



STATUTORY INSTRUMENTS.

S.I. No. 137 of 2015



EUROPEAN UNION (SUBSIDIARY PROTECTION) (AMENDMENT)
REGULATIONS 2015

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I, FRANCES FITZGERALD, 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) (Amendment) Regulations 2015.

(2) These Regulations shall come into operation on 20 April 2015.

Interpretation

2. In these Regulations, “Principal Regulations” means the European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013).

Amendment of Regulation 2 of Principal Regulations

3. Regulation 2 of the Principal Regulations is amended—

(a) by the substitution of the following for the definition of “application”:

“ ‘application’, in Regulations 4 to 20, means—

(a) 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, or

(b) an application for a subsidiary protection declaration made under Regulation 3A where, under paragraph (7) of that Regulation, Regulations 4 to 20 apply to the application,

and, in Regulations 4 to 20, ‘applicant’ shall be construed accordingly;”

and

(b) by the deletion of the definition of “torture”.

¹ OJ L 304, 30.9.2004, p. 12.

Amendment of Regulation 3 of Principal Regulations

4. Regulation 3 of the Principal Regulations is amended—

- (a) in paragraph (1), by the substitution of “Subject to Regulation 3A, an” for “An”,
- (b) in paragraph (4)(a), by the substitution of “subject to Regulation 3A, the person”, for “the person”,

and

- (c) in paragraph 4(b), by the substitution of “under paragraph (1) or Regulation 3A,” for “under paragraph (1),”.

Insertion of Regulation 3A in Principal Regulations

5. The Principal Regulations are amended by the insertion of the following after Regulation 3:

“Making of application for subsidiary protection declaration by applicant within meaning of Refugee Act 1996

3A. (1) Subject to paragraph (2), an application for a subsidiary protection declaration may be made under this Regulation by a person who is in the State and who has made an application for a declaration or, as the case may be, a subsequent application for a declaration.

(2) A person to whom paragraph (1) applies may make an application under this Regulation—

- (a) at the time he or she makes an application for a declaration or, as the case may be, subsequent application for a declaration, or
- (b) where he or she has made an application referred to in subparagraph (a), at any time after the making of that application and before he or she is, in respect of the application—
 - (i) given a declaration within the meaning of section 17 of the Act of 1996, or

(ii) sent a notice under section 17(5) of that Act.

(3) An application under this Regulation shall be addressed to the Commissioner and made in writing, in the form set out in Schedule 1A or a form to the like effect.

(4) A person who makes an application under this Regulation may, at any time from the date on which the application is made until the expiry of 15 working days after the date of the sending to him or her of a notice under section 17(5A) (inserted by Regulation 6(b) of the European Union (Subsidiary Protection) (Amendment) Regulations

2015) of the Act of 1996, furnish to the Commissioner further information, in writing and in the form set out in Schedule 1B or a form to the like effect, in respect of the application.

(5) The Commissioner, on receipt of an application under this Regulation that is made in accordance with paragraph (2), shall, without delay, give or cause to be given to the applicant a statement in writing, in a language that the applicant may reasonably be supposed to understand, specifying the effect of this Regulation.

(6) Where a person who has made an application under this Regulation is, in respect of his or her application for a declaration or, as the case may be, subsequent application for a declaration, given a declaration within the meaning of section 17 of that Act, his or her application under this Regulation shall be deemed to be withdrawn.

(7) Regulations 4 to 20 shall not apply to an application made under this Regulation until the date on which the Minister sends to the person who made the application a notice under section 17(5A) of the Act of 1996 in respect of his or her application for a declaration or, as the case may be, subsequent application for a declaration.

(8) In this Regulation—

“application for a declaration” means an application for a declaration under section 8 of the Act of 1996;

“subsequent application for a declaration” means a subsequent application for a declaration under the Act of 1996, made with the consent of the Minister given under section 17(7) of that Act.”.

Amendment of section 17 of Act of 1996

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

(a) in subsection (5) (as amended by Regulation 34(a) of the Principal Regulations), by the insertion after “refuse to give a declaration,” of “other than to an applicant to whom subsection (5A) applies, ”,

(b) by the insertion of the following subsections after subsection (5):

“(5A) Where the Minister has decided to refuse to give a declaration to an applicant who has made an application under Regulation 3A (inserted by Regulation 5 of the European Union (Subsidiary Protection) (Amendment) Regulations 2015) of the Regulations of 2013, 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) from the date of the sending of the notice, Regulations 4 to 20 of the Regulations of 2013 shall apply to his or her application under Regulation 3A of the Regulations of 2013 and the application will be investigated by the Commissioner in accordance with the Regulations of 2013, and
- (c) he or she may, within 15 working days from the sending of the notice, furnish to the Commissioner further information, in writing and in the form set out in Schedule 1B (inserted by Regulation 8 of the European Union (Subsidiary Protection) (Amendment) Regulations 2015) to the Regulations of 2013 or a form to the like effect, in respect of the application referred to in paragraph (b).

(5B) The Minister shall transmit a copy of a notice under subsection (5A) to the Commissioner.”,

and

- (c) in subsection (7E)(b) (as amended by Regulation 34(c) of the Principal Regulations), by the substitution of “Regulation 3 or 3A of the Regulations of 2013” for “Regulation 3 of the Regulations of 2013”.

Amendment of Schedule 1 to Principal Regulations

7. Schedule 1 to the Principal Regulation is amended by the substitution of “Application under Regulation 3(1) of the European Union (Subsidiary Protection) Regulations 2013 for a subsidiary protection declaration.” for “Application form for a subsidiary protection declaration under the European Union (Subsidiary Protection) Regulations 2013.”.

Insertion of Schedules in Principal Regulations.

8. The Principal Regulations are amended by the insertion of the following after Schedule 1:

“Schedule 1A

SP/04

Application under Regulation 3A(1) of the European Union (Subsidiary Protection) Regulations 2013 for a subsidiary protection declaration

To the Refugee Applications Commissioner,
79/83 Lower Mount Street,
Dublin 2.

I hereby apply for a declaration of Subsidiary Protection status in Ireland in accordance with Regulation 3A(1) of the European Union (Subsidiary Protection) Regulations 2013

(i) FAMILY NAME:
(ii) FORENAME:
(iii) DATE OF BIRTH:
(iv) NATIONALITY:
(v) COUNTRY OF BIRTH:
(vi) ADDRESS IN <u>OWN COUNTRY</u> :

(vii) 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.				

Signature of Applicant _____

Date _____

Schedule 1B

Form SP/05

Further information relating to an application under Regulation 3A(1) of the European Union (Subsidiary Protection) Regulations 2013 for a subsidiary protection declaration:

Supplementary Information Form

1.1 Name:

1.2 Address in the State:

1.3 Person ID Reference No:

1.4 Date of Application for Subsidiary Protection:

1.5 Nationality:

1.6 Date of Arrival in the State:

1.7 PPS Number:

1.8. 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.				

8 [137]

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 dependant family member(s) in the State.

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.)*

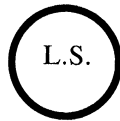
3.3 If you cannot provide any documentary evidence to support your application for subsidiary protection and the application(s) of any dependent family member(s), you are required to provide an explanation as to why no such evidence can be provided.

I hereby declare that the above information and any material attached relating to my application for subsidiary protection and, where appropriate, to my dependent family members, is true, accurate and up-to-date.

Signature of applicant:

Date _____

Please return this form to:
Subsidiary Protection Unit,
Office of the Refugee Applications Commissioner,
Timberlay House,
79-83 Lower Mount Street,
Dublin 2.”



GIVEN under my Official Seal,
16 April 2015.

FRANCES FITZGERALD,
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, which amend the European Union (Subsidiary Protection) Regulations 2013, allow for the making of an application for subsidiary protection at the same time as an application for a declaration under the Refugee Act 1996 (as amended) or at any time after the making of that application and before a person is granted refugee status or is sent a notice in writing that his or her application for refugee status has been refused. These regulations also provide for the definition of "torture" in the European Union (Subsidiary Protection) Regulations 2013 to be deleted.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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