



**South Africa – Researched and compiled by the Refugee Documentation Centre of Ireland on 24 October 2016**

**What is the asylum process like in South Africa? Is there a particular type of residence status that would be given to Malawian nationals in South Africa and which would last for three months? Are applicants for asylum in South Africa given a three month residence permission and, if so, is it renewable and how often? To which body does an asylum seeker in South Africa apply for refugee status? Does the Home Office in South Africa exercise any function in respect of asylum applications?**

A document published on the People Against Suffering, Oppression and Poverty (PASSOP) website, in a paragraph headed “How do I apply for refugee status in South Africa?”, states:

“If you have left your country because of persecution and fear for your life if you were to return there then you can apply for refugee status at one of the five Refugee Reception Offices. These are located in Pretoria (Marabastad), Johannesburg (Crown Mines), Durban (Greyville), Cape Town (Maitland) and Port Elizabeth (North End). First you need to get an asylum seekers permit from a Refugee Reception Office. This is proof that you have applied for refugee status and are legally in the country. There are often long queues outside these offices so it helps to arrive very early in the morning. It is likely to take a number of visits before you can get into the offices because there are so many people there. Until you get into the Refugee Reception Office and receive your permit, you may still be arrested by the police or immigration officials. You must tell them that you have been trying to apply for refugee status and they must assist you to do this.” (People Against Suffering, Oppression and Poverty (PASSOP) (undated) *Applying for Refugee Status*)

A Human rights Watch report, in a section titled “Overview of the process”, states:

“The refugee status determination process outlined in the Refugees Act sets out a detailed system for individuals seeking asylum in South Africa. Under the regulations to the Refugees Act, asylum seekers must present themselves in person at a refugee reception office 'without delay.' Also, the regulation 2(2) provides that when a person indicates his or her intention to seek asylum upon entry into South Africa, officials will issue him or her a temporary permit valid for fourteen days. During this period, the person should approach the nearest refugee reception office where a refugee reception officer will conduct an initial eligibility interview, in practice, to establish identity and the general reason for applying. The officer will issue a temporary asylum seeker permit, which sets the date for a full refugee status determination hearing (this is a non-adversarial process). There, a refugee status determination officer interviews the applicant and decides whether he or she should be granted refugee status. If refugee status is granted, DHA issues a permit, and subsequently, a refugee identity document. If the

application is denied, the asylum seeker may appeal to the Refugee Appeals Board.” (Human Rights Watch (November 2005) *Living on the Margins: Inadequate protection for refugees and asylum seekers in Johannesburg*, pp.9-10)

A document published by NGO Pulse, in a paragraph headed “The asylum application process”, states:

“The asylum application process is described under sections 21, 22; 24, 25 and 26 of the Act, read together with section 6 of the Promotion of Administrative Justice Act 2 of 2000. As the custodian and administrator of the Refugees Act [including the Immigration Act 12 of 2002], the Department of Home Affairs has established and entrusted the Refugee Reception Offices to deal with asylum applications.” (NGO Pulse (25 June 2014) *Abuse of Asylum System in South Africa*)

In Section 21: “Application for asylum”, the Refugees Act of South Africa states:

“(1) An application for asylum must be made in person in accordance with the prescribed procedures to a Refugee Reception Officer at any Refugee Reception Office.” (Republic of South Africa (27 September 2015) *Refugees Act 130 of 1998*, p.11)

See also Section 22. “Asylum seeker permit” which states:

“(1) The Refugee Reception Officer must, pending the outcome of an application in terms of section 21(1), issue to the applicant an asylum seeker permit in the prescribed form allowing the applicant to sojourn in the Republic temporarily, subject to any conditions, determined by the Standing Committee, which are not in conflict with the Constitution or international law and are endorsed by the Refugee Reception Officer on the permit.

(2) Upon the issue of a permit in terms of subsection (1), any permit issued to the applicant in terms of the Aliens Control Act, 1991, becomes null and void, and must forthwith be returned to the Director-General for cancellation.

(3) A Refugee Reception Officer may from time to time extend the period for which a permit has been issued in terms of subsection (1), or amend the conditions subject to which a permit has been so issued.” (ibid, p.13)

A document published on the Department of Home Affairs of South Africa website, in a section titled “Eligibility Procedure: Asylum Seeker”, states:

"A person enters the Republic of South Africa through a port of entry (a land border post, airport or harbor), claims to be an asylum seeker and is, therefore, issued with a section 23 Permits which is a non – renewable ‘asylum transit permit’ of the Immigration Act.

The permit is valid for a period of 14 days only and authorizes the person to report to the nearest Refugee Reception Office in order to apply for asylum in terms of section 21 of the Refugee Act.

The asylum seeker is required to furnish:

A section 23 permit

Any proof of identification from the country of origin  
A travel document if in possession of one

The asylum seeker lodges in person his application at a designated Refugee Reception Office where an admissibility hearing takes place. The following are done:

Applicant's fingerprints taken in the prescribed manner  
Interpreter if secured (if necessary )  
First interview conducted by a Refugee Reception Officer (RRO) and BI-1590 form duly completed  
Applicant's data and image captured in the refugee system  
An Asylum Seeker's permit (a section 22 permit) is printed, signed, stamped and issued to the Asylum Seeker

The section 22 permit which is valid for a period of six months legalizes the asylum seeker stay in the Republic of South Africa temporarily pending a final decision on his application. The permit can be extended by an RRO for a further six months while the process of status determination is in progress. The holder of section 22 permit has the right to work and study in South Africa and is protected against deportation to his country of origin." (Department of Home Affairs: Republic of South Africa (2016) *Refugee Status and Asylum*)

See also section titled "Refugee Status Determination" which states:

"Before the permit expires, the asylum seeker reports to the Refugee Reception Office for:

- A second interview is conducted by a Refugee Status Determination Officer (RSDO)
  - The RSDO proceed with a fair adjudication of the application, makes a decision on claims for asylum application and provides reasons for the decisions. The RSDO must on conclusion of the status determination hearing grant asylum; or reject the application as manifestly unfounded, abusive or fraudulent; or refer any question of law to the Standing Committee for Refugee Affairs (SCRA).
  - When granted asylum (written recognition of refugee status), a refugee is generally issued with a section 24 permit, which allows such person to remain for a specified period of 2 years in South Africa, and it is renewable upon expiration of its validity after the review process by an RSDO. In this case, the refugee must write a letter requesting the extension of his or her refugee status
  - He is also allowed to work and study in South Africa whilst the permit is valid." (ibid)

A document published by the Legal Resources Centre, in a paragraph headed "Once your Eligibility Determination Form is complete", states:

"Once your Eligibility Determination Form has been filled out, the Refugee Reception Officer must receive your application and issue a Section 22 asylum-seeker permit. You should sign the permit immediately. With an asylum-seeker permit you may legally live, work and study in South Africa while your claim for asylum is being considered. The asylum-seeker permit only shows that you have applied for asylum in South Africa; it does not

confer refugee status on you. Your asylum-seeker permit functions as your identification document. You must carry it with you in case public authorities question you. The asylum seeker permit is usually valid for three months. You can report to any of the RROs to renew your asylum-seeker permit before it expires.” (Legal Resources Centre (undated) *A Practical Guide For Refugees: The Asylum Process in South Africa*, p.3)

The 2015 US Department of State country report for South Africa, in a section titled “Protection of Refugees (sub-section headed “Access to Asylum”), states:

“The law provides for the granting of asylum and refugee status, and the government has an established system for providing protection to refugees. The country hosted approximately 112,000 recognized refugees and nearly 464,000 asylum seekers; half of the asylum seekers were Zimbabweans. Government services strained to keep up with the caseload, and NGOs criticized the government’s implementation of the system as inadequate.

In 2009 the DHA moved refugee processing from various provincial headquarters to the borders but created no new facilities. Refugee rights NGOs argued that many refugees did not cross a land border and that returning them to a land border posed undue hardship. Renewing refugee and asylum documents--some of which are valid only for six months--requires travel to the office where a refugee was originally registered, despite repeated government commitments to allow renewal processing at any DHA office.” (US Department of State (13 April 2016) *2015 Country Reports on Human Rights Practices – South Africa*, p.21)

A Voice of America news report states:

“The newly-introduced procedure for asylum seekers requires the applicants to deposit their identification in a designated box and wait to be called by name before they can go into the Refugee Reception Centre. There have been allegations of rampant corruption in the past with reports that asylum seekers who pay R500 each are given first preference as there was no clear criteria in processing applications. Long queues had become the order of the day at the refugee center with civic society organizations calling for a better way of processing applications.” (Voice of America (7 February 2016) *South Africa Introduces New Asylum Procedures*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

## References:

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