

CHAPTER 4:03

REFUGEES ACT

Act 13/1983 22/2001 (s. 4).

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SCHEDULE

Articles of Conventions Applicable to Recognized Refugees and Protected Persons.

AN ACT to make provision for refugees; to enable effect. to be given within Zimbabwe to the Convention Relating to the Status of Refugees, done at Geneva on the 28th July, 1951, to the Protocol Relating to the Status of Refugees of the 31st January, 1967 and to the Convention Governing the Specific Aspects of Refugee Problems in Africa, done at Addis Ababa on the 10th September, 1969; and to provide for matters connected with or incidental to the foregoing.

[Date of commencement: 28th October, 1983.]

1 Short title

This Act may be cited as the Refugees Act [*Chapter 4:03*].

2 Interpretation

In this Act—

“authorized officer” means a person who is an authorized officer in terms of section *seventeen*;

“Commissioner” means the Commissioner for Refugees referred to in subsection (1) of section *four*;

“Committee” means the Zimbabwean Refugees Committee established by subsection (1) of section *five*;

“country of nationality”, in relation to a person who has more than one nationality, means each of the countries of which that person is a national;

“member of his family”, in relation to a refugee, means— (a) any spouse of the refugee; or

(b) any unmarried child of the refugee under the age of eighteen years; or

(c) any other person who is related to the refugee by blood or marriage and who is dependent upon the refugee;

“Minister” means the Minister of Public Service, Labour and Social Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“protected person” means—

(a) a member of the family of a recognized refugee; or

(b) a person who, in terms of subsection (3) or (4) of section *eleven*, is permitted to continue to remain within Zimbabwe;

“recognized refugee” means a refugee who—

- (a) has been recognized as a refugee in terms of section *seven*; or
- (b) is a member of a class of persons declared to be refugees in terms of subsection (2) of section *three*;

“refugee” means any person who is a refugee in terms of section *three*.

3 Meaning of “refugee”

(1) Subject to this section, a person shall be a refugee for the purposes of this Act if—

- (a) owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, he 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
- (b) not having a nationality and being outside the country of his former habitual residence, he is unable or, owing to a well-founded fear of being persecuted for reasons of race, religion, membership of a particular social group or political opinion, is unwilling to return to it; or
- (c) owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, he is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality; or
- (d) he has been considered a refugee under the Arrangements of the 12th May, 1926 and the 30th June, 1928, or under the Conventions of the 28th October, 1933 and the 10th February, 1938, the Protocol of the 14th September, 1939 or the Constitution of the International Refugee Organization; or (e) he is a member of a class of persons declared in terms of subsection (2) to be refugees.

(2) Subject to subsection (3), if the Minister considers that any class of persons are refugees as defined in paragraph (a), (b), (c) or (d) of subsection (1), he may declare such class of persons to be refugees, and may at any time amend or revoke such declaration:

Provided that no such amendment or revocation shall affect the right of any person—

- (a) who is a member of the class of persons concerned and who entered Zimbabwe before the date of such amendment or revocation, to continue to be regarded as a refugee for the purposes of this Act; or
- (b) who is a person such as is referred to in paragraph (a), (b), (c) or (d) of subsection (1), to be recognized as a refugee for the purposes of this Act.

(3) The Minister shall cause any declaration in terms of subsection (2), and any amendment or revocation thereof, to be published in the *Gazette* and in such other manner as he considers will best ensure that it is brought to the attention of authorized officers and persons to whom it relates.

(4) A person shall not be a refugee for the purposes of this Act if—

- (a) he has committed a crime against peace, a war crime or a crime against humanity, as defined in any international instrument to which Zimbabwe is a party and which has been drawn up to make provision in respect of such crimes; or
- (b) he has committed a serious non-political crime outside Zimbabwe prior to his admission to Zimbabwe as a refugee; or
- (c) he has been guilty of acts contrary to the purposes and principles of the United Nations Organization or the Organization of African Unity; or
- (d) having more than one nationality, he has not availed himself of the protection of one of the countries of which he is a national and has no valid reason, based on well-founded fear of persecution or on a reason referred to in paragraph (c) of subsection (1), for not having availed himself of its protection.

(5) A person shall cease to be a refugee for the purposes of this Act if—

- (a) he voluntarily re-avails himself of the protection of the country of his nationality; or
- (b) having lost his nationality, he voluntarily re-acquires it; or
- (c) he becomes a citizen of Zimbabwe, or acquires the nationality of some other country and enjoys the protection of the country of his new nationality; or
- (d) he voluntarily re-establishes himself in the country which he left, or outside which he remained owing to a reason referred to in paragraph (c) of subsection (1), as the case may be; or
- (e) he can no longer, because the circumstances in connection with which he was recognized as a refugee have ceased to exist—
 - (i) continue to refuse to avail himself of the protection of his country of nationality; or
 - (ii) if he has lost his nationality, continue to refuse to return to the country of his former habitual residence:

Provided that this paragraph shall not apply to a person who is referred to in paragraph (d) of subsection (1) and who satisfies the Commissioner that he has compelling reasons, arising out of previous persecution, for refusing so to avail himself or so to return, as the case may be; or

- (f) he is a person referred to in paragraph (c) of subsection (1), or is a member of a class of persons declared in terms of subsection (2) to be refugees on the ground that they are refugees as described in paragraph (c) of subsection (1), and—
 - (i) he has committed a serious non-political crime outside Zimbabwe after his admission into Zimbabwe as a refugee; or
 - (ii) he has seriously infringed the purposes and objectives of the Convention Governing the Specific Aspects of Refugee Problems in Africa, signed at Addis Ababa on the 10th September, 1969.

4 Commissioner for Refugees

- (1) There shall be a Commissioner for Refugees whose office shall be a public office and shall form part of the Public Service.
- (2) Subject to this section, the functions of the Commissioner shall be—
 - (a) to recognize persons as refugees for the purposes of this Act;
 - (b) to endeavour to ensure the provision of adequate facilities and services for the reception and care of refugees within Zimbabwe;
 - (c) to exercise any other powers and to perform any other duties that may be assigned to the Commissioner by or in terms of this Act.
- (3) In the performance of his functions in terms of this Act, the Commissioner shall comply with any general directions or instructions that the Minister may give him.
- (4) The Minister may assign to members of the Public Service, either absolutely or subject to conditions, any of the powers and duties conferred or imposed upon the Minister or the Commissioner by or in terms of this Act, and may at any time amend or withdraw any such assignment.
- (5) Where the Minister has assigned any power or duty to a member of the Public Service in terms of subsection (4), that member may, subject to any conditions fixed by the Minister, exercise the power or, as the case may be, shall perform the duty, in all respects as if he were the Minister or the Commissioner, as the case may be.

5 Establishment of Zimbabwean Refugees Committee

- (1) There shall be a committee, to be known as the Zimbabwean Refugees Committee, which shall consist of—
 - (a) subject to subsection (3), the Commissioner, who shall be the chairman of the committee; and
 - (b) not less than three other members appointed by the Minister, of whom—
 - (i) one shall be appointed after consultation with the Minister responsible for foreign affairs;
 - (ii) one shall be appointed after consultation with the Minister responsible for the administration of the Police Act [*Chapter 11:10*] and the Immigration Act [*Chapter 4:02*];
 - (iii) one shall be appointed after consultation with the Minister responsible for State security.
- (2) A member of the Committee shall hold office for such period as the Minister may in his case fix.
- (3) Whenever the Commissioner is for any reason unable to perform the functions of chairman of the Committee, such functions shall be performed by any person to whom, in terms of subsection (4) of section *four*, the Minister has assigned such functions.
- (4) Subject to subsections (3) and (5), the Committee shall—
 - (a) hold its meetings; and
 - (b) keep and furnish to the Minister records of its meetings; in accordance with such directions as may from time to time be given to it by the Minister.
- (5) At any meeting of the Committee three-quarters of its members shall constitute a quorum.
- (6) The Minister shall assign persons employed in his Ministry to perform such secretarial and administrative functions in connection with the Committee as may be necessary for the performance of its functions.

6 Functions of Committee

The functions of the Committee shall be—

- (a) to receive and consider applications referred to the Committee in terms of section *seven*; and
- (b) to exercise any other powers and to perform any other duties that may be assigned to the Committee by or in terms of this Act.

7 Recognition of refugees

- (1) Any person who is within Zimbabwe, whether he has entered Zimbabwe lawfully or otherwise, and who wishes to remain within Zimbabwe as a refugee in terms of this Act shall apply to an authorized officer for recognition of his status as a refugee.
- (2) An authorized officer to whom an application is made in terms of subsection (1) shall—
 - (a) if he is not himself an immigration officer, as soon as possible notify an immigration officer that the applicant is within Zimbabwe and has made the application; and
 - (b) within five days after the application was made to him, forward notice of the application, together with any documents or other information which the applicant is able to provide in support thereof, to the Commissioner, who shall without delay refer it to the Committee.

(3) Unless it is impossible or inexpedient to do so, the Committee shall consider every application referred to it in terms of subsection (2) within thirty days of the application being so referred, and may, either within such period of thirty days or thereafter, make such inquiry or investigation as the Committee thinks necessary into any such application.

(4) After considering any advice or recommendation given or made to him by other members of the Committee in relation to any application referred to the Committee in terms of subsection (2), the Commissioner—

- (a) may recognize or refuse to recognize the applicant as a refugee; and
- (b) shall cause the applicant to be notified of his decision in terms of paragraph (a).

(5) Any person who is aggrieved by a refusal by the Commissioner to recognize him as a refugee may, within seven days of being notified of such refusal, appeal in writing to the Minister.

(6) In any appeal in terms of subsection (5), the Minister may confirm or set aside the decision of the Commissioner and shall cause the appellant to be notified of his decision in the matter, and the decision of the Minister shall be final:

Provided that, before reaching a decision in an appeal, the Minister may do all or any of the following—

- (a) invite the representative in Zimbabwe of the United Nations High Commissioner for Refugees to make oral or written representations in the matter;
- (b) refer the matter back to the Committee for further inquiry and investigation to be made; (c) himself make such further inquiry and investigation into the matter as he thinks fit.

(7) If the Minister, in terms of subsection (2) of section *three*, expressly excludes or excepts any person from a declaration that a class of persons of which he is a member are refugees, such exclusion or exception shall not preclude the person concerned from applying in terms of subsection (1) for recognition of his status as a refugee.

8 Residence in Zimbabwe pending recognition as refugee or after refusal of recognition

(1) Notwithstanding any other enactment, any person who has applied in terms of section *seven* for recognition of his status as a refugee, and every member of his family, shall have the right to remain within Zimbabwe—

- (a) until such person has been recognized as a refugee in terms of that section: or
- (b) in the event of the application of such person being unsuccessful, until such person has had an opportunity to exhaust his right of appeal in terms of subsection (5) of that section; or
- (c) where such person has appealed in terms of subsection (5) of that section and his appeal has been unsuccessful, until such person has been allowed a reasonable time, not exceeding three months, and, if he is in detention, has in addition been afforded reasonable facilities, to seek admission to a country of his choice.

(2) The Minister may, on application being made to him by the person concerned, extend the three-month period referred to in paragraph (c) of subsection (1) if he is satisfied that there is a reasonable likelihood of the person being admitted to a country of his choice within such extended period.

9 Cessation or stay of proceedings in respect of illegal entry by refugees and protected persons

Notwithstanding the Immigration Act [*Chapter 4:02*], or section 16, subsection (1) of section 26, subsection (1) of section 27, subsection (1) of section 28 or subsection (1) of section 29 of the Customs and Excise Act [*Chapter 23:02*], no proceedings shall be instituted or continued against any person or any member of his family in respect of his unlawful entry into or unlawful presence within Zimbabwe—

- (a) if such person applies in terms of section *seven* for recognition of his status as a refugee, until a decision has been made on the application and, where appropriate, such person has had an opportunity to exhaust his right of appeal in terms of that section; or
- (b) if such person has become a recognized refugee.

10 Residence in Zimbabwe of recognized refugees

Every recognized refugee shall, subject to this Act— (a) be issued with an identity card in the form prescribed; and

- (b) be permitted to remain within Zimbabwe in accordance with this Act.

11 Family of recognized refugees

(1) The Minister shall endeavour to ensure that members of the family of a recognized refugee are permitted to enter Zimbabwe and, subject to this section, to remain therein.

(2) A member of the family of a recognized refugee who has entered Zimbabwe shall, subject to this Act—

- (a) be issued with an identity card in the form prescribed; and
- (b) subject to subsections (3) and (4), be permitted to remain within Zimbabwe for as long as the recognized refugee concerned is permitted so to remain.

(3) Where a member of the family of a recognized refugee is within Zimbabwe in terms of this section and ceases to be a member of such family by reason of his marriage, his attaining the age of eighteen years or the cessation of his dependence upon the recognized refugee, as the case may be, he shall be permitted to continue to remain within Zimbabwe in accordance with this Act

(4) Upon the death of a recognized refugee or upon his divorce or legal separation from any spouse, every person who, immediately before such death, divorce or legal separation, was within Zimbabwe in terms of this section as a member of the family of such recognized refugee shall be permitted to continue to remain within Zimbabwe in accordance with this Act.

(5) Nothing in this section shall prevent a member of the family of a recognized refugee or a person who has, in terms of subsection (3) or (4), been permitted to continue to remain in Zimbabwe from himself applying for recognition and being recognized as a refugee in terms of section *seven*.

12 Rights and duties of recognized refugees and protected persons within Zimbabwe

(1) Subject to this Act, every recognized refugee and every protected person within Zimbabwe— (a) shall be entitled to the rights and be subject to the duties contained in—

- (i) the Articles of the Convention relating to the Status of Refugees of the 28th July, 1951, which are set out in Part I of the Schedule; and
- (ii) the Articles of the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of the 10th September, 1969, which are set out in Part II of the Schedule; as if the references therein to refugees were references to recognized refugees and protected persons; and

(b) shall be subject to all laws in force within Zimbabwe.

(2) The Minister may, by notice published in the *Gazette*, designate places and areas in Zimbabwe within which all—

- (a) recognized refugees and protected persons; and
- (b) persons who have applied in terms of section seven for recognition as refugees; and
- (c) members of the families of persons referred to in paragraph (b); or any classes thereof, as may be specified in the notice, shall live.

(3) Subject to this Act, every recognized refugee and every protected person within Zimbabwe shall, in respect of wage-earning employment, be entitled to the same rights and be subject to the same restrictions, if any, as are conferred or imposed generally on persons who are not citizens of Zimbabwe:

Provided that no recognized refugee or protected person shall be subject to any such restriction imposed for the protection of the national labour market if, on the 26th October, 1981, he was exempted from such restriction.

13 Non-return of refugees, their families or other persons

(1) Notwithstanding any other enactment, no person shall be refused entry into Zimbabwe, expelled, extradited or returned from Zimbabwe to any other country or be subjected to any similar measure if, as a result of such refusal, expulsion, return or other measure, such person is compelled to return to or remain in a country where—

- (a) he may be subjected to persecution on account of his race, religion, nationality, membership of a particular social group or political opinion; or
- (b) his life, physical integrity or liberty would be threatened on account of external aggression, occupation, foreign domination or events seriously disrupting public order in part or the whole of that country.

(2) The Minister shall take such steps as he considers necessary to ensure that subsection (1) is applied in respect of persons to whom that subsection relates.

14 Withdrawal of recognition of refugees

(1) If at any time the Commissioner considers that there are reasonable grounds for believing that a person who has been recognized as a refugee for the purposes of this Act—

- (a) should not have been so recognized; or
- (b) has ceased to be a refugee for the purposes of this Act; the Commissioner

shall refer the case to the Committee.

(2) Where a case has been referred to it in terms of subsection (1), the Committee shall cause written notice to be served upon the person whose status as a refugee is under reconsideration—

- (a) informing such person of the fact that his status as a refugee is to be reconsidered; and
- (b) inviting such person to make written representations to the Committee, within a period of fourteen days from the date of service of the notice, regarding his status as a refugee.

(3) The Committee shall consider every case referred to it in terms of subsection (1) and may make any inquiry or investigation it thinks necessary into any such case.

(4) After considering any advice or recommendation given or made to him by other members of the Committee in relation to any case referred to the Committee in terms of subsection (1), the Commissioner— (a) may withdraw the recognition of the person concerned as a refugee; and

(b) shall cause the person concerned to be notified of his decision in the matter.

(5) Any person who is aggrieved by a decision of the Commissioner to withdraw the recognition of such person as a refugee may, within seven days of being notified of such withdrawal, appeal in writing to the Minister.

(6) In any appeal in terms of subsection (5), the Minister may confirm or set aside the decision of the Commissioner and shall cause the Commissioner to be informed of his decision in the matter:

Provided that, before reaching a decision in an appeal, the Minister may do all or any of the following—

- (a) invite the representative in Zimbabwe of the United Nations High Commissioner for Refugees to make oral or written representations in the matter;
- (b) refer the matter back to the Committee for further inquiry and investigation to be made; (c) himself make such further inquiry and investigation into the matter as he thinks fit.

(7) Where the Commissioner has in terms of this section withdrawn the recognition of any person as a refugee, that person shall cease to be a recognized refugee, and any persons who became protected persons as a result of being members of his family shall cease to be protected persons, with effect from—

- (a) seven days after the date on which the Commissioner notifies the person concerned that his recognition has been withdrawn; or
- (b) where the person concerned has appealed to the Minister in terms of subsection (5), the date on which the Minister notifies him that he confirms the decision of the Commissioner:

Provided that nothing in this subsection shall prevent a protected person who became such as a result of being a member of the family of the person concerned from himself applying for recognition and being recognized as a refugee in terms of section *seven*.

15 Expulsion of recognized refugees and protected persons

(1) Subject to this section and section *thirteen*, the Minister, after consultation with the Minister to whom the administration of the Immigration Act [*Chapter 4:02*] has been assigned, may order the expulsion from Zimbabwe of any recognized refugee or protected person if he considers the expulsion to be necessary or desirable on the grounds of national security or public order.

(2) Before making an order in terms of subsection (1), the Minister shall cause written notice to be served upon every recognized refugee or protected person whom he intends to expel, informing such recognized refugee or protected person—

- (a) of the Minister's intention to expel him, the grounds for expelling him and the country to which it is proposed to expel him; and
- (b) of his right to make representations to the Minister in terms of subsection (3).

(3) A recognized refugee or protected person upon whom a notice has been served in terms of subsection (2) may, either by himself or through a legal practitioner registered in terms of the Legal Practitioners Act [*Chapter 27:07*] within a period of fourteen days from the date of such service, make written representations to the Minister in respect of either or both of the following matters—

- (a) the necessity or desirability, on the grounds of national security or public order, of expelling him from Zimbabwe; or
- (b) the possibility of his being persecuted or of his life or freedom being threatened in the country to which it is proposed to expel him on account of his race, religion, nationality, membership of a particular social group or political opinion, or on account of external aggression, occupation, foreign domination or events seriously disrupting public order in part or the whole of that country.

(4) Before ordering the expulsion from Zimbabwe of any recognized refugee or protected person in terms of subsection (1), the Minister shall give due consideration to any representations made to him in terms of subsection (3).

(5) The execution of any order for the expulsion of a recognized refugee or protected person made in terms of subsection (1) shall, if such recognized refugee or protected person so requests, be delayed for a reasonable period to enable such recognized refugee or protected person to seek admission to a country other than the country to which he is to be expelled.

16 Detention of recognized refugees and protected persons pending expulsion

(1) Subject to this section, an authorized officer may arrest and detain any recognized refugee or protected person whose expulsion has been ordered in terms of section *fifteen*, pending the completion of arrangements for his expulsion from Zimbabwe.

(2) A recognized refugee or protected person may be detained in terms of subsection (1) in a prison, police cell or other convenient place.

(3) An officer in charge of a prison or police cell shall receive into custody and shall retain in custody any recognized refugee or protected person detained or to be detained in terms of subsection (1) when required in writing by an authorized officer to do so, and any recognized or protected person detained in a prison solely by virtue of this section shall, subject to subsection (4) and regulations made in terms of section *eighteen*, be treated as a person awaiting trial.

(4) A recognized refugee or protected person who is detained in terms of this section shall, if he so requests, be allowed a reasonable time, not exceeding three months, and afforded reasonable facilities to seek admission to a country other than the country to which he is to be expelled.

(5) The Minister may, on application being made to him by the recognized refugee or protected person concerned, extend the three-month period referred to in subsection (4) if he is satisfied that there is a reasonable

likelihood of the recognized refugee or protected person being admitted to a country of his choice within such extended period.

17 Authorized officers

(1) Every police officer and every immigration officer shall be an authorized officer for the purposes of this Act.

(2) The Minister may, by notice published in the *Gazette*, appoint any person in the employment of the State, or any class of such persons, to be authorized officers for the purposes of this Act:

Provided that the Minister shall not appoint any persons or class of persons to be authorized officers if those persons or the members of that class, as the case may be, are—

- (a) members of the Regular Force of a branch of the Defence Forces, except with the consent of and subject to such conditions as may be fixed by the Commander of the branch concerned and the Defence Forces Service Commission; or
- (b) members of the Prison Service, except with the consent of and subject to such conditions as may be fixed by the Commissioner of Prisons and the Prison Service Commission: or
- (c) members of the Public Service, except with the consent of and subject to such conditions as may be fixed by the Minister responsible for the Ministry in which those persons are employed and by the Public Service Commission.

(3) An authorized officer may, for the purpose of exercising his functions in terms of this Act—

- (a) subject to subsections (4) and (5), search any person or property;
- (b) take the finger-prints, palm-prints and photograph of any recognized refugee or protected person or any person who claims to be a refugee for the purposes of this Act or any member of the family of such person;
- (c) question any recognized refugee or protected person or any person who claims to be a refugee for the purposes of this Act or any member of the family of such person.

(4) No search of any person or property shall be conducted in terms of paragraph (a) of subsection (3) unless the authorized officer concerned has reasonable grounds for believing that the search is necessary for the prevention, investigation or detection of— (a) a contravention of this Act; or

- (b) a fraudulent misstatement or concealment, by a recognized refugee, protected person or person claiming to be a refugee for the purposes of this Act or any member of the family of such a person, of any fact relevant to his identity or status.

(5) Whenever it is desired to search the body of a woman in terms of paragraph (a) of subsection (3), such search shall only be made by a medical practitioner or a woman and shall be conducted with strict regard for decency and, if there is no woman available who is an authorized officer, such search may be made by any woman specially named for the purpose by an authorized officer.

18 Regulations

(1) The Minister may make regulations prescribing all matters which by this Act are required or permitted to be prescribed or which, in the opinion of the Minister, are necessary or convenient to be prescribed for the better carrying out of or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for —

- (a) the assignment to the Committee of functions relating to the investigation, inspection and supervision of the reception, treatment and welfare of refugees;
- (b) the formation of additional committees and the assignment to such committees of functions to be exercised, subject to the direction and control of the Commissioner or the Committee, in relation to the reception, treatment and welfare of refugees;
- (c) the procedure at meetings of the Committee and of additional committees referred to in paragraph (b), including the participation at such meetings of the representative in Zimbabwe of the United Nations High Commissioner for Refugees;
- (d) the procedure to be followed in applications for recognition of refugee status and the form in which such applications shall be made;
- (e) the manner and form in which appeals may be made to the Minister in terms of section *seven* or *fourteen*;
- (f) the issue of identification documents to persons who have applied for recognition of their refugee status, and to members of their families;
- (g) the form and issue of identification and travel documents to recognized refugees and protected persons;
- (h) the control and regulation of persons who are required to live within a place or area designated in a notice made in terms of subsection (2) of section *twelve*, and the circumstances in which such persons may reside outside such place or area;
- (i) the form of any order or notice required to be served on any person in terms of section *fourteen* or *fifteen* and the manner in which such order or notice may be served;

- (j) the affording, to persons who are detained after appealing unsuccessfully in terms of section *seven* or who are detained in terms of section *sixteen*, of facilities for them to seek admission to a country of their choice:

Provided that the Minister shall not make regulations for such a purpose except with the approval of the Minister to whom the administration of the Prisons Act [*Chapter 7:11*] has been assigned;

- (k) requiring employers, when considering applications for employment made by persons who are not citizens of Zimbabwe, to give preference to applicants who are recognized refugees or protected persons;
- (l) co-operation and consultation with the United Nations High Commissioner for Refugees concerning applicants for refugee status, the making of representations by the High Commissioner in relation to any person for the purposes of this Act, and the services and assistance that may be rendered by the High Commissioner for or on behalf of any person for the purposes of this Act;
- (m) the form and manner in which effect shall be given to Article 35 of the Convention Relating to the Status of Refugees of the 28th July, 1951, and Article II of the 1967 Protocol to that Convention.

(3) Regulations made in terms of subsection (1) may prescribe penalties for contraventions thereof, but no such penalty shall exceed a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment.

[Subsection as amended by section 4 of Act 22 of 2001]

SCHEDULE (Section 12)

ARTICLES OF CONVENTIONS APPLICABLE TO RECOGNIZED REFUGEES AND PROTECTED PERSONS

PART I

ARTICLES OF CONVENTION RELATING TO THE STATUS OF REFUGEES OF THE 28TH JULY, 1951

Article 2

General obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3

Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4

Religion

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

Article 7

Exemption from reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.
2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.
3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.
4. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in Articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8 Exemption from exceptional

measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this Article, shall, in appropriate cases, grant exemptions in favour of such refugees.

Article 9

Provisional measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

Article 12

Personal status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.
2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

Article 13 Movable and

immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14 Artistic rights and

industrial property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 15

Right of association

As regards non-political and non-profit-making associations and trade unions the Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 16

Access to courts

1. A refugee shall have free access to the courts of law in the territory of all Contracting States.
2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from *cautio judicatum solvi*.
3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

Article 18 Self-

employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19

Liberal professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.
2. The Contracting States shall use their best endeavours consistent with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

Article 20

Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

Article 21

Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22 Public

education

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 25

Administrative assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.
2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.
3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.
4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.
5. The provisions of this Article shall be without prejudice to Articles 27 and 28.

Article 27

Identity papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

Article 28 Travel

documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue a travel document to any other refugee in their territory, they shall in particular give sympathetic consideration to the issue of such travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.
2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 29

Fiscal charges

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.
2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers

Article 30

Transfer of assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 34

Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

SCHEDULE

TRAVEL DOCUMENT

Paragraph 1

1. The travel document referred to in Article 28 of this Convention shall be similar to the specimen annexed hereto.
2. The document shall be made out in at least two languages, one of which shall be English or French. *Paragraph 2*

Subject to the regulations obtaining in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

Paragraph 3

The fees charged for issue of the documents shall not exceed the lowest scale of charges for national passports.

Paragraph 4

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries. *Paragraph 5*

The document shall have a validity of either one or two years at the discretion of the issuing authority.

Paragraph 6

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.
2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.
3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents or issuing new documents to refugees no longer lawfully resident in their territory who are unable to obtain a travel document from the country of their lawful residence.

Paragraph 7

The Contracting States shall recognize the validity of the documents issued in accordance with the provisions of Article 28 of this Convention.

Paragraph 8

The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.

Paragraph 9

1. The Contracting States undertake to issue transit visas to refugees who have obtained visas for a territory of final destination.
2. The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien. *Paragraph 10*

The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.

Paragraph 11

When a refugee has lawfully taken up residence in the territory of another Contracting State, the responsibility for the issue of a new document, under the terms and conditions of Article 28, shall be that of the competent authority of that territory, to which the refugee shall be entitled to apply.

Paragraph 12

The authority issuing a new document shall withdraw the old document and shall return it to the country of issue, if it is stated in the document that it should be so returned; otherwise it shall withdraw and cancel the document. *Paragraph 13*

1. Each Contracting State undertakes that the holder of a travel document issued by it in accordance with Article 28 of this Convention shall be re-admitted to its territory at any time during the period of its validity.
2. Subject to the provisions of the preceding subparagraph, a Contracting State may require the holder of the document to comply with such formalities as may be prescribed in regard to exit from or return to its territory.
3. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee's stay is authorized for a specific period, when issuing the document, to limit the period during which the refugee may return to a period of not less than three months.

Paragraph 14

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

Paragraph 15

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particularly as regards nationality.

Paragraph 16

The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.

ANNEX

Specimen Travel Document

The document will be in booklet form (approximately 15 x 10 centimetres) .

It is recommended that it be so printed that any erasure or alteration by chemical or other means can be readily detected, and that the words "Convention of 28 July 1951" be printed in continuous repetition on each page, in the language of the issuing country.

(Cover of booklet)

TRAVEL DOCUMENT

(Convention of 28 July 1951)

No.

(1)

TRAVEL DOCUMENT

(Convention of 28 July 1951)

This document expires on unless its validity is extended or renewed. Name

Forename(s).....

Accompanied by.....child (Children)

1. This document is issued solely with a view to providing the holder with a travel document which can serve in lieu of a national passport. It is without prejudice to and in no way affects the holder's nationality.
2. The holder is authorized to return to[state here the country whose authorities are issuing the document] on or beforeunless some later date is hereafter specified.
[The period during which the holder is allowed to return must not be less than three months].
3. Should the holder take up residence in a country other than that which issued the present document, he must, if he wishes to travel again, apply to the competent authorities of his country of residence for a new document.
[The old travel document shall be withdrawn by the authority issuing the new document and returned to the authority which issued it.]*

(This document contains.....pages, exclusive of cover.)

*The sentence in brackets to be inserted by Governments which so desire

(2)

Place and date of birth
Occupation
Present residence
*Maiden name and forename(s) of wife
..... *Name
and forename(s) of husband
.....

Description

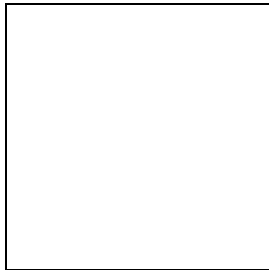
Height
Hair
Colour of eyes
Nose
Shape of face
Complexion
Special peculiarities

Children accompanying holder

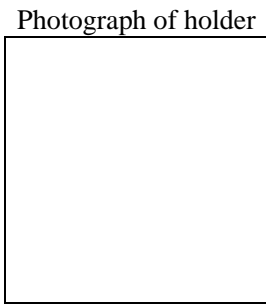
Name	Forename(s)	Place and date of birth	Sex
.....
.....

*Strike out whichever does not apply.
(This document contains.....pages, exclusive of cover.)

(3)



and stamp of issuing
authority



Photograph of holder

Finger-prints of holder
(if required)

Signature of holder.....
(This document contains.....pages, exclusive of cover.)

(4)

- This document is valid for the following countries:
.....
.....
- Document or documents on the basis of which the present document is issued:
.....
.....

Issued at
Date

Signature and stamp of authority issuing the document:
.....

Fee paid:
(This document contains pages, exclusive of cover.)

(5)

Extension or renewal of validity

Fee paid: From
To
Done at Date

Signature and stamp of authority extending or
renewing the validity of the document:

.....

Extension or renewal of validity

Fee paid: From
To
Done at Date

Signature and stamp of authority extending or renewing
the validity of the document:

.....

(This document contains pages, exclusive of cover.)

(6)

Extension or renewal of validity

Fee paid: From
To
Done at Date

Signature and stamp of authority extending or
renewing the validity of the document:

.....

Extension or renewal of validity

Fee paid: From
To
Done at Date

Signature and stamp of authority extending or
renewing the validity of the document:

.....

(This document contains pages, exclusive of cover.)

(7—32)

Visas The name
of the holder of the document must be repeated in each visa. (This
document containspages, exclusive of cover.)

PART II

ARTICLES OF ORGANIZATION OF AFRICAN UNITY CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA OF
THE 10TH SEPTEMBER, 1969

Article III *Prohibition of subversive activities*

1. Every refugee has duties to the country in which he finds himself, which require in particular that he conforms with its laws and regulations as well as with measures taken for the maintenance of public order. He shall also abstain from any subversive activities against any Member State of the OAU.
2. Signatory States undertake to prohibit refugees residing in their respective territories from attacking any State Member of the OAU, by any activity likely to cause tension between Member States, and in particular by use of arms, through the press, or by radio.

Article V

Voluntary repatriation

1. The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will.
2. The country of asylum, in collaboration with the country of origin, shall make adequate arrangements for the safe return of refugees who request repatriation.
3. The country of origin, on receiving back refugees, shall facilitate their resettlement and grant them the full rights and privileges of nationals of the country, and subject them to the same obligations.
4. Refugees who voluntarily return to their country shall in no way be penalized for having left it for any of the reasons giving rise to refugee situations. Whenever necessary, an appeal shall be made through national information media and through the Administrative Secretary-General of the OAU, inviting refugees to return home and giving assurance that the new circumstances prevailing in their country of origin will enable them to return without risk and to take up a normal and peaceful life without fear of being disturbed or punished, and that the text of such appeal should be given to refugees and clearly explained to them by their country of asylum.
5. Refugees who freely decide to return to their homeland, as a result of such assurances or on their own initiative, shall be given every possible assistance by the country of asylum, the country of origin, voluntary agencies and international and inter-governmental organizations, to facilitate their return.