



STATUTORY INSTRUMENTS.

S.I. No. 52 of 2011



REFUGEE ACT 1996 (ASYLUM PROCEDURES) REGULATIONS 2011

(Prn. A11/0241)

REFUGEE ACT 1996 (ASYLUM PROCEDURES) REGULATIONS 2011

I, BRENDAN SMITH, Minister for Justice and Law Reform, in exercise of the powers conferred on me by section 23 of the Refugee Act 1996 (No. 17 of 1996) (as adapted by the Justice, Equality and Law Reform (Alteration of Name of Department and Title of Minister) Order 2010 (S.I. No. 216 of 2010)), and for the purpose of giving further effect to Council Directive 2005/85/EC of 1 December 2005¹, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Refugee Act 1996 (Asylum Procedures) Regulations 2011.

(2) These Regulations shall come into operation on 1 March 2011.

Definitions

2. In these Regulations:

“free legal assistance” means legal aid or legal advice, within the meaning of the Civil Legal Aid Act 1995 (No. 32 of 1995);

“the Act” means the Refugee Act 1996 (No. 17 of 1996).

Conduct of interview under section 11 of Act

3. (1) The Commissioner, for the purpose of ensuring that an interview under section 11(2) of the Act 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 authorised officer 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) select an interpreter who is able to ensure appropriate communication between the applicant and the person who conducts the interview.

(2) For the purposes of paragraph (1)(b), communication need not necessarily take place in the language preferred by the applicant if there is another language which he or she may reasonably be supposed to understand and in which he or she is able to communicate.

¹O.J. No. L.326, 13.12.2005, p.13.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 18th February, 2011.

Unaccompanied minors

4. Where an applicant is a child referred to in section 8(5) of the Act, on behalf of whom an application has been made in accordance with section 8(5)(b) of the Act, 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 section 8(5)(b) of the Act—
 - (i) is given the opportunity to inform the child about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself or herself for the personal interview, and
 - (ii) is allowed to be present at the interview under section 11(2) of the Act and to ask questions or make comments, within the framework set by the authorised officer who conducts the interview,
- (b) the interview under section 11(2) of the Act is conducted by an authorised officer who has the necessary knowledge of the special needs of minors, and
- (c) the report together with the recommendation of the Commissioner under section 13(1) of the Act shall be prepared by an officer with the necessary knowledge of the special needs of minors.

Recommendation of Commissioner

5. The recommendation of the Commissioner under section 13(1), and the notice under subsection (4)(b), of the Act shall, when sent to the applicant, be in a language that he or she may reasonably be supposed to understand, where—

- (a) the applicant is not assisted or represented by a legal adviser or other counsellor, and
- (b) free legal assistance is not available to the applicant.

Notification under subsection (7F) or (7G) of section 17 of Act

6. Where the Minister sends a notification to a person under subsection (7F) or (7G) (inserted by Regulation 8 of the European Communities (Asylum Procedures) Regulations 2011) of section 17 of the Act, that notification shall be in a language that the person may reasonably be supposed to understand, where—

- (a) the person is not assisted or represented by a legal adviser or other counsellor, and
- (b) free legal assistance is not available to the person.



GIVEN under my Official Seal,
3 February 2011.

BRENDAN SMITH,
Minister for Justice and Law Reform.

EXPLANATORY NOTE

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

These Regulations give further effect in Irish law to the Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status (Council Directive 2005/85/EC: “The Asylum Procedures Directive”).

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