
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF HOME AFFAIRS**NOTICE 806 OF 2015****REFUGEES AMENDMENT BILL, 2015 (ACT NO. 130 OF 1998)****PUBLICATION OF THE DRAFT AMENDMENT BILL, 2015**

The Department of Home Affairs ("DHA") invites public comments on the draft Refugees Amendment Bill, 2015.

Written submissions should reach the DHA **on or before 31 August 2015**. Submissions should be addressed to the Chief Director: Legal Services and may be forwarded to the DHA in any of the following manners:

- (a) delivered by hand to the Department of Home Affairs, 230 Johannes Ramokhoase Street, Hallmark Building (c/o old Proes and Andries Street), Pretoria, 0001, for **attention** Adv Tsietsi Sebelemetja (Tel 012 406 4271) or Adv Moses Malakate (Tel 012 406 4273);
- (b) mailed to the DHA at Private Bag X114, Pretoria, 0001;
- (c) faxed to 0865 144 267 or 086 576 9025; or
- (d) e-mailed to Tsietsi.Sebelemetja@dha.gov.za and Moses.Malakate@dha.gov.za

Any enquiries should be directed to **Adv Tsietsi Sebelemetja** at **082 907 1831** or **Adv Moses Malakate** at **076 481 4716**.

DRAFT REFUGEES AMENDMENT BILL, 2015**GENERAL EXPLANATORY NOTE:**

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Refugees Act, 1998, so as to amend and insert certain definitions; to include further provisions relating to disqualification from refugee status; to provide for integrity testing of certain staff members; to omit provisions referring to the Status Determination Committee; to substitute certain provisions relating to the Refugee Appeals Authority; to provide for the re-establishment of the Standing Committee for Refugee Affairs and to confer additional powers on the Standing Committee; to confer additional powers on the Director-General; to clarify the procedure relating to conditions to asylum seeker visas and abandonment of applications; to revise provisions relating to the review of asylum applications; to provide for the withdrawal of refugee status in respect of categories of refugees; to provide for additional offences and penalties; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 130 of 1998, as amended by section 1 of Act 33 of 2008 and section 1 of Act 12 of 2011

1. Section 1 of the Refugees Act, 1998 (Act No. 130 of 1998) (hereinafter referred to as the “principal Act”) is hereby amended by—

(a) the substitution for the definition of “asylum seeker permit” of the following definition:

“**asylum seeker [permit] visa**’ means a **[permit] visa** contemplated in section 22;”;

(b) the substitution for the definition of “dependant” of the following definition:

“**‘dependant’** in relation to an asylum seeker or a refugee, means any unmarried minor dependant child, including an adopted child if such child was legally adopted in the asylum seeker’s or refugee’s country of origin, a spouse legally married to the asylum seeker or refugee in his or her country of origin or any destitute, aged or infirm **[member of the immediate family] parent** of such asylum seeker or refugee who is dependent on him or her, and who is included by the asylum seeker in the application for asylum;

(c) the insertion after the definition of “Refugee Reception Office” of the following definition:

“‘Refugee Status Determination Officer’ means an official referred to in section 8(2);”

- (d) the deletion of the definition of “Status Determination Committee”; and
- (e) the insertion after the definition of “spouse” of the following definition:

“‘Standing Committee’ means the Standing Committee for Refugee Affairs established by section 9A.”

Substitution of section 4 of Act 130 of 1998, as amended by section 5 of Act 33 of 2008 and section 2 of Act 12 of 2011

2. The following section is hereby substituted for section 4 of the principal Act:

“Exclusion from refugee status

4. (1) **[A person]** An asylum seeker does not qualify for refugee status for the purposes of this Act if **[the Status Determination Committee]** a Refugee Status Determination Officer has reason to believe that he or she—

- (a) has committed a crime against peace, a crime involving torture as defined in Article 1 of the 1984 United Nations Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment, a war crime or a crime against humanity, as defined in any international legal instrument dealing with any such crimes; or

- (b) has committed a crime outside the Republic, which is not of a political nature and which, if committed in the Republic, would be punishable by imprisonment without the option of a fine; or
- (c) has been guilty of acts contrary to the objects and principles of the United Nations [Organisation] or the [Organisation of African Unity] African Union; or
- (d) enjoys the protection of any other country in which he or she is a recognised refugee, permanent resident or citizen[.]; or
- (e) has committed a crime in the Republic, which is listed in Schedule 2 of the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997), or which is punishable by imprisonment without the option of a fine; or
- (f) has committed an offence in relation to the Immigration Act, the Identification Act, 1997 (Act No. 68 of 1997) or the South African Passports and Travel Documents Act, 1994 (Act No. 4 of 1994); or
- (g) is a fugitive from justice in another country where the rule of law is upheld by a recognised judiciary; or
- (h) having entered the Republic, other than through a port of entry designated as such by the Minister in terms of section 9A of the Immigration Act, fails to satisfy the Refugee Status Determination Officer that there are compelling reasons for such entry; or
- (i) has failed to make an application for asylum within five days of entry into the Republic as contemplated in section 21.

(2) For the purposes of subsection (1)(c), no exercise of a human right recognised under international law may be regarded as being contrary to the objects and principles of the United Nations [Organisation] or the [Organisation of African Unity] African Union.”.

Amendment of section 5 of Act 130 of 1998, as amended by section 6 of Act 33 of 2008

3. Section 5 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“5. (1) A person ceases to qualify for refugee status for the purposes of this Act if —

- (a) he or she voluntarily re-avails himself or herself in any way of the protection of the country of his or her nationality; or
- (b) having lost his or her nationality, he or she by some voluntary and formal act reacquires it; or
- (c) he or she becomes a permanent resident or a citizen of the Republic or acquires the nationality of some other country and enjoys the protection of that country: Provided that a person whose permanent residence status is withdrawn is not prevented from re-applying for refugee status; or
- (d) he or she voluntarily re-establishes himself or herself in the country which he or she left or returns to visit such country; or

- (e) he or she can no longer continue to refuse to avail himself or herself of the protection of the country of his or her nationality because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist and no other circumstances have arisen which justify his or her continued recognition as a refugee[.]; or
- (f) he or she has committed a crime in the Republic, which is listed in Schedule 2 of the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997), or which is punishable by imprisonment without the option of a fine; or
- (g) he or she has committed an offence in relation to the Immigration Act, the Identification Act, 1997 (Act No. 68 of 1997) or the South African Passports and Travel Documents Act, 1994 (Act No. 4 of 1994); or
- (h) the Minister, after consultation with Cabinet, resolves to cease the recognition of the refugee status of any individual refugee or category of refugees or to revoke such status."

Substitution of heading to Chapter 2 of Act 130 of 1998, as amended by section 9 of Act 33 of 2008

4. The following heading is hereby substituted for the heading to Chapter 2 of the principal Act:

**“REFUGEE RECEPTION OFFICES, [AND] REFUGEE APPEALS AUTHORITY
AND STANDING COMMITTEE FOR REFUGEE AFFAIRS”.**

Amendment of section 8 of Act 130 of 1998, as amended by section 10 of Act 33 of 2008 and section 3 of Act 12 of 2011

5. Section 8 of the principal Act is hereby amended by–

(a) the substitution for the heading of the following heading:

“Refugee Reception Office and integrity testing”;

(b) the substitution for subsections (1) and (2) of the following subsections, respectively:

“8. (1) [The] Notwithstanding the provisions of any other law, the Director-General may, by notice in the *Gazette*, establish as many Refugee Reception Offices in the Republic as he or she regards as necessary for the purposes of this Act and may disestablish any such Office, by notice in the Gazette, if deemed necessary for the proper administration of this Act.

(2) Each Refugee Reception Office must consist of at least one [Status Determination Committee established by the Director-General in the prescribed manner to consider and deal with applications for asylum in accordance with section 24: Provided that the Status Determination Committee may establish subcommittees consisting of no less than two members] official of the Department designated by the Director-General as a Refugee Status Determination Officer.”; and

(c) the insertion after subsection (2) of the following subsections:

“(3) The Director-General may at any time, but must at least once during the prescribed period, require, in writing, all members of staff at any Refugee Reception Office and all members of the Standing Committee and the Refugee Appeals Authority, to undergo a procedure to test the integrity of such members, which procedure may involve the use of a polygraph or any similar instrument.

(4) A procedure contemplated in subsection (3) may only be performed by a trained polygraph examiner in accordance with such procedures relating to polygraph testing as may be in operation at the time.

(5) If a person referred to in subsection (3)–

- (a) who is a member of the public service refuses to submit to a polygraph examination or other similar test, when required to do so, the Director-General may instruct such member to be subjected to such disciplinary measures as may be in operation for members of the public service at the time; or
- (b) does not pass the polygraph or similar test or if the result indicates possible deception, the Director-General may instruct such member to subject himself or herself to a security screening in accordance with section 2A of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994).”.

Substitution of section 8B of Act 130 of 1998, as inserted by section 11 of Act 33 of 2008

6. The following section is hereby substituted for section 8B of the principal Act:

“Composition of Refugee Appeals Authority

8B. The Refugee Appeals Authority consists of—

- (a) a chairperson who is legally qualified; and
- (b) such number of other legally qualified members as the Minister may [determine, having regard to the likely volume of work to be performed by the Refugee Appeals Authority: Provided that at least one of such members is legally qualified] appoint from time to time.

[(2) The chairperson and other members of the Refugee Appeals Authority are appointed by the Minister with due regard to their experience, qualifications and expertise, as well as their ability to perform the functions of the Refugee Appeals Authority properly.]”.

Amendment of section 8C of Act 130 of 1998, as inserted by section 11 of Act 33 of 2008 and amended by section 4 of Act 12 of 2011

7. Section 8C of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) An appeal contemplated in subsection (1)(a) must be determined by a single member or such number of members of the Refugee Appeals

Authority as the chairperson may [**deem**] consider necessary[: **Provided that at least one of such members is legally qualified**].”.

Substitution for section 8D of Act 130 of 1998, as inserted by section 11 of Act 33 of 2008

8. Section 8D of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) [A member of the Refugee Appeals Authority serves for a period of five years and is eligible for reappointment upon expiry of his or her term of office] Notwithstanding the provisions of any other law, a member of the Refugee Appeals Authority is appointed for any period not exceeding five years at a time and may be reappointed for any additional number of periods, any of which may not exceed five years at a time.”.

Amendment of section 8E of Act 130 of 1998, as inserted by section 11 of Act 33 of 2008 and amended by Act 12 of 2011

9. The following section is hereby substituted for section 8E of the principal Act:

“Disqualification from membership

8E. A person may not be appointed as a member of the Refugee Appeals Authority if that person—

- (a) is not a South African citizen, unless he or she, in the opinion of the Minister, possesses such skills and expertise as would significantly enhance the capacity of the Refugee Appeals Authority;
- (b) has been sentenced to imprisonment without the option of a fine during the preceding **[four]** seven years;
- (c) is an unrehabilitated insolvent;
- (d) has been judicially declared of unsound mind;
- (e) has been removed from an office of trust on account of misconduct **[involving theft, fraud or corruption]; [or]**
- (f) is a political office bearer holding a position in the national executive structure of any political party[.];
- (g) has been removed from a previous position on account of theft, fraud or corruption;
- (h) refuses to submit to a polygraph examination or similar test or a security screening in accordance with section 2A of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994) when required to do so; or
- (i) fails an examination, test or screening, as referred to in paragraph (h)."

Amendment of section 8F of Act 130 of 1998 as inserted by section 11 of Act 33 of 2008

10. Section 8F of the principal Act is hereby amended by the insertion after subsection (2) of the following subsection:

“(3) The Minister may summarily remove a member of the Refugee Appeals Authority from office if such member becomes disqualified in terms of section 8E.”.

Repeal of section 8G as inserted by section 11 of Act 33 of 2008

11. Section 8G of the principal Act is hereby repealed.

Insertion of sections 9A to 9I in Act 130 of 1998

12. The following sections are hereby inserted after section 9 of the principal Act:

"Standing Committee for Refugee Affairs

9A. (1) There is hereby established a Standing Committee for Refugee Affairs.

(2) The Standing Committee is independent and must function without any bias.

(3) The headquarters of the Standing Committee must be determined by the Minister.

Composition of Standing Committee

9B. (1) The Standing Committee consists of—

- (a) a chairperson who is legally qualified; and**
- (b) such number of other legally qualified members as the Minister may appoint from time to time.**

Functions of Standing Committee

9C. (1) The Standing Committee—

- (a) must determine any review in terms of this Act;**
- (b) must, in the event that an asylum seeker is permitted to work or study in the Republic, determine the conditions in terms of which such asylum seeker may work or study whilst awaiting the outcome of his or her application for asylum;**
- (c) may monitor and supervise all decisions taken by Refugee Status Determination Officers and may approve, disapprove or refer any such decision back to a Refugee Status Determination Officer supervisor with recommendations as to how the matter must be dealt with;**
- (d) must advise the Minister or Director-General on any matter referred to it by the Minister or Director-General, including training to be provided to members of staff at Refugee Reception Offices, as may be required.**

(2) A review contemplated in subsection (1)(a) must be determined by a single member or, in particular matters, such number of members of the Standing Committee as the chairperson may deem necessary.

Term of office of members of Standing Committee

9D. (1) Notwithstanding the provisions of any other law, a member of the Standing Committee is appointed for any period not exceeding five years at a time and may be reappointed for any additional number of periods, any of which may not exceed five years at a time.

(2) A member may resign by tendering a written notice of resignation to the Minister.

Disqualification from membership

9E. A person may not be appointed as a member of the Standing Committee if that person—

- (a) is not a South African citizen, unless he or she, in the opinion of the Minister, possesses such skills and expertise as would significantly enhance the capacity of the Standing Committee;
- (b) has been sentenced to imprisonment without the option of a fine during the preceding seven years;
- (c) is an unrehabilitated insolvent;

- (d) has been judicially declared of unsound mind;
- (e) has been removed from an office of trust on account of misconduct;
- (f) is a political office bearer holding a position in the national executive structure of any political party;
- (g) has been removed from a previous position on account of theft, fraud or corruption;
- (h) refuses to submit to a polygraph examination or similar test or a security screening in accordance with section 2A of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994) when required to do so; or
- (i) fails an examination, test or screening, as referred to in paragraph (h)."

Removal from office of member of Standing Committee

9F. (1) The Minister may remove a member of the Standing Committee from office on account of misconduct or inability to perform the functions of his or her office effectively and efficiently.

(2) The Minister may remove a member of the Standing Committee in terms of subsection (1) if such member has been given an opportunity to make representations or comments on the matter and the Minister has taken any such representations or comments into consideration.

(3) The Minister may summarily remove a member of the Standing Committee from office if such member becomes disqualified in terms of section 9E.

Remuneration of members of Standing Committee

9H. The members of the Standing Committee must receive such remuneration, allowances and other benefits as the Minister may determine with the concurrence of the Minister of Finance.

Administrative staff of Standing Committee

9I. The administrative monitoring or supervisory work connected with the functions of the Standing Committee must be performed by officials of the Department designated by the Director-General for that purpose."

Amendment of section 21 of Act 130 of 1998, as amended by section 13 of Act 33 of 2008

13. Section 21 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

"(1) An application for asylum must be made in person in accordance with the prescribed procedures, within five days of entry into the Republic,

to a Refugee Status Determination Officer at any Refugee Reception Office or at any other place designated by the Director-General by notice in the *Gazette*.”;

(b) the insertion after subsection (1) of the following subsections:

“(1A) The Director-General may, by notice in the *Gazette*, require any category of asylum seekers to report to any particular or designated Refugee Reception Office or other place specially designated as such when lodging an application for asylum if the Director-General considers it necessary for the proper administration of this Act.

(1B) For purposes of subsection (1A), a category of asylum seekers refers to asylum seekers from a particular country of origin or geographic area or of a particular gender, religion, nationality, political opinion or social group.”; and

(c) the insertion after subsection (5) of the following subsections:

“(6) An application for asylum which is found to contain false, dishonest or misleading information, whether by a Refugee Status Determination Officer when considering the application, the Standing Committee for Refugee Affairs when reviewing, monitoring or supervising a decision or the Refugee Appeals Authority when adjudicating an appeal, must be rejected.

(7) It is presumed that a person who has indicated a language of preference in an application for asylum, understands and is proficient in such language.”.

Amendment of section 21B of Act 130 of 1998, as inserted by section 14 of Act 33 of 2008 and amended by section 6 of Act 12 of 2011

14. Section 21B of the principal Act is hereby amended by the insertion after subsection (2) of the following subsection:

“(2A) Any child of an asylum seeker born in the Republic and any person included as a dependant of an asylum seeker in the application for asylum have the same status accorded to such asylum seeker.”.

Amendment of section 22 of Act 130 of 1998, as amended by section 15 of Act 33 of 2008

15. The following section is hereby substituted for section 22 of the principal Act:

“Asylum seeker visa

22. (1) An asylum seeker whose application in terms of section 21(1) has not been finalised, is entitled to be issued with an asylum seeker visa in the prescribed form allowing the applicant to sojourn in the Republic temporarily, subject to such conditions as may be imposed, which are not in conflict with the Constitution or international law.

(2) Upon the issue of a visa in terms of subsection (1), any visa issued to the applicant in terms of the Immigration Act becomes null and void and must be returned to the Director-General for cancellation.

(3) The visa referred to in subsection (1) must contain the biometrics of the holder thereof.

(4) The visa referred to in subsection (1) may, pending the decision on the application in terms of section 21, from time to time be extended for such period as may be required.

(5) The Director-General may at any time withdraw an asylum seeker visa in the prescribed manner if —

- (a) the applicant contravenes any conditions endorsed on that visa;
- (b) the application for asylum has been found to be manifestly unfounded, abusive or fraudulent;
- (c) the application for asylum has been rejected; or
- (d) the applicant is or becomes ineligible for asylum in terms of section 4 or 5.

(6) Upon application for asylum, the applicant may be assessed to determine his or her ability to sustain himself or herself, and any dependants with the assistance of family or friends for a period of at least four months.

(7) If, after assessment, it is found that the applicant is unable to sustain himself or herself and any dependants as contemplated in

subsection (6), the applicant may be offered shelter and basic necessities provided by the UNHCR or any of its participating partners.

(8) The right to work in the Republic may not be endorsed on the asylum seeker visa of any applicant who—

- (a) is able to sustain himself or herself and any dependants as contemplated in subsection (6);
- (b) is offered shelter and basic necessities by the UNHCR or any of its participating partners; or
- (c) seeks to extend the right to work after having failed to produce a letter of employment as contemplated in subsection (9): Provided that such extension may be granted if a letter of employment is subsequently produced while the application in terms of section 21 is still pending.

(9) In the event that the right to work or study is endorsed on the asylum seeker visa, the relevant employer, in the case of a right to work, and the relevant educational institution, in the case of a right to study, must furnish the Department with a letter of employment or of enrolment at the educational institution, as the case may be, in the prescribed form within a period of 14 days from the date of the asylum seeker taking up employment or being enrolled, as the case may be.

(10) An employer or educational institution contemplated in subsection (9) who or which fails to comply with the duty imposed in that

subsection or fraudulently issues the letter contemplated in that subsection, is guilty of an offence and liable upon conviction to a fine not exceeding R20 000.

(11) The Director-General must revoke any right to work or study as endorsed on an asylum seeker visa if the holder thereof is unable to prove that he or she is employed or enrolled for study after a period of six months from the date on which such right was endorsed.

(12) The application for asylum of any person who has been issued with a visa contemplated in subsection (1) must be considered to be abandoned and must be endorsed to this effect by the Standing Committee for Refugee Affairs on the basis of the documentation at its disposal if such asylum seeker fails to present himself or herself for renewal of the visa after a period of one month from the date of expiry of the visa, unless the asylum seeker can prove, to the satisfaction of the Standing Committee, that he or she was unable to present himself or herself as required due to hospitalisation or any other form of institutionalisation.

(13) An asylum seeker whose application is considered to be abandoned in accordance with subsection (12) may not re-apply for asylum and must be dealt with in terms of the Immigration Act.

(14) Any person who fails to return a visa in accordance with subsection (2), or fails to comply with any condition set out in a visa issued in terms of this section, or is in possession of an expired visa, is

guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.".

Amendment of section 24 of Act 130 of 1998, as amended by section 17 of Act 33 of 2008 and section 7 of Act 12 of 2011

16. Section 24 of the principal Act is hereby amended by—

- (a) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"When considering an application for asylum, the **[Status Determination Committee]** Refugee Status Determination Officer";

- (b) the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"The **[Status Determination Committee]** Refugee Status Determination Officer must at the conclusion of the hearing conducted in the prescribed manner, but subject to confirmation by the Standing Committee—"; and

- (c) the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

"If an application is rejected in terms of subsection (3)(b) or (c), the **[Status Determination Committee]** Refugee Status Determination Officer must—".

Substitution of section 24A of Act 130 of 1998, as inserted by section 19 of Act 33 of 2008 and amended by section 8 of Act 12 of 2011

17. The following section is hereby substituted for section 24A of the principal Act:

"Review by Standing Committee

24A. (1) The Standing Committee must review any decision taken by a Refugee Status Determination Officer in terms of section 24(3)(b) and may act in terms of section 9C(1)(c) in respect of any decision taken in terms of section 24(3)(a) or (c).

(2) The Standing Committee may, after having determined a review, confirm, set aside or substitute any decision taken by a Refugee Status Determination Officer in terms of section 24(3)(b).

(3) The Standing Committee must inform the Refugee Status Determination Officer at the Refugee Reception Office, where the application for asylum was lodged, of its decision within five working days of such decision."

Amendment of section 24B of Act 130 of 1998, as inserted by section 1 of Act 33 of 2008 and amended by section 9 of Act 12 of 2011

18. Section 24B of the principal Act is hereby amended by—

(a) the substitution for subsection (2) of the following subsection:

“(2) The Refugee Appeals Authority may, after having determined an appeal, confirm, set aside or substitute any decision taken by a [Status Determination Committee] Refugee Status Determination Officer in terms of section 24(3)(c).”; and

(b) the deletion of subsection (5).

Substitution of section 36 of Act 130 of 1998, as amended by section 29 of Act 33 of 2008 and section 11 of Act 12 of 2011

19. The following section is hereby substituted for section 36 of the principal Act:

“Withdrawal of refugee status

36. (1) Subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), and after consideration of all the relevant facts, the Standing Committee may withdraw a person’s refugee status if—

(a) such person has been recognised as a refugee due to fraud, forgery or false or misleading information of a material or substantive nature in relation to the application;

(b) such person has been recognised as a refugee due to an error, omission or oversight; or

(c) such person ceases to qualify for refugee status in terms of section 5.

(2) The Standing Committee must inform each affected person contemplated in subsection (1) of its intention to withdraw his or her classification as a refugee, as well as the reasons for the withdrawal and such person may, within the prescribed period, make a written submission with regard thereto.

(3) In the event that Cabinet has confirmed a declaration of cessation of refugee status in respect of a category of refugees, the Standing Committee must implement such confirmation by withdrawing the refugee status of such category as a whole by notice in the *Gazette*.

(4) A person whose refugee status is withdrawn in terms of subsection (1) or (3) must be dealt with in terms of the Immigration Act.”.

Amendment of section 37 of Act 130 of 1998, as amended by section 30 of Act 33 of 2008

20. Section 37 of the principal Act is hereby amended by—

(a) the substitution for paragraph (f) of the following paragraph:

“(f) provides false, inaccurate or unauthorised documentation, or any benefit to a person, or otherwise assists such person to disguise

his or her identity or status, or accepts undue financial or other considerations, to perform **[an]** any act or to exercise his or her discretion in terms of this Act~~[,]; or~~; and

(b) the addition after paragraph (f) of the following paragraphs:

- “(g) as a public servant, provides false or intentionally inaccurate or unauthorised documentation or benefit, or otherwise facilitates a person to disguise his or her identity or status, or accepts any undue financial or other consideration to perform any act or to exercise his or her discretion in terms of this Act; or
- “(h) wilfully or through gross negligence produces a false certification or document contemplated by this Act or any other Act administered by the Department; or
- “(i) manufactures or provides or causes the manufacturing or provision of a document purporting to be a document issued or administered by the Department while not being a duly authorised official of the Department.”.

Amendment of section 38 of Act 130 of 1998, as amended by section 31 of Act 33 of 2008 and section 12 of Act 12 of 2011

21. Section 38 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) the manner in which and period within which a matter must be referred to the Standing Committee or Refugee Appeals Authority”.

Substitution of phrases

22. The principal Act is hereby amended by the substitution for the phrase –

- (a) “asylum seeker permit”, wherever it occurs, of the phrase “asylum seeker visa”;
- (b) “permit”, in relation to an asylum seeker permit, wherever it occurs, of the phrase “visa”; and
- (c) “Status Determination Committee”, wherever it occurs, of the phrase “Refugee Status Determination Officer”.

Repeal of section 33 of Act 33 of 2008

23. Section 33 of the Refugees Amendment Act, 2008 (Act No. 33 of 2008), is hereby repealed.

Short title and commencement

24. This Act is called the Refugees Amendment Act, 2015, and comes into operation immediately after the commencement of the Refugees Amendment Act, 2008 (Act No. 33 of 2008) and the Refugees Amendment Act, 2011 (Act No. 12 of 2011).