

Reference Number: _____

(For official use)

Non-refoulement Claim Form

[Note: Insofar as a non-refoulement claim includes a torture claim as defined by Part VIIC of the Immigration Ordinance, Cap.115 Laws of Hong Kong (“the Ordinance”), this form serves as the torture claim form specified by the Director of Immigration under section 37Y(4) of the Ordinance.]

Name of Claimant: _____

(Family name/Surname, Given name)

Please read the guidelines for completion of this form at pages 2, 3, 4 and 5 before answering any question.

Guidelines for Completion of this Form

1. You have been served with a Notice entitled “Notice to Persons Making a Non-refoulement Claim” (hereafter referred to as “the Notice”) which you should (or should have through the interpreter) read carefully before completing this form. You may refer to paragraphs 9 to 13 of the Notice for definitions and relevant provisions of grounds of non-refoulement protection to be considered by the Immigration Department (“ImmD”).
2. This form must be completed fully in English or Chinese. It must be returned to the ImmD together with all documents supporting the claim that are readily available to you when this claim form is completed either by post or in person to the Removal Assessment Section (“RAS”) at Unit 903B - 910A, 9/F, Skyline Tower, 39 Wang Kwong Road, Kowloon Bay, Kowloon **within 28 days** from the date when the ImmD issues a written request to you for return of the completed claim form. If you cannot meet the 28-day time limit, you must make an application for an extension of time in writing prior to expiry of this time limit and should provide full explanation why you cannot do so. Any request for extension will be considered on its own merits and may only be approved if it is satisfied that, by reason of special circumstances, it would be unjust not to extend the time limit. You should not assume that your application for extension of time will definitely be approved and hence an application for extension must be made as soon as possible once you are aware that there are special circumstances which may prevent you from returning the completed claim form in time. It is always your duty to ensure that the completed claim form is returned to RAS within the required time period and hence it is at your own risk that your non-refoulement claim will be deemed withdrawn on failure to return the completed claim form within 28 days from the date when the ImmD issues a written request to you or any further period that an immigration officer may have allowed pursuant to an extension application made by you if your current application for extension of time is subsequently not approved. If you are unable to return this form due to serious illness, you should produce the medical certificate for verification.
3. If there are substantial grounds for the ImmD to believe that there is a real, personal and substantial risk of your rights not to be subjected to (a) torture as defined under Part VIIC of the Ordinance, (b) violation of your absolute and non-derogable rights under section 8 of the Hong Kong Bill of Rights Ordinance, Cap.383 (“HKBORO”) (such as the right to life under Article 2 and right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (“CIDTP”) under Article 3), and/or persecution with reference to the non-refoulement principle under Article 33 of the 1951 Convention relating to the Status of Refugees (“the 1951 Refugee Convention”) (collectively referred to as “all applicable grounds”) being violated by the Risk State should you be sent there, it constitutes a ground for restraining the Hong Kong Special Administrative Region (“HKSAR”) Government (“HKSARG”) from proceeding to remove you to that state.
4. Notwithstanding paragraph 3 above, in completing this claim form, it is important for you to include all material facts and events relevant to your

non-refoulement claim, irrespective of whatever ground(s) you seek to rely on to seek protection. You may enlist the help of your legal representative in completing this form. The information provided will form the basis upon which your claim is investigated, upon which you will be required to attend an interview and upon which a decision whether to accept your claim as substantiated or reject your claim will be made. If necessary, please use additional sheets to provide any further information which you consider relevant to your claim and indicate the total number of additional sheets attached at question 73 below.

5. It is important that you answer ALL the questions in this form truthfully. You will be liable to the offence of making false statements, forgery of documents and use and possession of forged documents or of misleading any member of the Immigration Service by making a false statement or giving false information at this or ANY stage in the screening process. It may also adversely affect your credibility and prejudice your claim.
6. You must return this completed form together with all documents supporting your claim that are readily available. You should provide English or Chinese translation if any evidence or documents are in other languages and submit them without delay. If the documentary evidence or any other document(s) is not readily available and may only be submitted after returning this form, you must, upon return of the completed form, clearly indicate in writing your intent to submit further supporting document(s) at a later stage. Depending on individual circumstances, you will be given a reasonable opportunity to submit further supporting document(s) after returning this completed form.
7. All information provided in this form will be used only for the purposes of assessing your non-refoulement claim or in the investigation of other non-refoulement claims where a claimant is related to you or where the claim is in some way linked to you, and other directly related purposes. The information may be disclosed to other HKSARG departments / bureaux, agencies, authorities, international organizations or other bodies where necessary for immigration and nationality purposes or to enable them to carry out their functions, or to secure entry facilities for repatriation. If a medical examination is to be conducted for the purpose of assessment of your non-refoulement claim, the information may also be disclosed to relevant persons, bodies or organizations in charge of the medical examination where necessary. As a general rule, neither the information indicating that you have made non-refoulement claim under the Unified Screening Mechanism (“USM”) nor any information pertaining to your non-refoulement claim will be provided to the government of any country which you claim as Risk State(s) in respect of which you have made a non-refoulement claim (except in cases where you are a person whose surrender is requested in surrender proceedings where the HKSARG must fulfill legal obligations under the relevant fugitive offenders agreement(s)). In addition, nothing at all said by you in this form will be used against you in any subsequent criminal proceedings of any nature except an attempt to pervert the course of justice, or a charge of making false statements, forgery of documents and use and possession of forged documents for the purposes of or in connection with Part VIIC of the Ordinance or of misleading of any member of the Immigration Service by making a false statement or giving false information, or where ordered by the Court.

8. **Warning:** If you fail to return this completed form within the required time limit of 28 days from the date when the ImmD issues a written request to you or any further period allowed by the ImmD, your claim will be treated as withdrawn. Any subsequent request for re-opening your claim which is treated as withdrawn will not be allowed unless you can provide sufficient evidence in writing to satisfy an immigration officer that you had not been able to return this completed form as required due to circumstances beyond your control. For the avoidance of doubt, where a non-refoulement claim is treated as withdrawn, it is treated as withdrawn in its entirety on all applicable grounds.
9. The 1951 Refugee Convention or its 1967 Protocol has never been applied to Hong Kong; the HKSARG has a firm policy of not determining the refugee status of nor granting asylum to anyone. If your non-refoulement claim has been substantiated on grounds of, *inter alia*, persecution risk, your personal information may be passed to the United Nations High Commissioner for Refugees (UNHCR) for the purpose of considering if you should be recognised as a refugee under its mandate, and (if so) for seeking durable solution for you, including arrangement of resettlement in a third country. The UNHCR may further pass the information to overseas authorities for this purpose.
10. The provision of information in this form is voluntary. Nevertheless, it is your duty to provide all information relevant to the claim and make prompt and full disclosure of all material facts in support of the claim, including any document supporting those facts, irrespective of whatever ground(s) you seek to rely on to seek protection. You are therefore reminded that failure to provide sufficient details relating to your identity or the claim may jeopardize the assessment of your claim or your appeal / petition (if any). You should also be aware that any failure to answer questions of importance to your claim may damage your credibility and jeopardize the assessment of your non-refoulement claim. Furthermore, you may not be allowed to furnish additional facts after your claim has been determined, notwithstanding subsequent developments in relevant law, jurisprudence, or policy (except where such facts and events occur after you have completed this claim form which will be dealt with as a subsequent claim).
11. For those claimants who are minors or in other disabilities and have difficulties in completing this form on their own, this form may be completed by their parents, guardians or other adults who are responsible for their welfare on their behalf.

Points to note:

- You must duly complete and sign this form. Do not leave any questions unanswered. Insert 'none' or 'not applicable' where appropriate.
- You should give as much relevant details as possible and be truthful as regards the information you provide.
- You may submit the documents supporting the claim that are not readily

available at this stage after the return of this form. You must clearly indicate such intention in your answer to question 34 below.

Access to Personal Data:

- You have a right to request access to and correction of your personal data as provided for in sections 18 and 22 and Principle 6 in Schedule 1 of the Personal Data (Privacy) Ordinance (Chapter 486). Your right of access includes the right to obtain a copy of your personal data provided in this form subject to payment of a fee.
- Enquiries concerning the personal data collected by means of this form, including the making of request for access to and / or correction of the data, should be addressed to:

Chief Immigration Officer (Removal Assessment and Litigation) Support (1)
Unit 903B - 910A, 9/F, Skyline Tower
39 Wang Kwong Road, Kowloon Bay
Kowloon

SAMPLE

Part 1 – Biographical Information

Personal Particulars

1. Family name / Surname:

2. Given names: _____

3. Any other names: _____

4. Gender: male female (tick as appropriate)

5. Date of birth: ____/____/____ (DD/MM/YYYY)

6. Place of birth (Provide Town / Province / Country): _____

Personal Details

7. (a) Please state your last place of residence in your country of nationality (Provide full address – Street, Town, Province, Country). If you have more than one country of nationality, please state your last place of residence in each of them.

(b) Please state your last place of residence in your country of habitual residence if your country of habitual residence is different from your country of nationality (Provide full address – Street, Town, Province, Country).

(c) Please state the country / countries in respect of which you are making a non-refoulement claim (These country / countries will be collectively referred to as “Risk State(s)” in the ensuing questions)

(d) If the Risk State(s) is not your country of nationality or habitual residence, please state your last place of residence in the Risk State(s) (Provide full address – Street, Town, Province, Country).

8. How long did you live at your last place of residence in the Risk State(s) in Q.7(d) ? Please also give dates. _____

9. Did you live anywhere else in the Risk State(s)?

Yes [] **No** [] (tick as appropriate)

If Yes, please give addresses and dates: _____

10. Citizenship / nationality at birth: _____

11. Current citizenship / nationality/ country of habitual residence:

12. Apart from your country(ies) of nationality or habitual residence, do you have any right of abode or right to land in, or right to return to, any other State in which you would be entitled to non-refoulement protection?

Yes [] **No** [] (tick as appropriate)

If Yes, please give details:

13. Do you have any documents from your country(ies) or place(s) of residence which verify your identity? **Yes** [] **No** [] (tick as appropriate)

If Yes, please give details: _____

14. What is your ethnic group, tribe or race? _____

15. What is your religion? _____

16. What is your first language? _____

17. What other languages can you speak or write? _____

18. Have you been convicted of any crime outside the HKSAR?

Yes [] **No** [] (tick as appropriate)

If Yes, please provide details of the crime committed or convicted:

Education History

19. How many years of formal education / training have you had? _____ Year(s).

| From: (month / year) | To: (month / year) | Name and address of school | Qualifications obtained |
|-------------------------|-----------------------|----------------------------|-------------------------|
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Work History

20. How many years have you been employed / self-employed? _____ Year(s).

| From: (month / year) | To: (month / year) | Name and address of company or employer | Type of Work |
|-------------------------|-----------------------|--|--------------|
| | | | |
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21. If you were not employed, did you receive any benefits or allowances or other payments in the Risk State(s) or your country(ies) of nationality / habitual residence in case they are not the same?

Yes [] No [] (tick as appropriate) (If Yes, please give details)

| From: (month / year) | To: (month / year) | Where did you receive benefits or allowances or other payments? | Type of benefits or allowances or other payment | Amount per month |
|-------------------------|-----------------------|--|---|---------------------|
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Family Details

22. Present marital status: (Please tick appropriate box)

Single [] Married [] Separated []

Divorced [] Widowed []

Other, please specify [] _____ (e.g. cohabitation, polygamous marriage, etc.)

23. Full name of your previous spouse(s), if any: _____

24. Full name of your present spouse or partner(s):

25. His / Her date of birth: ____/____/____ (DD/MM/YYYY)

26. His / Her nationality(ies): _____

27. His / Her ethnic group, tribe or race: _____

28. His / Her religion: _____

29. His / Her present address (Provide full address - Street, Town, Province, Country):

30. Please list out details of all your dependant child(ren), if any, from current or previous relationships and details of any other dependant(s) or step child(ren) – (Please write “None” if no dependant children, step children or any other dependant.)

| Name | Gender | Date & Place of birth | Current whereabouts | Ethnic group, tribe or race | Religion | Name of other parent (Please state if deceased and when) |
|------|--------|-----------------------|---------------------|-----------------------------|----------|--|
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31. Please state particulars of your parents.

| | Father | Mother |
|--------------------------------|--------|--------|
| Family name | | |
| Given name | | |
| Any other names | | |
| Date of birth | | |
| Nationality / Citizenship | | |
| Religion | | |
| Living or deceased | | |
| Your dependant? (Yes or No) | | |
| Present address (if living) | | |

32. Please state particulars of your brothers and sisters (including step brothers or sisters).

| Family name | Given Name | Gender | Date of birth | Current whereabouts | Ethnic group, tribe or race | Parent's name (if different from you) (Please state if deceased and when) |
|-------------|------------|--------|---------------|---------------------|-----------------------------|--|
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33. Please state particulars of any other dependants of yours. (If you have any other dependants who are not named above, please give details in full. Please use additional sheets as necessary.)

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Part 2 – Documentation

34. Do you have any documents to submit in support of your claim?

Yes [] **No** [] **Yes, but not readily available** [] (tick as appropriate)

If Yes, please list the documents which you are submitting below. (Please use additional sheets as necessary.)

If the document(s) is/are not readily available, please specify (a) nature of the document(s) you intend to submit in support of your claim, (b) the relevancy to your non-refoulement claims, (c) when you can submit the documents and (d) why they are not readily available.

SAMPLE

Part 3 – Basis of Your Claim

Points to note:

- Notwithstanding paragraphs 9 to 13 of the Notice on what constitutes an applicable ground for non-refoulement protection, you shall include all material facts and events relevant to your non-refoulement claim, irrespective of whatever ground(s) you seek to rely on to seek non-refoulement protection.
- When answering the questions below, you should tell us everything which you consider relevant to your claim and which you would wish the Director to take into account when making a decision on your claim.
- You should give full details (date, time, location, etc.) of all events to which you have referred below.
- You should also provide full details in relation to any problems encountered by others which you consider are relevant to your claim and have referred to below.
- If you need more space to write on, please use additional sheets and provide the number of additional sheets at Question 73 below.

35. When and why did you leave the Risk State(s)?

36. What do you fear may happen to you if you return to the Risk State(s)? Please give as much detail as possible.

37. Are you afraid of being subjected to torture, CIDTP, persecution, deprivation of life, and / or any kind of irreparable harm if you return to the Risk State(s)?

Yes [] **No** [] (tick as appropriate)

If Yes, explain why you are afraid and describe the nature of harm you fear, by whom it / they may be inflicted on you, and why it / they might be inflicted on you.

38. Have you, your family, or close friends or colleagues ever been subjected to torture, CIDTP, persecution, deprivation of life, and / or any kind of irreparable harm in the Risk State(s) in the past by anyone?

Yes [] **No** [] (tick as appropriate)

If Yes, please explain in detail: (a) What happened; and (b) When and by whom was the harm inflicted.

39. In regard to the risk(s) stated above, did you seek assistance from, or report your fears to, any authorities in the Risk State(s) or elsewhere?

Yes [] **No** [] (tick as appropriate) If No, please go to Q.41

If Yes, when and to whom did you report it?

40. What action did the authorities take?

41. If you did not seek assistance or report your fears to any authorities in the Risk State(s) or elsewhere, why not?

42. Have you ever moved to a different town or village or to another part of the Risk State(s) to avoid any of the harms you fear that you stated above?

Yes [] **No** [] (tick as appropriate)

If Yes, please provide details including where and when you moved and how long you stayed there: _____

If No, please explain why not:

43. Do you think the authorities in the Risk State(s) can and will protect you if you return? Why or why not?

44. Have you ever been accused, charged, interrogated, arrested, detained, imprisoned or harmed in any manner whatsoever in the Risk State(s) (otherwise than what is stated above)?

Yes [] **No** [] (tick as appropriate)

If Yes, please state (a) by whom, (b) for what reason, (c) when, (d) where, (e) for how long you were detained, and (f) what brought your detention to an end:

45. Have any members of your family, or close friends or colleagues ever been accused, charged, interrogated, arrested, detained, imprisoned, killed, or harmed in any manner whatsoever (otherwise than what is stated above) in the Risk State(s)?

Yes [] No [] (tick as appropriate)

If Yes, please state (a) by whom, (b) for what reason, (c) when, (d) where, (e) for how long were they detained, and (f) what brought their detention to an end:

46. Were any persons (such as a lawyer, relatives or friends) permitted to see you during detention? If so, how long after the arrest were you visited? Give details of the visits (the dates, the duration and the names of the visitors):

47. Have you approached any international organisation (such as the UNHCR) for assistance?

Yes [] No [] (tick as appropriate)

If Yes, when and whom did you approach: _____

48. Have you made any refugee application in or outside the HKSAR before?

Yes [] No [] (tick as appropriate)

If Yes, please state:

(i) the date(s) of your application: _____

(ii) the place(s) where you lodged the application: _____

(iii) the outcome of your application(s): _____

(Note: You have to attach copies of all documents issued with regard to those refugee claims. If your refugee application is still under processing, you must inform this office of the outcome of your application once available.)

49. If you have made a refugee application in the HKSAR, are you willing to give consent for the UNHCR to release your information to the HKSARG?

Yes [] **No** [] (tick as appropriate)

(Note: If Yes, please sign the form at Annex 1.)

If No, why not?

50. Have you or your family members ever belonged to or been associated with any organisations or groups in the Risk State(s) (such as, but not limited to, a political party, student group, labour union, religious organisation, military or paramilitary group, civil patrol, guerrilla organisation, ethnic group, human rights group, or the press or media) which is relevant to your claim?

Yes [] **No** [] (tick as appropriate)

If Yes, please describe for each person the level of participation, any leadership or other positions held, and the length of time you or your family members were involved in each organisation or activity if it is relevant to your claim. (Please use additional sheets as necessary.)

51. Do you or your family members continue to participate in any way in these organisations or groups?

Yes [] **No** [] (tick as appropriate)

If Yes, please describe for each person the current level of participation, any leadership or other positions currently held, and the length of time you or your family members have been involved in each organisation or group. (Please use additional sheets as necessary.)

52. Is there any other reason(s) why you cannot be returned to the Risk State(s)?

Yes [] No [] (tick as appropriate)

If Yes, please elaborate.

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Part 4 – Travel Details

53. Have you travelled outside the Risk State(s) on any occasion prior to coming to the HKSAR?

Yes [] **No** [] (tick as appropriate)

If Yes, please state when and to where? _____

purposes of the journey(s) _____

means by which you left (air, train, sea – please provide details) _____

and date you returned to the Risk State(s)

54. Have you ever been issued with a passport or other travel document?

Yes [] **No** [] (tick as appropriate)

If Yes, please complete the following:

| Which country(ies) issue to you the passport or travel document? | Date of issue | Place of issue | Where is it now? |
|--|---------------|----------------|------------------|
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| | | | |
| | | | |

55. Have you ever been issued a visa to enter any country?

Yes [] **No** [] (tick as appropriate)

If Yes, please complete the following:

| Country | Type of visa | Date of issue | Place of issue |
|---------|--------------|---------------|----------------|
| | | | |
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56. Have you applied for a visa for your last trip to the HKSAR?

Yes [] **No** [] (tick as appropriate)

If Yes, when and where did you apply? _____

57. Were you issued with a visa for your trip to the HKSAR?

Yes [] **No** [] (tick as appropriate)

If Yes, please provide full details - type of visa, when and where issued, expiry date:

58. If you had no visa, what documents did you use to enter the HKSAR?

59. The date you last left the Risk State(s):

____/____/____ (DD/MM/YYYY)

60. What travel arrangements did you make for this journey and how did you make them? Did you have to pay anyone and, if yes, to whom and how much did you pay?

61. Mode(s) of transport:

62. During your last journey to the HKSAR, which countries or places did you travel through?

For each country or place you travelled through please provide the following details:

| Country / Place | When were you there (dates)? | How long did you remain there? |
|-----------------|------------------------------|--------------------------------|
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| | | |

63. Did anyone accompany you? If so, who (please give full name and present address)?

64. If you are not traveling with your family members, why did they not travel with you?

65. Where are your family members now?

66. Are you still in contact with your family members?

Yes [] No [] (tick as appropriate)

If Yes, please provide their contacting details.

If No, when was the last time you had contact with each of your family members?

67. Have you ever lived in a country other than the Risk State(s)?

Yes [] No [] (tick as appropriate)

If Yes, please complete the following table for each country you have lived in:

| Country | When did you reside there (length of residence and dates)? | Address at which you resided? |
|---------|---|----------------------------------|
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Part 5 – Completion of this Claim Form

68. Did you complete this form by yourself?

Yes [] No [] (tick as appropriate)

If No, who completed or assisted you to complete this form?

Name: _____

Means of contact (e.g. address or telephone number): _____

Relationship to you: _____

Please state why you were unable to complete it or required assistance to complete it: _____

69. Are you legally represented in making your claim?

Yes [] No [] (tick as appropriate)

If Yes, please state the name and address of your legal representative:

70. Please indicate whether you prefer the interview(s) to be audio recorded:

Yes [] No [] (tick as appropriate)

71. Do you require an interpreter when attending interview(s)?

Yes [] No [] (tick as appropriate)

If Yes, please specify the language / dialect.

72. Do you have any special needs in relation to investigation / assessment of your claim (e.g. a signer or an interpreter of preferred gender, etc.)?

Yes [] No [] (tick as appropriate)

If Yes, please state your needs with reasons.

73. Please state the total number of additional sheets attached to this form?

_____ sheets

74. Please provide a telephone number where you can be contacted during the day.
(Note: Please notify this office in writing of any change of your telephone number as soon as practicable to facilitate our communications with you.)

75. Please provide your residential and correspondence address (if different from the residential address) in Hong Kong. (Note: You must notify this office in writing of any change in either of these addresses as soon as practicable after the change)

Residential Address: _____

Correspondence Address:

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Part 6 – Interpreter’s Confirmation

I, (print full name clearly) _____, hereby confirm that I have accurately interpreted the entire content of this form and all of the attached documents to the claimant from the English / Chinese language to the _____ language (state dialect if applicable). I am proficient in both languages and am able to communicate fully with the claimant. **The claimant has indicated that he / she fully understands the entire content of this form and all attached documents and the answers provided, as interpreted by me.**

Interpreter’s signature

Date

Part 7 – Your Confirmation as a Claimant

Before you sign, please check that you have answered all the questions fully and accurately giving as much detail as possible. All the information you have provided in this form will be considered in making a decision on your claim.

If you **DID NOT** require the assistance of an interpreter, you should complete **CONFIRMATION A**.

If you **DID** require the assistance of an interpreter, you should complete **CONFIRMATION B**.

Confirmation A

I confirm that the information provided in this form and all of the attached documents is complete, true and correct. I confirm that I have set out all of the facts and grounds for seeking non-refoulement protection in Hong Kong, irrespective of whatever ground(s) I seek to rely on to seek such protection. I confirm that I am able to read English / Chinese and that I fully understand the entire content of this form and all attached documents. I understand that I shall be guilty of an offence if I make or cause to be made any statement or representation which I know to be false or do not believe to be true, or use any forged, false or unlawfully obtained or altered document, or have in my possession any forged, false or unlawfully altered document whatsoever intended for use for the purpose of my torture claim (if applicable). I also understand that I shall be guilty of an offence if I mislead any member of the Immigration Service by making a false statement or giving false information or use a false instrument.

Your signature

Date

Confirmation B

I confirm that the entire content of this form and all of the attached documents have been interpreted to me. I confirm that I have set out all of the facts and grounds for seeking non-refoulement protection in Hong Kong, irrespective of whatever ground(s) I seek to rely on to seek such protection. I confirm that the information I have provided in this form and all attached documents is complete, true and correct. I understand that I shall be guilty of an offence if I make or cause to be made any statement or representation which I know to be false or do not believe to be true, or use any forged, false or unlawfully obtained or altered document, or have in my possession any forged, false or unlawfully altered document whatsoever intended for use for the purpose of my torture claim (if applicable). I also understand that I shall be guilty of an offence if I mislead any member of the Immigration Service by making a false statement or giving false information or use a false instrument.

Your signature

Date

– End –