

**STATUTORY INSTRUMENT**

**S.I. No. 424 of 2003**

**Refugee Act 1996 (Appeals) Regulations 2003**

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## S.I. No 424 of 2003

### Refugee Act 1996 (Appeals) Regulations 2003

I, Michael McDowell TD, Minister for Justice, Equality and Law Reform, in exercise of the powers conferred on me by section 23 (as amended by the Immigration Act 1999 (No. 22 of 1999)) of the Refugee Act 1996 (No.17 of 1996),as adapted by the Justice (Alteration of Name of Department and Title of Minister) Order 1997 (S.I. No. 298 of 1997), hereby make the following regulations:

#### PART 1

#### GENERAL

##### **Citation and commencement**

1.—(1) These Regulations may be cited as the Refugee Act 1996 (Appeals) Regulations 2003.

(2) These Regulations shall come into operation on 15 September 2003.

##### **Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act of 1996” means the Refugee Act 1996 (No. 17 of 1996), as amended by the Immigration Act 2003 (No. 26 of 2003);

“the Regulations of 2002” means the Refugee Act 1996 (Appeals) Regulations 2002 (S.I. No. 571 of 2002).

(2) In these Regulations—

(a) a reference to a Regulation or a Schedule is a reference to a Regulation of, or a Schedule to, these Regulations, unless it is indicated that a reference to some other Regulation or Schedule is intended, and

(b) a reference to a paragraph or a subparagraph is a reference to a paragraph or subparagraph of the Regulation or Schedule in which the reference occurs unless it is indicated that a reference to some other Regulation or Schedule is intended.

##### **Revocation and saver**

3.—(1) Subject to paragraph (2) the Regulations of 2002 are revoked.

(2) The Regulations of 2002 shall notwithstanding paragraph (1) continue to apply in relation to applications to which section 28A(1)(a) of the Act of 1996 applies.

##### **Decisions**

4.—(1) A decision of the Tribunal under subparagraph (a) or (b) of subsection (2) of section 16 of the Act of 1996 shall be in the form set out in Schedule 2 or Schedule 3 respectively or a form to the like effect.

(2) A copy of each decision of the tribunal shall be transmitted to the Commissioner.

##### **Corrections**

5.—(1) The Tribunal may correct any error or omission in any decision made by the Tribunal under the Act of 1996.

(2) A correction made under paragraph (1) shall be notified to the applicant and his or her legal representative (if any), the Minister, the Commissioner and the High Commissioner.

##### **Notices etc.**

6.—(1) Notices, representations in writing or documents required or authorised by these Regulations to be sent or given to the Tribunal shall be deemed to have been duly sent or given if directed to the Chairperson, Refugee Appeals Tribunal, and

- (a) sent by prepaid registered post, or
- (b) sent by facsimile where confirmed by a successful transmission report, or
- (c) delivered to the Refugee Appeals Tribunal, where the applicant has a receipt for the delivery, issued by the Tribunal.

(2) Where a notice is required or authorised by these Regulations to be served on or given to a person, it shall be addressed to him or her and shall be served on or given to him or her in one of the following ways:

- (a) by delivering it to him or her, or
- (b) by sending it by prepaid registered post, or by any other form of recorded delivery service prescribed by the Minister, addressed to him or her at the address most recently furnished by him or her to the Commissioner or, in the case of his or her legal representative, if any, at his or her address, or, in a case in which an address for service has been furnished, at that address.

(3) Where a notice under these Regulations has been sent to a person in accordance with subparagraph (2)(b), the notice is deemed to have been duly served on or given to the person on the third working day after the day on which it was so sent.

## PART 2

### APPEAL AGAINST RECOMMENDATION UNDER SECTION 13 (OTHER THAN SUBSECTIONS (5) OR (8)) OF SECTION 13 OF THE ACT OF 1996

#### **Interpretation (Part 2)**

7.—In this Part, unless the context otherwise requires, “an appeal” means an appeal under section 16 of the Act of 1996 against a recommendation of the Commissioner under section 13 of the Act of 1996 other than a recommendation under subsection (5) or (8) of that section.

#### **Form of appeal**

8.—(1) An appeal shall be in the form specified in Part 1 of Schedule 1 or a form to the like effect.

(2) The Tribunal shall fix a time and date for an oral hearing and shall, not less than 7 working days before such date, send notice of the time and date for the oral hearing to the applicant and his or her legal representative, if any, and a copy of the notice shall be sent to the Commissioner, and the notice shall include the names of any witnesses directed by the Tribunal to attend the oral hearing.

(3)(a) Where the notice of appeal includes a request to the Tribunal to direct the attendance of a witness before the Tribunal, the Tribunal shall in respect of each such witness determine whether he or she should be directed to attend before the Tribunal in accordance with section 16(11) of the Act of 1996.

(b) In making a determination under subparagraph (a), the Tribunal shall have regard to the nature and purpose of the evidence proposed to be given by the witness as indicated in the notice of appeal.

(c) Where the Tribunal determines that a witness should attend before it, it shall direct the witness to attend in accordance with subsection (11) of section 16 of the Act of 1996.

#### **Conduct of oral hearing**

9.—(1) In conducting an oral hearing the Tribunal shall—

- (a) ensure that the applicant, his or her legal representative, if any, the Commissioner and the High Commissioner, if present, are informed of the order of proceedings which the Tribunal proposes to adopt;

- (b) conduct the oral hearing as informally as is practicable, and consistent with fairness and transparency;
- (c) decide the order of appearance of the applicant and the Commissioner and any witnesses;
- (d) ensure that the oral hearing proceeds with due expedition;
- (e) allow for the examination and cross-examination of the applicant, any witnesses and the Commissioner; and
- (f) ensure that a witness shall be present at the oral hearing only for the duration of his or her evidence.

(2) References to the Commissioner in paragraph (1) include references to a member of the staff of the Commissioner who is authorised by him or her to attend the oral hearing.

**Hearing cases together**

**10.**—In the case of an oral hearing where it appears to the Tribunal that in two or more appeal cases—

- (a) some common matter arises in both or all of them;
- (b) they relate to members of the same family; or
- (c) it is otherwise reasonable and just that the appeals should be heard together,

the Tribunal may hear the appeals together.

**Adjournment of oral hearing**

**11.**—Where the Tribunal is satisfied that an oral hearing of the Tribunal should be adjourned in the interests of justice, the Tribunal may adjourn the oral hearing to a specified date.

**Withdrawal of request for oral hearing**

**12.**—The applicant may withdraw a request for an oral hearing by giving written notice to the Tribunal not later than 3 working days before the hearing date. The written notice must set out the reasons for the withdrawal.

**PART 3**

APPEAL AGAINST RECOMMENDATION UNDER SUBSECTION (5) OR (8) OF SECTION 13 OF THE ACT OF 1996

**Form of appeal**

**13.**—An appeal under section 16 of the Act of 1996 against a recommendation of the Commissioner under subsection (5) or (8) of section 13 the Act of 1996 shall be in the form set out in Part 2 to Schedule 1 or a form to the like effect.

SCHEDULE 1

PART 1  
**(Form 1)**

**Refugee Appeals Tribunal**

**NOTICE OF APPEAL**

**against a recommendation of the Refugee Applications Commissioner under section 13 (other than subsection (5) or (8)) of the Refugee Act 1996**

1. *Personal details relating to the applicant(s) lodging this appeal:*

1.1 Asylum Appeal Reference Number: 69 / /

1.2 Name:

1.3 Date of Birth: / /

1.4 Address: \_\_\_\_\_

1.5 Telephone Number (if any): \_\_\_\_\_

**Note:** Correspondence relating to your appeal will be sent to the address which you are required to furnish to the Refugee Applications Commissioner under section 9(4A) of the Refugee Act 1996 unless you put down on this form a different address for service of notices for the purposes of your appeal before the Refugee Appeals Tribunal or indicate that you wish all correspondence to be sent to your legal representative. You must also inform the Tribunal of any change of address to any address provided here. Your attention is drawn to Regulation 6 of the Refugee Act 1996 (Appeals) Regulations 2003.

1.6 Nationality:

1.7 Temporary Residence Certificate Number:

1.8 Personal Public Service Number (PPSN) :

1.9 Supplementary Welfare Payment Centre:

1.10 Personal and Family Details:

**Name of your spouse (as applicable):**

**Details of all family members – spouse and children – living in the State:**

Name	Date of Birth	Male or female	Relationship to Applicant	File ref. No. 69/-

You may use additional or separate pages, if necessary, but, if so, both you and your legal representative, if any, should sign the bottom of each additional page. This appeal will be treated as an appeal in relation to each of the family members listed above.

1.11 If you are under 18 years of age and are in the care of a Health Board, please state:

(a) Name and address of Health Board representative: \_\_\_\_\_

(b) Name of Health Board: \_\_\_\_\_

If you are in the care of a person other than a parent or a Health Board, please insert here the name and address of that person.

## 2. Legal Representation

2.1 Do you have legal representation? Yes:  No:  (tick as appropriate).

**If yes, please complete the following:**

2.2 Name of your legal representative: \_\_\_\_\_

2.3 His or her address: \_\_\_\_\_

2.4 His or her telephone number: \_\_\_\_\_

2.5 His or her fax number: \_\_\_\_\_

*If you instruct a legal representative at a later stage of your appeal you should inform the Refugee Appeals Tribunal of this immediately and provide details as in this section of the form.*

### 3. **Grounds of Appeal**

3.1 On what grounds do you claim to have a well-founded fear of being persecuted? Please tick the relevant box below.

Race  Religion  Nationality   
Membership of a particular social group  Political Opinion

3.2 *Please state clearly and concisely the grounds on which you are seeking to appeal the recommendation of the Refugee Applications Commissioner.*

*The grounds of the appeal should indicate—*

- (a) *to what extent (if any) you contend that the recommendation of the Refugee Applications Commissioner, a copy of which has been provided to you, erred in fact;*
- (b) *to what extent (if any) you contend that the recommendation of the Refugee Applications Commissioner, a copy of which has been provided to you, erred in the application of the relevant law;*
- (c) *any additional information.*

Ground 1: \_\_\_\_\_

Ground 2: \_\_\_\_\_

Ground 3: \_\_\_\_\_ *etc.*

*You may use additional or separate pages, if necessary but, if so, both you and your legal representative, if any, should sign the bottom of each additional page.*

*All grounds of appeal and documentation (see section 5 below) on which you intend to rely in your appeal must accompany this notice of appeal and (if applicable) the relevant parts must be clearly indicated accordingly. If you are submitting information which was not available to the Refugee Applications Commissioner, you must state why this was so and also the precise relevance of this information to your case.*

### 4. **Oral Hearing**

4.1 Do you wish to have an oral hearing in connection with your appeal?

Yes:  No:  *(tick as appropriate).*

*Please note that if you do not request an oral hearing, the Tribunal will consider your appeal on the basis of this appeal form and the documentation supplied by you and by the Refugee Applications Commissioner.*

4.2 If yes, do you require an interpreter?

Yes:  No:  *(tick as appropriate).*

4.3 If yes, please specify the precise **language or dialect** for which you require interpretation.

*Where an interpreter is required, the applicant's attention is drawn to section 16(11)(d) of the Refugee Act 1996 which states the following:*

“The Tribunal shall, where necessary, use its utmost endeavours to procure the attendance of an interpreter to assist at the hearing”.

You may withdraw a request for an oral hearing by giving written notice to the Tribunal not later than three working days before the hearing date. The written notice must set out the reasons for such withdrawal.

**5. Documentation**

Please list here all documents and/or records on which you propose to rely for the purposes of your appeal.

**These documents must accompany this form.**

Where documentation has already been supplied to the Refugee Applications Commissioner in connection with the investigation of your application, or is otherwise available to the Commissioner, the Commissioner will make it available directly to the Refugee Appeals Tribunal: there is no need for you to provide fresh copies.

**Please note that all documentation on which you intend to rely and which has not already been supplied to, or is otherwise not available to the Commissioner, must accompany this notice of appeal and (if applicable) the relevant parts must be clearly indicated.**

Where possible, original documentation should be provided.

Please note that where a record submitted is a medical record it must be supported by a report of a medical practitioner. **These documents must be original versions.**

Where a record submitted is a video tape or audio tape it should be accompanied by such documentation verifying its authenticity or reliability as may be available. Please support this form of submission with an indication of the nature and purpose of the record.

Document 1: \_\_\_\_\_

Document 2: \_\_\_\_\_

Document 3: \_\_\_\_\_ etc.

You may use additional or separate pages, if necessary but, if so, both you and your legal representative, if any, should sign the bottom of each additional page.

**6. Submissions at oral hearing**

If you have indicated under section 4 of this form that you wish to have your appeal dealt with by way of oral hearing you must provide a brief note setting out the main submissions to be made at the hearing and any authorities which will be relied on in support of those submissions, clearly indicating, where applicable, any particular passages to be relied on.

Submission 1: \_\_\_\_\_

Submission 2: \_\_\_\_\_

Submission 3: \_\_\_\_\_ etc.

Authority 1: \_\_\_\_\_

Authority 2: \_\_\_\_\_

Authority 3: \_\_\_\_\_ etc.

You may use additional or separate pages, if necessary, but, if so, both you and your legal representative, if any, should sign the bottom of each additional page.

**7. Witnesses**

Please supply the name, address and telephone number of witness(es) whom it is proposed to call to give evidence at the oral hearing. Please state clearly the nature, purpose and relevance of the evidence proposed to be given by the witness(es).

Name	Contact details*	Language**	Nature, purpose and relevance of the evidence	Do you wish the Tribunal to direct the attendance of this witness? ***
				Yes / No
				Yes / No
				Yes / No

\* Address, telephone number etc.

\*\* Specify the precise language or dialect for which the witness requires interpretation.

\*\*\* Delete as appropriate (please note that it is for the Tribunal to decide whether or not to direct a witness).

You may use additional or separate pages, if necessary, but, if so, both you and your legal representative, if any, should sign the bottom of each additional page.

#### **8. Communications to the Tribunal**

All communications to the Tribunal should be sent by registered post, or faxed (and confirmed by a successful transmission report), or delivered to the Refugee Appeals Tribunal (*insert address here*); the Tribunal will issue you with a receipt which you should retain as proof of such delivery.

Signed: \_\_\_\_\_

(Applicant)

Date

Signed: \_\_\_\_\_

(Legal representative)

Date

PART 2  
**(Form 2)**

### **Refugee Appeals Tribunal**

#### **NOTICE OF APPEAL**

**against a recommendation of the Refugee Applications Commissioner under section 13(5) or (8) of the Refugee Act 1996**

#### **1. Personal details relating to the applicant(s) lodging this appeal:**

1.1 Asylum Appeal Reference Number: 69 / /

1.2 Name:

1.3 Date of Birth: / /

1.4 Address: \_\_\_\_\_

1.5 Telephone Number (if any): \_\_\_\_\_

*Note: Correspondence relating to your appeal will be sent to the address which you are required to furnish to the Refugee Applications Commissioner under section 9(4A) of the Refugee Act 1996 unless you put down on this form a different address for service of notices for the purposes of your appeal before the Refugee Appeals Tribunal or indicate that you wish all correspondence to be sent to your legal representative. You must also inform the Tribunal of any change of address to any address provided here. Your attention is drawn to Regulation 5 of the Refugee Act 1996 (Appeals) Regulations 2003.*

1.6 Nationality:

1.7 Temporary Residence Certificate Number:

1.8 Personal Public Service Number (PPSN) :

1.9 Supplementary Welfare Payment Centre:

1.10 Personal and Family Details:

Name of your spouse (as applicable):

**Details of all family members - spouse and children - living in the State:**

Name	Date of birth	Male or female	Relationship to Applicant	File ref. No. 69/-

You may use additional or separate pages, if necessary, but, if so, both you and your legal representative, if any, should sign the bottom of each additional page. This appeal will be treated as an appeal in relation to each of the family members listed above.

1.11 If you are under 18 years of age and are in the care of a Health Board, please state:

(a) Name and address of Health Board representative: \_\_\_\_\_

(b) Name of Health Board: \_\_\_\_\_

If you are in the care of a person other than a parent or a Health Board, please insert here the name and address of that person.

**2. Legal Representation**

2.1 Do you have legal representation? Yes:  No:  (tick as appropriate).

**If yes, please complete the following:**

2.2 Name of your legal representative: \_\_\_\_\_

2.3 His or her address: \_\_\_\_\_

2.4 His or her telephone number: \_\_\_\_\_

2.5 His or her fax number: \_\_\_\_\_

If you instruct a legal representative at a later stage of your appeal you should inform the Refugee Appeals Tribunal of this immediately and provide details as in this section of the form.

**3. Grounds of Appeal**

3.1 On what grounds do you claim to have a well-founded fear of being persecuted? Please tick the relevant box below.

Race  Religion  Nationality   
Membership of a particular social group  Political Opinion

3.2 Please state clearly and concisely the grounds on which you are seeking to appeal the recommendation of the Refugee Applications Commissioner.

The grounds of the appeal should indicate—

(a) to what extent (if any) you contend that the recommendation of the Refugee Applications Commissioner, a copy of which has been provided to you, erred in fact;

(b) to what extent (if any) you contend that the recommendation of the Refugee Applications Commissioner, a copy of which has been provided to you, erred in the application of the relevant law;

(c) any additional information.

Ground 1: \_\_\_\_\_

Ground 2: \_\_\_\_\_

Ground 3: \_\_\_\_\_ etc.

*You may use additional or separate pages, if necessary but, if so, both you and your legal representative, if any, should sign the bottom of each additional page.*

*All grounds of appeal and documentation (see section 4 below) on which you intend to rely in your appeal must accompany this notice of appeal and (if applicable) the relevant parts must be clearly indicated accordingly. If you are submitting information which was not available to the Refugee Applications Commissioner, you must state why this was so and also the precise relevance of this information to your case.*

#### **4. Documentation**

*Please list here all documents and/or records on which you propose to rely for the purposes of your appeal.*

***These documents must accompany this form.***

*Where documentation has already been supplied to the Refugee Applications Commissioner in connection with the investigation of your application, or is otherwise available to the Commissioner, the Commissioner will make it available directly to the Refugee Appeals Tribunal: there is no need for you to provide fresh copies.*

***Please note that all documentation on which you intend to rely and which has not already been supplied to, or is otherwise not available to the Commissioner, must accompany this notice of appeal and (if applicable) the relevant parts must be clearly indicated.***

*Where possible, original documentation should be provided.*

*Please note that where a record submitted is a medical record it must be supported by a report of a medical practitioner. **These documents must be original versions.***

*Where a record submitted is a video tape or audio tape it should be accompanied by such documentation verifying its authenticity or reliability as may be available. Please support this form of submission with an indication of the nature and purpose of the record.*

Document 1: \_\_\_\_\_

Document 2: \_\_\_\_\_

Document 3: \_\_\_\_\_ etc.

*You may use additional or separate pages, if necessary but, if so, both you and your legal representative, if any, should sign the bottom of each additional page.*

#### **5. Communications to the Tribunal**

All communications to the Tribunal should be sent by registered post, or faxed (and confirmed by a successful transmission report), or delivered to the Refugee Appeals Tribunal (*insert address here*); the Tribunal will issue you with a receipt which you should retain as proof of such delivery.

Signed: \_\_\_\_\_

Applicant

Date

Signed: \_\_\_\_\_

Legal representative

Date

### SCHEDULE 2

#### **Refugee Appeals Tribunal Refugee Act 1996**

#### **Decision of the Refugee Appeals Tribunal under section 16(2)(a) of the Refugee Act 1996**

**Name:** *(insert name of applicant and of each dependant applicant listed on appeal form)*

**Address:** (insert address of applicant)  
**Date of Birth:** (insert date of birth of applicant and of each dependant listed on appeal form)  
**Appeal Reference:** (insert references)

The Tribunal has decided to affirm the recommendation of the Refugee Applications Commissioner under section 13 of the Act of 1996 that you should not be declared to be a refugee [or refugees].

This decision was reached having considered the following matters:

- your notice of appeal under section 16(3) of the Act of 1996 and the grounds thereof submitted with the notice, including all supporting documentation and records;
- the report and recommendation of the Refugee Applications Commissioner under section 13 of the Act of 1996;
- all documents, representations in writing and other information submitted to the Refugee Applications Commissioner in connection with your case under section 11 of the Act of 1996 and which have been previously furnished to you or your legal representative (if any);
- the documents submitted with your appeal (if applicable);
- the observations of the Refugee Applications Commissioner in relation to the matters arising on your grounds of appeal which were previously furnished to you or your legal representative (if applicable);
- the observations of the High Commissioner (if applicable);
- the evidence adduced at your appeal hearing and the representations made concerning your application at that hearing (omit where no oral hearing held).

The Tribunal is satisfied that you are not a refugee [or refugees] within the meaning of section 2 of the Refugee Act 1996 for the following reasons:

*(Here state reasons applicable to the case concerned: where necessary, give separate reasons relating to dependant applicants included on appeal form)*

The decision of the Tribunal has been communicated to the High Commissioner and a copy of the decision has been forwarded to [your legal representative (if applicable),] the Refugee Applications Commissioner and the Minister for Justice, Equality and Law Reform.

A representative of the Minister will be in contact with you further concerning your case.

---

Signed: (name and rank)

Date:

### SCHEDULE 3

#### **Refugee Appeals Tribunal Refugee Act 1996**

#### **Decision of the Refugee Appeals Tribunal under section 16(2)(b) of the Refugee Act 1996**

**Name:** (insert name of applicant and of each dependant applicant listed on appeal form)  
**Address:** (insert address of applicant)  
**Date of Birth:** (insert date of birth of applicant and of each dependant listed on appeal form)  
**Appeal Reference:** (insert references)

The Tribunal has decided to set aside the recommendation of the Refugee Applications Commissioner under section 13 of the Act of 1996 that you should not be declared to be a refugee [or refugees]. It is, therefore, the recommendation of the Tribunal that the Minister for Justice, Equality and Law Reform declare you to be a refugee under section 17 of the Act of 1996.

The decision of the Tribunal recommending that you be declared to be a refugee [or refugees] was arrived at having considered the following matters:

- your notice of appeal under section 16(3) of the Act of 1996 and the grounds thereof submitted with the notice, including all supporting documentation and records;
- the report and recommendation of the Refugee Applications Commissioner under section 13 of the Act of 1996;
- all documents, representations in writing and other information submitted to the Refugee Applications Commissioner in connection with your case(s) under section 11 of the Act of 1996 and which have been previously furnished to you or your legal representative (if any);
- the observations of the Refugee Applications Commissioner in relation to the matters arising on your grounds of appeal which were previously furnished to you or your legal representative (*if applicable*);
- the documents submitted with your appeal (*if applicable*);
- the observations of the High Commissioner (*if applicable*);
- the evidence adduced at your appeal hearing and the representations made concerning your application at that hearing (*omit where no oral hearing*).

The Tribunal is satisfied that you are a refugee within the meaning of section 2 of the Refugee Act 1996 for the following reasons:

*(Here state reasons applicable to the case concerned: where necessary, give separate reasons relating to dependant applicants included on appeal form)*

The decision of the Tribunal has been communicated to the High Commissioner and a copy of the decision has been forwarded to your legal representative (if applicable), the Refugee Applications Commissioner and the Minister for Justice, Equality and Law Reform.

A representative of the Minister will be in contact with you further concerning your case.

---

Signed: (name and rank)

Date:

GIVEN under my Official Seal,  
15 September 2003

L.S.

Michael McDowell TD,  
Minister for Justice, Equality and Law Reform

### **Explanatory Note**

*(This note is not part of the instrument and does not purport to be a legal interpretation)*

These Regulations supplement in detail the procedures set out in section 16 of the Refugee Act 1996 in relation to the determination by the Refugee Appeals Tribunal of appeals against recommendations of the Refugee Applications Commissioner on applications for recognition as a refugee. They take account of the amendments to the Refugee Act made by the Immigration Act 2003. They replace the Refugee Act 1996 (Appeals) Regulations 2000 (S.I. No. 342 of 2002), which are revoked (but with a saver for certain applications which are to be dealt with under the pre-existing arrangements).