

## Chapter 25 – Index

<b>25.</b>	Service of RFRLs by enforcement offices
<b>25.1.</b>	Serving the RFRL - illegal entrants*
<b>25.2.</b>	Serving the RFRL - persons subject to administrative removal action
<b>25.3.</b>	Serving asylum refusals - Deportation cases
<b>25.4.</b>	Flawed non-compliance refusal letters

### 25. Service of RFRLs by enforcement offices

These procedures are to be followed whenever the relevant casework section sends an RFRL to an enforcement office for service.

RFRLs can be served by post or in person, (other than in third country cases with a non-suspensive right of appeal when they must be served in person). The RFRL does not have to be read to the applicant, nor does his solicitor have to be present when it is served. However, it is good practice to read the RFRL through before service in case of error.

If an illegal entry interview has not taken place before asylum is refused and it is clear from the SEF or other evidence obtained by ASU during the screening process that the person entered without leave, notices can be served by post, by first class recorded delivery. ADSU will deal with these in the first instance, distributing to LEOs if appropriate. (Persons who enter by verbal deception should always be interviewed under caution before notices are served).

#### 25.1. Serving the RFRL - illegal entrants\*

##### Illegal entrants detected by LEOs (except ADSU/CEU):

If the asylum applicant came to notice as an illegal entrant prior to their claim for asylum, the relevant casework section will send the RFRL to the appropriate LEO for service.

Before an RFRL is served, the following steps must be taken:

- ◆ Ensure that, if the case falls outside the scope of delegated authority, the relevant casework section has assessed it and an instruction noted on file to serve illegal entry notice. If not, it should be returned to them to assess whether the compassionate factors avail the person;
- ◆ in all cases where it is intended to serve the RFRL, seek CIO authority to serve IS151A;

- ◆ Note the port file and HO file with the name of the authorising CIO.

Serve the following on the applicant, either in person or by recorded delivery to his last known address (with a duplicate copy for the applicant/dependant to keep where indicated):

- ◆ IS151A (if it has not already been served);
- ◆ form IS335 if appropriate (request for return of SAL/ARC);
- ◆ RFRL (x2);
- ◆ Notice of Appeal IS87 (United Kingdom) form (x2);
- ◆ Notes about Notice of Appeal form (x2);
- ◆ One-Stop notices
- ◆ (Each dependant) Refusal decision letter.
- ◆ IS151B, stating the country of destination or of intended removal;
- ◆ Send a copy of all papers to his representatives with a covering letter. (Include IS334 if illegal entry papers are served by post);

*(Notices are correctly served if they are served to the applicant's legal representatives in the absence of a home address or to the last home address he has notified even if we know he no longer lives there or on file.) (See section 23.3)*

- ◆ Notify paragraph 9 removal directions to the liable carrier (where applicable) or seek HMI authority for para 10 public expense removal, set Rd's and notify the subject accordingly.
- ◆ **(non-POISE locations only)** in all cases where a refusal of asylum letter is served, in person or by post, a copy of the first page of the letter **clearly annotated with the date served/posted** must be faxed to the Data Entry Unit within 24 hours;

- ◆ note local and HO files to indicate that authority to remove must be sought at the end of the appeals process;
- ◆ send the HO file to APC who will store all files where a negative decision is accompanied by a right of appeal;
- ◆ await notification from the Appeals Processing Centre of the outcome of the appeal or, if appropriate, notification that the person did not appeal;
- ◆ If the person is not detained, he should normally be required to report, pending the outcome of the appeal. The frequency of reporting is at the IO's discretion, depending on the individual's circumstances.

#### **Illegal entrants encountered by PCU/ASU:**

Where there is clear evidence of illegal entry (other than by verbal deception) during the screening process the relevant casework unit will arrange for illegal entry papers to be prepared in ADSU, which will in turn be forwarded to the applicant by post along with his RFRL. In cases where there is evidence of verbal deception, an IO should conduct an interview with a view to service of notice of illegal entry. The RFRL will then be served.

\*for seaman deserters the procedure is similar but the appropriate forms e.g. IS85A instead of IS151A, IS85D instead of IS151B must be used.

#### **25.2. Serving the RFRL - persons subject to administrative removal action**

Before an RFRL is served, the following steps must be taken:

- ◆ In all cases where it is intended to serve the RFRL, seek CIO authority to set removal directions (including those cases that may fall outside the scope of delegated authority).
- ◆ Note the port file and HO file with the name of the authorising CIO.

## Enforcement Instructions and Guidance

Serve the following on the applicant, either in person or by recorded delivery to his last known address:

- ◆ form IS335 if appropriate (request for return of SAL/ARC);
- ◆ RFRL (x2);
- ◆ Notice of Appeal IS87 (United Kingdom) form (x2);
- ◆ Notes about Notice of Appeal (United Kingdom) form (x2);
- ◆ One-Stop notices
- ◆ (Each dependant) Refusal decision letter, One-Stop notices
- ◆ IS151B, stating the country of destination of intended removal, ;

Then:

- ◆ Send a copy of all papers to his representatives with a covering letter.

(Notices are correctly served if they are served to the applicant's legal representatives in the absence of a home address or to the last home address he has notified even if we know he no longer lives there or on file.)

- ◆ obtain HMI authority for removal set paragraph 10 removal directions and notify the subject;
- ◆ **(non-POISE locations only)** in all cases where a refusal of asylum letter is served, in person or by post, a copy of the first page of the letter **clearly annotated with the date served/posted** must be faxed to the Data Entry Unit within 24 hours;
- ◆ note local and HO files to indicate that authority to remove must be sought at the end of the appeals process;

- ◆ send the HO file to APC who will store all files where a negative decision is accompanied by a right of appeal;
- ◆ await notification from the relevant casework section of the outcome of the appeal or, if appropriate, notification that the person did not appeal;
- ◆ If the person is not detained, he should normally be required to report, pending the outcome of the appeal.

**a. . Serving asylum refusals - Deportation cases**

Deportation cases are the responsibility of the relevant casework section. Asylum deportation decisions will normally be served by post except where a DO is to be served simultaneously with an asylum refusal or when the applicant is detained. If so, the relevant casework section should send all the forms to be served to the enforcement office.

If service of any other asylum deportation decision is required, the relevant casework section will provide instructions detailing all notices to be served and the appropriate appeal forms.

If there are any doubts as to the correct procedures to follow in an individual case, contact the relevant casework section.

## **25.4. Flawed non-compliance refusal letters**

Although the introduction of the SEF PO Box has led to a substantial reduction in the number of flawed decisions, more will continue to be identified as decisions already made are served. If a challenge is received the following action should be taken:

- ◆ where evidence of a flawed decision is provided (e.g. an in-time SEF) before the reasons for refusal letter has been served, the letter should be returned to the case-worker to review the decision;
- ◆ where the applicant or his representative telephone an immigration office to challenge the decision after service, they should be directed to write to ACU2, 13<sup>th</sup> Floor, Lunar House, (fax 020 8604 5847), where a dedicated team will review the decision; where correspondence

## Enforcement Instructions and Guidance

challenging the decision is received at an immigration office it should be forwarded to ACU2 as above.