply to the following countries: Austria, Belgium, France, Greece, the Federal Republic of Germany, Finland, the Republic of Iceland, Ireland, Italy, the Grand Duchy of Luxembourg, the Netherlands, the Kingdom of Norway, Portugal, Spain, Sweden and the United Kingdom.

4.2. *VERY IMPORTANT - Written Representations to the Commissioner in Dublin II Regulation Cases*

When you make your application for a declaration as a refugee, your case may be examined under the Dublin II Regulation. It is open to you to make WRITTEN representations, in this regard, to the Refugee Applications Commissioner, Dublin II Regulation Unit, 79 - 83 Lower Mount St. Dublin 2. The Commissioner shall take into consideration all relevant matters known to him or her, including any representations made by you or on your behalf when deciding whether your application will be transferred.

4.3 *Consideration of your application under the Dublin II Regulation.*

In some cases, applicants may be required to participate in a separate interview relating specifically to the consideration of an application under the Dublin II Regulation. However, more usually, such information will be gathered during the course of the initial interview carried out in accordance with section 8 of the Refugee Act as set out in Chapter 3.2 of this leaflet or on foot of fingerprint evidence as set out in Chapter 3.3.

4.4 *Time Limits for Requests to other Regulation States to take charge/take back Applicants for Asylum.*

If at any stage during the course of the investigation of your application, it appears that your application should be dealt with in another Dublin II Regulation State, your application may be dealt with in accordance with the Regulation.

Your case may be one where Ireland requests another Regulation State to **take charge** of your application. For example, this would include a transfer for family unity purposes or where another State has issued you with a visa or work permit or where you irregularly crossed the frontier of another Regulation State prior to applying for asylum in Ireland.

or

Ireland may request that another Regulation State **take back** your application because, for example, you have made an asylum claim in another Regulation State and that claim has not yet been finalised, or you made an asylum claim in another Regulation State and you withdrew your asylum claim in that State, or your application for asylum was rejected and you are in Ireland without permission.

A summary of the different time limits to "**take charge**" and "**take back**" cases is set out hereunder:-

4.4.1 *Take Charge*

A request to another Dublin II Regulation State to accept responsibility must be made within **three** months from the date of your application. The requested State must give a decision no later than **two** months from the date on which the request was received.

Where the request to take charge of an applicant for asylum is not made to the other State by Ireland within the period of 3 months, responsibility lies with Ireland.

Ireland may ask for an **urgent reply** from the requested State in cases where you were refused leave to enter or remain in Ireland . Also, Ireland can make an urgent request if you have been arrested for unlawful stay or after the service or execution of a removal order and /or where you are held in detention. The request shall state the reasons warranting the urgent reply and the period within which a reply is expected. This period shall be at least **one** week.

In cases where Ireland makes an **urgent request**, the requested State shall make every effort to conform to the time limit requested. If the case is complex the requested State may give a reply after the requested period but no later than one month. However, the requested State must communicate its decision to Ireland to postpone its reply to Ireland within the original deadline requested by Ireland.

If the requested State fails to act within the two month period or the one month period referred to above this is tantamount to the requested State's acceptance of Ireland's request to take charge of your application for asylum.

4.4.2 *Take Back*

Where Ireland calls on another Regulation state to "**take back**" your application for asylum the Regulation State called upon to take back shall be obliged to make the necessary checks and reply to the request made by Ireland as quickly as possible and under no circumstances exceeding **one month** from the date of the request.

Where Ireland's request is based on data obtained from the Eurodac system (see Chapter 3.3), the **one month** time limit referred to in the previous paragraph is reduced to **two weeks**.

Where the requested State does not respond to Ireland's request to take back within the **one month** period or the **two weeks** period mentioned in the preceding paragraphs the requested State shall be considered to have agreed to take back your application for asylum.

If another Dublin II Regulation State is found to be responsible for examining your application and that State agrees to accept responsibility for the transfer of your application, you will be informed immediately in writing that it is proposed to transfer you to that country for consideration of your application.

4.5 *Family Unity*

Please note that Ireland may also call on and agree with another Regulation State to take charge of your **spouse and or your minor dependant children**, in addition to your application, even if your spouse and/or minor dependant children did not make an asylum application in the Regulation State responsible for your asylum application.

The transfer of your asylum claim will be arranged by the Department of Justice, Equality and Law Reform. The transfer will take place as soon as is practicably possible and at the latest within 6 months of acceptance by the other Dublin II Regulation State.

Where your transfer does not take place within the six months time limit, responsibility for your asylum claim shall lie with Ireland. However, it should be noted that this time limit can be extended up to a maximum of one year if the transfer cannot be carried out due to your imprisonment or up to a maximum of eighteen months if you abscond.

4.6 *Dublin II Regulation Appeal*

You will have 15 working days from the date of the Refugee Applications Commissioner's determination to appeal to the Refugee Appeals Tribunal. You will be provided with a notice of appeal for that purpose. The Minister will be notified of the determination with a view to making arrangements for your transfer to the Dublin II Regulation State concerned. Any appeal submitted by you will not suspend the transfer of your application or your transfer to that country. Upon your arrival in the relevant country you should immediately notify the Refugee Appeal Tribunal of your address for the purposes of corresponding with you in relation to your appeal.

4.7 *What happens if a Dublin II Regulation appeal is successful?*

If the Refugee Appeals Tribunal overturns the determination of the Refugee Applications Commissioner, your application will be returned by the Refugee Appeals Tribunal to the Refugee Applications Commissioner for examination. You will receive a written notification advising you of this. If you have already been transferred to another Dublin II Regulation country, arrangements will be made for your return.

4.8 *What if my application falls to be examined by Denmark?*

Although Denmark is not bound by the Dublin II Regulation, the Dublin Convention still applies between Ireland and Denmark. If your case is one which falls to be considered by Denmark, your case will be processed in accordance with the Refugee Act, the Dublin Convention and the Dublin Convention (Implementation) Order, 2000. Ireland may request that Denmark accept responsibility for your application for a declaration as a refugee, and you may then be transferred to that country.

When you make your application for declaration as a refugee and it becomes apparent that Denmark may be responsible, a notice in writing may be given to you, advising you that your case may be examined under the Dublin Convention. It is open to you to make written representations in this regard, to the Refugee Applications Commissioner **within 5 working days of the issue of that Notice.** If it appears during the course of the Commissioner's investigation that Denmark is responsible for your application you will be informed in writing that it is proposed to remove you to that country for consideration of your application.

You will have 5 working days from the date of the Refugee Applications Commissioner's determination to appeal to the Refugee Appeals Tribunal. If you do not appeal or the determination of the Commissioner is upheld by the Tribunal, the Minister will arrange for your transfer to Denmark.

If the Tribunal overturns the determination of the Commissioner, your application will be returned to the Refugee Applications Commissioner for examination. You will receive a written notification advising you of this.

Chapter 5. Investigation of your application by the Refugee Applications Commissioner

5.1 Burden of Proof & Safe Country of Origin

The Minister may, by order, designate certain countries as safe countries of origin. If the Minister has made such an order in respect of your country of origin you will be advised of this.

If it appears to the Commissioner that you are a national of, or have a right of residence in, a country designated by the Minister as a safe country of origin, or if it appears to the Commissioner that you had applied for asylum in another country party to the Geneva Convention, then you shall be presumed *not* to be a refugee unless you can show reasonable grounds for the contention that you are a refugee.

5.2 About your Interview

- You will be notified in writing of **a time, a date and a place to attend for interview** in connection with your application.
- If you require an interpreter, every reasonable effort will be made to provide one. You should specify the language or dialect for which you require interpretation when you are confirming your attendance for interview.
- If, for some exceptional reason, you **cannot attend for interview**, you **must contact the Office of the Refugee Applications Commissioner immediately** and outline the reasons.
- If you **fail to attend for interview on a date and at a time fixed and you fail to provide the Refugee Applications Commissioner with an explanation not later than 3 working days from that date which in the opinion of the Commissioner is reasonable, your application shall be deemed to be withdrawn and the Minister shall refuse to give you a declaration.**
- The purpose of the interview is to establish the full details of your claim for a declaration as a refugee.

- You should explain **clearly and precisely** why you are seeking a declaration as a refugee and provide all the information and details relevant to your particular circumstances.
- It is your duty to **co-operate fully and to be completely truthful.** Failure to do so may result in your receiving a negative recommendation.
- You will be interviewed by an Authorised Officer on behalf of the Refugee Applications Commissioner who has received full training in interviewing persons seeking a declaration as a refugee and will have detailed information available on your country of origin.
- A written record of the interview will be kept by the interviewer. You will have an opportunity to review the record and you will be asked to sign each page to confirm that it is an accurate account of your interview. If you feel anything written down is not accurate, you will be given an opportunity to have it rectified during the interview.
- You may submit any documentary evidence or make other written submissions in support of your claim prior to, or at your interview.
- The sole function of an interpreter (if present) is to interpret the interviewer's questions and your responses, accurately and literally. The interpreter will neither offer advice to you nor will he or she express any opinion on the merits of your case. The interpreter is aware of the confidential nature of the interview.
- If you wish to bring a legal representative with you, he or she will normally be allowed to observe at the interview. Your legal representative, if any, will be given an opportunity at the end of the interview to make any points which are considered necessary.
- **There are no facilities for children in the Office of the Refugee Applications Commissioner, so arrangements should be made by you to have your children looked after while you attend for interview.**

You should make all information relevant to your application available to the Refugee Applications Commissioner. If you receive a negative recommendation and seek to bring forward additional information at appeal stage, this will be taken into account by the Refugee Appeals Tribunal in assessing your credibility.

5.3 Credibility

In assessing your credibility in connection with your application for refugee status, the Commissioner or the Refugee Appeals Tribunal shall consider the following:

- whether you have identity documents or give a reasonable explanation for not having them,
- whether you give a reasonable explanation for any claim that Ireland is the first safe country in which you arrived after leaving your own country,
- whether you have provided a full and true explanation of how you travelled to and arrived in Ireland,
- if you did not apply immediately on arriving at a point of entry into Ireland, whether you give reasonable explanation for that,
- if you have forged, destroyed or disposed of identity or other documents, whether you give reasonable explanation for that,
- whether you have given manifestly false evidence or have made false statements,
- whether, without reasonable cause, you reapply having previously withdrawn,
- whether you applied for asylum following commencement of the deportation process,
- whether you have complied with the duty to co-operate in the investigation of your case, to provide relevant information at the earliest possible opportunity, to not leave the State without the consent of the Minister, to keep the Commissioner informed of your address or to comply with any requirement to live at a particular place or to report regularly to a named person,
- whether on appeal you bring forward new information which could have been but was not given to the Commissioner.

5.4 Assessment of your Application

When the investigation has been completed, a report will be completed in relation to your application. This report will refer to the matters raised by you in writing and orally at your interview, in accordance with sections 8 and 11 of the Act. The report will also take into account such other matters as considered appropriate. For example, information in relation to the situation in your country of origin, or representations (if any) made by the UNHCR in connection with your application. The report will also include a recommendation as to whether or not you should receive a declaration as a refugee. A copy of this report will be sent to you.

Chapter 6. Positive recommendation by the Refugee Applications Commissioner

6.1 What happens if your application receives a positive recommendation?

Where your application for a declaration as a refugee receives a positive recommendation from the Refugee Applications Commissioner you will be notified by registered post and the recommendation will be submitted to the Minister who will make a declaration that you are a refugee [see Chapter 9 of this Information Leaflet].

6.2 National security and public policy considerations

Under section 17(2)(a) of the Act, if the Minister considers that, in the interest of national security or public policy ('ordre publique'), it is necessary to do so, he or she may, by order:

- (i) provide that section 3 (Certain rights of refugees), section 9 (Leave to enter or remain in the State) and section 18 of the Refugee Act (Family reunification) shall not apply to a person who has been given a declaration as a refugee, and
- (ii) require the person to leave the State.

Chapter 7. Negative recommendation by the Refugee Applications Commissioner

7.1 What happens if the Refugee Applications Commissioner recommends that you should not be given a declaration as a refugee?

A number of different types of a negative recommendation may apply depending on the nature of your case as follows:

- (i) Where the Refugee Applications Commissioner makes a recommendation that you should not be declared a refugee because your application was withdrawn (see chapter 8.1 of this leaflet), or where your application is deemed to be withdrawn (see chapter 2.3 of this leaflet), the Minister will be advised of this recommendation and you will be notified of this by registered post. **There is no appeal against any such recommendation.**
- (ii) Otherwise, where the Refugee Applications Commissioner makes a recommendation that you should not be declared a refugee, the normal position is that you may appeal to the Refugee Appeals Tribunal against the recommendation within **15 working days** from the sending of the notice. The notice will be sent to you by registered post, and to your solicitor (if known). You will also be furnished with the reasons for the recommendation including the material which was relied upon in coming to a recommendation. **You are entitled to request an oral hearing for this appeal.** If you appeal but do not request an oral hearing, your appeal will be dealt with by the Tribunal without an oral hearing.
- (iii) Where the Refugee Applications Commissioner's negative recommendation includes **among its findings any one of the additional findings listed under section 13(6) of the Act (see below at *)** - you may appeal to the Refugee Appeals Tribunal against the recommendation within **10 working days** from the sending of the notice. The notice will be sent to you by registered post and to your solicitor (if known). You will also be furnished with the reasons for the recommendation including the material which was relied upon in coming to a recommendation. **Any such appeal will be dealt with by the Tribunal without an oral hearing.**

*** Section 13(6) findings**

(a) that the application showed either no basis or a minimal basis for the contention that the applicant is a refugee;

(b) that the applicant made statements or provided information in support of the application of such a false, contradictory, misleading or incomplete nature as to lead to the conclusion that the application is manifestly unfounded;

(c) that the applicant, without reasonable cause, failed to make an application as soon as reasonably practicable after arrival in the State;

(d) the applicant had lodged a prior application for asylum in another state party to the Geneva Convention (whether or not that application had been determined, granted or rejected); or

(e) the applicant is a national of, or has a right of residence in, a safe country of origin for the time being so designated by the Minister by order under section 12(4) of the Act.

- (iv) The Minister has the power to direct that certain categories of applications be dealt with in accordance with procedures set out in section 13(8) of the Refugee Act. **If the Minister issues such a direction and your application is to be dealt with in this way you will be notified in writing in advance by the Commissioner, as will your solicitor (if known).**

Under the procedures set out at section 13(8), should a negative recommendation be made by the Commissioner and should any one of the additional findings listed in Section 13(6) of the Act apply [see (iii) above] you will have **4 working days** to appeal from the sending of the notice. The notice will be sent to you by registered post and to your solicitor (if known). You will also be furnished with the reasons for the recommendation including the material which was relied upon in coming to a recommendation. **Any such appeal will be dealt with by the Tribunal without an oral hearing.**

7.2 What happens if you decide to appeal arising from 7.1 (ii), (iii) or (iv) above?

- The appeal must be made in writing on an official **Notice of Appeal** form which will be included with the notification from the Refugee Applications Commissioner. The Notice of Appeal form must be completed and submitted to the **Refugee Appeals Tribunal** 6-7 Hanover St. East, Dublin 2 within the specified time limits. The Notice of Appeal must be completed in full including the **grounds of appeal** by either you or your solicitor.
- It is your responsibility to **prove that your appeal was lodged within the permitted time limit**. If posted, the Notice of Appeal must be sent by registered post and you must keep the certificate of registration you receive at the Post Office when you post the letter. If you wish to deliver the Notice by hand, you should hand it to a member of staff at the Refugee Appeals Tribunal. You will be given a dated receipt and you should keep this receipt carefully. If you send the Notice by fax you must keep the successful transmission report.
- **If you wish to obtain legal advice and have not done so previously you should do so immediately on receipt of your letter of refusal. In this regard you may contract the Refugee Legal Service (RLS). You also have the option to engage private legal representation in relation to your appeal. However, the Refugee Appeals Tribunal will not refund any legal costs incurred in engaging private legal representation. If you wish to engage a solicitor you should do so before completing the 'Notice of Appeal', because consideration of your appeal will be based on this Notice.**
- You should give all documents sent to you by the Refugee Applications Commissioner to your solicitor.
- You must submit all supporting evidence and documentation with the Notice of Appeal, because these are the documents on which the appeal will be considered.
- You must also set out clearly your grounds of appeal.
- You must also inform the Tribunal of any change of address to the address provided in your Notice of Appeal.

7.3 Consideration of an appeal by the Refugee Appeals Tribunal without an oral hearing arising from 7.1(ii), (iii) and (iv) above.

The Refugee Appeals Tribunal will consider your appeal without an oral hearing (on the papers) in accordance with Chapter 7.1(ii), (iii) or (iv) above based on:

- Notice of Appeal submitted by you/ your solicitor,
- documents and reports furnished by the Refugee Applications Commissioner,
- any further supporting documents submitted by you and/or your solicitor,
- Notice of enquiries made or observations furnished by the Refugee Applications Commissioner under sections 16(6) and (7) of the Act, if any, or any observations by the High Commissioner.

7.4 Consideration of an appeal by the Refugee Appeals Tribunal with an oral Hearing

- If you request an oral hearing the Refugee Appeals Tribunal will send a notification to you at least **7 working days** before the date of the hearing to attend the hearing.
- Your oral hearing will be conducted by a Member of the Refugee Appeals Tribunal.
- The hearing must be attended by **you and your solicitor** (if any) and any witnesses directed to attend by the Refugee Appeals Tribunal. The Refugee Applications Commissioner or an authorised officer of the Commissioner will also attend. The UNHCR may attend as an observer.
- Where you are entitled to request an **oral hearing** you must indicate this on your Notice of Appeal form. You may also request in your Notice of Appeal that **a witness or witnesses** attend to give evidence in support of your appeal. The notification of the date of your oral hearing will indicate whether your request for the attendance of a witness has been granted.
- In some cases, other observers may attend oral hearings at the discretion of the Refugee Appeals Tribunal.
- If you require an interpreter at your appeal hearing every reasonable effort will be made to provide one. In your Notice of Appeal you should specify the precise language or dialect for which you require interpretation. The sole function of the interpreter is to interpret the questions and your responses accurately and literally.

- The oral hearing will be conducted as informally as is practicable and in such a manner as to ensure that the proceedings are fair and transparent.
- You may withdraw a request for an oral hearing by giving written notice to the Tribunal not later than **3 working days** before the hearing. The written notice must set out the reason for the withdrawal.

Important - **Failure to attend an oral hearing**

Where you fail, without reasonable cause, to attend an oral hearing, then unless you furnish to the Tribunal, not later than 3 working days from the date fixed for the oral hearing, with an explanation for not attending which the Tribunal considers reasonable in the circumstances, your appeal shall be deemed to be withdrawn. You and your solicitor (if known) will be notified of the withdrawal. The Minister and the Commissioner will also be notified of the withdrawal and the Minister shall refuse to give you a declaration as a refugee and will notify you that arrangements will be made for your removal from the State (see Chapter 9.3).

Your attention is drawn to Chapter 2.3 of this Information Leaflet which sets out the consequences of your failing to comply at appeals stage with other statutory obligations.

Note : The failure of a witness to attend an oral hearing will not necessarily prevent the hearing taking place.

7.5 What happens if you do not appeal ?

If you do not appeal to the Refugee Appeals Tribunal within the time allowed from the sending of the notification, the Refugee Applications Commissioner will recommend to the Minister that you should not be given a declaration as a refugee. The Minister may refuse to give you a declaration and may make arrangements for your removal from the State [see Chapter 9.3 of this Leaflet].

7.6 Outcome of your appeal

You and your solicitor (if known) will be notified in writing of the decision of the Refugee Appeals Tribunal. A copy of the decision will be forwarded to the Minister who, in the case of a negative recommendation, may refuse to give you a declaration as a refugee and make arrangements for your removal from the State. If the decision of the Refugee Appeals Tribunal is positive, you will be given a declaration as a refugee by the Minister subject to considerations of national security or public policy (ordre publique) [see Chapter 6.2 of this Leaflet].

Chapter 8. Withdrawing from the asylum process

8.1 Withdrawal at first stage

If your application for a declaration is still under consideration by the Refugee Applications Commissioner you may withdraw your application by notifying the Refugee Applications Commissioner in writing. You should set out clearly the reasons why you are withdrawing your application and indicate if you have applied for leave to remain in the State.

When the Minister is notified of your withdrawal:

- he or she will refuse to give you a declaration and,
- he or she may arrange for your removal from the State unless you have applied for or have been granted leave to remain in the State.

8.2 Withdrawal at appeal stage

If your appeal is still under consideration by the Refugee Appeals Tribunal you may withdraw your appeal and the notification of your withdrawal should be made in writing to the Refugee Appeals Tribunal. You should set out clearly the reasons why you are withdrawing your appeal and indicate if you have applied for leave to remain in the State. Copies of the Withdrawal Form are available in the Offices of the Refugee Appeal Tribunal. The Withdrawal Form should be signed by your solicitor, (if any).

When the Minister is notified of your withdrawal:

- he or she will refuse to give you a declaration and,
- he or she may arrange for your removal from the State unless you have applied for or have been granted leave to remain in the State.

Chapter 9. Decisions of the Minister for Justice, Equality and Law Reform.

9.1 What happens if the Minister decides to give you a declaration as a refugee?

If the Refugee Applications Commissioner or the Refugee Appeals Tribunal makes a recommendation to the Minister that you should be given a declaration as a refugee the Minister **will give you a declaration in writing stating that you are a refugee** . In accordance with section 3 of the Act and subject to any limitations laid down therein, you would then be entitled to:

- seek and enter employment in the State;
- carry on any business, trade or profession in the State;
- have access to education and training in the like manner and to the like extent in all respects as an Irish citizen;
- receive the same medical care and services and the same social welfare benefits as an Irish citizen;
- reside in the State;
- the same rights of travel in or to or from the State as those to which Irish citizens are entitled [note: this is on the basis that the Minister issues a travel document in accordance with section 4 of the Act];
- the same freedom to practise your religion and the same freedom as regards the religious education of your child as an Irish citizen;
- the same access to the courts as an Irish citizen;
- have the same right to form and be a member of associations and trade unions as an Irish citizen;

- acquire, hold, dispose or otherwise deal with real or personal property or an interest in such property in the same way and subject to the same obligations and limitations as an Irish citizen.

You will also be entitled to apply to the Minister for permission for a member of your family to enter and reside in the State, in accordance with section 18 of the Act.

9.2 What happens if the Minister refuses to give you a declaration as a refugee?

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

- your application for a declaration as a refugee has been refused;
- the period of your entitlement to remain in the State has expired;
- the Minister proposes to make a deportation order under section 3 of the Immigration Act, 1999 requiring that you leave the State.

Where the Minister proposes to make a deportation order requiring you to leave the State, you will be given three options. These options are:

- (i) to make representations to the Minister within **15 working days** setting out why you should be allowed remain in the State;
- (ii) to leave the State before the Minister decides the matter and inform the Minister in writing of the arrangements you have made for this purpose;
- (iii) to consent to the making of the deportation order within **15 working days**.

9.3 What happens if the Minister makes a deportation order to remove you from the State?

In accordance with the Immigration Act, 1999 (as amended), the Minister may make a deportation order against you and the notice of the deportation order may require you to:

- (i) present yourself to a member of the Garda Síochána or immigration officer;
- (ii) produce any travel document, passport, travel ticket or other document in your possession to the Garda Síochána or immigration officer;
- (iii) co-operate in any way necessary to enable a member of the Garda Síochána or immigration officer to obtain a travel document, passport, travel ticket or other document required for the purpose of such deportation;
- (iv) reside or remain in a particular district or place in the State pending removal from the State;
- (v) report to a specified Garda Station or immigration officer at specified intervals pending removal from the State;
- (vi) notify such member of the Garda Síochána or immigration officer as may be specified in the notice as soon as possible of any change of address.

Where an immigration officer or a member of the Garda Síochána, with reasonable cause, suspects that a person against whom a deportation order is in force:-

- (a) has failed to comply with any provision of the order or with a requirement in a notice under section 3(3)(b)(ii) of the Immigration Act, 1999 (as amended);
- (b) intends to leave the State and enter another state without lawful authority;
- (c) has destroyed identity documents or is in possession of forged identity documents;
- or,
- (d) intends to avoid removal from the State;

the Officer concerned may arrest that person without warrant and detain that person in a prescribed place.

9.4 Revocation of a declaration as a refugee

The Minister may, in accordance with section 21 of the Refugee Act revoke a declaration as a refugee, in circumstances, where a refugee:

- voluntarily re-avails of the protection of the country of his or her nationality;
- voluntarily reacquires his or her lost nationality;
- acquires a new nationality (other than the nationality of the State) and enjoys the protection of the country of his or her new nationality;
- voluntarily re-establishes himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution;
- can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail of the protection of the country of his or her nationality;
- is a person who has no nationality and who is able, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, to return to the country of his or her former habitual residence;
- is a person whose presence in the State poses a threat to national security or public policy; or
- is a person to whom a declaration as a refugee has been given on the basis of information furnished to the Refugee Applications Commissioner or, as the case may be, the Refugee Appeals Tribunal which was false or misleading in a material particular.

Where the Minister proposes to revoke a declaration, the person concerned and his/her solicitor (if known) will be notified in writing and will have **15 working** days from the issue of the notice containing the proposal and the reasons for it to make representations to the Minister. In cases where the Minister decides to revoke a declaration, the person concerned and his/her solicitor (if known) will be notified in writing and will have **15 working** days from the sending of the Notice containing the decision and the reasons for it to appeal to the High Court.

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

10.1 *Offences under the Refugee Act.*

An applicant for a declaration as a refugee who:

- leaves or attempts to leave the State without the permission of the Minister [section 9(4)(a)];
- Seeks or enters employment or carries on any business, trade or profession during the period before the final determination of his or her application for a declaration. [section 9(4)(b)]
- fails to inform the Refugee Applications Commissioner of his or her address or of any change of address as soon as possible [section 9(4A)];
- fails to comply with a requirement to reside or remain in particular districts or places in the State or to report at specified intervals to an immigration officer, an authorised person(s) or member of the Garda Síochána [section 9(5)];

will be guilty of an offence under the Refugee Act and may be liable to a fine and/or imprisonment on summary conviction.

Any person who:

- forges, or fraudulently alters, or assists in forging or fraudulently altering, or procures the forging or fraudulent alteration of a Temporary Residence Certificate [section 9(3)(d)];
- gives or makes to his/her knowledge false or misleading information or statements for the purposes of, or in relation to an application for a declaration as a refugee [section 20(2)];
- destroys or conceals identity documents with intent to deceive for the purposes of or in relation to an application for a declaration as a refugee [section 20(3)];

will be guilty of an offence and may be liable to a fine and/or imprisonment on summary conviction.

Any person who:

➤ **forges or fraudulently alters, or assists in forging or fraudulently altering or procures to be forged or fraudulently alters any identity documents** for reward, with intent to use such documents for the purposes of, or in relation to, an application for a declaration as a refugee [section 20(4)];

➤ **sells or supplies, or is in possession for the purpose of sale or supply, forged identity documents** with intent to use such documents for the purposes of, or in relation to, an application for a declaration as a refugee [section 20(5)];

will be guilty of an offence and may be liable to a fine and/or imprisonment on summary conviction or on conviction on indictment.

A member of An Garda Síochána may arrest without a warrant a person who may be reasonably suspected of committing, or of having committed, an offence under section 20 of the Act.

10.2 Circumstances in which an applicant for refugee status can be detained

Subject to the provisions of the Refugee Act you could be **detained** by an Immigration Officer or a member of An Garda Síochána if, with reasonable cause, it is suspected that you:

- pose a **threat to national security or public policy**;
- have **committed a serious non-political** crime outside the State;
- have **not made reasonable efforts to establish your true identity** (including non-compliance with the requirement to provide fingerprints);
- intend to **avoid removal** from the State, in the event of your application being transferred to a Dublin II Regulation/Dublin Convention State.

- intend to **avoid removal** from the State, in the event of your application being unsuccessful;
- intend to **leave the State** and enter another without lawful authority;
- without reasonable cause, have **destroyed identity or travel documents** or are in **possession of forged identity documents**.

[section 9(8) and 9A(2) of Refugee Act]

See also Chapter 9.3 of this leaflet for details of the circumstances where a person, who has been refused a declaration as a refugee and against whom a deportation order is in force, can be detained.

Appendix 1

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

<p><i>Asylum Immigration & Citizenship Division Department of Justice, Equality and Law Reform, 13 - 14 Burgh Quay, Dublin 2.</i></p> <p>Tel: 01 6167700</p>	<p>An application for a declaration as a refugee is made to the Minister for Justice, Equality and Law Reform, although the Refugee Applications Commissioner accepts the application and carries out the initial investigation. The Minister for Justice, Equality and Law Reform 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, Equality and Law Reform 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.</p>
<p><i>Refugee Applications Commissioner, 79-83 Lower Mount Street, Dublin 2.</i></p> <p>Tel: 01 6028000 LoCall: 1890 202418</p>	<p>The principal function of the Refugee Applications Commissioner is to make recommendations to the Minister for Justice, Equality and Law Reform 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, Equality and Law Reform in fulfilling the functions of the Commissioner under the Refugee Act, 1996 (as amended).</p>
<p><i>Refugee Appeals Tribunal, 6/7 Hanover Street, Dublin 2.</i></p> <p>LoCall: 1890 201458</p>	<p>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</p>

	Applications Commissioner with at least 5 years experience as a practicing solicitor or barrister.
<p>Reception and Integration Agency, Block C, Ardilaun Centre, 112 - 114 St. Stephens Green West Dublin 2. LoCall: 4183200</p>	<p>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.</p>
<p>United Nations High Commissioner for Refugees (UNHCR), Suite 4, Merrion House, 1 - 3 Lower Fitzwilliam St, Dublin 2 Tel: 01 6314510</p>	<p>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.</p>

<p>Refugee Legal Service, 48 - 49 North Brunswick St. Georges Lane, Dublin 7 Freephone : 1800 238343 Tel: 01 6469600</p>	<p>Irish Refugee Council, 88 Capel St., Dublin 1 Tel: 8730042</p>	<p>Irish Refugee Council, 1 Bank Place, Ennis, Co. Clare Tel: 065 6822026</p>
<p>Irish Red Cross Society, 16 Merrion Square, Dublin 2 Tel : 01 6765135</p>	<p>Amnesty International, 48 Fleet Street, Dublin 2 Tel : 01 6776361</p>	<p>East Coast Area Health Board, Baggot St, Community Hospital 18 Upper Baggot St Dn 4. Ph : 01 6681577</p>

