

REFUGEES CONVENTION

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Refugees Convention Act 2012

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Refugees Convention Act 2012

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The Refugees Convention Act 2012 No 12 was certified and commenced on 10 October 2012 (GN No 606/2012; Gaz 153/2012).

Amending Legislation	Certified	Date of Commencement
Refugees Convention (Amendment) Act 2014 No 4	21 May 2014	21 May 2014
Refugees Convention (Amendment) Act 2015 No 18	14 August 2015	14 August 2015
Refugees Convention (Validation and Amendment) Act 2016 No 2	29 January 2016	29 January 2016
Refugees Convention (Derivative Status & Other Measures) (Amendment) Act 2016 No 56	23 December 2016	23 December 2016
Refugees Convention (Amendment) Act 2017 No 5	5 May 2017	5 May 2017
Refugees Convention (Amendment) No 2 Act 2017 No 20	14 September 2017	14 September 2017
Refugees Convention (Amendment) Act 2018 No 28	4 October 2018	4 October 2018
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to give effect to the Refugees Convention and for related purposes.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title

This Act may be cited as the *Refugees Convention Act 2012*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day it receives the certificate of the Speaker under Article 47 of the *Constitution* and came into effect on 10 October 2012.
- (2) Parts 3, 4 and 5 of this Act commence on a date to be fixed by the Minister by Gazette notice.

3 Interpretation

In this Act:

‘asylum seeker’ means:

- (a) a person who applies to be recognised as a refugee under Section 5; or
- (b) a person, or persons of a class, prescribed by the Regulations;

‘complementary protection’ means protection for people who are not refugees as defined in this Act, but who also cannot be returned or expelled to the frontiers of territories where this would breach the Republic’s international obligations;

‘corresponding law’ means a law of another jurisdiction that provides for a person to apply for recognition as a refugee under the Refugees Convention as modified by the Refugees Protocol;

‘dependent’ of a person means:

- (a) the person’s spouse other than a spouse from whom he or she is formally separated;
- (b) the person’s child under the age of 18 years; or
- (c) someone dependent on the person for financial, emotional, psychological or physical support;

‘Deputy Principal Member’ means a Deputy Principal Member of the Tribunal;

‘derivative status’ means the status given to a person, who is a dependent of a person who has been recognised as a refugee, given derivative status, or found to be owed complementary protection;

[def subst Act 56 of 2016 s 7, opn 23 Dec 2016]

‘member’ means the Principal Member, a Deputy Principal Member or any other member of the Tribunal;

‘personal identifier’ means any of the following, including any of the following in digital form:

- (a) fingerprints or handprints of a person, including those taken using paper and ink or digital technologies;
- (b) a measurement of a person's height and weight;
- (c) a photograph or other image of a person or of the face and shoulders or other part of a person;
- (d) an audio or video recording of a person;
- (e) an iris scan;
- (f) a person's signature; or
- (g) any other identifier prescribed by the Regulations;

'Principal Member' means the Principal Member of the Tribunal;

'refugee' means a person who is a refugee under the Refugees Convention as modified by the Refugees Protocol;

'Refugee Determination Record' means the certificate issued to a person who is owed international protection by the Republic under Section 6(2A);

[def insrt Act 56 of 2016 s 7, opn 23 Dec 2016]

'Refugees Convention' means the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951;

'Refugees Protocol' means the Protocol Relating to the Status of Refugees done at New York on 31 January 1967;

'Secretary' means the Secretary for Multicultural Affairs; and

[def subst Act 20 of 2017 s 4, opn 14 Sep 2017]

'Tribunal' means the Refugee Status Review Tribunal established under Section 11.

[def insrt Act 4 of 2014 s 3 and Sch[1], opn 21 May 2014]

4 **Protection of refugees — principle of non-refoulment**

- (1) The Republic shall not expel or return a person determined to be recognised as a refugee to the frontiers of territories where his or her life or freedom would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion, except in accordance with the Refugees Convention as modified by the Refugees Protocol.
- (2) The Republic shall not expel or return any person to the frontiers of territories in breach of its international obligations.

[s 4 subst Act 4 of 2014 s 3 and Sch[2], opn 21 May 2014]

PART 2 — DETERMINATION OF REFUGEE STATUS

5 Application for refugee status

- (1) A person may apply to the Secretary to be recognised as a refugee.
- (1A) A person may include one or more dependents in an application made under Section 5(1).
[subs (1A) subst Act 56 of 2016 s 9, opn 23 Dec 2016]
- (1AA) A person may apply to the Secretary to be given derivative status.
[subs (1AA) insrt Act 56 of 2016 s 8, opn 23 Dec 2016]
- (1B) A person included in an application for refugee status under section 5(1A) is taken to have applied to be given derivative status.
[subs (1B) insrt Act 56 of 2016 s 10, opn 23 Dec 2016]
- (2) An application to the Secretary to be recognised as a refugee made under Section 5(1), or to be given derivative status under Section 5(1AA), shall:
(a) be in the form prescribed by regulations; and
(b) be accompanied by the information prescribed by regulations.
[subs (2) subst Act 56 of 2016 s 11, opn 23 Dec 2016]
- (3) No fee may be charged for the making or processing of an application made under this Section.
[subs (3) subst Act 56 of 2016 s 12, opn 23 Dec 2016]

6 Determination of refugee status

- (1) Subject to this Part, the Secretary shall determine:
(a) an application to be recognised as a refugee made under Section 5;
(b) an application to be given derivative status made under Section 5; or
(c) whether a person who has made an application under Section 5 is owed complementary protection.
[subs (1) subst Act 56 of 2016 s 13, opn 23 Dec 2016]
- (2) [subs (2) rep Act 56 of 2016 s 14, opn 23 Dec 2016]
- (2A) A Refugee Determination Record shall be issued to a person who is:
(a) determined to be a refugee;
(b) given derivative status; or
(c) determined to be owed complementary protection.
[subs (2A) insrt Act 56 of 2016 s 15, opn 23 Dec 2016]
- (2B) Any application made by a person under Section 5(1), Section 5(1AA) or Section 5(1A), that has not been determined at the time the person is given a Refugee Determination Record, is taken to have been validly determined at that time.
[subs (2B) insrt Act 56 of 2016 s 16, opn 23 Dec 2016]
- (3) The determination under Section 6(1), shall be made as soon as practicable after the application is received.
[subs (3) subst Act 56 of 2016 s 17, opn 23 Dec 2016]

7 Powers of Secretary in determining refugee status

- (1) For the purposes of making a determination under Section 6(1), the Secretary:

- (a) may require the asylum seeker:
 - (i) to provide one or more personal identifiers to assist in the identification of, and to authenticate the identity of, the asylum seeker;
 - (ii) to attend one or more interviews;
 - (iii) to provide information required by the Secretary, within the period specified, for the purposes of the determination;
 - (iv) to consent to the release by any other person of relevant documents or information relating to the asylum seeker;
 - (v) if the Secretary believes on reasonable grounds that the asylum seeker has in his or her possession or control a document relating to the asylum seeker, including a passport or travel document, to produce the document; and
 - (vi) to verify, by statutory declaration or on oath or affirmation, information provided to the Secretary;
- (b) may seek information from any other source and for that purpose may, if the Secretary believes on reasonable grounds that a person has in his or her possession or control a document relating to the asylum seeker, including a passport or travel document, require the person to produce the document; and
- (c) may rely, without further enquiry, on a determination made under the Refugees Convention or a corresponding written law.

[subs (1) am Act 4 of 2014 s 3 and Sch[6], opn 21 May 2014; Act 56 of 2016 s 18, opn 23 Dec 2016]

- (2) The Secretary:
 - (a) is not obliged to seek information, evidence or submissions further to that provided by the asylum seeker;
 - (b) may make the determination as to whether the asylum seeker is recognised as a refugee on the basis of the information, evidence and submissions provided by the asylum seeker; and
 - (c) may decline to make a determination if the asylum seeker has declined to provide a personal identifier reasonably required by the Secretary.
- (3) Where an asylum seeker, who is required to attend an interview, fails to attend the interview, the Secretary may determine whether the asylum seeker is recognised as a refugee without conducting the interview.

8 Subsequent asylum claim

- (1) A person may not make an application under Section 5, if a determination has previously been made under Section 6(1) with respect to that person.
- (2) Notwithstanding Section 8(1), the Secretary may permit a person to make an application under Section 5, if the Secretary is satisfied that the grounds of the application either:
 - (a) have not been substantially determined by the Secretary, nor by the Tribunal; or
 - (b) are based on a change in the person's circumstances since the previous application was finally determined, including the circumstances in a territory to which the applicant may be expelled or returned.
- (3) The Secretary is not under a duty to consider whether to exercise the power under Section 8(2) in any circumstances.
- (4) Neither the Tribunal nor the Supreme Court, has any jurisdiction in respect

of a decision of the Secretary not to exercise, or not to consider the exercise of, the Secretary's power under Section 8(2).

- (5) A request that the Secretary exercise, or consider the exercise of the Secretary's power under Section 8(2) is not, for the purposes of Section 11 of the *Immigration Act 2014*, an application to the Secretary to be recognised as a refugee or to be given derivative status.

[s 8 subst Act 56 of 2016 s 19, opn 23 Dec 2016]

9 Notice of Determination

As soon as practicable after making a determination as to whether an asylum seeker is recognised as a refugee or is owed complementary protection, or a decision to decline to make a determination, the Secretary shall give the asylum seeker a notice specifying:

- (a) the relevant determination or decision; and
- (b) [repealed]
- (c) if the asylum seeker has not been recognised as a refugee or is found to be owed complementary protection, or the Secretary declined to make a determination, the reasons for the determination or decision and details of the claimant's right to merits review.

[s 9 am Act 4 of 2014 s 3 and Sch[7], opn 21 May 2014]

10 Cancellation of refugee status

- (1) The Secretary shall cancel a person's recognition as a refugee, if the Secretary is satisfied that:
 - (a) the Refugees Convention as modified by the Refugees Protocol ceases to apply to the person; or
 - (b) the recognition given by the Secretary was procured by fraud, forgery, false or misleading representation, or concealment of relevant information.
- (2) As soon as practicable after cancelling a person's recognition as a refugee, the Secretary shall give the person a notice specifying:
 - (a) the decision;
 - (b) the reasons for the decision; and
 - (c) details of the person's right to merits review.
- (3) The Secretary may cancel a person's recognition as a refugee if requested by the person while in the Republic.

PART 3 — REFUGEE STATUS REVIEW TRIBUNAL

DIVISION 1 — ESTABLISHMENT AND MEMBERSHIP OF TRIBUNAL

11 Establishment

The Refugee Status Review Tribunal is established.

12 Membership

- (1) The Tribunal consists of:
 - (a) a Principal Member;
 - (b) 2 Deputy Principal Members; and
 - (c) such number of other members as are appointed in accordance with this Act.
- (2) The total number of persons appointed under subsection (1)(c), shall not exceed the prescribed number.

13 Appointment of members

- (1) The members of the Tribunal shall be appointed by Cabinet in consultation with the Chief Justice.
- (2) A person is eligible for appointment as the Principal Member or as a Deputy Principal Member, if the person meets one or more of the following requirements:
 - (a) the person is qualified to be appointed a Judge of the Supreme Court;
 - (b) the person is or has been a member of the Tribunal; and
 - (c) the person has been admitted as:
 - (i) a barrister or solicitor in England, Northern Ireland or the Republic of Ireland, as an advocate, law agent or writer to the Signet in Scotland, as a barrister or solicitor, or as a barrister and solicitor, in Australia or New Zealand; or
 - (ii) a legal practitioner, whether described as a barrister, a solicitor or in any other way, in any other country duly notified by the Minister for the purposes of Part 2 of the *Legal Practitioners Act 2019* and the person has;
 - (iii) been so admitted for not less than 5 years; and
 - (iv) not been struck off the roll of practitioners, or equivalent list, maintained by any court in which the person was so admitted.

[subs (2) subst Act 2 of 2016 s 9, opn 29 Jan 2016]

- (3) The Regulations may prescribe other eligibility requirements for appointment as a member.
- (4) Subject to this Part, a member holds office for the period, not exceeding 5 years, specified in the instrument of appointment, and is eligible for reappointment.
- (5) A member holds office on such other terms and conditions as are determined by the Minister in writing.

14 Principal Member

- (1) The Principal Member is the executive officer of the Tribunal and is responsible for the overall operation and administration of the Tribunal.
- (2) The Principal Member is responsible for allocating the work of the Tribunal among the members, including himself or herself.
- (3) The Principal Member may give directions in writing, not inconsistent with this Act, as to:
 - (a) the operations of the Tribunal; and
 - (b) the conduct of reviews by the Tribunal.
- (4) The Tribunal shall, as far as practicable, comply with the directions.
- (5) Non-compliance by the Tribunal with a direction does not affect the validity of a decision of the Tribunal.

15 Resignation

A member may resign by writing signed by him or her and sent to the President as Chairperson of the Cabinet.

16 Disclosure of interests

- (1) A member who has a conflict of interest in relation to a review by the Tribunal:
 - (a) shall disclose the matters giving rise to that conflict to the applicant and:
 - (i) if the member is the Principal Member, to the Minister; or
 - (ii) in any other case, to the Principal Member; and
 - (b) shall not take part in the review or exercise powers in relation to the review unless:
 - (i) if the member is the Principal Member, the applicant and the Minister consent; or
 - (ii) in any other case, the applicant and the Principal Member consent.
- (2) For the purposes of this Section, a member has a conflict of interest in relation to a review by the Tribunal if the member has an interest, pecuniary or otherwise, that could conflict with the proper performance of the member's functions in relation to that review.

17 Removal from office

- (1) The President, with the consent of the Cabinet, may remove a member from office on the ground of misconduct or physical or mental incapacity.
- (2) The President may remove a member from office if:
 - (a) the member ceases to be eligible to be appointed a member, and the ground on which the person ceases to be eligible was prescribed before the appointment of the member; or
 - (b) the member fails, without reasonable excuse, to comply with his or her obligations as a member.

18 Registrar and officers

- (1) The Minister:
 - (a) shall appoint a Registrar of the Tribunal; and

- (b) may appoint such other officers of the Tribunal as are required.
- (2) The officers of the Tribunal have:
 - (a) the functions and powers prescribed by regulations; and
 - (b) any other functions as directed by the Principal Member.

DIVISION 2 — CONSTITUTION, SITTINGS AND POWERS

19 Constitution for merits review

- (1) For the purpose of a particular review, the Tribunal is to be constituted by:
 - (a) the Principal Member or a Deputy Principal Member, who will preside; and
 - (b) 2 other members.
- (2) The Principal Member shall determine who is to constitute the Tribunal for the purpose of a particular review.

20 Reconstitution if necessary

- (1) The Principal Member may reconstitute the Tribunal if:
 - (a) one or more of the 3 members who constitute the Tribunal for the purposes of a particular review:
 - (i) stops being a member; or
 - (ii) for any reason, is not available for the purpose of the review at the place where the review is being conducted; or
 - (b) the Principal Member thinks the reconstitution is in the interests of achieving the efficient conduct of the review.
- (2) The Tribunal as reconstituted is to continue to finish the review and may have regard to any record of the proceedings of the review made by the Tribunal as previously constituted.

21 Sittings

- (1) Sittings of the Tribunal are to be held from time to time as required, in such places in the Republic as are convenient.

[subs (1) am Act 56 of 2016 s 20, opn 23 Dec 2016]

- (2) The Tribunal constituted by 3 members may sit and exercise the powers of the Tribunal even though the Tribunal, constituted by another 3 members is at the same time sitting and exercising those powers.

22 Way of operating

The Tribunal:

- (a) is not bound by technicalities, legal forms or rules of evidence; and
- (b) shall act according to the principles of natural justice and the substantial merits of the case.

23 Review to be in private and recording made

- (1) The hearing of an application for review by the Tribunal shall be in private.
- (2) An audio or audio visual recording shall be made of a hearing.

24 Evidence and procedure

- (1) For the purpose of a review, the Tribunal may:

- (a) take evidence on oath or affirmation;
 - (b) adjourn the review from time to time;
 - (c) subject to Part 6, give information to the applicant and to the Secretary;
or
 - (d) require the Secretary to arrange for the making of an investigation, or a medical examination, that the Tribunal thinks necessary with respect to the review, and to give to the Tribunal a report of that investigation or examination.
- (2) The Tribunal in relation to a review may:
- (a) summon a person to appear before the Tribunal to give evidence;
 - (b) summon a person to produce to the Tribunal such documents as are referred to in the summons; and
 - (c) require a person appearing before the Tribunal to give evidence on oath or affirmation.
- (3) A member of the Tribunal or the Registrar may administer an oath or affirmation to a person appearing before the Tribunal.
- (4) A person appearing before the Tribunal to give evidence is not entitled to examine or cross-examine any other person appearing before the Tribunal to give evidence.
- (5) Where a person appearing before the Tribunal to give evidence is not proficient in English, the Tribunal may direct that communication with that person during his or her appearance proceed through an interpreter.

25 Authorisation of person to take evidence

- (1) The power of the Tribunal to take evidence on oath or affirmation for the purpose of a review, may be exercised on behalf of the Tribunal by a person authorised in writing by the Tribunal who is:
- (a) a public officer; or
 - (b) another person approved in writing by the Minister for the purposes of this Section.
- (2) The power to take evidence on oath or affirmation may be exercised on behalf of the Tribunal:
- (a) inside or outside the Republic; and
 - (b) subject to such limitations, if any, as are specified by the Tribunal.
- (3) Where a person other than the Tribunal is authorised to take evidence for the purpose of a review:
- (a) the person has, for the purpose of taking that evidence:
 - (i) all the powers of the Tribunal under Section 24; and
 - (ii) the power to administer an oath or affirmation to a person appearing before the first-mentioned person to give evidence; and
 - (b) for the purpose of the exercise of those powers by that person, this Part has effect, except where the context otherwise requires, as if a reference to the Tribunal included a reference to that person.
- (4) Where a person exercises the power of the Tribunal to take evidence on oath or affirmation for the purpose of a review, the person shall cause a written record of the evidence taken to be made and sent to the Tribunal.
- (5) Where the Tribunal receives the record of evidence given by the applicant, the Tribunal is taken to have given the applicant an opportunity to appear before it to give evidence.

26 Oral evidence by telephone, etc

For the purposes of a review, the Tribunal may allow the appearance by the applicant before the Tribunal, or the giving of evidence by the applicant or any other person, to be by:

- (a) telephone;
- (b) closed-circuit television; or
- (c) any other means of communication.

27 Certain Tribunal decisions to be published

- (1) A decision of the Tribunal that the Principal Member thinks is of general interest may be published.
- (2) The published decision shall not identify an applicant or a relative or other dependent of an applicant.

DIVISION 3 — OFFENCES

28 Failure of witness to attend

- (1) A person who has been served with a summons to appear before the Tribunal to give evidence, shall not:
 - (a) fail to attend as required by the summons; or
 - (b) fail to appear and report from day to day unless excused, or released from further attendance, by the Tribunal.

Maximum penalty: Imprisonment for 6 months.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.
- (3) An offence against subsection (1) is an offence of strict liability.
- (4) An invitation to appear before the Tribunal is not a summons to appear before the Tribunal to give evidence.

29 Refusal to be sworn or to answer questions, etc

- (1) A person appearing before the Tribunal to give evidence shall not:
 - (a) when required to take an oath or to make an affirmation, refuse or fail to comply with the requirement; or
 - (b) refuse or fail to answer a question that the person is required to answer by the Tribunal.

Maximum penalty: Imprisonment for 6 months.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.
- (3) A person shall not refuse or fail to produce a document that a person is required to produce by a summons served on the person.

Maximum penalty: Imprisonment for 6 months.

- (4) Subsection (3) does not apply if the person has a reasonable excuse.
- (5) An offence against subsection (1) or (3) is an offence of strict liability.
- (6) A person appearing before the Tribunal to give evidence, shall not intentionally give evidence that is false or misleading in a material particular.

Maximum penalty: Imprisonment for 12 months.

30 Contempt

A person shall not:

-
- (a) obstruct or hinder the Tribunal or a member in the performance of the functions of the Tribunal; or
 - (b) disrupt the taking of evidence by the Tribunal.

Maximum penalty: Imprisonment for 12 months.

PART 4 — MERITS REVIEW BY TRIBUNAL

DIVISION 1 — APPLICATION

31 Application for merits review by Tribunal

- (1) A person may apply to the Tribunal for merits review of any of the following:
 - (a) a determination made under Section 6(1); or
 - (b) a decision to cancel a person's recognition as a refugee made under Section 10(1).

[subs (1) am Act 4 of 2014 s 3 and Sch[8], opn 21 May 2014; Act 56 of 2016 s 21, opn 23 Dec 2016]

- (2) The application shall be made:
 - (a) within 28 days after the person receives notice of the determination or decision; and
 - (b) in the form prescribed by regulations.
- (3) The Principal Member may extend the time in which an application for review can be lodged, if the Principal Member is satisfied that there are compelling circumstances.

[subs (3) subst Act 4 of 2014 s 3 and Sch[9], opn 21 May 2014]

- (4) No fee may be charged for the making or hearing of the application.

[subs (4) insrt Act 4 of 2014 s 3 and Sch[9], opn 21 May 2014]

- (5) An application made by a person under Section 31(1)(a), that has not been determined at the time the person is given a Refugee Determination Record, is taken to have been validly determined at that time.

[subs (5) insrt Act 56 of 2016 s 22, opn 23 Dec 2016]

[s 31 subst Act 4 of 2014 s 3 and Sch[9], opn 21 May 2014]

32 Secretary to be notified of application and to provide information

- (1) Where an application for review is made to the Tribunal, the Registrar shall, as soon as practicable, give the Secretary written notice of the making of the application.
- (2) The Secretary shall, within 10 working days after being notified of the application, for such longer period as the Presiding Member may allow, give to the Registrar the prescribed number of copies of a statement about the determination or decision under review that:
 - (a) sets out the findings of fact made by the person who made the determination or decision;
 - (b) refers to the evidence on which those findings were based; and
 - (c) gives the reasons for the determination or decision.
- (3) The Secretary shall, as soon as practicable after being notified of the application, give to the Registrar each other document, or part of a document, that is in the Secretary's possession or control and is considered by the Secretary to be relevant to the determination or decision.

33 Period within which Tribunal shall conduct merits review

- (1) The Tribunal shall complete a review of a determination or decision within 90 days after the day on which the Secretary gives the Registrar the documents relevant to the review.
- (2) Failure to comply with this Section, does not affect the validity of a decision on an application for merits review.

34 Decision of Tribunal on application for merits review

- (1) The Tribunal may, for the purposes of a merits review of a determination or decision, exercise all the powers and discretions of the person who made the determination or decision.
- (2) On a merits review of a determination or decision, the Tribunal may:
 - (a) affirm the determination or decision;
 - (b) vary the determination or decision;
 - (c) remit the matter to the Secretary for reconsideration in accordance with directions or recommendations of the Tribunal;
 - (d) set the determination or decision aside and substitute a new determination or decision; or
 - (e) determine that a dependent, of the person in respect of whom the determination or decision was made, is recognised as a refugee or is owed complementary protection.

[subs (2) am Act 5 of 2017 s 8, opn 5 May 2017]

- (3) Where the Tribunal:
 - (a) varies the determination or decision; or
 - (b) sets aside the determination or decision and substitutes a new determination or decision,
 the determination or decision as varied or substituted is taken, except for the purpose of appeals from decisions of the Tribunal, to be a determination or decision of the Secretary.
- (4) The Tribunal shall give the applicant for review and the Secretary, a written statement that:
 - (a) sets out the decision of the Tribunal on the review;
 - (b) sets out the reasons for the decision;
 - (c) sets out the findings on any material questions of fact; and
 - (d) refers to the evidence or other material on which the findings of fact were based.
 - (e) [repealed]

[subs (4) am Act 56 of 2016 s 23, opn 23 Dec 2016; Act 5 of 2017 s 8, opn 5 May 2017]

- (5) A decision on a review is taken to have been made on the date of the written statement.

DIVISION 2 — REVIEW PROCEDURES

35 Parties may give information or written arguments to Tribunal

- (1) An applicant for review by the Tribunal may give the Registrar:
 - (a) a statutory declaration in relation to a matter of fact that the applicant wishes the Tribunal to consider; and
 - (b) written arguments relating to the issues arising in relation to the determination or decision under review.

- (2) The Secretary may give the Registrar written arguments relating to the issues arising in relation to the determination or decision under review.

36 Tribunal may seek information

In conducting a review, the Tribunal may:

- (a) invite, either orally, including by telephone, or in writing, a person to provide information; and
- (b) obtain, by any other means, information that it considers relevant.

37 Invitation to applicant to comment or respond

[s 37 rep Act 56 of 2016 s 24, opn 23 Dec 2016]

38 Requirements for invitation

[s 38 rep Act 4 of 2014 s 3 and Sch[11], opn 21 May 2014]

39 Failure of applicant to respond

Where a person is invited by the Tribunal to give information or to comment or respond to information but does not do so as required, the Tribunal may make a decision on the review without taking further action to obtain the information, comment or response.

40 Tribunal shall invite applicant to appear

- (1) The Tribunal shall invite the applicant to appear before the Tribunal to give evidence and present arguments relating to the issues arising in relation to the determination or decision under review.
- (2) Subsection (1) does not apply if:
 - (a) the Tribunal considers that it should decide the review in the applicant's favour on the basis of the material before it; or
 - (b) the applicant consents to the Tribunal deciding the review without the applicant appearing before it.
- (3) An invitation to appear before the Tribunal shall be given to the applicant with reasonable notice and shall:
 - (a) specify the time, date and place at which the applicant is scheduled to appear; and
 - (b) invite the applicant to specify, by written notice to the Tribunal given within 7 days, persons from whom the applicant would like the Tribunal to obtain oral evidence.
- (4) Where the Tribunal is notified by an applicant under subsection (3)(b), the Tribunal shall have regard to the applicant's wishes but is not required to obtain evidence, orally or otherwise, from a person named in the applicant's notice.

41 Failure of applicant to appear before Tribunal

- (1) Where the applicant:
 - (a) is invited to appear before the Tribunal; and
 - (b) does not appear before the Tribunal on the day on which, or at the time and place at which, the applicant is scheduled to appear,

the Tribunal may make a decision on the review without taking further action to allow or enable the applicant to appear before it.

- (2) This Section does not prevent the Tribunal from rescheduling the applicant's appearance before it, or from delaying its decision on the review, in order to enable the applicant's appearance before it as rescheduled.

DIVISION 3 — MISCELLANEOUS

42 Rights conferred by this Part additional to other rights

The rights of a person provided under this Part for a review of a determination or decision are in addition to, and not in derogation of, any other right that the person may have for review of the determination or decision.

PART 5 — APPEAL

43 Jurisdiction of Supreme Court

- (1) A person may appeal to the Supreme Court against a decision of the Tribunal on a point of law.

[subs (1) subst Act 56 of 2016 s 25, opn 23 Dec 2016]

- (1A) Notwithstanding Section 43(1), the Supreme Court has no jurisdiction in respect of a determination by the Tribunal that a person is not to be given derivative status.

[subs (1A) insrt Act 56 of 2016 s 26, opn 23 Dec 2016]

- (2) The parties to the appeal are the appellant and the Republic.
- (3) The notice of appeal shall be filed within 42 days after the person receives the written statement of the decision of the Tribunal.

[subs (3) am Act 18 of 2015 s 3, opn 14 Aug 2015]

- (4) The notice of appeal shall:
 - (a) state the grounds on which the appeal is made; and
 - (b) be accompanied by the supporting materials on which the appellant relies.
- (5) The Supreme Court may by order, through the Registrar or a Judge, extend the period in subsection (3), as may be considered appropriate if:
 - (a) an application for the order has been made in writing to the Supreme Court specifying that the appellant considers it necessary in the interest of the administration of justice to make that order; and
 - (b) the Supreme Court is satisfied that it is necessary in the interests of the administration of justice to make that Order.

[subs (5) insrt Act 18 of 2015 s 4, opn 14 Aug 2015]

[s 43 am Act 56 of 2016 s 27, opn 23 Dec 2016]

44 Decision by Supreme Court on appeal

- (1) In deciding an appeal, the Supreme Court may make either of the following orders:
 - (a) an order affirming the decision of the Tribunal; or
 - (b) an order remitting the matter to the Tribunal for reconsideration in accordance with any directions of the Court.
- (2) Where the Court makes an order remitting the matter to the Tribunal, the Court may also make either or both of the following orders:
 - (a) an order declaring the rights of a party or of the parties; and
 - (b) an order quashing or staying the decision of the Tribunal.

45 Costs

The Supreme Court may not make an order for costs against the appellant except in extraordinary circumstances.

46 Period within which Tribunal shall reconsider matter remitted

- (1) Where a matter is remitted to the Tribunal for reconsideration, the Tribunal shall complete its reconsideration within 90 days.

- (2) Failure to comply with this Section does not affect the validity of a decision on an application for merits review.

47 Rights conferred by this Part additional to other rights

The rights of a person provided under this Part for an appeal against a decision are in addition to, and not in derogation of, any other right that the person may have for review of the decision.

PART 6 — CONFIDENTIALITY

48 Confidentiality

- (1) The Secretary and the Supreme Court shall maintain confidentiality at all times as to:
 - (a) the identity of an asylum seeker whose application to be recognised as a refugee is being considered under this Act; and
 - (b) the particulars of the determination of the application or any other matter relevant to the determination.
- (2) Subsection (1) does not prevent disclosure of particulars:
 - (a) to a person necessarily involved in determining the relevant determination, including any appeal;
 - (b) to a public officer whose functions in relation to the asylum seeker require knowledge of those particulars;
 - (c) to the United Nations High Commissioner for Refugees or a representative of the High Commissioner; or
 - (d) in dealing with government officials of other countries, not being the country of feared persecution.
- (3) Subsection (1) does not apply if an asylum seeker has waived his or her rights under that subsection.

49 Disclosure of certain information

- (1) This Section applies to information that:
 - (a) is given to the Secretary or the Tribunal in confidence; or
 - (b) is of a kind prescribed by the Regulations.
- (2) Where the Secretary or the Tribunal receives information to which this Section applies, the Secretary or the Tribunal, as the case requires:
 - (a) may, for the purpose of the exercise of powers under this Act, have regard to the information; and
 - (b) shall, if intending to rely on the information for the purpose of the exercise of powers contrary to the interests of an applicant, disclose the information to the applicant.
- (3) Where the Secretary or the Tribunal discloses information to the applicant under subsection (2)(b), the Secretary or the Tribunal, as the case requires, may give a direction to the applicant that the information shall not be disclosed except in a specified manner and to specified persons, or to persons of a specified class.
- (4) A person commits an offence, if the person discloses information contrary to a direction of the Secretary or the Tribunal under subsection (3).

Maximum penalty: imprisonment for 2 years.

50 Disclosure of confidential information

- (1) This Section applies to a person who is or has been:
 - (a) the Secretary;
 - (b) a member of the Tribunal;
 - (c) an officer of the Tribunal;

- (d) a Judge of the Supreme Court;
 - (e) an officer of the Supreme Court; or
 - (f) a person providing interpreting services in connection with:
 - (i) a review by the Tribunal; or
 - (ii) an appeal in the Supreme Court.
- (2) This Section applies to information or a document if the information or document:
- (a) concerns a person; and
 - (b) is obtained by a person to whom this Section applies in the course of performing functions or exercising powers under this Act.
- (3) A person to whom this Section applies, shall not:
- (a) make a record of information to which this Section applies; or
 - (b) directly or indirectly divulge or communicate to a person information to which this Section applies,
- unless the record is made or the information is divulged or communicated:
- (i) for the purposes of this Act; or
 - (ii) for the purposes of, or in connection with, the performance of a function or the exercise of a power under this Act.

Maximum penalty: imprisonment for 2 years.

- (4) A person to whom this Section applies shall not be required to produce, or permit access to, a document, or to divulge or communicate information, to which this Section applies to or in:
- (a) a court;
 - (b) a tribunal;
 - (c) Parliament;
 - (d) a Parliamentary Committee; or
 - (e) any other authority or person having power to require the production of documents or the answering of questions,
- except if it is necessary to do so for the purposes of carrying into effect the provisions of this Act.
- (5) For the purposes of this Section, a person who is providing interpreting services in connection with a review by the Tribunal or an appeal in the Supreme Court is taken to be performing a function under this Act.

PART 7 — RECOGNITION OF DECLARATION OF REFUGEE STATUS, ETC

[Pt 7 subst Act 28 of 2018 s 4, opn 4 Oct 2018]

51 Principal Member’s obligation to report to Minister

[s 51 rep Act 28 of 2018 s 4, opn 4 Oct 2018]

52 Recognition of determinations made in foreign country

- (1) The Secretary may, after carrying out his or her own investigation or inquiries, recognise a declaration, decision or record made under the laws of a foreign country determining that an asylum seeker be:
 - (a) recognised as a refugee;
 - (b) given derivative status; or
 - (c) owed complementary protection,and may issue a certificate or record as prescribed by regulations.
- (2) Where the Secretary is satisfied under subsection (1), the Secretary may recommend in writing to the Secretary for Justice and Border Control for the granting of temporary settlement visas to persons whose determinations are recognised by the Secretary under subsection (1).
- (3) A declaration, decision or record recognised under subsection (1), shall be treated for the purposes of granting the temporary settlement visa on the same terms and conditions to the persons determined under this Act which includes:
 - (a) duration or renewal of visa; and
 - (b) temporary settlement until the Commonwealth of Australia resettles the persons in another country.
- (4) For the avoidance of any doubt, any person authorised to enter the Republic under this Section, shall not have any additional rights or entitlements to that of persons determined under Section 6.
- (5) There shall be no review or appeal from the decision of the Secretary under this Section.

[s 52 am Act 28 of 2018 s 4, opn 4 Oct 2018]

PART 8 — MISCELLANEOUS

[Pt 8 insrt Act 28 of 2018 s 5, opn 4 Oct 2018]

53 Secretary not liable

The Secretary shall not be liable in any suit, action or proceeding including constitutional redress in any court of the Republic or any quasi-judicial or administrative body for anything done in the *bona fide* exercise or the purported exercise of a power or function under this Act or any other written law.

54 Regulations

- (1) The Cabinet may make regulations prescribing all matters necessary or expedient to give full effect to this Act.
- (2) The regulations may:
 - (a) be of general application or vary in their application according to prescribed factors; and
 - (b) give a person discretion to decide a matter.

55 Delegation of Secretary's powers

The Secretary may, by writing signed by him or her, delegate to a person, any of the Secretary's powers under this Act except for this power of delegation.

Refugees Convention Regulations 2013

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
1	Citation
2	Commencement
3	Application for refugee status
4	Tribunal members – eligibility requirements
	SCHEDULE 1 — APPLICATION FOR REFUGEE STATUS DETERMINATION
	SCHEDULE 2 — APPLICATION FOR DERIVATIVE STATUS

Refugees Convention Regulations 2013

TABLE OF AMENDMENTS

The Refugees Convention Regulations 2013 SL 5 was notified and commenced on 9 May 2013 (GN No 353/2013; Gaz 69/2013).

Amending Legislation	Notified	Date of Commencement
Refugees Convention (Amendment) Regulations 2017 SL 4	14 March 2017	14 March 2017
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

The Cabinet makes the following Regulations under the *Refugees Convention Act 2012*:

1 Citation

These Regulations may be cited as the *Refugees Convention Regulations 2013*.

2 Commencement

These Regulations commence on the day they are notified.

3 Application for refugee status

For the purposes of Section 5(2) of the Act, the prescribed form:

- (a) for an application to be recognised as a refugee is set out in Schedule 1 to these Regulations; and
- (b) for an application to be given derivative status is set out in Schedule 2 to these Regulations.

[reg 3 subst SL 4 of 2017 reg 4, opn 14 Mar 2017]

4 Tribunal members – eligibility requirements

For the purposes of Section 13(3) of the Act, a person is eligible for appointment as a member of the Refugee Status Review Tribunal only if the person has:

- (a) at least 2 years' experience in refugee merits review at a tribunal or equivalent level;
- (b) proven capacity to conduct administrative review;
- (c) thorough knowledge of UNHCR refugee status guidelines and standards; and
- (d) demonstrated skills in research, clear oral and written communication and use of word-processing software.

SCHEDULE 1



REPUBLIC OF NAURU

REFUGEES CONVENTION ACT 2012

[Regulation 3(a)]

APPLICATION FOR REFUGEE STATUS DETERMINATION

About this form

Important – please read this information carefully before you complete your application. Once you have completed your application we strongly advise that you keep a copy for your records.

Before filling in the form, make sure you have all the required documents, and make sure you have read the information page carefully.

Making a valid application

To make a valid application you shall:

- Use this application form
- Complete the form in English
- Answer all questions truthfully

— Lodge the application with the RSD Registry (located in the Department of Justice & Border Control, Government Offices, Yaren District)

Any application that does not meet these requirements will not be a valid application and cannot be processed.

General Information about this Application

• Your application to be recognised as a refugee will be assessed on the basis of the claims you provide in this form and other relevant information, such as current information about the country you are seeking protection from.

• Your RSD application can include all members of your family unit who are with you in Nauru. To include them in your application, you will need to list their names and details on **Part A** of this form. Members of the same family unit include a partner (spouse or de facto partner), dependent children and may include other dependent relatives.

• It is necessary that at least one person in the family presents claims for refugee status. To detail your claims, you will need to complete **Part E** of this form.

• If a member of your family unit listed in **Part A** also has their own claims for refugee status, they should complete a separate **Part E**, providing details of their individual claims.

• If there is insufficient space to respond to any of the questions in this application, attach a signed statement containing the additional information **and indicate to which part and question it refers.**

• Information you provide in this application and any accompanying statements may also be used as the basis for checks with authorities in countries through which you have transited or where you have lived since you left your country of origin and may be disclosed to these authorities.

- It is therefore in your interest to provide as much information as possible to support your application.

- The information you provide in this form may be disclosed by the Secretary to other Nauruan Government agencies including those involved in security and law enforcement. It may also be disclosed to the authorities in a potential country of resettlement, and to international organizations such as IOM or UNHCR. By signing this Form, you consent to the information being shared to the extent required

- If you indicate that you have had any previous contact with the United Nations High Commissioner for Refugees (UNHCR), the Government of Nauru will confirm this with the UNHCR. The Government of Nauru may also share details of your claims or any other information that you have provided to the UNHCR.

- The Secretary may cancel your recognition as a refugee if your determination was procured by fraud, forgery, false or misleading representation or concealment of relevant information.

- When answering questions tick boxes where appropriate. You should also provide any evidence that you have which supports your claims.

Definition of a Refugee

A refugee is defined by Article 1(A)(2) of the 1951 Convention relating to the Status of Refugees, as amended by its 1967 Protocol, as a person who

- The Department of Justice & Border Control will not disclose any information about you to the country you are seeking protection from, unless you have been found not to be in need of protection and all your appeals have been finalised, or unless you explicitly give your consent.

The reasons you give for why you are a refugee in Part E should be **your** reasons only.

Other members of your family unit included in this application and named in question 7, who have their own reasons for claiming protection should give their reasons on a separate **Part E** or they may submit a separate application. **Any member of the same family unit may request a separate interview to discuss their claims.**

You should answer the questions in Part E in your own words. You should tell us the reasons you think you are entitled to protection under the Refugee Convention.

In answering the questions, you should tell us if you think any of these reasons are because of:

- your race;
- your religion;
- your nationality;
- your membership of a particular social group;
- your political opinion;
- other reasons.

You should wherever possible provide dates, locations, etc. in respect of any events/occurrences to which you refer.

... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

Your claims will be assessed against the definition of a refugee set out in the Refugees Convention. It is important that you include all details, because an assessment may be made based on the information provided in this document.

Other relevant international obligations

If you are not found to be owed protection under the Refugees Convention your claims will be assessed to determine whether they engage Nauru's other relevant international obligations that prevent the return of a person to a place where they would face certain types of harm. These are called *non-refoulement* (non-return) obligations.

Nauru has *non-refoulement* (non-return) obligations where there is a real risk that the person being returned will be subjected to torture, cruel, inhuman or degrading treatment or punishment, arbitrary deprivation of life or the imposition of the death penalty.

Identification

As part of the RSD process, you are required to provide the identifying documents (e.g. passport, birth certificate or other forms of primary identification) in support of your application if you have them.

Failure to comply with this requirement may result in the Secretary declining to make a determination.

Supporting Documents

Attach copies of all available documents, listed in Part D, with your application.

All documents not in English should be accompanied by a certified English translation of the original.

You should also provide any evidence that you have which supports your claims. You may answer these questions on the application form or by submitting a separate statement with your application. **All claims and supporting material should be provided when you lodge the application**

A decision on your application will be made on the basis of all the information you provide to the Department before the decision is made, and in accordance with the requirements of the Refugees Convention Act 2012.

If you are waiting for evidence or documents from overseas or translations of documents to support the claims you have made, please indicate this clearly at Question 17 of the application form.

Note: A decision may be made on the basis of the application and information you have provided with it, without waiting for your additional information or documents.

The Department will also advise you in writing if more information is required to make a decision.

Note: You may be asked to make an oath or affirmation that the information you provide is true.

Getting help with your application

Help with English

You can use an interpreter or translator to help prepare your application. If you are residing in the Regional Processing Centre, an interpreter will be made available to you to assist in preparation of your application.

Additional information

If you have new information related to your application, you should send it to the Department of Justice & Border Control as soon as possible so that it can be considered with your application.

Claims Assistance Providers (CAP)

CAP gives free, professional migration advice and assistance to all applicants. For more detailed information about assistance provided under the Scheme, please contact the Nauru Department of Justice & Border Control.

How to complete this form

Please write neatly in English using BLOCK LETTERS.

Tick where applicable.

Answer all questions truthfully and completely.

Where there is insufficient space for your answer, please continue on a separate page of paper.

Clearly mark the separate page with the question number it relates to.

Sign the form at Part G.

Lodge the completed application form at the RSD Registry in the Department of Justice & Border Control. If you are residing at the Regional Processing Centre, the completed application form will be lodged by the Claims Assistance Provider.

Part A – Details of person/s included in this application

Principal Applicant:(the person who has claims for refugee status)

1. Your full name
- Family name:
- Given names:
2. Name in your own language or script (if applicable)
3. Sex Male Female
4. Date of birth (day, month, year)
5. Are you an unaccompanied minor? (a minor is someone under 18 years of age) Yes No
6. Place of birth: Town/City/District:
Country:

7. List all accompanying family members in this application. Members of the same family unit include a partner (spouse or de facto), dependent children and may include other dependent relatives who are also in Nauru.

Applicant Number	Family Name	Given Name	Gender	Date of Birth dd/mm/yyyy	Place of Birth Town/Country	Relationship to Principal Applicant	Marital Status
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3
4
5

If insufficient space, attach additional details.

8. Write the names of all person/s included in this application and named in question 7 in your own script or characters. If applicable specify language.

Applicant number	Name in ethnic script	Language
------------------	-----------------------	----------

2

3
4
5

If insufficient space, attach additional details

9. List other names you have been known by such as name before marriage, previous married name or alias. Also write in your own script or characters. If you changed your name, describe why and when you changed your name (and specify language).

Applicant number	Details
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1
2
3
4
5

If insufficient space, attach additional details.

Part B – Family members not included in this application

(Including a partner (spouse or de factor partner), children, parents, siblings and may include other dependant relatives)

10. Do any persons included in this application and named in question 7 have immediate family members who are NOT in Nauru at the time of this application?

Yes No

If you answered 'Yes' to the above question, provide details below:

Family Name	Given Name	Gender	Date of Birth <i>dd/mm/yyyy</i>	Place of Birth <i>Town/Country</i>	Relationship to Principal Applicant	Marital Status
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If insufficient space, attach additional details

11. Do you or any of the persons included in this application, have family members on Nauru who are not included in this application?

Yes No

If you answered 'Yes' to the above question, provide details below:

Family Name	Given Name	Gender	Date of Birth <i>dd/mm/yyyy</i>	Place of Birth <i>Town/Country</i>	Citizenship	Relationship to Principal Applicant
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If insufficient space, attach additional details.

12. Have you or any of your family members currently in Nauru been in contact with friends or family outside Nauru since you left your country of nationality or former habitual residence?

Yes No

If you answered 'Yes' to the above question, provide details below:

--

If insufficient space, attach additional details.

Part C – Details of Convictions, charges or crimes committed

13. Have you or any family members included in this application and named in question 7 been convicted of a crime?

Yes No

If you answered 'Yes' to the above question, provide details below:

Applicant Number and Name	Crime/Offence	Date of conviction DD/MM/YYYY	Country

If insufficient space, attach additional details

14. Are you or any family members included in this application and named in question 7 the subject of any criminal investigation?

Yes No

If you answered 'Yes' to the above question, provide details below:

Applicant Number and Name	Reason for investigation	Country

If insufficient space, attach additional details

15. Do you or any family members included in this application and named in question 7 have any criminal charges pending?

Yes No

If you answered 'Yes' to the above question, provide details below:

Applicant Number and Name	Charge (include date of charge)	Country

If insufficient space, attach additional details

16. Have you or any family members included in this application and named in question 7 ever been involved in crimes against humanity (including but not limited to, war crimes and genocide)?

Yes No

If you answered 'Yes' to the above question, provide details below:

Applicant Number and Name	Type of involvement (include date of charge)	Country

If insufficient space, attach additional details

Part D – Identity Documents

17. List all identity documents provided (for you or any family member included in this application and named in question 7). If you are planning to provide documents at a later date, indicate when you expect to provide them.

Documents (passport/s, birth certificate, drivers licence, identity document/s)	With my application	Will provide later by (insert anticipated date)
A	<input type="checkbox"/>	<input type="checkbox"/>
B	<input type="checkbox"/>	Date: <input type="checkbox"/>
C	<input type="checkbox"/>	Date: <input type="checkbox"/>
D	<input type="checkbox"/>	Date: <input type="checkbox"/>
E	<input type="checkbox"/>	Date: <input type="checkbox"/>
F	<input type="checkbox"/>	Date: <input type="checkbox"/>
G	<input type="checkbox"/>	Date: <input type="checkbox"/>
H	<input type="checkbox"/>	Date: <input type="checkbox"/>
I	<input type="checkbox"/>	Date: <input type="checkbox"/>

If insufficient space, attach additional details

18. If you cannot provide any of the documents requested in Question 17 (passport/s, birth certificate, drivers licence and identity document/s) indicate which document/s and explain why.

If insufficient space, attach additional details

Part E – Statement of Claims and Background Information

Details of Principal Applicant (the name of the Applicant should be as written in *Part A*)

19. Family Name/s:

Given Name/s:

Applicant Number as in Part A:

20. Boat Identity (if known/applicable)

21. Place of Birth:

Town/City/District:

Country:

22. Relationship Status: single married engaged
 separated divorced widowed
 in a de facto relationship

If married, date of marriage (date, month, year):

Place of marriage:

Town/City/District:

Country:

23. What language/s do you speak, read or write (including English)?

Language/Dialect in order of preference	Speak	Read	Write
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

24. Ethnicity/tribal group:

25. Religion:

26. Are you a member of a political party/group? Yes No

If you answered 'Yes' to the above question, please provide details below:

Citizenship

27. Your citizenship at birth:

(if stateless, country of birth)

28. Your current citizenship (if different to birth)

Date acquired (day, month, year):

29. Do you hold any other citizenship? Yes No

If you answered 'Yes' to the above question, provide details below:

30. Have you taken up residence (ie, benefitted from a secure residency status) in any country/s other than your country/s of nationality or former habitual residence?

Yes No

If you answered 'Yes' to the above question, provide details below:

31. Are you stateless? (A stateless person is not a national or a citizen of any country)

Yes No

If you answered 'Yes' to the above question, provide details below (i.e. explain how you became stateless):

32. Do you receive or are you entitled to receive a pension or to any other regular income from any country?

Yes No

If you answered 'Yes' to the above question, provide details below:

--

Former Residence

33. List all countries previously travelled to, including for transit, visit, work or residence

Country	Date of arrival in that country (MM/YYYY)	Date of departure from that country (MM/YYYY)	Status in that country (i.e. citizen, permanent resident, temporary resident, student, unlawful, visitor, transit)	Reason for residence or transit or travel to this country (e.g. working, student etc)

If insufficient space, attach additional details

34. Give details of all addresses where you have resided.

Date lived there		Country	Address (specify city/town/village)	Reason for moving
	MM/YYYY			
FROM				
TO				
FROM				
TO				
FROM				
TO				
FROM				
TO				
FROM				
TO				

If insufficient space, attach additional details

Education

35. Give details of all the education you have undertaken (in any country)

Total number of years:

Dates	Name of school/institution	Address (specify city/town/village)	Country	Qualification
M/YYYY				
FROM				
TO				
FROM				
TO				
FROM				
TO				
FROM				
TO				
FROM				
TO				

If insufficient space, attach additional details

Past Employment

36. Give details of your employment history (for the periods not employed, show the reason e.g. studying, unemployed, national service, in prison, etc).

Employment Details	Employer's name and address OR show if studying unemployed, in national service in prison etc	Address (specify city/town/village)	Position/Occupation
MONTH/YEAR			
FROM			
TO			
FROM			
TO			
FROM			
TO			
FROM			
TO			
FROM			
TO			
FROM			
TO			
FROM			
TO			

If insufficient space, attach additional details

Your reasons for claiming to be a refugee

37. State your reasons for why you are claiming refugee status.

If insufficient space, attach additional details

38. What is the name of the country you have a fear of returning to?

If insufficient space, attach additional details

39. Why did you leave your home country?

If insufficient space, attach additional details

40. What do you fear may happen to you or your accompanying family members if you go back to your home country? Please explain why.

If insufficient space, attach additional details

41. What harm, if any, have you experienced in your home country?

If insufficient space, attach additional details

42. Who do you think may harm/mistreat you if you go back to your home country?

If insufficient space, attach additional details

43. Why do you think this will happen to you if you go back to your home country?

44. Do you think the authorities in your home country can and will protect you if you go back? If not, why?

If insufficient space, attach additional details

45. Do you have any documentary evidence to support your claims (e.g. including but not limited to membership cards, court documents, photographs, press articles):

Yes No

If you answered 'Yes' to the above question, provide details below:

46. When did you leave your home country?

47. At what airport, port or place of departure did you leave your home country?

48. a) Have you ever been issued with a travel document (such as a passport)?

Yes No

If you answered 'Yes' to the above question, do you have the documents with you? If you have the genuine documents with you, provide details in Part D, question 17. If you do not have the documents with you, complete the table below.

Full name as it appears in the travel document	Type of document	Document number	Country of document & issuing authority/place of issue as shown in your passport	Date of issue	Date of expiry	Current location of document

If insufficient space, attach additional details

b) If you answered 'Yes' to the above question, have you ever had a travel document extended by the authorities of your home country?

Yes No

If you answered 'Yes' to the above question, provide details below:

49. a) Did you leave your home country with the permission of the Government?

Yes No

b) Did you leave your home country using any documents (fraudulent or genuine) upon departure?

Yes No

If you answered 'Yes' to the above question, do you have the documents with you? Where the documents are genuine, if you have the documents with you or can provide them, provide details in Part D, question 17. If you cannot provide the documents, provide details in Part D, question 18.

50. If you have been issued a travel document (such as a passport) at any time in the past, did you have difficulties in obtaining it in your home country?

Yes No

If you answered 'Yes' to the above question, provide details below:

51. Is your travel document valid for return to your home country?

Yes No

If you answered 'Yes' to the above question, provide details below:

52. Have you ever been registered with, or been assessed for refugee status by the United Nations High Commissioner for Refugees (UNHCR)?

Yes No

If you answered 'Yes' to the above question, provide details below:

--

53. Have you or any family members included in this application and named in question 7 lived in a refugee camp, centre for refugees, or detention centre?

Yes No

If you answered 'Yes' to the above question, provide details below:

Name of camp/centre	Location	Name of organisation who ran the camp/centre	Dates/Period you lived there	Applicant number and names of family members who lived there

If insufficient space, attach additional details

54. Have you applied for asylum, or refugee status, in any country other than Nauru?

Yes No

If you answered 'Yes' to the above question, provide details below, including the outcome, if any, of the application:

--

55. Have you ever made contact with an Embassy, High Commission or Consulate of another country?

Yes No

If you answered 'Yes' to the above question, provide details below:

--

56. Are there any other matters that you would like the Government of Nauru to consider in assessing your claims for refugee status?

--

Part F: Assistance with this application

57. Did you receive assistance in completing this application?

Yes No

If you answered 'Yes' to the above question, provide details below of the person who assisted you:

Title: Mr Mrs Miss Ms Other:

Family Name/s:

Given Name/s:

Relationship to you:

Address:

Telephone number or daytime contact:

Signature of person giving assistance

Date: DD/MM/YYYY

Part G: Dependent Applicant's Authorisation

If this application includes more than one dependent Applicant

- I authorise the Secretary to communicate with the Principal Applicant or his or her claims assistance provider/other representative about this application.

Applicant 2 Signature _____ Date _____

Applicant 3 Signature _____ Date _____

Applicant 4 Signature _____ Date _____

Applicant 5 Signature _____ Date _____

Applicant 6 Signature _____ Date _____

Applicant 7 Signature _____ Date _____

Applicant 8 Signature _____ Date _____

Part H: Applicant's declaration and consent form

Read and sign this declaration

I, (write your name here)

Do solemnly declare:

- I have read and understood the information supplied to me in this application for Refugee Status Determination.
- The information I have supplied on or with this application is to the best of my knowledge complete, correct and up to date in every detail.

- I understand that if I have given false or misleading information, my application for refugee status may be refused, or, if I have been recognised as a refugee, the recognition may be revoked if the false and misleading information affects the basis for my claims.
- I will inform the Government of Nauru of any significant changes to my personal circumstances (eg marital status, changes to the family composition) while my claims are being considered.
- I authorise the Government of Nauru to make any enquiries with international agencies (including UNHCR) necessary to determine my refugee status and to use any information supplied by these agencies for that purpose. I consent to the Government of Nauru making inquiries regarding my immigration status with the relevant authorities in those countries in which the Government of Nauru suspects that I may have temporarily or permanently resided, other than the country or countries in which I claim to fear persecution.
- I consent to the release of any information about me by the relevant authorities in the countries mentioned in Part E Question 30 to the Government of Nauru, including all necessary information to establish that I have taken up residence in that country, and any rights conferred by such residence.
- I consent to the release of any information from this application for the purposes of any review of the assessment of my claims for refugee status, to potential resettlement countries, to international organizations such as UNHCR and IOM.
- I have signed any statutory declaration that I have included with this application.

Signature of the Applicant: **Applicant Number:** **Date: DD / MM / YYYY**

Please note that a separate declaration is required by each Applicant.

Interpreter's declaration

If an interpreter was used in the preparation of this application, the interpreter shall complete this declaration.

I declare that:

I am competent in English and _____ (language)

I have faithfully interpreted all contents of this application form into the Applicant's language, including the Applicant's declaration on this page, as appropriate, and have faithfully interpreted the Applicant's responses into English.

Signature of interpreter:

_____ ID Number: _____

Date: _____

SCHEDULE 2



REPUBLIC OF NAURU

REFUGEES CONVENTION ACT 2012

[Regulation 3(b)]

APPLICATION FOR DERIVATIVE STATUS

[Sch2 insrt SL 4 of 2017 s 5, opn 14 Mar 2017]

About this form

Important – please read this information carefully before you complete your application. Once you have completed your application we strongly advise that you keep a copy for your records.

Who should complete this form

You should complete this form if you believe you are entitled to *derivative status*. You may be entitled to *derivative status* if:

- you are not a refugee, and you are not owed complementary protection; **but**

- you are a *dependent* of a person who is a refugee, who is owed complementary protection, or who has been given derivative status.

You may be a *dependent* of a person if you are:

- that person's spouse;
- that person's child under the age of 18 years; or
- dependent on that other person for financial, emotional, psychological or physical support.

If you are given derivative status, you will be given a Refugee Determination Record.

Making a valid application

To make a valid application, you shall:

- use this application form
- complete the form in English
- answer all questions truthfully.

Any application that does not meet these requirements will not be a valid application and cannot be processed.

The information you provide

Information you provide in this application and any accompanying statements may be disclosed by the Secretary to other Government of Nauru agencies, including those involved in security and law enforcement. It may also be disclosed to the authorities in a potential country of resettlement, and to international organisations such as IOM or UNHCR. By signing this form, you consent to the information being shared to the extent required.

If you were included in that person's application for refugee status, you are taken to have already applied for *derivative status* and do not need to use this application form. You do not need to make another application for *derivative status* unless you are applying as a *dependent* of a different person. You shall use a separate form for each person you are applying to be a dependent of.

The assessment process

This application form is your opportunity to satisfy the Secretary that you are a dependent of a person who has been given a Refugee Determination Record. You should include all of the information you have in support of your claim of dependency on that person. It is possible that you will be invited to an interview with respect to your application, however **your application may be determined without an interview.**

Part A — Details of applicant

- 1. Your family name _____
- 2. Boat ID _____
- 3. Your given name(s) _____
- 4. Name in your own language or script (if applicable) _____
- 5. Date of birth _____
- 6. Sex _____

Part B — Details of person on whom you are dependent

- 7. Person’s family name _____
- 8. Boat ID _____
- 9. Person’s given name(s) _____
- 10. Date of birth _____
- 11. Sex _____
- 12. Nature of relationship
 Spouse Child under 18 years Dependency for support

Part C — Details of dependency

- 13. Please set out in writing the reasons why you are a ‘dependent’ of the person named in Part B.

Please include any documentary or other evidence (for example, marriage certificate, birth certificate, medical records etc).

IMPORTANT: This application form is your opportunity to satisfy the Secretary that you are a dependent of a person who has been given a Refugee Determination Record. You should include all of the information you have in support of your claim of dependency on that person. Where you are claiming dependency based on financial, emotional, psychological or physical support, you should include a statement which details the history of the relationship, living arrangements, daily interactions, any financial interaction etc.

You may attach additional pages to this application form.

Part D — Applicant's declaration and consent form

14. I, (name) _____
do solemnly declare that:
- I have read and understood the information supplied to me in this application.
 - The information I have supplied on or with this application is to the best of my knowledge complete, correct and up to date in every detail.
 - I will inform the Government of Nauru of any significant changes to my personal circumstances (eg marital status, changes to the composition of my family) while my application is being considered.
 - I consent to the release of any information from this application for the purposes of any review of the assessment of my claims for derivative status, to potential resettlement countries, and to international organisations such as UNHCR or IOM.

Signature of the applicant:**Date:**

Part E — Interpreter's declaration

15. If the services of an interpreter were used in the preparation of this application, the interpreter shall complete this declaration.

I declare that:

I am competent in English and _____ (language)

I have faithfully interpreted all contents of this application form into the applicant's language, including the applicant's declaration on this page, as appropriate, and have faithfully interpreted the applicant's responses into English.

Signature of interpreter:**Date:**

ID number: _____

Refugees Convention (Recognition of Declaration for Refugee Status, Derivative Status and Complementary Protection by Papua New Guinea) Regulations 2019

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
1	Citation
2	Commencement
3	Certificate for recognition of declaration, decision or record
4	Secretary may issue a record
	SCHEDULE — RECORD OF RECOGNITION

Refugees Convention (Recognition of Declaration for Refugee Status, Derivative Status and Complementary Protection by Papua New Guinea) Regulations 2019

TABLE OF AMENDMENTS

The Refugees Convention (Recognition of Declaration for Refugee Status, Derivative Status and Complementary Protection by Papua New Guinea) Regulations 2019 SL 3 was notified and commenced on 10 February 2019 (GN No 111/2019; Gaz 22/2019).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

The Cabinet makes the following Regulations under Section 52(1) of the *Refugees Convention Act 2012*:

1 Citation

These Regulations may be cited as the *Refugees Convention (Recognition of Declaration for Refugee Status, Derivative Status and Complementary Protection by Papua New Guinea) Regulations 2019*.

2 Commencement

These Regulations commence on the day they are notified in the Gazette.

3 Certificate for recognition of declaration, decision or record

Where the Secretary under Section 52 of the Act recognises a declaration, decision or record under the laws of Papua New Guinea determining that an asylum seeker be:

- (a) recognised as a refugee status;
- (b) given derivative status; or
- (c) owed complementary protection,

the Secretary shall issue to such person a record of similar status or protection.

4 Secretary may issue a record

- (1) The record of recognition under Regulation 3, shall be in the Form contained in the Schedule.
- (2) A record of recognition issued under Regulation 3, shall be conclusive evidence and recognition that the person is granted the respective:
 - (a) refugee status;
 - (b) derivative status; or
 - (c) complementary protection.
- (3) A person issued with a record of recognition under Regulation 3, shall be accorded the same treatment as if he or she were granted the status or protection under the laws of the Republic in the first instance.
- (4) A person issued with a record of recognition under Regulation 3, shall be subject to the laws of the Republic in the same manner as it applies to a person granted similar protection under the laws of the Republic in the first instance.

SCHEDULE



REPUBLIC OF NAURU

REFUGEES CONVENTION ACT 2012

[Regulation 4(1)]

RECORD OF RECOGNITION

File number: Boat ID

DETAILS

Family Name:	
Given Name:	
Date of Birth:	
Sex:	
Country of Reference:	
Nature of status or protection granted by Papua New Guinea:	
Reference Number for the record issued by Papua New Guinea:	

PURSUANT to Section 52(1) of the *Refugees Convention Act 2012*, I hereby:-

- (a) recognise the (*declaration/decision/record*) made under the laws of **Papua New Guinea** that [*first name(s) + SURNAME(s)*] was (*recognised as a refugee/given derivative status/owed complementary protection*); and
- (b) issue to you [*first name(s) + SURNAME(s)*](*refugee status, derivative status or complementary protection*) in the Republic of Nauru.

ISSUED thisday of20.....

.....
**SECRETARY FOR
MULTICULTURAL AFFAIRS**

