

**L.N. 487 of 2021**

**INTERNATIONAL PROTECTION ACT  
(CAP. 420)**

**Reception of Asylum Seekers (Amendment) Regulations, 2021**

IN EXERCISE of the powers conferred by article 25 of the International Protection Act, the Minister for Home Affairs, National Security and Law Enforcement has made the following regulations:-

1. (1) The title of these regulations is the Reception of Asylum Seekers (Amendment) Regulations, 2021 and these regulations shall be read and construed as one with the Reception of Asylum Seekers Regulations, hereinafter referred to as "the principal regulations".

Citation and scope.

S.L. 420.06.

(2) The scope of these regulations is to transpose:

(a) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast);

(b) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast); and

(c) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).

2. Sub-regulation (2) of regulation 1 of the principal regulations shall be substituted by the following new sub-regulation:

Amends regulation 1 of the principal regulations:

"(2) The scope of these regulations is to transpose:

(a) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast);

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(b) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast);

(c) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).".

Amends  
regulation 6 of  
the principal  
regulations.

**3.** Regulation 6 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be amended as follows:

(i) the words "The Principal Immigration Officer may, without prejudice to any other law, order the detention of an applicant for one or more of these reasons, pursuant to an assessment of the case:" shall be substituted by the words "Without prejudice to any other law, the Principal Immigration Officer may, when it proves necessary and if other less coercive measures cannot be applied effectively, order the detention of an applicant for one or more of these reasons, pursuant to an individual assessment of the case:"; and

(ii) in paragraph (f) thereof, the words "stateless person." shall be substituted by the words "stateless person:" and immediately thereafter there shall be added the following new proviso:

"Provided that administrative procedures relevant to the grounds for detention set out in this regulation shall be executed with due diligence."; and

(b) immediately after sub-regulation (8) thereof there shall be added the following new sub-regulation:

"(9) An applicant shall not be detained for the sole reason that he is an applicant for international protection.".

4. Regulation 6A of the principal regulations shall be amended as follows:

Amends regulation 6A of the principal regulations.

(a) sub-regulation (1) thereof shall be substituted by the following new sub-regulation:

"(1) Whenever an applicant is detained in accordance with regulation 6, he shall be detained in a specialised detention facility, which facility shall not be utilised as a place of detention for sentenced persons. In the eventuality that an applicant has to be detained in a facility for the detention of sentenced persons he shall be kept separate from inmates who are not detained pursuant to regulation 6 and the detention conditions provided for in these regulations shall apply:

Provided that minors shall never be detained in a facility utilised as a place of detention for sentenced persons."; and

(b) sub-regulation (6) thereof shall be substituted by the following new sub-regulation:

"(6) The management of specialised detention facilities or facilities for the detention of sentenced persons shall systematically provide to applicants in detention information concerning the rules of the facility, their rights and their obligations in a language in which they understand or are reasonably supposed to understand:

Provided that temporary derogations under this regulation may be authorised only in duly justified cases and for a reasonably short period of time, in the event that the applicant is detained at a border post or in a transit zone."

5. Immediately after sub-regulation (3) of regulation 10 of the principal regulations there shall be added the following new sub-regulation:

Amends regulation 10 of the principal regulations.

"(4) An applicant may have access to vocational training provided that he has access to the labour market within the meaning of this regulation. An applicant may also have access to a validation procedure of non-formal and informal learning, assessing and certifying the knowledge, skills and competences

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which individuals develop throughout their lives by means of participation in non-formal and informal learning."

Amends  
regulation 14 of  
the principal  
regulations.

**6.** Sub-regulation (1) of regulation 14 of the principal regulations shall be substituted by the following new sub-regulation:

"(1) (a) In the implementation of the provisions relating to material reception conditions and health care, including mental health, account shall be taken of the specific situation of vulnerable persons who shall include minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms or psychological, physical or sexual violence, such as victims of female genital mutilation, found to have special needs after an individual evaluation of their situation:

For the purposes of this regulation, the entity for the welfare of asylum seekers shall assess in conjunction with other authorities as necessary, whether the applicant is an applicant with special reception needs and shall also indicate the nature of such needs. This assessment shall be initiated within a reasonable period of time after an application for international protection has been lodged.

(b) The entity for the welfare of asylum seekers shall also ensure that support is being provided to applicants with special reception needs, taking into account their special reception needs throughout the duration of the asylum procedure, whilst conducting appropriate monitoring of their situation.

(c) Minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment or who have suffered from armed conflicts shall be given access to pertinent rehabilitation services in terms of the Victims of Crime Act, further to being provided with the required mental health care.

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For the purposes of this provision an evaluation by the entity responsible for the welfare of asylum seekers, carried out in conjunction with other authorities as necessary shall be conducted as soon as practicably possible:

Provided that applicants identified as minors shall not be detained, except as a measure of last resort:

Provided further that applicants who claim to be minors shall not be detained, except as a measure of last resort, unless the claim is evidently and manifestly unfounded."

7. Regulation 15 of the principal regulations shall be substituted by the following new regulation:

Substitutes regulation 15 of the principal regulations.

S.L. 420.07. "15. (1) The entity for the welfare of asylum seekers shall as soon as possible take measures to ensure that the unaccompanied minor is represented and assisted by a representative and the provisions of regulation 18 of the Procedural Standards for Granting and Withdrawing International Protection Regulations regarding unaccompanied minors shall apply.

S.L. 420.07. (2) An unaccompanied minor shall be accommodated in centres specialised in accommodation for minors in accordance with the provisions of regulation 18 of the Procedural Standards for Granting and Withdrawing International Protection Regulations.

(3) An unaccompanied minor aged sixteen years or over may be placed in accommodation centres for adult asylum seeker.

(4) The entity for the welfare of asylum seekers shall proceed with the tracing of the family members of the unaccompanied minor, if necessary with the assistance of international or other relevant organisations and as soon as possible after an application for international protection is made, whilst acting in the best interests of the minor:

Provided that, in cases where there may be a threat to the life or integrity of the minor or his close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardising their safety.

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(5) The entity for the welfare of asylum seekers shall ensure that persons working with unaccompanied minors have received and shall continue to receive appropriate training concerning their needs, and shall be bound by the confidentiality rules in relation to any information they obtain in the course of their work."

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