



REPUBLIC OF NAURU

Refugees Convention (Amendment) Act 2014

No. 4 of 2014

An Act to amend the *Refugees Convention Act 2012*

Certified on 21 May 2014

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as *Refugees Convention (Amendment) Act 2014*.

2 Commencement

This Act commences upon certification by the Speaker.

3 Act Amended

The Schedule amends the *Refugees Convention Act 2012*.

SCHEDULE - AMENDMENT OF REFUGEES CONVENTION ACT 2012

[1] Amendment of section 3

Insert in alphabetical order

'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 Nauru's international obligations;

'dependent' of a person means:

- (a) the person's spouse other than a spouse from whom he or she is formally separated; or
- (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;

'derivative status' means the status granted to a family member of or dependant of a person who has been determined to be a refugee.

[2] Amendment of section 4

Omit

Section 4

Substitute

4 Principle of Non-Refoulement

(1) The Republic must 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 must not expel or return any person to the frontiers of territories in breach of its international obligations.

[3] Amendment of section 5

Insert new section 5 (1A)

5(1A) A person may include family members and dependents in an application for refugee status.

[4] Amendment of section 6 (1)

Insert after the words ‘as a refugee’ the words ‘or is owed complementary protection’.

New section 6 (1) will now read-

(1) Subject to this Part, the Secretary must determine whether an asylum seeker is recognised as a refugee or is owed complementary protection.

[5] Amendment of section 6 (2)

Omit

Section 6 (2)

Insert new section 6 (2) and 6 (3)

(2) Dependents of an asylum seeker recognised as a refugee or owed complementary protection must be given derivative status.

(3) The determination must be made as soon as practicable after a person becomes an asylum seeker under this Act.

[6] Amendment of section 7(1)

Insert after the words ‘as a refugee’ the words ‘or is owed complementary protection’.

New section 7 (1) will now read-

'For the purposes of determining whether an asylum seeker is recognised as a refugee or is owed complementary protection,'

[7] Amendment of Section 9

7.1 Omit section 9 heading

Substitute

9 Notice of Determination

7.2 Insert after the first occurrence of the word '*refugee*', the words '*or is owed complementary protection,*'

New clause will now read:

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

7.3 Repeal

Section 9 (b)

7.4 Amendment of section 9 (c)

Insert after the words '**as a refugee**' the words '**or is found to be owed complementary protection**'.

Insert after the word 'determination' the words 'the reasons for the determination or decision and'

New section 9 (c) will now read:

'(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.'

[8] Amendment of Section 31 (1)

Insert new subsection (d)

(d) a determination that the person is not owed complementary protection.

[9] Amendment of Section 31 (3)

Omit

Section 31 (3)

Substitute

(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.

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

[10] Amendment of section 37 (c)

Omit

(c) invite the applicant in writing to comment on or respond to it.

Insert

(c) invite the applicant to comment on or respond to the information.

[11] Repeal section 38

[12] Insert new section 53

53 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.