

Ordinance 18 of 2015

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REFUGEES (AMENDMENT) ORDINANCE 2015

An Ordinance to amend the Refugees Ordinance 2003

M. Wigston
ADMINISTRATOR

22 December 2015

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

Short title

1. This Ordinance may be cited as the Refugees (Amendment) Ordinance 2015.

Commencement

2. This Ordinance comes into force on 24 December 2015.

Amendment of the Refugees Ordinance 2003

3. The Refugees Ordinance 2003(a) is amended in accordance with sections 4 to 9.

Amendment of section 3 (application of Republican definitions)

- 4.—(1) Section 3 is amended as follows.
(2) For subsection (1), substitute—

(a) Ordinance 10/2003, as amended by Ordinances 22/2008 and 25/2014.

“(1) In this Ordinance,—

- (a) the terms “alien”, “asylum”, “person entitled to subsidiary protection” and “refugee” have the same meaning as the equivalent Greek terms in the corresponding Republican law;
- (b) subject to subsections (1A) and (1B), “asylum-seeker” has the same meaning as the corresponding Greek term for “applicant” in that law; and
- (c) “application for asylum” means an application for recognition as a refugee made in accordance with section 13.”.

(3) After subsection (1), insert—

“(1A) Subject to subsection (1B), where, on or after 24 December 2015, a person (“P”) is notified in writing of a decision made under section 14 to refuse P’s application for asylum, P ceases to be an asylum-seeker on the expiry of 14 days after the date on which P is notified of the decision.

(1B) Where, within the 14-day period referred to in subsection (1A), P makes an application to the Administrator under section 14A (review by Administrator of decision to refuse asylum), P ceases to be an asylum-seeker on the date that P is notified in writing of the Administrator’s decision on the review.”.

Amendment of section 8 (investigation of asylum-seeker’s route of entry into the Areas)

5. In —

- (a) section 8(1), for “applicant’s”, substitute “asylum-seeker’s”; and
- (b) section 8(2), for “applicant”, substitute “asylum-seeker”.

Amendment of section 9 (transfer of asylum-seekers to the Republic)

6. In section 9, after “application”, in both of the places that it appears in that section, insert “for asylum”.

Amendment of section 10 (permit for temporary residence)

7. In section 10(1),—

- (a) omit “at the time when a final decision is taken with respect to this application for asylum”; and
- (b) in its place substitute “on the date the person ceases to be an asylum-seeker”.

Substitution of section 14 (application of Republican law and delegation to the Republican authorities)

8.—(1) For section 14, substitute—

“Examination and determination of application for asylum

14.—(1) An application for asylum to which section 9(2) applies is to be examined and determined by the Chief Control Officer.

(2) The procedure and criteria for examining and determining an application for asylum are the same as those set down in the corresponding Republican law.

(3) When examining and determining an application for asylum, the Chief Control Officer has the same powers and duties as those conferred or imposed on Republican authorities under the corresponding Republican law.

(4) The functions of the Chief Control Officer under this section are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007(a).

Insertion of new section 14A (review by Administrator of decision to refuse asylum)

9. After section 14, insert—

“Review by Administrator of decision to refuse asylum

14A.—(1) A person whose application for asylum has been refused under section 14 may, in accordance with this section, make an application to the Administrator for a review of the decision to refuse the person’s application for asylum.

(2) An application for a review under subsection (1) must—

- (a) be made in writing to the Administrator not later than 14 days after the person making the application (“applicant”) has been notified in writing of the decision to refuse the applicant’s application for asylum;
- (b) state the reasons for challenging the decision; and
- (c) be accompanied by all other information or documentation that the applicant considers relevant to the application for review.

(3) An application for a review under subsection (1) may be dealt with by the Administrator as if the applicant’s application for asylum had originally been made to the Administrator.

(4) In determining an application made under subsection (1), the Administrator may—

- (a) uphold the decision to refuse asylum; or
- (b) reverse the decision by recognising the applicant as a refugee.

(5) Subject to the provisions of the following Ordinances, the Administrator’s decision on an application made under subsection (1) is final—

- (a) the Courts (Judicial Review) Ordinance 2004(b); and
- (b) the Human Rights Ordinance 2004(c).”.

(a) Ordinance 17/2007, section 7 of which is repealed by Ordinance 8/2012.

(b) Ordinance 10/2004, as amended by Ordinance 8/2012.

(c) Ordinance 9/2004, as amended by Ordinance 19/2005.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the Refugees (Amendment) Ordinance 2015 (the “Ordinance”). It has been prepared by the Office of the Attorney-General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance and is not intended to be a comprehensive description of the Ordinance. It should be read in conjunction with the Ordinance.
2. The Ordinance amends the Refugees Ordinance 2003 (the “Principal Ordinance”). Section 4 of the Ordinance amends section 3 of the Principal Ordinance. The purpose of this amendment is to amend the definition of “asylum-seeker” such that a person ceases to be an asylum-seeker 14 days after a decision to refuse asylum has been made unless the person applies to the Administrator for the refusal decision to be reviewed. Where an application for a review is made within the 14-day period, a person continues to be an asylum-seeker until the decision on the review is made.
3. Section 9 of the Ordinance inserts a new section 14A into the Principal Ordinance. The new section 14A sets out the Administrator’s power to review decisions made by the Chief Control Officer to refuse an application for asylum. Section 14A requires an application for a review under the new section 14A to be made within the 14-day period following the date of a person having been notified in writing that their claim to asylum has been refused.

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