

Lesotho

Refugee Regulations, 1986

Legal Notice 58 of 1986

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Lesotho

Refugee Regulations, 1986

Legal Notice 58 of 1986

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Commenced

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In exercise of the powers conferred by Section 17 of the Refugee Act, 1983, I, Mathealira Seeiso Minister of the Interior, make the following regulations:

1. Citation and commencement

These regulations may be cited as the Refugee Regulations 1986, and shall come into operation on the date of publication in the gazette.

2. Interpretation

In these regulations, unless the context otherwise requires;

“**Committee**” means the Interministerial committee for the Determination of refugee status established under section 5 of the Act;

“**Counselling unit**” means the counselling unit of the Ministry of Interior and Chieftainship Affairs.

3. Application for refugee status

- (1) A person seeking asylum in Lesotho shall make an application to the authorized officer in Form 1 as set out in the Schedule to these regulations, accompanied by any documents containing information in support of his application.
- (2) The authorised officer shall inform the Secretary of the Committee about the application.
- (3) The Secretary of the Committee shall,
 - (a) render assistance to the applicant in filling the application form;
 - (b) provide an interpreter where necessary;
 - (c) inform the applicant of his right to communicate with a representative of the United Nations High Commission for Refugee; and
 - (d) within 7 days of the application, forward a copy of the application form duly filled, to each member of the Committee.
- (4) Where the application form has been completed on behalf of the person seeking asylum the contents thereof shall be read to him before he signs it.
- (5) The applicant shall then sign the application form in the presence of the secretary of the Committee who shall countersign it.

4. Asylum seeker to seek temporary permit

- (1) Notwithstanding anything contained in any other law, a person arriving at a frontier in Lesotho or who is already residing in Lesotho and who has made an application for refugee status shall have the right to remain in Lesotho until all the formal process of determining his status has been decided.
- (2) Pending the decision of the Minister, the applicant shall apply for a temporary residence permit from the Department of Immigration.
- (3) While his application is under consideration, the applicant may remain at the reception centre for asylum seekers under the care of the Ministry of the Interior and Chieftainship Affairs.

5. Meetings of the Committee

- (1) The Committee shall meet as often as circumstances may require but in any case not less than once every fortnight.
- (2) The Committee shall, within 30 days from the date of receipt of the application, consider every application referred to it to determine the status of applicants in terms of section 3(1) of the Act and may, either within that period or thereafter, make such inquiry or investigation as it thinks necessary concerning such application.
- (3) The Committee may invite any person with special knowledge or experience at its meetings.
- (4) The Committee shall interview the applicant in respect of his application for refugee status.

6. Register

- (1) The Secretary of the Committee shall maintain in a confidential register all records of applications, showing in respect of the applicant,
 - (a) his full name;
 - (b) the date of arrival in Lesotho;
 - (c) the date of making the application;
 - (d) the date of the Committee's recommendations to the Minister and reasons therefor.
- (2) The Committee shall forward its recommendations on the application to the Minister in Form 2 as set out in the Schedule.
- (3) Where the Minister ratifies the recommendations of the Committee he shall sign Form 2.
- (4) The Secretary of the Committee shall be responsible for the keeping of the records of applications of persons seeking asylum and for the registration of persons who have been granted refugee status.

7. Procedure where application is rejected

- (1) Where the Minister rejects the application,
 - (a) his decision shall be on Form 2 as set out in the Schedule; and
 - (b) the applicant may, in terms of section 7(7) of the Act, within 14 days of being notified of the Minister's decision, re-apply to the Minister.
- (2) Where the Minister rejects the second application made under subregulation (1)(b),
 - (a) he shall inform the applicant in Form 3 as set out in the Schedule; and
 - (b) the applicant shall be allowed to remain in Lesotho for at least 3 months to enable him to apply for asylum to another country.

8. Application for resettlement

An application for resettlement to another country shall be made in Form 4 as set out in the Schedule and shall be forwarded to the United Nations High Commission for Refugees.

9. Re-unification with family members

- (1) A person who has been granted refugee status may apply to the Committee for members of his family to join him in Lesotho.
- (2) An application for re-unification with members of the family of the refugee shall be made on Form 5 as set out in the Schedule.
- (3) The completed form shall be forwarded to the United Nations High Commission for Refugees to determine whether,
 - (a) the applicant is a registered refugee;
 - (b) the appropriate process to obtain visas and travel documents for the members of the family of the refugee have been complied with; and
 - (c) assistance of the United Nations High Commission for Refugees is required for the purposes of—
 - (i) obtaining visas and entry documents in terms of paragraph (b); or
 - (ii) financing the travel requested.
- (4) Where the assistance of the United Nations High Commission for Refugees is requested, a copy of Form 5 together with the authority of the Ministry of Interior and Chieftainship Affairs allowing the members of the family to enter Lesotho shall be forwarded to the United Nations High Commission for Refugees for appropriate action.
- (5) On arrival in Lesotho, the family members shall be granted entry visas and shall forthwith proceed to be re-united with the refugee and be registered as refugees without going through the full procedure for application as refugees.

10. Identification on documents

- (1) The following persons shall be required to carry with them identification papers issued by the Immigration Department through the Refugee Co-ordination Unit:
 - (a) applicants for refugee status;
 - (b) recognized refugees who have been registered; and
 - (c) dependants of registered refugees.
- (2) An application for an identity card shall be made on Form 6 as set out in the Schedule.

11. Issuance of travel documents

- (1) A registered refugee who wishes to travel outside Lesotho shall apply to the United Nations High Commission for Refugees for a travel document on Form 7 of the Schedule.
- (2) The form, duly completed, shall be forwarded to the Secretary to the Committee who shall,
 - (a) obtain security clearance for the intended journey; and
 - (b) ensure that the reason given for undertaking the journey are consistent with the regulations regarding the status, rights and obligations of the applicant.

- (3) Information relating to the decision to grant or to refuse to grant the travel document shall be entered on Form 7 as set out in the Schedule and where the travel document is issued, particulars thereof shall be entered on the form.
- (4) Where the application is successful, a United Nations Convention Travel Document shall be issued by the Director of Immigration.
- (5) The Commissioner for Refugees shall ensure that an up to date register of all such travel documents is well kept.
- (6) A travel document issued under this regulation shall, for security reasons, be kept by the Refugee Co-ordination Unit after the journey for which it was issued has been undertaken.
- (7) The United Nations High Commission for Refugees shall provide blank travel documents to the Director of Immigration.

12. Refugee Co-ordination Unit

- (1) The Refugee Co-ordination Unit shall be responsible for—
 - (a) the administration and co-ordination of matters relating to refugees; and
 - (b) the initial counselling and registration of asylum seekers.
- (2) The Commissioner for Refugees shall, through the counselling unit, make recommendations to the Refugee Co-ordination Unit for assistance in Form 8 of the Schedule, regarding payments towards implementation of the recommended assistance.
- (3) Payments under subregulation (2) shall be made only on recommendation of the counselling unit and strictly within the terms and conditions stipulated in the agreement governing the implementation of the Refugee Assistance Programmes signed between the Government of Lesotho and the United Nations High Commission for Refugees.
- (4) The Refugee Co-ordination Unit shall maintain a correct record of accounts and shall comply with the general specification of the agreements referred to in subregulation (3).

13. Withdraw all of recognition of refugee status

- (1) If, at any time, the Minister thinks there are reasonable grounds for invoking one or more of the cessation clauses in terms of section 4 of the Act, the case shall be referred to the Committee.
- (2) The Committee shall notify in writing the person whose status as a refugee is under re-consideration by the Minister, informing him of all the facts of the case, and inviting him to make written representations to the Committee within 14 days from the date of the notification.
- (3) The Committee shall consider every case referred to it and may make any inquiry or investigation it thinks necessary in any such case.
- (4) The Minister shall, on recommendation by the Committee, give his decision concerning withdrawal of recognition of refugee status on Form 9 as set out in the Schedule.
- (5) A person whose refugee status has been withdrawn may, within 14 days from the date of notification of such withdrawal, make written representations to the Minister.
- (6) The Minister may, before withdrawing recognition of refugee status,
 - (a) invite the representative of the United Nations High Commission for Refugees to Lesotho;
 - (b) refer the matter back to the Committee for further inquiry and investigation to be made; or
 - (c) make such further inquiry and investigation as he thinks fit.

- (7) The Minister shall cause his final decision to be communicated to the person whose refugee status has been withdrawn on Form 9 as set out in the Schedule, and shall sign the form.
- (8) Where the Minister has withdrawn the refugee status of a person in terms of section 4 of the Act, that person shall cease to be a recognized refugee and any person who became a protected person as a result of being a member of the family of the first-mentioned person shall cease to be a protected person,
 - (a) 14 days after the date on which the Minister notifies that person that his refugee status has been withdrawn; or
 - (b) where the person made representations to the Minister to reconsider his application, 7 days after the Minister notifies him that he confirms his earlier decision.
- (9) A person who was recognized as a refugee as a result of being a member of the family of the person whose refugee status has been withdrawn may apply for recognition as a refugee independently.

14. Expulsion of refugees

- (1) Before making an expulsion order, the Minister shall serve a written notice upon the refugee informing him of the Minister's intention to expel him, the grounds for the expulsion and the country to which the Minister proposes to expel him.
- (2) The notice of expulsion shall be delivered in person to the refugee who shall sign and date the notice as proof of having received it.
- (3) A refugee upon whom a notice has been served under this regulation may, either by himself or through a legal practitioner practising in Lesotho, within 14 days after receiving the expulsion order, make representations to the Minister to reconsider his decision.
- (4) The Minister shall, on the advice of the Board, reconsider the application and determine whether to enforce or revoke the expulsion order.
- (5) An expulsion order shall be in Form 10 as set out in the Schedule.

15. Forms

The forms set out in the Schedule shall be completed in respect of the matters respectively described thereon.

Schedule

Forms

[Editorial note: The forms have not been reproduced.]