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DEPARTMENT OF HOME AFFAIRS

No. 610

22 July 2011

THE AMENDED REFUGEE APPEAL BOARD RULES, 2003

THE REFUGEES ACT, 1998 (ACT NO. 130 OF 1998)

In the exercise of the powers conferred by section 14(2) of the Refugees Act, 1998 (Act No. 130 of 1998), the Refugee Appeal Board has amended Rules.

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.

AMENDED REFUGEE APPEAL BOARD RULES

To amend the Refugee Appeal Board Rules, 2003, so as to amend, insert and delete certain provisions and to provide for matters connected therewith.

BE IT ENACTED by the Refugee Appeal Board as follows: ---

Amendment of Rule 2 of the Refugee Appeal Board Rules, 2003,

1. Rule 2(1)(a) of the principal Rules is hereby amended by the substitution for sub-rule (a) of the following sub-rule:

"(a) day means a calendar day including Saturdays, Sundays and public holidays; and."

Insertion of sub-rule 3 in Rule 3 of the Refugee Appeal Board Rules, 2003,

2. The following sub-rule is hereby inserted in the principal Rules after sub-rule 2:

"(3). In the event of the Appeal Board setting aside the decision of a Refugee Status Determination Officer, the matter may be referred back to the Refugee Status Determination Officer."

Amendment of Rule 4 of the principal Refugee Appeal Board Rules, 2003

3. Rule 4 of the principal Rules is hereby amended by the substitution for sub-rules 2 (b), 3, 4, and 5 respectively of the following paragraphs:

sub-rule 2(b)

"an affidavit in which the reasons for appeal are set out and documents or certified copies thereof on which the Appellant seeks to rely; and such documents must be in duplicate.

Sub-rule 3:

The designated Appeal Clerk [**Refugee Reception Officer**] shall record on the notice of appeal the date of lodgement of the notice of appeal.

Sub-rule 4:

The designated Appeal Clerk [**Refugee Reception Officer**] shall submit the notice of appeal together with copies of relevant documentation to the Appeal Board within 10 days after the notice of appeal is lodged.

Sub-rule 5:

Where good cause is shown the Appeal Board may condone any non-compliance with Rule[s] 4(1) [**and Rule 4(2)**]."

Deletion of sub-rule 6 of the principal Rules.

Amendment of Rule 6(1) and (2) of the Refugee Appeal Board Rules, 2003

4. Rule 6 of the principal Rules is hereby amended by the substitution in sub-rule 1, 2 of the following words:

"Where an Appellant lodges a notice of appeal after the expiry of the period stipulated in Rule 4, the Appellant must serve [**a written explanation**] an affidavit with the notice of appeal showing good cause for the delay, supported by documentary evidence where appropriate.

The [**Refugee Reception Officer**] designated Appeal Clerk must refer [**any written explanation**] such an affidavit for condonation to the Appeal Board within 10 days of receipt."

Repeal of sub-rule 3 and 4 of Rule 6 of the Refugee Appeal Board Rules, 2003

5. Sub-rules 3 and 4 of the principal Rules are hereby repealed.

Amendment of Rule 7 of the Refugee Appeal Board Rules, 2003

6. Rule 7 of the principal Rules is hereby amended by-

(a) the substitution for Rule 7 of the following sub-rule:

"1. The Appellant and the Department of Home Affairs are parties to the appeal."; and

(b) the insertion of sub-rule (2):

"2. The parties must submit heads of arguments within 5 days prior to the hearing."

"3. Where the Appellant is represented, service of the notice of hearing may also be served on the Appellant's representative."

Amendment of the heading of Rule 11 of the Refugee Appeal Board Rules, 2003

7. The following heading is hereby substituted for the heading in Rule 10 of the Refugee Appeal Board Rules:

"**11. Postponement of a hearing.**"

Deletion of sub-rule 4 of the principal Rules

Amendment of Rule 12 of the Refugee Appeal Board Rules, 2003

8. Rule 12 of the principal Rules is hereby amended by-

(a) the substitution for sub-rule (1) of the following sub-rule:

(1) "Where an Appellant is duly served with a notice of hearing in terms of Rule 10 but fails to attend the hearing and has neither notified the Appeal Board nor given any satisfactory explanation **[showing good cause]** the Appeal Board **[may dismiss the appeal subject to Rule 12(2) and (3)]** will determine the appeal on paper." and

(b) the deletion of sub-rules (2) and (3)

Amendment of Rule 13(3) of the Refugee Appeal Board Rules, 2003

9. Rule 13 of the Rules is hereby amended by the substitution in sub-rule 3 of the following words:

"The Chairperson may designate one or more members of the Appeal Board to hear and determine any appeal lodged."

Deletion of sub-rule 4.

Amendment of Rule 18 of the principal Refugee Appeal Board Rules, 2003

10. Rule 18 of the Rules is hereby amended by the substitution of the following words:

An appeal is deemed cancelled if the Appellant gives notice of withdrawal or cancellation of his appeal to the Appeal Board and/or the **[Refugee Reception Officer]** designated Appeal Clerk.

Repeal of Rule 19 of the Refugee Appeal Board Rules, 2003

11. Rule 19 is hereby deleted.

Amendment of Rule 20 of the Refugee Appeal Board Rules, 2003

12. Rule 20 of the principal Rules is hereby amended by-

(a) the substitution for sub-rule (1) of the following sub-rule:

"**[1.]** Where the Appeal Board has conveyed its decision to the Appellant, the Appeal Board shall **[, subject to Rule 20(2)]** be functus officio." and

(b) the deletion of sub-rules (2), (3) and (4).

Amendment of Rule 24 of the principal Refugee Appeal Board Rules, 2003

13 Rule 24 of the Rules is hereby amended by the substitution of the following words:

These Rules may be cited as the Refugee Appeal Board Rules, 2003 as amended and shall come into operation on date of promulgation of these rules.

FORM RAB (01)**IN THE REFUGEE APPEAL BOARD****FILE REF NO:** _____

In the matter between:

Appellant (Asylum Seeker)

and

Respondent (RSDO)

NOTICE OF APPEAL

PLEASE TAKE NOTICE that the appellant) intends to appeal the decision of the Refugee Status Determination Officer (RSDO) rejecting his/her application for refugee status and for an order to grant refugee status.

TAKE NOTICE FURTHER that the affidavit of the appellant, attached hereto, which sets out reasons for this appeal, will be used herein.

DATED at _____ on this _____ day of _____ 20_____

APPELLANT

TO: THE REGISTRAR
REFUGEE APPEAL BOARD

AND

TO: RESPONDENT

**APPEAL AGAINST A DECISION BY THE REFUGEE STATUS
DETERMINATION OFFICER (RSDO)**

File Ref No _____

(appellant)

and

(respondent)

AFFIDAVIT

I, the undersigned,

do hereby make oath and say:

1. Background

1.1 Date of birth: _____

1.2 Gender: _____

1.3 Nationality: _____

1.4 Marital status: _____

1.5 Tel/cell no: _____

1.6 Postal and Physical address (number and street, suburb, city and province) _____

DEPONENT

Signed and sworn before me at _____ on
this _____ day of _____ 20__ the deponent having
acknowledged that he knows and understands the contents of this affidavit, has no
objection to taking the prescribed oath and considers the oath to be binding on his/her
conscience.

COMMISSIONER OF OATHS
