

REFUGEE LAW, 1992

WHEREAS the United Nations Convention Relating to the Status of Refugees of 1951 and the United Nations Protocol Relating to the Status of Refugees of 1967 have been ratified by the Government of Ghana;

WHEREAS the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of September 1969 was ratified by the Government of Ghana;

AND WHEREAS it is necessary to give effect to the said Conventions and Protocol in order that the provisions of these shall have the force of law in Ghana;

NOW THEREFORE in pursuance of the Provisional National Defence Council (Establishment) Proclamation, 1981 this Law is hereby made:

PART I - PROHIBITION OF EXPULSION OF REFUGEES

1. Prohibition of expulsion or return of refugees, etc.

(1) Notwithstanding any other law to the contrary but subject to the provisions of this Law, no person who is a refugee within the meaning of this Law shall be refused entry into Ghana, expelled or extradited from Ghana or returned to the frontiers of any territory if as a result of such refusal, expulsion or return the person is compelled to return to or remain in a country where -

(a) his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion; or

(b) his life, physical integrity or liberty would be threatened on account of external aggression, occupation, foreign domination or events seriously disrupting public order in that country or any part of it.

(2) Subsection (1) shall not apply to a refugee who -

(a) is a danger to the security of Ghana;

(b) has committed a serious non-political crime outside Ghana prior to his entry into Ghana; or

(c) having been convicted of serious crime in Ghana, constitutes a real danger to the public.

2. Illegal entry or presence in Ghana of a refugee

Notwithstanding any provision of the Aliens Act, 1953 (Act 160) but subject to the provisions of this Law, a person claiming to be a refugee within the meaning of this Law, who illegally enters Ghana or is illegally present in Ghana shall not -

- (a) be declared a prohibited immigrant;
- (b) be detained; or
- (c) be imprisoned or penalised in any other manner merely by reason of his illegal entry or presence pending the determination of his application for a refugee status.

3. Detention and expulsion of refugees

A refugee may be detained or expelled for reasons of national security or public order except that no refugee shall be expelled to a country where he has reason to fear persecution.

PART II - ESTABLISHMENT OF REFUGEE BOARD

4. Establishment and membership of Refugee Board

- (1) There is hereby established a Board to be known as the Refugee Board (referred to in this Law as "the Board").
- (2) The Board shall consist of
 - (a) a Chairman appointed by the P.N.D.C.;
 - (b) a representative of the Ministry of the Interior not below the rank of a Director;
 - (c) a representative of the Ministry of Foreign Affairs not below the rank of a Director;
 - (d) a representative of the Immigration Service not below the rank of an Assistant Director of Immigration;
 - (e) the Inspector-General of Police or his representative not below the rank of Assistant Commissioner of Police,
 - (f) a representative of the C.D.R. Secretariat not below the rank of a Regional Organising Assistant;
 - (g) a representative of the Ministry of Mobilisation and Social Welfare not below the rank of a Director;
 - (h) a representative of the Bureau of National Investigation with the equivalent rank of an Assistant Commissioner of Police;

(i) a representative of the Ministry of Justice not below the rank of a Principal State Attorney;

(j) a representative of the Ministry of Education not below the rank of an Assistant Director of Education;

(k) a representative of the National Mobilisation Programme not below the rank of a Director; and

(1) a representative of the office of the United Nations High Commissioner for Refugees in Ghana who shall participate in deliberations of the Board as an observer.

5. The functions of the Board

The functions of the Board are to -

(a) receive and consider applications for refugee status;

(b) recognise any person or group of persons as refugees for the purposes of this Law;

(c) register and keep a register of persons recognised as refugees under this Law;

(d) seek co-operation with non-governmental organisations on matters relating to refugees;

(e) assist in seeking employment or education for refugees and members of their families;

(f) endeavour to ensure the provision of adequate facilities, advice and services for the reception and care of refugees in Ghana;

(g) administer and manage the Refugee Fund established under this Law;

(h) advise the Secretary on all matters relating to refugees;

(i) perform all functions conferred upon it under this Law; and

(j) perform any other function that may be assigned to it by the P.N.D.C.

6. Meeting of the Board

(1) The Board shall meet at such times and at such places as the Chairman may determine but shall meet at least once every two months.

(2) The Chairman shall preside at meetings of the Board and in his absence the members present shall elect one of their number to preside.

- (3) Six members of the Board shall constitute a quorum at any meeting of the Board.
- (4) Questions proposed at meetings of the Board shall be determined by a simple majority of members present and voting and in the event of equality of votes the Chairman or the person presiding shall have a casting vote.
- (5) The validity of the proceedings of the Board shall not be affected by a vacancy among its members or by any defect in their appointment .
- (6) The Board may co-opt any person to act as an adviser or assist it at any of its meetings but no co-opted person shall be entitled to vote on any matter before the Board.
- (7) Except as otherwise provided in this section the Board shall regulate its own procedure for its meetings.

7. Committees of the Board

- (1) The Board may appoint such committees as it considers necessary to assist it in the performance of its functions.
- (2) A committee of the Board may consist of members of the Board or non-members or both but every such committee shall have as its chairman a member of the Board.

PART III - PROCEDURE FOR APPLICATION AND GRANT OF REFUGEE STATUS, APPEALS, ETC.

8. Application for refugee status

- (1) Any person who is within the boundaries of Ghana, whether he entered lawfully or unlawfully who wishes to remain in Ghana as a refugee within the meaning of this Law shall within 14 days of his entry into Ghana or such further period as the Board may allow, make an application for recognition as a refugee to the Board through the nearest immigration officer at his point of entry, through any immigration officer, a police officer or through the office of the United Nations High Commissioner for Refugees in Ghana.
- (2) The officer through whom or the office through which the application is made shall within 7 days of the receipt of the application, forward the application, together with any documents or other information which the applicant is able to provide in support of the application, to the Board.
- (3) The Board shall consider every application referred to it within 30 days of the receipt of the application and shall within the 30 days or thereafter make such inquiry or investigation as the Board thinks necessary into the application and may for the purpose of its investigation, invite the applicant to appear before it.

(4) After its investigation, the Board may recognise or refuse to recognise the applicant as a refugee; and shall notify the applicant of its decision in writing.

9. Appeal on refusal to grant refugee status

(1) Any person who is aggrieved by a refusal of the Board to grant him a refugee status, may within 30 days of being notified of such refusal, appeal in writing to the Secretary.

(2) Where an appeal is made to the Secretary under subsection (1), the Secretary may confirm or reverse the decision of the Board and shall in writing notify the applicant of his decision on the matter which shall be final.

(3) Before reaching a decision on an appeal under this section, the Secretary may do all or any of the following -

(a) invite the representative in Ghana of UNHCR to make oral or written representation in the matter;

(b) refer the matter back to the Board for further inquiry and investigation to be made;

(c) make such further inquiry and investigation into the matter as he thinks necessary.

(4) While awaiting the final decision of the Board, the applicant shall be allowed to remain in the country.

10. Residence in Ghana pending recognition

(1) Notwithstanding the provisions of any other law, a person who has applied for recognition as a refugee, and every member of his family shall have the right to remain within Ghana—

(a) until the person has been recognised as a refugee; or

(b) in the event of the application being unsuccessful, until the applicant has had the opportunity to exhaust his right of appeal under section 9; or

(c) where an appeal has been dismissed, until the applicant has been allowed a reasonable time not exceeding three months, to seek admission to a country of his choice.

(2) The Secretary may on an application made to him by the person concerned, extend the period referred to in subsection (1) (c) where he is satisfied that there is a reasonable likelihood of the person being admitted to a country of his choice within the extended period.

PART IV - RIGHTS AND DUTIES OF REFUGEES

11. Rights and duties of refugees

A person granted refugee status in Ghana shall be entitled to the rights and be subject to the duties specified in -

(a) the articles of the United Nations Convention Relating to the Status of Refugees of 1951 set out in Part I of the Schedule to this Law;

(b) the Protocol Relating to the Status of Refugees of 1967 set out in Part II of the Schedule to this Law; and

(c) the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa set out in Part III of the Schedule to this Law.

(2) Every person who has been granted a refugee status under this Law and the members of his family shall, subject to the provisions of this Law be -

(a) issued with identity cards in the prescribed form;

(b) issued with residence permit;

(c) issued with the United Nations Travel Document where appropriate; and

(d) subject to all the laws in force in Ghana.

12. Further provisions relating to family members of recognised refugees

(1) A member of the family of a person granted refugee status in Ghana shall subject to the provisions of this Law be permitted to remain in Ghana for as long as the refugee is permitted to remain in Ghana and shall be entitled to the same benefits and right as the refugee.

(2) Where a member of the family of the refugee is within Ghana by virtue of subsection (1) and he ceases to be such a family member by reason of his marriage, attainment of age of majority or the cessation of his dependence on the refugee, he shall be permitted to continue to remain in Ghana.

(3) Upon the death of the person with refugee status or upon his divorce or legal separation from a spouse, any person who immediately before the death, divorce or legal separation was within Ghana by virtue of this section as a member of the family of the refugee shall be permitted to continue to remain in Ghana.

(4) Any person who has been permitted to remain in Ghana by virtue of subsections (2) or (3) of this section, may apply for a refugee status.

13. Designated areas for refugees

The Secretary may, by notice in the Gazette or by any other means of communication, as he deems appropriate designate places and areas in Ghana where -

- (a) persons with refugee status;
- (b) persons who have applied under this Law for refugee status; and
- (c) members of the families of persons referred to in paragraphs (a) and (b) of this section, or any class thereof shall be alive.

14. Naturalization

Subject to the relevant laws and regulations relating to naturalization, the Board may assist a refugee who has satisfied the conditions applicable to the acquisition of Ghanaian nationality to acquire Ghanaian nationality.

15. Withdrawal of refugee status

(1) Where at any time the Board considers that there are reasonable grounds for believing that a person who has been recognised as a refugee -

- (a) should not have been so recognised; or
- (b) has ceased to qualify as a refugee for the purposes of this Law, the Board may withdraw the recognition.

(2) A withdrawal of refugee status shall be communicated in writing to the person concerned.

(3) Any person aggrieved by a decision of the Board to withdraw his recognition as a refugee, may within fourteen days of being notified of such withdrawal appeal in writing to the Secretary and the decision of the Secretary on it shall be final.

(4) The Secretary may before reaching a decision on an appeal under this section do all or any of the following:

- (a) invite the representative in Ghana of the office of the United Nations High Commissioner for Refugees to make oral or written representation in the matter;
- (b) refer the matter back to the Board for further investigation;
- (c) make such further inquiry and investigation as he thinks fit into the matter.

16. Effect of withdrawal of recognition

Where the Board has by virtue of section 15 withdrawn the recognition of any person as a refugee, that person shall cease to be a refugee, and any protection granted to members of his family, shall cease with effect from -

- (a) 14 days after the date on which the Board notified the person concerned of the withdrawal of recognition; or
 - (b) where an appeal has been lodged with the Secretary under subsection (3) of section 15 the date on which the Secretary notifies him confirming the decision of the Board.
- (2) Any member of the family who may be affected by this section may apply for refugee status.

17. Cessation of refugee status

A person shall cease to be a refugee for the purposes of this Law if -

- (a) he voluntarily re-avails himself of the protection of the country of his nationality;
- (b) he becomes a Ghanaian citizen or acquires the nationality of another country and enjoys the protection of the country of his new nationality;
- (c) voluntarily re-establishes himself in the country which he left, or outside which he remained owing to his fear of persecution;
- (d) he can no longer, because the circumstances in connection with which he was granted a refugee status have ceased to exist, continue to refuse to avail himself of the protection of his country of nationality; except that this paragraph shall not apply to a person who satisfies the Board that he has compelling reasons arising out of previous persecution, for refusing to avail himself of the protection of his country of nationality or refusing to return to his country of habitual residence; or
- (e) his refugee status is withdrawn.

PART V - MISCELLANEOUS

18. Establishment of Refugees Fund

- (1) There is hereby established a fund to be known as the Refugees Fund.
- (2) The sources of the Refugees Fund shall consist of -
 - (a) contributions from the Government;
 - (b) contributions from local and international organisations;

- (c) contributions from foreign governments;
- (d) monies realized from projects of the Fund; and
- (e) contributions from any other sources.

19. Objects of the Fund

- (1) The Refugee Fund shall be used for the following purposes:
 - (a) provision of relief aid for refugees;
 - (b) establishment of settlement projects for refugees; and
 - (c) funding of such other purposes relating to refugees as the Board may determine.
- (2) All applications for grants from the Refugee Fund for any purposes shall be submitted to the Board for its consideration and approval.

20. Bank Account

- (1) All monies received for the Fund shall be deposited in such bank accounts as may be authorised by the Accountant-General and shall be operated by the Board.
- (2) All payments from the bank account specified in sub-section (1) of this section shall be made on the authority of the Board for the purposes specified in section 19 of this Law.

21. Annual report of the Board

The Board shall submit to the Secretary; not later than three months after the end of each year, a report on its activities during that preceding year.

22. Audit

- (1) The books and account of the Board shall be audited each year by the Auditor-General or by an auditor appointed by the Auditor-General.
- (2) The Auditor-General or the auditor appointed by him shall submit his report on the audit done by him under this section to the Board within three months after the end of the year to which the report relates.

23. Staff for the Board

The Secretary shall provide the Board with the services of such staff as the Board may require for the performance of its functions.

24. Offences relating to false information and penalty

Any refugee or person claiming to be a refugee who -

- (a) makes any false statement, return or representation to any authorised officer or other person lawfully performing his functions under this Law;
- (b) refuses to produce to an authorised officer or person any document or to furnish him with any information reasonably required of him for the purposes of this Law;
- (c) obstructs any person in the performance of his functions under this Law; or
- (d) alters any certificate or document issued or made under this Law,

commits an offence and is liable on conviction to a fine not exceeding €10,000.00 or to imprisonment for a term not exceeding one month or both.

25. Regulations

The Secretary may on the advice of the Board by legislative instrument make regulations for the effective implementation of the provisions of this Law.

(2) Regulations made under subsection (1) may provide for -

- (a) the procedure for the consideration of applications for grant of refugee status;
- (b) method of appeal;
- (c) the issue of identification and travel documents to refugees and their families; and
- (d) forms to be used for application for grant of refugee status and for other purposes of this Law.

26. Interpretation

In this Law unless the context otherwise requires -

"authorised officer" means an immigration officer, a police officer or any public officer authorised by the Secretary to implement any provision of this Law,

"country of nationality" in relation to a person who has more than one nationality, means each of the countries of which that person is a national;

"member of family" in relation to a refugee means—

- (a) any spouse of the refugee;

(b) any unmarried child of the refugee under the age of eighteen years; or

(c) any other person who is related to the refugee by blood or marriage and who by reason of old age, infirmity or minority is dependent upon the refugee.

"P.N.D.C." means the Provisional National Defence Council;

"refugee" means a person who -

(a) falls within the definition provided in -

(i) Article 1 of the 1951 United Nations Convention set out in Part 1 of the Schedule to this Law; or

(ii) Article 1 of the 1967 Protocol Relating to the Status of Refugee, set out in Part II of the Schedule to this Law; or

(iii) Article 1 of the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa set out in Part III of the Schedule to this Law; or

(b) belongs to a class of persons declared by the P.N.D.C. as refugees.

(2) A person shall not be considered to be a refugee under this Law -

(a) when there are serious reasons to believe that he has committed a crime against peace, a war crime or a crime against humanity, as defined in any international instrument to which Ghana is a party and which has been drawn up to make provisions in respect of such crimes; or

(b) if he has been guilty of acts contrary to the purposes and principles of the Organisation of African Unity.

"Secretary" means the P.N.D.C. Secretary responsible for the Interior.

27. Modification of the Aliens Act

The Aliens Act, 1963 (Act 160) shall apply with such modification as may be necessary to give full effect to this Law.

Made this 30th day of December, 1992.

FLT-LT JERRY JOHN RAWLINGS
Chairman of the Provisional National Defence Council

SCHEDULE

PART I (Section 11 (a)) - UN CONVENTION RELATING TO THE STATUS OF REFUGEES

[text, and the attached Schedule and Specimen Travel Document are not reproduced here]

PART II (Section II (b)) - UN PROTOCOL. RELATING TO THE STATUS OF REFUGEES OF 31 JANUARY 1967

[text and the attached Appendix: General Assembly Resolution 2198 (XXI) are not reproduced here]

PART III (Section II (c)) - OAU CONVENTION GOVERNING THE SPECIFIC ASPECTS ON REFUGEE PROBLEMS

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