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CHAPTER 9 SECTION 2

IMPLEMENTATION: GRANTS

1. INTRODUCTION

This section sets out the procedures for making initial grants of asylum or exceptional leave to enter/remain, including grants to dependants.

Applications for extensions of exceptional leave to remain, for indefinite leave to remain, and for upgrades to refugee status from exceptional leave to remain are covered in the instruction on *Implementation: Extensions, Upgrades and ILR*.

Applications where a non-asylum application was under consideration simultaneously are covered in the instruction on *Implementation: Mixed Applications*.

2. GRANTING ASYLUM

2.1. In country cases

For in country cases, the implementing officer (usually the module AO or AA) should:

- i) Prepare a GEN 22 status letter for each applicant granting indefinite leave to remain (ILR).
- ii) With effect from 11/5/98, refugees have been exempt from the requirement to register with the police. This exemption applies to all nationalities, those who are stateless or who hold a non-national travel document. If the applicant has a police registration certificate (PRC), it should be endorsed with an exempt stamp and crossed through the back cover.
- iii) Return the applicant's GEN 22, passport (unendorsed), covering letter and any other documents, second class, to him or his representative.
- iv) Note INDECS, Refugee Index, CPC1 and IMP1.
- v) If the asylum application was made on or after 26 July 1993, the applicant will have had his fingerprints taken. Therefore send the file to the Asylum Fingerprint Bureau (AFB) so that the fingerprints can be destroyed. This is a statutory requirement under the Asylum and Immigration Appeals Act 1993 and must be complied with.
- vi) If there is an outstanding travel document application, minute the file to be sent to the Travel Document Section when AFB action is complete.

vii) Send file to Layby.

2.2. Illegal Entrants

The caseworker should follow the procedure for in country cases, but if there is no record of the applicant on INDECS, one should be created. On completion of action, the file should be forwarded to AFB (as in v above) and minuted to go to IES to note their records when AFB action is complete.

2.3. Port cases

The implementing officer should place two unsigned and undated GEN 22 status letters on the file, deleting the section about police registration, and forward the file to ALU, via AFB (see 2.2 v), to arrange service at port, with a minute asking them to grant indefinite leave to enter.

The caseworker should also complete form IS79 (relating to the Carriers Liability Act), and include the names of dependants who are also granted refugee status, and place it on the file. ALU will forward it to Carriers Liaison Section for any necessary action.

2.4. Dependants

For all the above categories a GEN 22 should be completed for each dependant aged eighteen or over who is to be recognised as a refugee, deleting the section about police registration. Children under the age of eighteen should be included on the GEN 22 of the principle adult applicant.

If the dependants are to be granted leave but not to be recognised as refugees they should not be issued with GEN 22s but their passport should be endorsed with four years leave to remain by the officer who signs the GEN 22 for the main applicant. Please note, however, that unless dependants specifically ask *not* to be treated as refugees or are of a different nationality to the sponsor, they should also be recognised as refugees.

3. GRANTING EXCEPTIONAL LEAVE TO ENTER/REMAIN

3.1. Background

Prior to the publication of the Government White Paper on Immigration and Asylum (27 July 1998) people who were refused asylum but granted exceptional leave to enter/remain (ELE/R) were normally given 12 months leave to remain followed by two periods of 3 years leave. After 27 July those granted ELE/R will normally be given 4 years leave.

3.2. In time, in country applications

For in time, in country cases, the implementing officer should:

i) Prepare three copies of form REF 4. The standard refusal wording should be used with an extra sentence stating that:

"However, in the light of the particular circumstances of your case, the Secretary of State has exceptionally decided to grant you 4 years leave to remain".

ii) Endorse the passport.

iii) With effect from 11/5/98 asylum applicants granted exceptional leave to remain following refusal of an asylum application have been exempt from the requirement to register with the police. This exemption applies to all nationalities, those who are stateless or who hold a non-national travel document. If the applicant has a police registration certificate (PRC), endorse this with the exempt stamp and cross through the back cover.

iv) Complete a GEN 19 for each applicant granting 4 years exceptional leave to remain. Delete the paragraph requiring the applicant to register with the police. A copy of each GEN 19 should be placed on file.

v) Note INDECS, Refugee Index, CPC1 and IMP1.

vi) Send the reasons for refusal letter, REF4, GEN19, appeals form A1, appeals envelope, passport, PRC and any other original documents held by the Department, first class, to the applicant/representative. (Avoid sending on a Friday afternoon.)

vii) Complete a PF1.

viii) Hold the file for one month for a possible appeal. If no appeal is made, the file should be sent to lay-by.

There will be some cases where exceptional leave is granted for periods other than 4 years. In such cases the procedure above should be followed, with the periods of leave changed as appropriate.

3.3. Out of time, in country applications

Out of time applications do not attract a right of appeal and there is, therefore, no need to send refusal notices.

For out of time cases the implementing officer should:

- i) Complete the GEN 19, deleting the paragraph on police registration, and endorse the passport and PRC following the procedure as described for in time cases above.
- ii) Prepare form ADL 25 (see *Annex A*) explaining that asylum has been refused without a right of appeal as leave to remain had expired before application was registered.
- iii) Note INDECS, Refugee Index, CPC1 and IMP1.
- iv) Return the documents second class.

3.4. Illegal entrants

For illegal entry cases the implementing officer should:

- i) Prepare two GEN 19s, signed and dated.
- ii) Prepare letter ADL 26 (clandestine entry, see *Annex B*) or ADL 27 (entry by deception, see *Annex C*) explaining that asylum has been refused without a right of appeal.
- iii) Note INDECS, Refugee Index, CPC and IMP1. (If there is no existing record on INDECS, one should be created.)
- iv) Send the documents to the applicant/representative, second class.
- v) Send the file to the Illegal Entry section to note their records then the file can be sent to lay-by.

3.5. Port cases

For port cases the implementing officer should:

- i) Prepare two GEN 19s (or GEN 19As when ELTE is granted in port cases) as far as "Dear Mr/Mrs etc" and delete the appropriate police registration paragraphs. Place the GEN 19s/19As on file, *not* signed or dated.
- ii) Send the file to ALU with a minute asking them to arrange for 4 years leave to enter, code 1A to be granted, and to return the file to the AD caseworker when this has been done.

iii) Note the Refugee Index when the file returns.

iv) Send the file to lay-by.

3.6. Granting dependants exceptional leave

Where dependants were included on an asylum application, and are to be granted exceptional leave in line with the principal applicant, each adult should have their own GEN 19. Children under the age of eighteen should be included on the principle applicant's GEN 19. The first line of the GEN 19, and the paragraphs on police registration, should be deleted in both cases.

3.7. Dependants applied at port

If the dependants applied at port and the main applicant applied in country, then a GEN 19 should be prepared (first line to be deleted) and sent to the main applicant as in the paragraphs on in country applicants in this instruction. Partially completed GEN 19s for the dependants should then be placed on the file which should be passed to ALU to arrange service of the dependants' GEN 19s. The caseworker should minute the file to ask ALU to return the file to AD on completion of their action so that records can be noted.

3.8. Statistics for dependants

The Refugee Index cannot be updated for dependants but their details can be recorded on the paper copy placed on the file. If the dependants arrived in the UK separately from the main applicant they may have their own record on INDECS in which case this should be updated.

Further advice: see also the instructions on *Assessing the Claim, Dependants* and *Exceptional Leave*.

ANNEX A

ADL 25

**LETTER REFUSING ASYLUM BUT GRANTING EXCEPTIONAL LEAVE TO AN
OUT OF TIME APPLICANT**

Home Office Reference

Name

Date of birth

Nationality

Dear

You have applied for asylum in the United Kingdom on the grounds that you have a well-founded fear of persecution in []. In order to qualify for asylum under the terms of the 1951 United Nations Convention relating to the Status of Refugees, to which the United Kingdom is a signatory, an applicant must show that he has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.

The Secretary of State has fully considered the details of your application but has concluded that you do not have a well founded fear of persecution in []. Your application for asylum is therefore refused. However, in the light of the particular circumstances of your case, the Secretary of State has exceptionally decided to grant you 4 years leave to remain.

A right of appeal under section 8(2) of the 1993 Asylum and Immigration Appeals Act is conferred only on a person who had limited leave at the time their application was made. Your application for asylum was made on [] but your limited leave expired on []. You therefore have no right of appeal against the Secretary of State's decision.

Yours sincerely

ANNEX B

ADL 26

LETTER REFUSING ASYLUM BUT GRANTING EXCEPTIONAL LEAVE TO AN ILLEGAL ENTRANT (CLANDESTINE ENTRY)

Home Office Reference

Name

Date of birth

Nationality

Dear

You have applied for asylum in the United Kingdom on the grounds that you have a well-founded fear of persecution in []. In order to qualify for asylum under the terms of the 1951 United Nations Convention relating to the Status of Refugees, to which the United Kingdom is a signatory, an applicant must show that he has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.

The Secretary of State has fully considered the details of your application but has concluded that you do not have a well founded fear of persecution in []. Your application for asylum is therefore refused. However, in the light of the particular circumstances of your case, the Secretary of State has exceptionally decided to grant you 4 years leave to remain.

A right of appeal under section 8(2) of the 1993 Asylum and Immigration Appeals Act is conferred only on a person who had limited leave at the time their application was made. You had no such leave and therefore have no right of appeal against the Secretary of State's decision to refuse you asylum and grant you exceptional leave to remain.

Yours sincerely

ANNEX C

ADL 27

**LETTER REFUSING ASYLUM BUT GRANTING EXCEPTIONAL LEAVE TO AN
ILLEGAL ENTRANT (ENTRY BY DECEPTION)**

Home Office Reference

Name

Date of birth

Nationality

Dear

You have applied for asylum in the United Kingdom on the grounds that you have a well-founded fear of persecution in []. In order to qualify for asylum under the terms of the 1951 United Nations Convention relating to the Status of Refugees, to which the United Kingdom is a signatory, an applicant must show that he has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.

The Secretary of State has fully considered the details of your application but has concluded that you do not have a well founded fear of persecution in []. Your application for asylum is therefore refused. However, in the light of the particular circumstances of your case, the Secretary of State has exceptionally decided to grant you 4 years leave to remain.

A right of appeal under section 8(2) of the 1993 Asylum and Immigration Appeals Act is conferred only on a person who had limited leave at the time their application was made. You employed deception in order to gain entry to the UK and you therefore have no right of appeal against the Secretary of State's decision to refuse you asylum and grant you exceptional leave to remain.

Yours sincerely