



STATUTORY INSTRUMENTS.

S.I. No. 426 of 2013



EUROPEAN UNION (SUBSIDIARY PROTECTION) REGULATIONS
2013

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I, ALAN SHATTER, Minister for Justice and Equality, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Council Directive 2004/83/EC of 29 April 2004¹ hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Subsidiary Protection) Regulations 2013.

(2) These Regulations shall come into operation on 14 November 2013.

Interpretation

2. (1) In these Regulations—

“Act of 1996” means the Refugee Act 1996;

“Act of 1999” means the Immigration Act 1999;

“application” means an application for a subsidiary protection declaration made in accordance with Regulation 3(1), or an application that is deemed, under paragraph (2) or (3) of Regulation 3, to be such an application, and “applicant” shall be construed accordingly;

“civil partner” means a civil partner within the meaning of section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“Commissioner” shall be construed in accordance with section 6 of the Act of 1996;

“Council Directive” means Council Directive 2004/83/EC of 29 April 2004¹;

“country of origin” means the country or countries of nationality or, for stateless persons, of former habitual residence;

“date of commencement” means the date on which these Regulations come into operation;

“free legal assistance” means legal aid or legal advice, within the meaning of the Civil Legal Aid Act 1995;

¹OJ L 304, 30.9.2004, p. 12.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 15th November, 2013.*

“High Commissioner” means the United Nations High Commissioner for Refugees;

“information” means information in the form of a document (including a thing) or in any other form;

“interviewer” means a member of the staff of the Commissioner, or a person with whom the Minister has entered into a contract for services under Regulation 30(1), to whom the Commissioner has delegated the function of interviewing an applicant under Regulation 5;

“legal representative” means a solicitor or a barrister;

“Minister” means the Minister for Justice and Equality;

“person eligible for subsidiary protection” means a person—

- (a) who is not a national of a Member State,
- (b) who does not qualify as a refugee,
- (c) in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, would face a real risk of suffering serious harm and who is unable or, owing to such risk, unwilling to avail himself or herself of the protection of that country, and
- (d) who is not excluded from being eligible for subsidiary protection under Regulation 17;

“protection” (except in the definition of “protection in the State”) shall be construed in accordance with Regulation 16;

“protection in the State” means protection in the State either—

- (a) as a refugee on the basis of a declaration given by the Minister under section 17 of the Act of 1996, or
- (b) as a person eligible for subsidiary protection on the basis of a subsidiary protection declaration;

“qualified person” means a person who is a person eligible for subsidiary protection and in relation to whom a subsidiary protection declaration is in force;

“Regulations of 2006” means the European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006) as amended by the European Communities (Eligibility for Protection) (Amendment) Regulations 2011 (S.I. No. 405 of 2011);

“refugee” has the meaning given to it by section 2 of the Act of 1996;

“serious harm” means—

- (a) death penalty or execution,
- (b) torture or inhuman or degrading treatment or punishment of a person in his or her country of origin, or
- (c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in a situation of international or internal armed conflict;

“subsidiary protection declaration” means a subsidiary protection declaration given by the Minister under Regulation 20;

“torture” has the meaning it has in section 1 (as amended by section 186 of the Criminal Justice Act 2006) of the Criminal Justice (United Nations Convention Against Torture) Act 2000;

“Tribunal” means the Refugee Appeals Tribunal established by section 15 of the Act of 1996.

(2) A word or expression that is used in these Regulations and is also used in the Council Directive shall have in these Regulations the same meaning as it has in the Council Directive unless the contrary intention appears.

Application for subsidiary protection declaration

3. (1) An application for a subsidiary protection declaration—

- (a) may be made only by a person—
 - (i) who is in the State, and
 - (ii) subject to paragraph (4), to whom a notice under section 17(5) (as amended by Regulation 34) of the Act of 1996 has been sent,

and

- (b) shall be—
 - (i) made within the period specified in the notice referred to in subparagraph (a), and
 - (ii) addressed to the Commissioner and made in writing, in the form set out in Schedule 1 or a form to the like effect.

(2) Where an application for subsidiary protection under the Regulations of 2006 was made, before the date of commencement, in accordance with Regulation 4 of those Regulations and, by that date—

- (a) the application has not been withdrawn, and
- (b) the Minister has not made a final decision in respect of that application,

the application shall, subject to paragraph (4), be deemed to be an application for a subsidiary protection declaration made in accordance with paragraph (1) and these Regulations, and not the Regulations of 2006, shall apply accordingly.

(3) Where the Minister has, before the date of commencement, sent a person a notification referred to in Regulation 4(1)(a) of the Regulations of 2006 and, by that date, the 15 day period specified in the notification has not expired, then, notwithstanding Regulation 32, an application for subsidiary protection under the Regulations of 2006 made by the person within that period and in accordance with Regulation 4 of the Regulations of 2006 shall, subject to paragraph (4), be deemed to be an application for a subsidiary protection declaration made in accordance with paragraph (1) and these Regulations, and not the Regulations of 2006, shall apply accordingly.

(4) Where the Minister gives a person consent under section 17(7) of the Act of 1996 to make a subsequent application for a declaration under that Act, and that person makes such an application—

- (a) the person may not make an application for a subsidiary protection declaration unless a notice under section 17(5) of the Act of 1996 in respect of that subsequent application is sent to him or her,
- (b) an application for a subsidiary protection declaration made by the person under paragraph (1), or deemed under paragraph (2) or (3) to have been made by him or her, shall be deemed to have been withdrawn, and
- (c) an appeal to the Tribunal by the person under Regulation 8 shall be deemed to have been withdrawn.

(5) The Minister shall, as soon as practicable after the date of commencement, give each person to whom paragraph (2) or (3) applies a statement in writing explaining the effect of these Regulations, and the procedures under which his or her application for a subsidiary protection declaration will be dealt with.

(6) Where it appears to the Health Service Executive that an application for a subsidiary protection declaration should be made by or on behalf of a person under the age of 18 years who is not in the custody of any person, the Health Service Executive shall arrange for the appointment of an employee of the Health Service Executive or such other person as it may determine to make an application on behalf of the child and to act on behalf of the child in relation to his or her application.

(7) Where a person under the age of 18 years who is not in the custody of any person is deemed under paragraph (2) or (3) to be an applicant for a subsidiary protection declaration, the Health Service Executive shall arrange for the appointment of an employee of the Health Service Executive or such other person as it may determine to act on behalf of the child in relation to his or her application.

Leave to remain in State

4. (1) Subject to the provisions of this Regulation, an applicant shall be entitled to remain in the State, until the date on which—

- (a) his or her application or his or her appeal to the Tribunal, is withdrawn or deemed to be withdrawn under Regulation 7 or 9, as the case may be, or
- (b) the Minister, as the case may be—
 - (i) gives the applicant a subsidiary protection declaration under Regulation 20(1), or
 - (ii) sends to the applicant a notice under Regulation 20(5).

(2) Subject to paragraphs (4) and (5), the Commissioner shall give or cause to be given to an applicant a temporary residence certificate (in this Regulation referred to as “a certificate”), which certificate shall contain the following particulars:

- (a) the name of the person,
- (b) a photograph of the person,
- (c) the date on which the person’s application was received by the Commissioner,
- (d) the stated nationality of the person,
- (e) the sex of the person,
- (f) the date of issue,
- (g) the date of expiry,
- (h) a unique number,
- (i) a statement that the certificate is the property of the Minister, and
- (j) a statement that the certificate is not a document establishing the nationality or identity of the person.

(3) A certificate shall remain the property of the Minister and the person to whom it is given shall surrender it to the Commissioner when his or her entitlement to remain in the State under paragraph (1) has ceased.

(4) Where an application is one to which paragraph (2) or (3) of Regulation 3 applies—

- (a) paragraph (2) shall not apply, and

(b) the Minister shall give the applicant concerned a letter which confirms that the person is an applicant.

(5) The Commissioner shall not be obliged to comply with paragraph (2) where he or she gives to the person concerned a letter which confirms that the person is an applicant.

(6) A certificate or, as the case may be, a letter given under paragraph (4) or (5), shall be deemed to be a registration certificate for the purposes of section 12 of the Immigration Act 2004 and a person who is issued with a certificate or given such a letter shall be deemed to have complied with section 9 of that Act.

(7) An applicant shall not—

(a) leave or attempt to leave the State without the consent of the Minister, or

(b) seek or enter employment or carry on any business, trade or profession during the period before the final determination of his or her application for a subsidiary protection declaration.

(8) An applicant shall inform the Commissioner of his or her address and of any change of address as soon as possible.

(9) Paragraph (7) shall apply only to an applicant who, but for the provisions of these Regulations, would not be entitled to remain in the State.

Investigation of application by Commissioner

5. (1) The Commissioner, on receipt of an application, shall—

(a) without delay, give or cause to be given to the applicant a statement referred to in paragraph (2), and

(b) investigate, in accordance with this Regulation, the application for the purpose of ascertaining whether the applicant is a person in respect of whom a subsidiary protection declaration should be given and making a recommendation under Regulation 6 in relation to the application.

(2) A statement referred to in paragraph (1)(a) shall be in writing, in a language that the applicant may reasonably be supposed to understand, and shall specify—

(a) the procedures to be observed in the investigation of applications under this Regulation,

(b) the entitlement of the applicant to consult a solicitor,

(c) the entitlement of the applicant to contact the High Commissioner,

(d) the entitlement of the applicant to make written submissions to the Commissioner,

- (e) the duty of the applicant to co-operate with the Commissioner and to furnish information relevant to his or her application,
 - (f) the obligation of the applicant to comply with paragraphs (7) and (8) of Regulation 4 and the possible consequences of non-compliance with that obligation including the possibility that his or her application for a subsidiary protection declaration may be deemed to be withdrawn and that the Minister may refuse to give the applicant a subsidiary protection declaration,
 - (g) the possible consequences of the failure of the applicant to attend an interview under this Regulation.
- (3) As part of an investigation referred to in paragraph (1), the Commissioner shall interview the applicant at such time and place as the Commissioner may fix.
- (4) An interview under this Regulation shall, where necessary for the purpose of ensuring appropriate communication between the person being interviewed and the interviewer, be conducted with the assistance of an interpreter.
- (5) The requirement in paragraph (4) shall be regarded as complied with if interpretation is provided in a language that the person being interviewed may reasonably be supposed to understand and in which he or she is able to communicate.
- (6) An interview under this Regulation shall take place without the presence of family members of the applicant unless the Commissioner considers it necessary for an appropriate investigation to have other family members present.
- (7) The Commissioner, for the purpose of ensuring that an interview under this Regulation is conducted under conditions which allow the applicant to present the grounds for his or her application in a comprehensive manner shall—
- (a) ensure that the person who conducts the interview is sufficiently competent to take account of the personal or general circumstances surrounding the application, including the applicant's cultural origin or vulnerability, insofar as it is possible to do so, and
 - (b) where paragraph (4) applies, select an interpreter who is able to ensure appropriate communication between the applicant and the interviewer.
- (8) The High Commissioner may, whenever he or she so requests, be present at an interview under this Regulation.
- (9) Following the conclusion of an interview under this Regulation, the interviewer shall furnish to the Commissioner a report in writing of the interview.
- (10) The applicant concerned, the High Commissioner or any other person concerned may make representations in writing to the Commissioner in relation to any matter relevant to an investigation by him or her under this Regulation

and the Commissioner shall take account of any such representations that are made before or during an interview under this Regulation.

(11) The Commissioner may, for the purpose of performing his or her functions under these Regulations, by notice in writing request the Minister, the Minister for Foreign Affairs and Trade or such other persons as may be specified in the notice to make such inquiries and to furnish to the Commissioner such information in his or her possession or control as the Commissioner may reasonably require within such period as shall be specified in the notice.

(12) Following the receipt of a request under paragraph (11), the Minister or the Minister for Foreign Affairs and Trade, as the case may be, may, in the interest of national security or public policy (“ordre public”), withhold any information in his or her possession or control.

Recommendations and report of Commissioner

6. (1) Where an investigation is carried out under Regulation 5, the Commissioner shall, as soon as practicable, prepare a written report in which he or she shall—

- (a) refer to the matters relevant to the application raised by the applicant in the interview under Regulation 5,
- (b) refer to such other matters as he or she considers appropriate,
- (c) set out his or her findings in relation to the application, and
- (d) set out his or her recommendation in relation to the application.

(2) The recommendation referred to in paragraph (1)(d) shall be that—

- (a) the applicant should be declared to be a person eligible for subsidiary protection, or
- (b) the applicant should not be declared to be a person eligible for subsidiary protection.

(3) The Commissioner, as soon as practicable after the preparation of a report under this Regulation, shall—

- (a) send a copy of the report to the applicant and to his or her solicitor (if known), and to the Minister, and
- (b) if so requested by the High Commissioner, notify him or her of the making of the recommendation under paragraph (1)(d), or send a copy of the report to him or her, or both.

(4) Where a report under this Regulation includes a recommendation referred to in paragraph (2)(b), the Commissioner shall send a notice in writing to the applicant informing him or her of his or her right under Regulation 8(1)

to, within 15 working days from the sending of the notice, appeal to the Tribunal against the recommendation and request an oral hearing.

(5) The recommendation of the Commissioner made under paragraph (1)(d) and, where applicable, a notice under paragraph (4) that is sent to the applicant shall be in a language that he or she may reasonably be supposed to understand, where—

- (a) the applicant is not represented by a solicitor, and
- (b) free legal assistance is not available to the applicant.

(6) Where a report under this Regulation includes a recommendation referred to in paragraph (2)(b), then, subject to paragraph (7), the Commissioner shall furnish the applicant concerned and his or her solicitor (if known), and the High Commissioner, whenever so requested by him or her, with—

- (a) copies of any reports, documents or representations in writing submitted to the Commissioner in the course of the investigation under Regulation 5 that are relevant to the recommendation and that are not already in the possession of the applicant, and
- (b) an indication in writing of the nature and source of any other information relating to the application which has come to the notice of the Commissioner in the course of an investigation by him or her under that Regulation.

(7) Where information has been supplied to the Commissioner, a Department of State or another branch or office of the public service by or on behalf of the government of another state in accordance with an undertaking (express or implied) that the information would be kept confidential, the information shall not, without the consent of the other state, be produced or further disclosed otherwise than in accordance with the undertaking.

Withdrawal or deemed withdrawal of application

7. (1) An applicant may withdraw his or her application by sending notice of withdrawal to the Commissioner.

(2) Where an applicant does not attend for interview under Regulation 5 on the date and at the time fixed for the interview then, unless the applicant, not later than 3 working days from that date, furnishes the Commissioner with an explanation for the non-attendance which in the opinion of the Commissioner is reasonable in the circumstances, his or her application shall be deemed to be withdrawn.

(3) Where—

- (a) it appears to the Commissioner that an applicant is failing in his or her duty to co-operate with the Commissioner or to furnish information relevant to his or her application, or

- (b) the Minister notifies the Commissioner that he or she is of opinion that the applicant is in breach of paragraph (7)(a) or (8) of Regulation 4,

the Commissioner shall send to the applicant a notice in writing inviting the applicant to indicate in writing (within 15 working days of the sending of the notice) whether he or she wishes to continue with his or her application and, if an applicant does not furnish an indication within the time specified in the notice, his or her application for a subsidiary protection declaration shall be deemed to be withdrawn.

(4) Where an application for a subsidiary protection declaration is withdrawn or deemed to be withdrawn pursuant to this Regulation then—

- (a) any investigation under Regulation 5 shall be terminated,
- (b) the report under Regulation 6 shall state that the application has been withdrawn or deemed to be withdrawn, as the case may be, and shall include a recommendation that the applicant concerned should not be declared to be a person eligible for subsidiary protection, and
- (c) no appeal under Regulation 8 shall lie against a recommendation referred to in subparagraph (b).

Appeal to Tribunal

8. (1) An applicant may, in accordance with paragraph (2), appeal to the Tribunal against a recommendation of the Commissioner referred to in Regulation 6(2)(b).

(2) An appeal under paragraph (1) shall be by notice in writing, in the form specified in Schedule 2 or a form to the like effect, and shall—

- (a) be made within 15 working days of the sending to the applicant of the notice under Regulation 6(4), and
- (b) specify the grounds of appeal and indicate whether the applicant wishes the Tribunal to—
 - (i) hold an oral hearing for the purpose of his or her appeal, and
 - (ii) if so, direct the attendance of a witness before the Tribunal.

(3) On receipt of a notice under paragraph (2), the Tribunal shall transmit a copy of the notice to the Commissioner and notify the Minister and the High Commissioner of the making of the appeal.

(4) The Commissioner shall furnish the Tribunal with copies of any reports, documents or representations in writing submitted to the Commissioner under Regulation 5 and an indication in writing of the nature and source of any other information relating to the application which has come to the notice of the Commissioner in the course of an investigation by him or her.

(5) The Tribunal may, for the purposes of its functions under these Regulations, request the Commissioner to make such further inquiries and to furnish the Tribunal with such further information as the Tribunal considers necessary within such period as may be specified by the Tribunal.

(6) The Commissioner shall furnish the Tribunal with observations in writing concerning any matter arising on the grounds of appeal whenever so requested by the Tribunal and a copy of such observations shall be furnished to the applicant concerned and his or her solicitor (if known).

(7) The Tribunal shall furnish the applicant concerned and his or her solicitor (if known) and the High Commissioner whenever so requested by him or her with copies of any reports, observations, or representations in writing or any other document furnished to the Tribunal by the Commissioner, copies of which have not been previously furnished to the applicant or, as the case may be, the High Commissioner pursuant to Regulation 5, and an indication in writing of the nature and source of any other information relating to the appeal which has come to the notice of the Tribunal in the course of an appeal under this Regulation.

(8) Subject to paragraph (9), an appeal may be determined without an oral hearing.

(9) The Tribunal shall hold an oral hearing for the purpose of an appeal under this Regulation where—

(a) subject to paragraph (11), the applicant has requested this in the notice under paragraph (2), or

(b) it is of the opinion that it is in the interests of justice to do so.

(10) 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 solicitor, 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.

(11) (a) An applicant may withdraw a request for an oral hearing made in a notice under paragraph (2) by giving written notice, which shall set out the reasons for the withdrawal, to the Tribunal not later than 3 working days before the hearing date.

(b) The Tribunal, on receipt of a notice under paragraph (a), shall consider, having regard to the interests of justice, whether to hold an oral hearing.

(12) (a) Where the notice of appeal under paragraph (2) 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 paragraph (13).

(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.

(13) (a) For the purposes of an oral hearing under this Regulation, the Tribunal may—

(i) where applicable, having complied with paragraph (12), direct in writing any person, other than the Commissioner, a member of the staff of the Commissioner or a person with whom the Minister has entered into a contract for services under Regulation 30(1), whose evidence is required by the Tribunal to attend before the Tribunal on a date and at a time and place specified in the direction and there to give evidence and to produce any document or thing in his or her possession or control specified in the direction,

(ii) direct any such person to produce any specified document or thing in his or her possession or control, or

(iii) give any other directions for the purpose of an appeal that appear to the Tribunal reasonable and just.

(b) Subparagraphs (a)(i) and (a)(ii) shall not apply to a document or thing relating to information as respects which the Minister or the Minister for Foreign Affairs and Trade, as the case may be, directs (which he or she is hereby empowered to do) that the information be withheld in the interest of national security or public policy (“ordre public”).

(14) Subject to paragraph (15), a witness whose evidence has been or is to be given before the Tribunal shall be entitled to the same privileges and immunities as a witness in a court.

(15) Where information has been supplied to the Commissioner, a Department of State or another branch or office of the public service by or on behalf of the government of another state in accordance with an undertaking (express or implied) that the information would be kept confidential, the information shall not, without the consent of the other state, be produced or further disclosed otherwise than in accordance with the undertaking.

(16) Subject to paragraphs (17) and (18), an oral hearing under this Regulation shall be held in private.

(17) The High Commissioner may be present at an oral hearing under this Regulation for the purpose of observing the proceedings.

(18) In conducting an oral hearing, the Tribunal shall—

(a) enable the applicant to be present at the hearing and present his or her case to the Tribunal in person or through a legal representative,

- (b) enable the Commissioner to be present at the hearing and present his or her case to the Tribunal in person or through a legal representative, member of his or her staff or a person with whom the Minister has entered into a contract for services under Regulation 30(1),
- (c) where necessary for the purpose of ensuring appropriate communication during the hearing, provide the applicant with the services of an interpreter,
- (d) 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,
- (e) conduct the oral hearing as informally as is practicable, and consistent with fairness and transparency,
- (f) decide the order of appearance of the applicant and the Commissioner and any witnesses,
- (g) ensure that the oral hearing proceeds with due expedition,
- (h) allow for the examination and cross-examination of the applicant and any witnesses, and
- (i) ensure that a witness shall be present at the oral hearing only for the duration of his or her evidence.

(19) 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.

(20) 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.

(21) Before deciding an appeal under this Regulation, the Tribunal shall consider the following:

- (a) the relevant notice under paragraph (2),
- (b) the report under Regulation 6,
- (c) any observations made to the Tribunal by the Commissioner or the High Commissioner,

- (d) where an oral hearing has been held, the evidence adduced and any representations made at that oral hearing, and
- (e) any documents, representations in writing or other information furnished to it by the Commissioner pursuant to this Regulation.

(22) The Tribunal may—

- (a) affirm a recommendation of the Commissioner referred to in Regulation 6(2)(b), or
- (b) set aside such a recommendation and recommend that the applicant should be declared to be a person eligible for subsidiary protection.

(23) The Tribunal shall affirm the recommendation of the Commissioner referred to in Regulation 6(2)(b) unless it is satisfied, having considered the matters referred to in paragraph (21), that the applicant is a person eligible for subsidiary protection.

(24) A decision of the Tribunal and the reasons therefor shall be communicated by the Tribunal to—

- (a) the applicant concerned and his or her solicitor (if known),
- (b) the High Commissioner, and
- (c) the Minister.

(25) (a) The Tribunal may correct any error or omission in any decision made by it under these Regulations.

- (b) A correction made under subparagraph (a) shall be notified to the persons referred to in subparagraphs (a), (b) and (c) of paragraph (24).

Withdrawal and deemed withdrawal of appeal to Tribunal

9. (1) An applicant may withdraw his or her appeal to the Tribunal by sending notice of withdrawal to the Tribunal and the Tribunal shall, as soon as may be, notify the Minister and the Commissioner of the withdrawal.

(2) Where an applicant fails, without reasonable cause, to attend an oral hearing under Regulation 8, then, unless the applicant, not later than 3 working days from the date fixed under that Regulation for the oral hearing, furnishes the Tribunal with an explanation for not attending the hearing which the Tribunal considers reasonable in the circumstances his or her appeal shall be deemed to be withdrawn.

(3) Where—

- (a) it appears to the Tribunal that an applicant is failing in his or her duty to co-operate or to furnish information relevant to his or her appeal, or

- (b) the Minister notifies the Tribunal that he or she is of opinion that the applicant is in breach of paragraph (7)(a) or (8) of Regulation 4,

the Tribunal shall send to the applicant a notice in writing inviting the applicant to indicate in writing (within 15 working days of the sending of the notice) whether he or she wishes to continue with his or her appeal and, if an applicant does not furnish an indication within the time specified in the notice, his or her appeal shall be deemed to be withdrawn.

(4) Where an appeal is deemed to be withdrawn pursuant to paragraph (2) or (3), the Tribunal shall, as soon as may be, notify the applicant, his or her solicitor (if known), the Minister and the Commissioner of the deemed withdrawal.

Burden of proof

10. (1) The Commissioner shall, in co-operation with the applicant, assess the relevant elements of the application.

(2) Where an applicant appeals against a recommendation of the Commissioner under Regulation 6(2)(b), it shall be for the applicant to show that he or she is a person eligible for subsidiary protection.

(3) The Tribunal shall, for the purposes of an appeal, in co-operation with the applicant, assess the relevant elements of the application.

Credibility

11. The Commissioner or the Tribunal, as the case may be, shall assess the credibility of an applicant for the purposes of the investigation of his or her application or the determination of an appeal in respect of his or her application and in doing so shall have regard to all relevant matters.

Duty to co-operate

12. (1) It shall be the duty of an applicant to co-operate in the investigation of his or her application and in the determination of his or her appeal, if any.

(2) The duty referred to in paragraph (1) shall include the obligation of an applicant to furnish to the Commissioner or the Tribunal, as may be appropriate, as soon as reasonably practicable, all information in his or her possession, control or procurement that is relevant to his or her application.

Assessment of facts and circumstances

13. (1) The following matters shall be taken into account by the Commissioner or, as the case may be, the Tribunal for the purposes of the investigation of an application or the determination of an appeal in respect of an application:

- (a) all relevant facts as they relate to the country of origin at the time of making a decision on the application, including laws and regulations of the country of origin and the manner in which they are applied;

- (b) the relevant statements and documentation presented by the applicant including information on whether the applicant has been or may be subject to serious harm;
- (c) the individual position and personal circumstances of the applicant, including factors such as background, gender and age, so as to assess whether, on the basis of the applicant's personal circumstances, the acts to which the applicant has been or could be exposed would amount to serious harm;
- (d) whether the applicant's activities since leaving the country of origin were engaged in for the sole or main purpose of creating the necessary conditions for applying for protection in the State, so as to assess whether these activities will expose the applicant to serious harm if returned to that country;
- (e) whether the applicant could reasonably be expected to avail himself or herself of the protection of another country where he or she could assert citizenship.

(2) Subject to paragraph (3), the fact that an applicant has already been subject to serious harm or to direct threats of such serious harm, is a serious indication of the applicant's real risk of suffering serious harm, unless there are good reasons to consider that such serious harm will not be repeated.

(3) Where an application is one to which paragraph (2) or (3) of Regulation 3 applies, Regulation 5(2) of the Regulations of 2006, and not paragraph (2), shall continue to apply in respect of the applicant concerned, as if Regulation 5(2) of the Regulations of 2006 had not been amended by Regulation 32.

(4) Where aspects of the applicant's statements are not supported by documentary or other evidence, those aspects shall not need confirmation where the Commissioner or, as the case may be, the Tribunal is satisfied that—

- (a) the applicant has made a genuine effort to substantiate his or her application,
- (b) all relevant elements, at the applicant's disposal, have been submitted, and a satisfactory explanation regarding any lack of other relevant elements has been given,
- (c) the applicant's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the applicant's case,
- (d) the applicant has applied for protection in the State at the earliest possible time, unless the applicant can demonstrate good reason for not having done so, and
- (e) the general credibility of the applicant has been established.

(5) The Commissioner or, as the case may be, the Tribunal may determine that an applicant is not in need of protection in the State if the applicant can reasonably be expected to stay in a part of his or her country of origin where there is no real risk of suffering serious harm.

(6) In examining whether a part of the country of origin accords with paragraph (5), the Commissioner or, as the case may be, the Tribunal shall have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant.

Protection needs arising sur place

14. (1) A real risk of suffering serious harm may be based on events which have taken place since the applicant left the country of origin.

(2) A real risk of suffering serious harm may be based on activities which have been engaged in by the applicant since he or she left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin.

Actors of serious harm

15. For the purposes of these Regulations, actors of serious harm include—

- (a) a state,
- (b) parties or organisations controlling a state or a substantial part of the territory of that state, and
- (c) non-state actors, if it can be demonstrated that the actors referred to in subparagraphs (a) and (b), including international organisations, are unable or unwilling to provide protection against serious harm.

Actors of protection

16. (1) Protection against serious harm shall be regarded as being generally provided where reasonable steps are taken by a state or parties or organisations, including international organisations, controlling a state or a substantial part of the territory of a state to prevent the suffering of serious harm, including by the operation of an effective legal system for the detection, prosecution and punishment of acts constituting serious harm, where the applicant has access to such protection.

(2) For the purposes of assessing under paragraph (1), whether an international organisation controls a state or a substantial part of the territory of a state and provides protection against serious harm, the Commissioner or, as the case may be, the Tribunal, shall take into account any guidance which may be provided in relevant acts of the Council of the European Union.

Exclusion from eligibility for subsidiary protection

17. (1) A person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that he or she—

- (a) has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes,
- (b) has committed a serious crime,
- (c) has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations, or
- (d) constitutes a danger to the community or to the security of the State.

(2) A person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that he or she has instigated or otherwise participated in the commission of a crime or an act referred to in paragraph (1).

(3) A person is excluded from being eligible for subsidiary protection if he or she has, prior to his or her admission to the State, committed a crime or crimes, not consisting of a crime or conduct referred to in paragraph (1), which would be punishable by imprisonment had it been committed in the State and if he or she left his or her country of origin solely in order to avoid sanctions resulting from that crime or those crimes.

Cessation of eligibility for subsidiary protection

18. A person shall cease to be eligible for subsidiary protection when—

- (a) the circumstances which led to his or her eligibility for subsidiary protection have ceased to exist or have changed to such a degree that protection in the State is no longer required, and
- (b) the change of circumstances is of such a significant and non-temporary nature that the person no longer faces a real risk of serious harm.

Unaccompanied minors

19. Where an applicant is a child referred to in paragraph (6) or (7) of Regulation 3, the Commissioner shall, taking the best interests of the child as a primary consideration, ensure that—

- (a) the person appointed by the Health Service Executive under paragraph (6) or (7) of Regulation 3—
 - (i) is given the opportunity to inform the child about the meaning and possible consequences of the interview under Regulation 5 and, where appropriate, how to prepare himself or herself for the interview, and
 - (ii) is allowed to be present at the interview under Regulation 5 and to ask questions or make comments, within the framework set by the person who conducts the interview,

- (b) the interview under Regulation 5 is conducted by an interviewer who has the necessary knowledge of the special needs of minors, and
- (c) the report under Regulation 6 shall be prepared by a person or persons with the necessary knowledge of the special needs of minors.

Subsidiary protection declaration

20. (1) The Minister shall give a subsidiary protection declaration to an applicant as soon as possible after—

- (a) the Commissioner makes a recommendation under Regulation 6 that the applicant concerned should be declared to be a person eligible for subsidiary protection, or
- (b) the Tribunal under Regulation 8(22)(b) sets aside a recommendation of the Commissioner referred to in Regulation 6(2)(b) and recommends that the applicant concerned should be declared to be a person eligible for subsidiary protection.

(2) A subsidiary protection declaration shall be a statement in writing declaring that the applicant is a person eligible for subsidiary protection.

(3) The Minister shall refuse to give a subsidiary protection declaration to an applicant where—

- (a) the Commissioner has made a recommendation referred to in Regulation 6(2)(b) in relation to the applicant, other than where the applicant has appealed to the Tribunal in accordance with Regulation 8 against that recommendation,
- (b) the Tribunal, under Regulation 8(22)(a) affirms a recommendation referred to in Regulation 6(2)(b) in relation to the applicant,
- (c) the application concerned is withdrawn or deemed to be withdrawn under Regulation 7, or
- (d) an appeal by the applicant under Regulation 8 is withdrawn or deemed to be withdrawn under Regulation 9.

(4) The Minister shall notify the High Commissioner of the giving of or, as the case may be, the refusal to give an applicant a subsidiary protection declaration.

(5) Where the Minister refuses under paragraph (3) to give a subsidiary protection declaration to an applicant, he or she shall send to the applicant a notice in writing stating that—

- (a) his or her application for a subsidiary protection declaration has been refused,
- (b) the period of entitlement of the applicant to remain in the State under Regulation 4 has expired, and

- (c) the Minister may make an order under section 3 of the Act of 1999, requiring the applicant to leave the State and, if the notice contains the statement specified in subsection (4) of that section, it shall not be necessary for the Minister to give the notification specified in subsection (3) of that section.

Revocation of subsidiary protection declaration

21. (1) The Minister shall revoke a subsidiary protection declaration given to a person if satisfied that—

- (a) the person should have been or is excluded from being eligible for subsidiary protection under Regulation 17,
- (b) the person has, in accordance with Regulation 18, ceased to be eligible for subsidiary protection, or
- (c) misrepresentation or omission of facts, whether or not including the use of false documents, by the person was decisive in the decision to give the person a subsidiary protection declaration.

(2) Where the Minister proposes to revoke a subsidiary protection declaration under paragraph (1), he or she shall send a notice in writing of his or her proposal and of the reasons for it to the person concerned, which notice shall include a statement of the person's entitlement under paragraph (4) to make representations in writing to the Minister in relation to the proposal.

(3) Where the Minister sends a notice under paragraph (2) to a person, he or she shall at the same time send a copy thereof to the person's solicitor (if known) and to the High Commissioner.

(4) A person who has been sent a notice of a proposal under paragraph (2) may, within 15 working days of the issue of the notice, make representations in writing to the Minister in relation to the proposal.

(5) The Minister shall—

- (a) before deciding to revoke a subsidiary protection declaration under this Regulation, take into consideration any representations made to him or her in accordance with paragraph (4), and
- (b) where he or she decides to revoke the subsidiary protection declaration under this Regulation, send a notice in writing of his or her decision and of the reasons for it to the person concerned, which notice shall include a statement of the person's entitlement under paragraph (6) to appeal.

(6) A person to whom a notice under paragraph (5)(b) is sent may, within 15 working days from the date of the notice, appeal to the High Court against the decision of the Minister to revoke a subsidiary protection declaration.

(7) The High Court may, as it thinks proper, on the hearing of the appeal under paragraph (6)—

- (a) confirm the decision of the Minister, or
- (b) direct the Minister to withdraw the revocation of the subsidiary protection declaration.

Extension to qualified persons of certain rights

22. (1) A qualified person shall be entitled—

- (a) to seek and enter employment, to carry on any business, trade or profession and to have access to education and training in the State in the like manner and to the like extent in all respects as an Irish citizen,
- (b) to receive, upon and subject to the terms and conditions applicable to Irish citizens, the same medical care and services and the same social welfare benefits as those to which Irish citizens are entitled,
- (c) subject to Regulation 23, to reside in the State, and
- (d) subject to Regulation 24, to the same rights of travel in or to or from the State as those to which Irish citizens are entitled.

(2) In paragraph (1)(b), “social welfare benefits” includes any payment or services provided for in or under the Social Welfare Acts, the Health Acts, 1947 to 2004 and the Housing Acts, 1966 to 2004.

(3) In the application of Regulation 23, Regulation 24 and Regulation 26—

- (a) due regard shall be had to the specific situation of vulnerable persons such as persons under the age of 18 years (whether or not unaccompanied), disabled persons, elderly persons, pregnant women, single parents with children under the age of 18 years and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, and
- (b) where the application of those Regulations concerns a child under the age of 18 years, the best interest of the child shall be a primary consideration.

Permission to reside in the State

23. (1) A qualified person shall be granted a permission to reside in the State for a specified period of not less than 3 years.

(2) A family member shall be granted a permission to reside in the State for a specified period which may be less than 3 years.

(3) A permission granted under paragraph (1) or (2)—

- (a) shall be renewable unless compelling reasons of national security or public order (“ordre public”) otherwise require, and

(b) shall cease to be valid where the person to whom it was granted ceases to be a qualified person or a family member, as the case may be.

(4) In this Regulation and Regulation 24, “family member” means a person in relation to whom—

(a) a permission to enter and to reside in the State granted under Regulation 25 is in force, or

(b) a permission to reside in the State granted under Regulation 26 is in force.

Travel document

24. (1) Subject to paragraphs (2) and (3), the Minister may issue a travel document to a qualified person or a family member where that person—

(a) applies to the Minister in writing for such a travel document,

(b) pays a fee of €80, and

(c) where applicable, complies with paragraph (5).

(2) The Minister shall not be obliged to issue a travel document under paragraph (1) unless the Minister is satisfied that the person concerned is unable to obtain a travel document from the relevant authority of the country of his or her nationality or, as the case may be, former habitual residence, and serious humanitarian reasons exist that require the person’s presence in another state.

(3) The Minister may, in the interest of national security, public order or public policy (“ordre public”), refuse to issue a travel document.

(4) A travel document shall be in the form set out in Schedule 3 or in a form to the like effect.

(5) A person who applies to the Minister for a travel document under this Regulation shall furnish to the Minister such information as the Minister may reasonably require for the purpose of his or her functions under this Regulation.

Permission to enter and reside for member of family of qualified person

25. (1) A qualified person (in this Regulation referred to as the “sponsor”) may apply to the Minister for permission to be granted to a member of his or her family to enter and reside in the State.

(2) The Minister shall investigate an application under paragraph (1) to determine the relationship between the sponsor and the person who is the subject of the application and that person’s domestic circumstances.

(3) Subject to paragraph (5), if the Minister is satisfied that the person who is the subject of the application is a member of the family of the sponsor, the Minister shall grant permission in writing to the person to enter and reside in the State and the person shall be entitled to the rights and privileges specified

in Regulation 22 in relation to a qualified person for such period as the sponsor is entitled to remain in the State.

(4) Subject to paragraph (5), the Minister may grant permission to a dependent member of the family of a sponsor to enter and reside in the State and such member shall be entitled to the rights and privileges specified in Regulation 22 in relation to a qualified person for such period as the sponsor is entitled to remain in the State.

(5) The Minister may refuse to grant permission to enter and reside in the State to a person referred to in paragraph (3) or (4) or revoke any such permission granted to such a person—

- (a) in the interest of national security or public policy (“ordre public”),
- (b) where the person would be or is excluded from being a refugee in accordance with section 2 of the Act of 1996 or Regulation 12 of the Regulations of 2006, or
- (c) where the person would be or is excluded from being eligible for subsidiary protection in accordance with Regulation 17.

(6) In this Regulation and Regulation 26—

“dependent member of the family”, in relation to a sponsor, means any grandparent, parent, brother, sister, child, grandchild, ward or guardian of the sponsor who is wholly or mainly dependent on the sponsor or is suffering from a mental or physical incapacity to such extent that it is not reasonable to expect him or her to maintain himself or herself fully;

“member of the family”, in relation to a sponsor, means—

- (a) where the sponsor is married, his or her spouse (provided that the marriage is subsisting on the date of the application under paragraph (1)),
- (b) where the sponsor is a civil partner, his or her civil partner,
- (c) where the sponsor is, on the date of the application under paragraph (1), under the age of 18 years and is not married, his or her parents, or
- (d) a child of the sponsor who, on the date of the application under paragraph (1), is under the age of 18 years and is not married.

Permission to reside for member of family of qualified person

26. (1) A qualified person (in this Regulation referred to as the “sponsor”) may make an application to the Minister for permission to reside in the State to be granted to a member of his or her family who, on the date of the application, is in the State (whether lawfully or unlawfully) and who does not himself or herself qualify for protection in the State.

(2) The Minister shall investigate an application under paragraph (1) to determine the relationship between the sponsor and the person who is the subject of the application and that person's domestic circumstances.

(3) Subject to paragraph (5), if the Minister is satisfied that the person who is the subject of the application is a member of the family of the sponsor, the Minister shall grant permission in writing to the person to reside in the State and the person shall be entitled to the rights and privileges specified in Regulation 22 in relation to a qualified person for such period as the sponsor is entitled to remain in the State.

(4) Subject to paragraph (5), the Minister may grant permission to a dependent member of the family of a sponsor to reside in the State and such member shall be entitled to the rights and privileges specified in Regulation 22 in relation to a qualified person for such period as the sponsor is entitled to remain in the State.

(5) The Minister may refuse to grant permission to reside in the State to a person referred to in paragraph (3) or (4) or revoke any such permission granted to such a person—

- (a) in the interest of national security or public policy (“ordre public”),
- (b) where the person would be or is excluded from being a refugee in accordance with section 2 of the Act of 1996 or Regulation 12 of the Regulations of 2006, or
- (c) where the person would be or is excluded from being eligible for subsidiary protection in accordance with Regulation 17.

Provisions in relation to the Commissioner

27. (1) The Commissioner shall be independent in the exercise of his or her functions under these Regulations.

(2) A reference in section 7 of the Act of 1996 to the activities of the Commissioner shall include a reference to the activities of the Commissioner under these Regulations.

(3) Subject to paragraph (4), a reference in the First Schedule to the Act of 1996 to the functions of the Commissioner (including a reference to the functions of the Commissioner conferred by that Act) shall be deemed to include a reference to the functions conferred on the Commissioner by these Regulations.

(4) Paragraph (3) shall not apply to the function of the Commissioner specified in paragraph 11 of the First Schedule to the Act of 1996.

(5) Subject to the need for fairness and efficiency in dealing with applications under these Regulations, the Commissioner may, where he or she considers it necessary or expedient to do so, accord priority to certain classes of applications determined by reference to one or more of the following matters:

- (a) the grounds of applications;
- (b) the country of origin or habitual residence of applicants;
- (c) any family relationship between applicants;
- (d) the ages of applicants and, in particular, of persons under the age of 18 years in respect of whom applications are made;
- (e) the dates on which applications were made;
- (f) the likelihood that the applications are well-founded.

Provisions in relation to the Tribunal

28. (1) The Tribunal shall be independent in the performance of its functions under these Regulations.

(2) A reference in the Second Schedule to the Act of 1996 to—

- (a) a function of the Tribunal or the chairperson or a member of the Tribunal (including a reference to a function conferred by that Act) shall be deemed to include a reference to the functions conferred upon the Tribunal, chairperson or member, as the case may be, by these Regulations,
- (b) the work or business of the Tribunal shall include a reference to the work or business of the Tribunal by virtue of these Regulations, and
- (c) an applicant and an appeal shall include a reference to an applicant or an appeal, as the case may be, under these Regulations.

Notices etc.

29. (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 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 solicitor, 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 paragraph (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.

Contracts for services

30. (1) The Minister may enter into contracts for services with such and so many persons as he or she considers necessary to assist the Commissioner in the performance of his or her functions under these Regulations and such contracts with such persons shall contain such terms and conditions as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine.

(2) The Commissioner may delegate to a person who has entered into a contract with the Minister referred to in paragraph (1) any of the Commissioner's functions (other than the function referred to in Regulation 6(1)(d)) under these Regulations.

Transitional provisions

31. (1) A person who, before the date of commencement was determined under the Regulations of 2006 to be a person eligible for subsidiary protection in the State, shall, subject to paragraph (2), be deemed for the purposes of these Regulations to be a person to whom a subsidiary protection declaration has been granted under these Regulations.

(2) Paragraph (1) shall not apply where the Minister has, before the date of commencement, in accordance with Regulation 14 of the Regulations of 2006, revoked or refused to renew a permission granted to the person concerned under Regulation 4 of those Regulations.

(3) A permission to remain in the State granted to a person under Regulation 17(1) of the Regulations of 2006 (other than a permission granted to a person, referred to in that paragraph, who has been granted a declaration) which, immediately before the date of commencement, is in force, shall, on and after that date, and for the duration of its unexpired term, be deemed to be a permission, subject to the same conditions, granted to the person concerned under, as appropriate, paragraph (1) or (2) of Regulation 23.

(4) A permission to enter and reside in the State granted under Regulation 16(3)(a) or Regulation 16(4)(a) of the Regulations of 2006 which, immediately before the date of commencement, is in force, shall, on and after that date, be deemed to be a permission granted to the person concerned under, as appropriate, paragraph (3) or (4) of Regulation 25.

(5) Where, before the date of commencement, a person made an application to the Minister in accordance with Regulation 16(1) of the Regulations of 2006

for permission to be granted to a member of his or her family to enter and to reside in the State, and by that date the Minister has not made a final decision in respect of the application, the application shall be deemed to be:

- (a) where the member of the person's family to whom the application relates was, on the date of the making of the application, not in the State, an application under Regulation 25(1), and
- (b) where the member of the person's family to whom the application relates was, on the date of the making of the application, in the State (whether lawfully or unlawfully), an application under Regulation 26(1),

and these Regulations and not the Regulations of 2006 shall apply accordingly.

(6) Where, before the date of commencement, the Minister has, in accordance with Regulation 14 of the Regulations of 2006, informed a person of his or her proposal to revoke or refuse to renew, under that Regulation, a permission granted under Regulation 4 of those Regulations, and a final determination in respect of that matter has not been made by that date—

- (a) a notice of the proposal sent to the person shall be deemed to be a notice under Regulation 21(2), and
- (b) Regulation 21 shall apply in respect of that proposal.

(7) All documents relating to an application referred to in paragraph (2) or (3) of Regulation 3 shall, on the date of commencement, be transferred to the Commissioner by the Minister.

Amendment of Regulations of 2006

32. (1) The Regulations of 2006 are amended by the deletion of—

- (a) paragraphs (c) and (d) of Regulation 3(1), and
- (b) Regulations 4, 13, 14, 16, 18 (as amended by the European Communities (Eligibility for Protection) (Amendment) Regulations 2011 (S.I. No. 405 of 2011)) and 19.

(2) Regulation 5 of the Regulations of 2006 is amended by substituting the following for paragraph (2):

“(2) The fact that a protection applicant has already been subject to persecution, or to direct threats of such persecution, shall be regarded as a serious indication of the applicant's well-founded fear of persecution, unless there are good reasons to consider that such persecution will not be repeated but compelling reasons arising out of previous persecution alone may nevertheless warrant a determination that the applicant is eligible for protection as a refugee.”

(3) Regulation 17 of the Regulations of 2006 is amended in paragraph (1) by deleting “or to whom Regulation 4(4) or 16(3)(a) or 16(4)(a) applies”.

Amendment of section 1 of Act of 1996

33. Section 1 of the Act of 1996 is amended by inserting the following definition after the definition of “Regulations of 2006”:

“ ‘Regulations of 2013’ means the European Union (Subsidiary Protection) Regulations 2013;”.

Amendment of section 17 of Act of 1996

34. Section 17 of the Act of 1996 is amended—

(a) by substituting the following for subsection (5):

“(5) Where the Minister has decided to refuse to give a declaration, he or she shall send to the applicant a notice in writing stating that—

- (a) his or her application for a declaration has been refused,
- (b) he or she may make an application for a subsidiary protection declaration under the European Union (Subsidiary Protection) Regulations 2013 within 15 working days from the sending of the notice by completing the form for such an application and addressing it to the Commissioner, and
- (c) unless he or she makes an application for a subsidiary protection declaration referred to in paragraph (b), the Minister may make an order under section 3 of the Immigration Act, 1999, requiring the applicant to leave the State and if the notice contains the statement specified in subsection (4) of that section, it shall not be necessary for the Minister to give the notification specified in subsection (3) of that section.”.

(b) in subsection (7C) (inserted by Regulation 8(b) of the European Communities (Asylum Procedures) Regulations 2011) by substituting “this Act, the Regulations of 2006 or the Regulations of 2013” for “this Act or of the Regulations of 2006”,

(c) in subsection (7E) (inserted by Regulation 8(b) of the European Communities (Asylum Procedures) Regulations 2011)—

- (i) by inserting “or to whom the Minister has refused under Regulation 20(3) of the Regulations of 2013 to give a subsidiary protection declaration,” after “a person eligible for subsidiary protection,”, and
- (ii) in paragraph (b), by inserting “or for a subsidiary protection declaration under Regulation 3 of the Regulations of 2013 (including any appeal under Regulation 8 of those Regulations)” after “Regulation 4 of the Regulations of 2006”,

and

(*d*) by substituting the following for subsection (7H) (inserted by Regulation 8(*b*) of the European Communities (Asylum Procedures) Regulations 2011):

“(7H) In this section “protection in the State” has the same meaning as it has in the Regulations of 2013.”.

SCHEDULE 1

Form SP/01

Application form for a subsidiary protection declaration under the European Union (Subsidiary Protection) Regulations 2013.

1.1 Name:

.....

1.2 Address in the State:

.....

.....

1.3 Person ID Reference No:

.....

1.4 Nationality:

.....

1.5 Date of Arrival in the State:

.....

1.6 PPS Number:

.....

1.7. Application(s) of dependent family member(s) included with your application:

Name of Dependent Family Member	Family Connection (e.g. spouse, child etc)	Date of Birth	Nationality	Person ID Number
1.				
2.				
3.				
4.				
5.				
6.				
7.				

2.1 Please indicate the basis on which “serious harm” as defined in the Regulations is being claimed.

Tick one or more of the following, as appropriate:-

- death penalty or execution.
- torture or inhuman or degrading treatment or punishment of an applicant in the country of origin.
- serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

2.2 Set out fully all of the grounds supporting the basis of your application for subsidiary protection and the application(s) of any dependent family member(s) in the State.

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3.1 You are required to submit all documentary evidence available to you which supports your application for subsidiary protection in the State and the application(s) of any dependent family member(s). Are you enclosing any documentary evidence with your application for subsidiary protection-

Yes No

If “yes” to the above, please list the documents being submitted in the space provided below.

.....
.....
.....
.....

3.2 If you are relying on any documentary evidence already submitted with your asylum claim, please list those documents in the space below. (Note: any documentary evidence already submitted by you or on your behalf to the Office of the Refugee Applications Commissioner (ORAC) or the Refugee Appeals Tribunal (RAT) as part of your application for asylum does not require to be resubmitted.)

.....
.....
.....
.....

3.3 If you cannot provide any documentary evidence to support your application for subsidiary protection and the application(s) of any dependent family member(s), you are required to provide an explanation as to why no such evidence can be provided.

.....
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.....

I hereby declare that the above information and any material attached is true, accurate and up-to-date and is the full extent of my application for subsidiary protection in the State and, where appropriate, the application(s) of my dependent family member(s), under the European Union (Subsidiary Protection) Regulations 2013.

Signature of applicant:

.

Date:

.

Please return the attached form to:

Office of the Refugee Applications Commissioner,

Timberlay House,

79-83 Lower Mount Street,

Dublin 2.

SCHEDULE 2

Refugee Appeals Tribunal

NOTICE OF APPEAL

against a recommendation of the Refugee Applications Commissioner under regulation 6 of the European Union (Subsidiary Protection) Regulations 2013

1. Personal details relating to the applicant(s) appealing

Name of Primary Applicant	Date of Birth	Gender	Nationality	Person Ref.
Name of Dependent Applicant included in this appeal	Date of Birth	Gender	Relationship to Applicant	Person Ref.

Address:

.....

Telephone Number (if any):

2. Family members

Details of all family members living in the State not included in appeal:

Name	Date of Birth	Gender	Relationship to Applicant	Person Ref.

3. Oral Hearing

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

Yes No (tick as appropriate).

If yes, do you require an interpreter-

Yes No (tick as appropriate).

If you require an interpreter, specify the precise language or dialect:

Alternative language if above not available:

4. Representation

4.1 Guardian

If you are under 18 years of age and have a Health Service Executive caseworker or are in the care of a person other than a parent, please state his/her:

Name:

Address:

Phone No:

Email:

4.2 Legal Representation

Do you have legal representation- Yes No (tick as appropriate).

If yes, please complete the following:

Name:

Firm:

Address:

Phone No:

Email:

5. Grounds of Appeal

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

Ground 1:

Ground 2:

Ground 3:

Ground 4:

Ground 5:

6. Witnesses

Please supply details of witness(es) you wish the Tribunal to consider permitting to give evidence at your 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

Signed: _____

(Applicant)

Date

Signed: _____

(Legal representative)

Date

Please note that guidelines may be issued from time to time regarding the information to be included in this form. Copies of such guidelines will be placed on the Tribunal's website.

SCHEDULE 3

Pas / Passport / Passeport	Éire / Ireland / Irlande		
Doiciméad Taistil / Travel Document / Titre de Voyage	Saghas / Type / Type	Tír / Country / Pays	Pas Uimhir / Passport No. / No. Passeport
PHOTOGRAPH	Sloinne / Surname / Nom		
	Túsainm (Neacha) / Forename(s) / Prénom(s)		
	Náisiúntacht / Nationality / Nationalité	Dáta Breithe / Date of Birth / Date de Naissance	
	Gnéas / Sex / Sexe	Áit Breithe / Place of Birth / Lieu de Naissance	
	Dáta Eisiúna / Date of Issue / Date de Délivrance	As Feidhm / Date of Expiry / Date d'Expiration	
Údarás / Authority / Autorité	Síniú / Signature / Signature		

1. Údaraítear don sealbhóir filleadh ar Éirinn le linn bhailíocht an doiciméid.
 2. Tá an doiciméad seo á eisiúint d'fhonn doiciméad taistil ar féidir leis fónamh in ionad pas náisiúnta a sholáthar don sealbhóir agus chuige sin amháin. Ní dhéanann sé dochar do náisiúntacht an tsealbhóra ná ní dhéanann sé difear ar aon slí don náisiúntacht sin..
 3. Más rud é go dtéann an sealbhóir chun cónaithe i dtír seachas an tír a d'eisigh an doiciméad láithreach, ní mór dó/di — más mian leis/léi taisteal arís — iarratas a dhéanamh ar dhoiciméad nua chun údaráis inniúla a thír/a tíre cónaithe. Déanfaidh an t-údarás a mbeidh an doiciméad nua á eisiúint aige an seandoiciméad taistil a tharraingt siar agus a thabhairt ar ais don údarás a d'eisigh é.
1. The holder is authorised to return to Ireland during the validity of the document.
 2. This document is issued solely with a view to providing the holder with a travel document which can serve in lieu of a national passport. It is without prejudice to and in no way affects the holder's nationality.

3. Should the holder take up residence in a country other than that which issued the present document, he/she must — if he/she wishes to travel again — apply to the competent authorities of his/her country of residence for a new document. The old travel document shall be withdrawn by the authority issuing the new document and returned to the authority which issued it.
1. Le détenteur est autorisé à retourner en Irlande pendant la période de validité du document.
2. Ce titre est délivré uniquement en vue de fournir au titulaire un document de voyage pouvant tenir lieu de passeport national. Il ne préjuge pas de la nationalité du titulaire et est sans effet sur celle-ci.
3. Si le détenteur s'installe dans un État autre que celui ayant délivré ce document. Il lui faut — pour pouvoir entreprendre d'autres voyages — faire la demande d'un nouveau titre de voyage auprès des autorités compétentes du pays de résidence. L'ancien titre de voyage devra être récupéré par les autorités délivrant le nouveau document et retourné aux autorités l'ayant délivré.

Nótaí

1. Fanfaidh an doiciméad taistil seo ina mhaoín de chuid an Aire Dlí agus Cirt agus Comhionannais na hÉireann.
2. Ní dhíolmhóidh doiciméad taistil a bheith ina sheilbh aige / ina seilbh aici an sealbhóir ó rialacháin inimirce aon tíre a chomhlíonadh ná ón ngá le víosaí nó ceadanna iontrála eile a fháil i gcás ina gceanglaítear sin.
3. Tá bailíocht uasta 10 mbliana ag doiciméad taistil.
4. Is ceart do shealbhóirí doiciméad taistil bailíocht a ndoiciméid a sheiceáil sula dtaistealaíonn siad. Éilíonn roinnt tíortha, i gcás an doiciméid a bheadh ag duine, go mbeadh sé bailí go ceann 6 mhí ar a laghad thar dháta an turais bheartaithe.
5. Tá 34 leathanach sa doiciméad taistil seo.

Notes

1. This travel document remains the property of the Minister for Justice and Equality of Ireland.
2. The possession of a travel document does not exempt the holder from complying with the immigration regulations of any country or from the need to obtain visas or other entry permits where required.
3. The maximum validity of a travel document is 10 years.

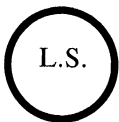
4. Travel document holders should check the validity of their document before they travel. Some countries require that a person's document be valid for at least 6 months beyond the date of their intended journey.
5. This travel document contains 34 pages.

Observations

1. Ce titre de voyage demeure la propriété du Ministère de la Justice et de l'Égalité d'Irlande.
2. La possession d'un titre de voyage n'évite pas à son détenteur de se soumettre aux réglementations d'immigration de n'importe quel pays ou bien, au besoin d'obtenir un visa ou autres autorisations d'entrée requis.
3. La période maximale de validité d'un titre de voyage est 10 ans.
4. Les détenteurs d'un titre de voyage doivent s'assurer de la validité de leur document avant d'entreprendre leur voyage. Certains pays requièrent un titre de voyage valide pour encore au moins 6 mois à la date de départ du voyage prévu.
5. Ce titre de voyage contient 34 pages.

Tagairtí/Observations

Observaciones/Poznámky/Bemærkninger/Vermerke/
Märkused/Παρατηρήσεις/Observations/Osservazioni/
Piezīmes/Pastabos/Megjegyzések/Osservassjonijiet/
Opmerkingen/Adnotacje Urzędowe/Observações/
Uradné záznamy/Opombe/Lisämerkinnät/Anmärkningar



GIVEN under my Official Seal,
7 November 2013.

ALAN SHATTER,
Minister for Justice and Equality.

EXPLANATORY NOTE

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

These Regulations are made for the purpose of giving effect in Irish law to the Council Directive on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (Directive 2004/83/EC: “the Qualification Directive”) and deal with the subsidiary protection aspects of the system for international protection in Ireland.

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