

# THE REFUGEE AMENDMENT ACT

The Refugee Amendment Act was signed into law on 14 December 2017. It can only be properly implemented once the Draft Regulations are finalized. Below, we summarize the main changes that the Act proposes. Read our article to find out our responses to these changes.

## APPLYING FOR ASYLUM



The Refugee Amendment Act requires an asylum seeker to report to a Refugee Reception Office no later than five days after arriving in South Africa – or they can be excluded from refugee status. Those without an 'asylum transit visa' will be interviewed by an immigration officer to determine whether they have 'valid reasons' or not. Those who've entered 'illegally' risk being excluded from applying to asylum. All existing dependents must be declared upon applying to asylum.

## REFUGEE RECEPTION OFFICES

Under the Refugees Amendment Act, the Director-General of Home Affairs would be able to establish, and disestablish, as many Refugee Reception Offices as he or she regards as necessary – 'notwithstanding the provisions of any other law'. He or she would also be able to direct any category of asylum seekers to report to any 'place specially designated' when lodging an application for asylum, implying something other than a Refugee Reception Office.



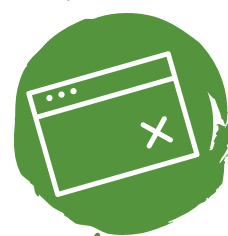
## ABILITY TO WORK



Under the Refugee Amendment Act, asylum seekers would not have an automatic ability to work or study. This ability would have to be 'endorsed' on an asylum visa following an assessment process to determine whether an asylum seeker can support themselves in any way.

## EXCLUSION FROM REFUGEE STATUS

If implemented, the Refugee Amendment Act would expand the reasons for which an asylum seeker could be excluded from refugee status. This would include the committing of a Schedule 2 crime, entering illegally into South Africa, or an offence related to fraudulent documentation. It would also include those who are fugitives from justice in countries 'where the rule of law is upheld by a recognized judiciary', and those who do not apply for asylum within five days of entering South Africa.



## ABANDONING ASYLUM CLAIMS



Under the Refugee Amendment Act, an asylum claim will be considered 'abandoned' if an asylum seeker does not report to a Refugee Reception Office thirty days or more after the expiry of their asylum permit. Discretion is only permitted if it is proven that the asylum seeker has 'compelling reasons' for having an expired permit. Such reasons are to be determined by the Standing Committee for Refugee Affairs.

## CHANGES TO APPEAL SYSTEM

The Refugee Amendment Act would create the Refugee Appeals Authority, which would allow for one member to take a decision (rather than the current quorum) and for more flexible appointments of staff and Refugee Appeal Authority members.



## CESSATION OF REFUGEE STATUS



The Refugees Amendment Act would expand the reasons under which a refugee status could be withdrawn. Several actions that could result in the withdrawal of refugee status – including an refugee seeking consular services. The Act would allow the Minister of Home Affairs to announce a cessation upon an entire category of refugees (or an individual).

## PERMANENT RESIDENCY

The Refugee Amendment Act would double the amount of time a refugee has resided in the country before being allowed to apply for permanent residency. This application, which involves applying to be recognized as an 'indefinite refugee', will only be possible for those who've been granted refugee status for ten years, which is double the current requirement of five years.



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