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Government of the Republic of South Africa
Staatskoerant van die Republiek van Suid-Afrika

REPUBLIC OF SOUTH AFRICA
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AIDS HELPLINE 0800-0123-22 Prevention is the cure

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REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 472 Cape Town, 18 October 2004
Kaapstad, 18 Oktober 2004

No. 26901

THE PRESIDENCY

No. 1206

18 October 2004

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 19 of 2004: Immigration Amendment Act, 2004.

LIHHOVISI LEMENGAMELI

18 October 2004

Ngaloku kwentiwa satiso sekutsi uMengameli uwuvumile lomTsetfo lola-ndzelako, lekungumTsetfo lokhishwako lapha kutsi watiwe ngumphakatsi wonkhe:—

No. 19 wa 2004: UmTsetfo wekuGucula UmTsetfo wetiFikanamfwalo, 2004.



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

EMAGAMA EKUCHAZA NGALOKWETAYELEKILE:

- [] Emagama lagcamile langekhatsi kwebakaki labasikwele akhombisa loko lokukhishiwe emitsetfweni leseyivele ikhona.
- _____ Emagama ladvwetjelwe ngemugca lohlangene akhombisa loko lokufakiwe emitsetfweni leseyivele ikhona.

(English text signed by the President.)
(Assented to 12 October 2004.)

UMTSETFO

Wekuchibela umTsetfo wetiFikanamtfwalo, 2002, kute kufake lesinye Sandvulelo endzaweni yeSandvulelo salomTsetfo; wekuchibela, kufaka kanye nekwesulwa kwetinchazelo letitsite; wekubonelela kwendluliselwa kwemandla kanye nekubuyeketwa kwetinchubo; wekuchibela kwakheka kanye nemisebenti yeBhodi yekweLuleka ngetiNdzaba tetiFikanamtfwalo; wekubonelela kabusha kubambisana emkhatsini wematiko lehlukahlukene; wekukhanyisa kanye nekuchaza kabusha emandla eNdvuna ekwenta timiso kanye nekuchibela inchubo lemayelana naloko; wekubonelela kuchazisiswa kanye nekubuyeketwa kwetinchubo netimvume lokumayelana nekungeniswa ngekhati, kuhlala khona kanye nekuphuma eRiphabliki; wekuchazisiswa kahle kucashwa, emandla kanye nemtfwalo webahloli; wekubambisa kahle lokwengetiwe kwekusetjentiswa kwetintfo tekuhamba mayelana nekungeniswa eRiphabliki; wekucitfwa kwetibonelelo letibonelela kubakhona kwetiNkantolo tetifikanamtfwalo; wekubonelela kabusha kugcinwa kwebantfu labatsite kwemaregista ebantfu labaniketwe ngulabanye indzawo yekuhlala; wekucaciswa kahle emandla etisebenti tahulumende letibukene netifiki kanye nemaphoyisa mayelana nekubuta umuntfu imibuto uma bangakenetiseki kwekutsi lomuntfu ufanelekile kuba seRiphabliki; wekucacisa kahle simo mayelana netephulomtsetfo letitsite; wekulungisa letinye tintfo letitsite letibalulekile mayelana ngendlela umbhalo walomTsetfosivivinyo ubhalwe ngayo; wekubonelela kufaka iShejuli lensha endzaweni yaShejuli 3 walomTsetfo; wekubonelela tindzaba letitsite tesikhatsi sengucuko; kanye nekubonelela tindzaba letihambelana naloko.

WENTIWE WABANGUMTSETFO yiPhalamende yeRiphabliki yaseNingizimu Afrika, ngalendlela lelandzelako:—

Kufakwa kwalesinye Sandvulelo endzaweni yeSandvulelo semTsetfo 13 wa 2002

1. Ngaloku kufakwa leSandvulelo lesilandzelako endzaweni yeSandvulelo semTsetfo wetiFikanamtfwalo, 2002 (umTsetfo No. 13 wa 2002) emvakwaloku lekutawubhekiswa kuwo njengemTsetfo wekucala: 5

“SANDVULELO

Ngekubonelela kulawulwa kwekungeniswa kwetifikanamtfwalo, kuhlala kwato tiFikanamtfwalo nekuphuma kwato eRiphabliki, kanye netindzaba letihambelana naloko, umTsetfo wetiFikanamtfwalo uhlose kutsi ufake luhlelo lolusha 10 lwekulawula kwetindzaba tetiFikanamtfwalo lolucinisekisa kwekutsi—

(a) timvume tekuhlala sikhashana kanye netekuhlala somphelane tikhishwa masinyane ngalokunelikhoro nekutsi loko kwentiwa ngekwesekela etinchubeni letentiwe taba malula kanye naletinetidzingakalo kanye nemibandzela lokungavuni muntfu, lokulindzelekile kanye nalokuvakalako, 15 nafutsi ngaphandle kwekufuna lowo msebenti udzinge bantfu labanyenti kakhulu kutsi bawente;

- (b) security considerations are fully satisfied and the State retains control [on] over the immigration of foreigners to the Republic;
- (c) interdepartmental coordination [**constantly enriches**] and public consultations enrich the functions of immigration control [**and that a constant flow of public inputs is present in further stages of policy formulation, including regulation making**]; 5
- (d) [the needs and aspirations of the age of globalization are respected and the provisions and the spirit of the General Agreement on Trade in Services is complied with] economic growth is promoted through the employment of needed foreign labour, foreign investment is facilitated, the entry of exceptionally skilled or qualified people is enabled, skilled human resources are increased, academic exchanges within the Southern African Development Community is facilitated and tourism is promoted; 10
- (e) [**border monitoring is strengthened to ensure that the borders of the Republic do not remain porous and illegal immigration through them may be effectively detected, reduced and deterred**] the role of the Republic in the continent and the region is recognised; 15
- (f) the entry and departure of all persons at ports of entry are efficiently facilitated, administered and managed;
- (g) immigration laws are efficiently and effectively enforced, deploying to this end significant administrative capacity of the Department of Home Affairs, thereby reducing the pull factors of illegal immigration; 20
- (h) the South African economy may have access at all times to the full measure of needed contributions by foreigners;
- (i) the contribution of foreigners in the South African labour market does not adversely impact on existing labour standards and the rights and expectations of South African workers; 25
- (j) a policy connection is maintained between foreigners working in South Africa and the training of our [nationals] citizens;
- (k) push factors of illegal immigration may be addressed in cooperation with other Departments and the foreign states concerned; 30
- (l) immigration control is performed within the highest applicable standards of human rights protection[.]; [and]
- (m) xenophobia is prevented and countered [**both within Government and civil society**]; 35
- (n) a human rights based culture of enforcement is promoted;
- (o) the international obligations of the Republic are complied with; and
- (p) civil society is educated on the rights of foreigners and refugees.”.

Amendment of section 1 of Act 13 of 2002

2. Section 1 of the principal Act is hereby amended by— 40
- (a) the substitution for subsection (1) of the following subsection:
“(1) In this Act, unless the context [indicates] otherwise indicates—

- (b) tidzingakalo tetekuphepha tenetiseka ngalokugcwele nekutsi uMbuso kube nguwo lophetse esandleni sawo tindzaba tekulawula tifikanamtfwalo lapha eRiphabliki;
- (c) kuhanjiswa kahle kwekubambisana emkhatsini wematiko lehlukehlukene [kuhlala ngaso sonkhe sikhatsi kwenta ncono] nekutsi kuhlala kungena njalo imibono yemphakatsi kulawulwa kwetindzaba tetifikanamtfwalo, [nekutsi kuhlala kungena njalo imibono yemphakatsi ngalesikhatsi kuchutjekwa netigaba tekwenta tinchubomgomo letinye, kufake ekhatsi kwakhiwa kwetimiso]; 5
- (d) [tidzingo kanye naloko lokubukelelwe bantfu ngalesikhatsi sekuhlanganiselwa ndzawonye kwemave emhlaba kuyahlonishwa nekutsi kuhanjiswa netibonelelo kanye nenhloso yesiVumelwano lese-Tayelekile ngekuHwebelana ngemiSebenti] kukhutsatwa kukhushulwa kwemnotfo ngekucashwa kwebantfu bekusebenta labadzingekako bakulamanye emave, kwentiwa malula lutalisomali loluchamuka kulamanye emave, kwentiwa kukhonakale kungena kwebantfu labanemakhono kumbe timphawumfundvo lokungafolakali malula, kukhuliswa umtfombo webantfu bekusebenta labanemakhono, kukhutsatwa kuntjintjiselana ngebantfu kwetikhungo tetemfundvo emkhatsini wemave emphakatsi wekuTfutukisa i-Afrika leseNingizimu, nekutsi tekuvakasha tiyaphunyelelwa; 10 15 20
- (e) [kucashelwa kwemincele kuyaciniswa kuze kucinisekiswa kutsi imincele yeRiphabliki ayihlali ivuta nekutsi tifikanamtfwalo letingekho emtsetfweni letingena kuyo tiyatfolwa, tiyancishiswa futsi tiyavinjelwa ngalokushay'emhloleweni] indzima ledlalwa yiRiphabliki kulelivekati nakulesifundza iyabonakala; 25
- (f) kungena kanye nekuphuma kwabo bonkhe bantfu etikhumulweni [tikhumulo] tekungena kwentiwa lula, kuphatfwe futsi kuhanjiswe ngalokwenetisako;
- (g) imitsetfo yetetifikanamtfwalo isetjentiswa ngalokwenetisako nangalokushay'emhloleweni, futsi kutfunyelwa bantfu labenele labawati kahle umsebenti wekuphatsa beliTiko letaseKhaya kutsi bente lomsebenti, ngaleyo ndlela kwehliswe kudlanga kwetifikanamtfwalo letingekho emtsetfweni; 30
- (h) umnotfo welaseNingizimu Afrika ungabanako kufinyelela ngalokuphelele ngaso sonkhe sikhatsi ekutfoleni emakhono ladzingekako tichamuki letinawo; 35
- (i) kufaka sandla kwetichamuki etindzaweni tekusebenta taseNingizimu Afrika akubi nemphumela lomubi emazingeni ekusebenta lakhona kanye nakumalungelo naloko lokubukelelwe basebenti baseNingizimu Afrika;
- (j) kuhlala kukhona kuchumana kutchubomgomo emkhatsini wetichamuki letisebenta eNingizimu Afrika kanye nekuceceshwa [kwebantfu bakuleli] kwetakhamuti; 40
- (k) tindzaba letibangela kuba khona kwetifikanamtfwalo letingekho emtsetfweni kubukwana nato ngekubambisana nalamanye emaTiko kanye naleyo mibuso yakulamanye emave letsintsekako;
- (l) kulawulwa kwetindzaba tetifikanamtfwalo kwentiwa ngekhatshi kwemazinga lasetulu kunawo onkhe lasetjentiswako ekuvikelweni kwemalungelo elunfu[,]; [nekutsi] 45
- (m) kutondza tichamuki kuyavinjelwa futsi kuliwa nako [ngekhatsi kuHulumende kanye nasekuhlaleni kwebantfu emphakatsini.];
- (n) kukhutsatwa lisiko lelisekelwe ekuhlonipheni emalungelo elunfu ngalesikhatsi kwentiwa sicinisekiso sekutsi umtsetfo uyalandzelwa yini; 50
- (o) kuhlonishwa tibopho temave ngemave iRiphabliki letentile; nekutsi
- (p) umphakatsi uyafundziswa ngemalungelo ebantfu bekufika kanye nebakhoseli.”.

Kuguculwa kwesigaba 1 semTsetfo 13 wa 2002 kuchibelwa

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2. Sigaba 1 semTsetfo wekucala sichitjelwe kanjena—

- (a) ngekufaka endzaweni sigatjana (1) lesigatjana lesilandzelako:

‘(1) KulomTsetfo, ngaphandle kwalapho simokusho [sikhombisa] sikhombisa ngalenywe indlela—

- [(i)] 'admission' means entering the Republic at a port of entry [on the basis of the authority to do so validly granted by *this Act* or by an immigration officer in terms of *this Act*, and the verb "to admit" has a corresponding meaning] in terms of section 9;
- [(ii)] "*application*" means a request in the *prescribed* form which complies with the requirements and provides the information and documentation which may be *prescribed*]; 5
- [(iii)] 'Board' means the Immigration Advisory Board [contemplated in] established by section 4 [of *this Act*];
- [(iv)] 'border' means the national borders of the Republic [and includes ports of entry, coastlines and the outer margin of territorial waters]; 10
- [(v)] "*chartered accountant*" means a person referred to in section 1 of the Chartered Accountants Designation (Private) Act, 1993 (Act No. 67 of 1993) and includes an accountant, other than a *chartered accountant*, who is recognised as such under any law and who has been specifically or generally delegated by a *chartered accountant* to perform any or all activities contemplated in *this Act*]; 15
- [(vi)] 'citizen' has the meaning assigned thereto in the South African Citizenship Act, 1995 (Act No. 88 of 1995) [and "*citizenship*" has a corresponding meaning]; 20
- 'conveyance' means any ship, boat, aircraft or vehicle, or any other means of transport;
- [(vii)] 'corporate applicant' means a juristic person established under the laws of the Republic or of a foreign country which conducts business, not-for-gain, agricultural or commercial activities within the Republic and which applies for a corporate permit referred to in section 21 [of *this Act*]; 25
- [(viii)] '[*Court*] court' means [an Immigration *Court* established in terms of section 37 of *this Act*] a magistrate's court; 30
- [(ix)] 'customary union' means a [conjugal relationship according to indigenous law and custom and which is recognised and documented as *prescribed*] customary union recognised in terms of the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998); 35
- [(x)] 'Department' means the Department of Home Affairs;
- [(xi)] 'depart or departure' means exiting the Republic from a port of entry in compliance with this Act [and the verb "*to depart*" has a corresponding meaning]; 40

- [(i)] 'emabala' kusho nobe nguliphi libhilidi, sakhiwo kumbe lithende kanye nemhlaba leto tintfo letime kuwo, kanye nemhlaba loyincenye yemhlaba losetjentiselwa mayelana naloko, futsi kufaka ekhatsi nobe ngumuphi umhlaba longenalo libhilidi, sakhiwo kumbe lithende kanye nanobe nguyiphi [incola,] intfo yekuhamba[, kumbe umkhumbi]; 5
- [(ii)] 'iBhodi' kusho iBhodi yekweLuleka ngetiNdzaba tetiFikanamtfwalo [lecatjangelwako] lesungulwe ngaphansi kwesigaba 4 [salomTsetfo];
- [(iii)] 'imvume yekuhlala sikhashana' kusho imvume yekuhlala sikhashana [lekubhekiswe kuyo] lokucatjangelwako esigabeni 10 [salomTsetfo];
- [(iv)] 'iNdvuna' kusho iNdvuna yetaseKhaya; 10
- [(v)] 'ipasipoti' kusho nobe nguyiphi ipasipoti kumbe tincwadzi tekuhamba lokucuketse imininingwane kanye netimphawu lokumisiwe loko lokukhishwe—
- (a) ngaphansi kwemTsetfo wemaPasipoti kanye netiNcwadzi tekuHamba kwaseNingizimu Afrika, 1994 (umTsetfo No. 4 15 wa1994);
- (b) egameni lembuso wakulelanye live lowemukelekile kuHulumende weRiphabliki kwanikwa umutfu longesiso sakhamuti;
- (c) egameni lanobe nguyiphi inhlango yemave ngemave njengaloku kumisiwe [ngesikhatsi nesikhatsi], kufake ekhatsi tinhlango tesifundza kumbe tesifundzana, kwanikwa umutfu longesiso sakhamuti [; kanye], nome 20
- [(d)] nanobe ngutiphi letinye tincwadzi letivunyelwe ngu- [mCondzisijikelele ngemuva kwekubonisana ne-]Ndvuna futsi letikhishwe ngaphansi kwetimeko letingakavami tanikwa umutfu 25 longeke akwati kutfolo tincwadzi [lekubhekiswe kuto] leticatjangelwako kupharagrafu (a) kuya ku (c);
- [(vi)] 'iRiphabliki' kusho iRiphabliki yaseNingizimu Afrika [kanye nendzawo yayo];
- [(vii)] 'ivisa' kusho [sitembu lesimisiwe lesishaywa ngalesikhatsi kwentiwa sicelo epasipotini lebentako yesichamuki lesiniketa leso sichamuki ligunya lekuchubeka singene eRiphabliki siyetetfule embikwesisebenti sahumumende lesibukene netifkinamtfwalo kutsi sentiwe luhlolo lolumisiwe esikhumulweni sekungena eveni ngenjongo yekutsi leso sichamuki singeniswe eRiphabliki kutsi 35 sikhale kwesikhashana lesigaguliwe, loko lokungahociswa nobe nini ngembikwekutsi leso sichamuki singeniswe]; ligunya lelicatjangelwako esigabeni 10A lekwendlulela esikhumulweni sekungena eveni;
- [(viii)] 'buyisela eveni lakubo kumbe kubuyiselwa kwemutfu eveni lakubo' kusho sento kumbe inchubo leconde kubangela kutsi sichamuki lesingekho emtsetfweni siphume eRiphabliki [ngisho singafuni], kumbe ngemuva kwekuvalelwa ngekumisa kwaloMtsetfo, [futsi sento lesitsi "buyisela eveni lakubo" sisho intfo lehambisana naloko]; 40
- [(ix)] 'kuhlanganani swa ngekwelisiko' kusho [budlelwano bendvodza nemfati lobuhambisana nemtsetfo kanye nelisiko langekwendzabuko, nafutsi lobo budlelwano lobemukelwe futsi lobubhalwe phansi njengaloku kumisiwe]; kuhlanganani swa ngekwelisiko lokwemukelwe ngekumisa kwemTsetfo wekweMukelwa kwemiShado yalabaHlanganiswe ngekweliSiko, 1998 (umTsetfo No. 120 wa 1998); 50
- [(x)] 'kukhipha' kusho kukhipha ngenothi kuGazethi yaHulumende futsi, kufika ezingeni lekungahle kufinyelele kulo kanye nakuloko lokunekwenteka ngaphansi kwaletu timokusho, kusho kwendlulisela, ngekusebentisa liposi kumbe i-imeyili, tindzaba letimisiwe letifanele umphakatsi utati kumbe letibalulekile, 55 kwendluliselwa kubalingani kumbe bantfu labatsintsekako labaticelele kutsi emagama abo afakwe etinhlwini tebantfu lekumele batfunyelele leto tindzaba, kumbe labo emagama abo asavele afakiwe kuleto tinhlu, lekutinhlwini letitawugcinwa liTiko mayelana naleto tihloko tetindzaba lomTsetfo lodzinga kuto kutsi umphakatsi 60 ube nelivi];
- [(xi)] 'kulelanye live' kusho live lelinye lelingesiyo iRiphabliki;

- [(xii)] ‘deport or deportation’ means the action or procedure aimed at causing an illegal foreigner to leave the Republic [involuntarily, or under detention] in terms of this Act [and the verb “*to deport*” has a corresponding meaning];
- [(xiii)] ‘Director-General’ means the Director-General of the Department; 5
- [(xiv)] ‘employer’ includes [the] a person contractually bound by the applicable employment contract as an employer or, in the case of a juristic person, its chief executive officer or the person to whom such officer has delegated the final responsibility in respect of personnel matters; 10
- [(xv)] ‘foreign country’ means a country other than the Republic;
- [(xvi)] ‘foreign state’ means the juristic entity governing a foreign country;
- [(xvii)] ‘foreigner’ means an individual who is [neither] not a citizen [nor a resident, but is not an illegal foreigner];
- [(xviii)] ‘illegal foreigner’ means [an] a foreigner who is in the Republic in contravention of this Act [and includes a *prohibited person*]; 15
- [(xix)] ‘immediate family’ means persons within the second step of kinship, where marriage or a spousal relationship is counted as one of such steps, but any common antecedent is not so counted;
- [(xx)] ‘immigration officer’ means an officer [of the *Department*, or another person having the *prescribed* requirements, appointed as such from time to time by the *Department* and, for purposes of *this Act*, includes a person employed in, or contracted by, the *Department* who has been authorised by the *Department* to exercise certain powers and perform certain functions in the name of and on behalf of the *Department*] appointed in terms of section 33; 25
- [(xxi)] ‘marriage’ means [a legally sanctioned conjugal relationship intended to be permanent and concluded under the laws of the Republic, or]— 30
- (a) a marriage concluded in terms of the Marriage Act, 1961 (Act No. 25 of 1961); or
- (b) a legal marriage under the laws of a foreign country [as prescribed from time to time, and includes a *customary union*]; 35
- [(xxii)] “*master*” means the *master* of a *ship* and refers to the person who at any given time is in charge or command of a *ship*;
- [(xxiii)] ‘Minister’ means the Minister of Home Affairs;
- [(xxiv)] ‘organ of [State] state’ [has the meaning] means an organ of state as defined in section 239 of the Constitution; 40
- [(xxv)] ‘owner’ means the owner of record and[, in the case of a *ship*, it] includes the charterer of [the *ship*] a conveyance and any agent within the Republic of the owner or the charterer;
- [(xxvi)] ‘passport’ means any passport or travel document containing the prescribed information and characteristics issued— 45
- (a) under the South African [Passport] Passports and Travel [Document] Documents Act, 1994 (Act No. 4 of 1994);
- (b) on behalf of a foreign state recognised by the Government of the Republic to a person who is not a citizen;
- (c) on behalf of any international organisation as prescribed [from time to time], including regional or sub-regional [ones] organisations, to a person who is not a citizen[; and], or 50
- [(d)] any other document approved by the [Director-General after consultation with the] Minister and issued under special circumstances to a person who cannot obtain a document [referred to] contemplated in paragraphs (a) to (c); 55
- ‘permanent residence permit’ means a permit contemplated in section 25, 26 or 27;
- [(xxvii)] ‘port of entry’ means a place [*prescribed from time to time*] designated as such by the Minister where [a foreigner] all persons 60

- [(xii)] *'kungeniswa'* kusho kungena eRiphabliki esikhumulweni sekungena eveni [lokususela lapho umuntfu anikwe ligunya lekungena ngalokusemtsetfweni aliniketwa ngulomTsetfo kumbe sisebenti sahumumende lesibukene netifikinamtfwalo ngekumisa kwalomTsetfo,] futsi sento lesitsi "*ngenisa*" sisho intfo lehambisana 5 naloko]; ngekumisa kwesigaba 9;
- [(xiii)] [*'liKhotho'*] likhotho kusho liKhotho letiFikinamtfwalo lelisungulwe ngekumisa kwesigaba 37 salomTsetfo] likhotho lamantji;
- [(xiv)] *'liTiko'* kusho liTiko letaseKhaya;
- [(xv)] *'lomTsetfo'* kusho lomTsetfo lona, lokufaka ekhatsi emashejuli awo, futsi 10 kufaka ekhatsi *timiso* letentiwe ngekulandzela wona;
- [(xvii)] *'lowakakhe'* kusho umuntfu longumlingani—
(a) emshadweni, kumbe *ekuhlanganisweningekwelisiko*[,];
(b) [kumbe e]budlelwane[ni] bebantfu bebulili lobufanako kumbe bebulili [lobungafani basomphelane, lobudzinga kutsi bantfu 15 bahlalisane futsi besekelane bona bobabili ngekwetimali kanye nangekwemoya, nafutsi lobo budlelwano lobufakazelwe sitatimende lesifungelwe lesimisiwe lesifakazelwe sivumelwano lesisayiniwe, futsi "*budlelwano bebantfu labahlalisanako*" kusho intfo lehambisana naloko]; njengaloku kumisiwe; 20
- [(xviii)] *'-misiwe'* kusho loko [lokubonelelwe] lokumiswe ngetimiso[, futsi sento lesitsi *'kumisa'* sisho intfo lehambisana naloko, nafutsi emagama latsi *'-misiwe ngesikhatsi nesikhatsi'* abhekise esigabeni 7(2);]
- [(xviii)] *'phuma* kumbe kuphuma' kusho kuphuma kulaseRiphabliki 25 *esikhumulweni sekungena eveni* ngekutfobela lomTsetfo [futsi sento lesitsi "*phuma*" sisho intfo lehambisana naloko];
- [(xix)] *'sakhumuti'* inchazelo yaleligama itsatselwe kumTsetfo weKuba Sakhumuti saseNingizimu Afrika, 1995, (umTsetfo No. 88 wa 1995) [futsi ligama lelitsi "*kuba sakhumuti*" lisho into lehambisana 30 naloko];
- [(xx)] *'sicelo'* kusho sicelo lesentiwe efomini lelimisiwe lesihambisana netidzingakalo futsi lesiniketa imininingwane kanye netincwadzi lokungahle kumiswe;
- [(xxi)] *'sichamuki'* kusho umuntfu lotsite [longesiso] longesiso sakhumuti 35 [kumbe *umhlali*, kepha futsi longesiso *sichamuki lesingekho emtsetfweni*];
- [(xxii)] *'sichamuki lesingekho emtsetfweni'* kusho sichamuki le kuba kwaso eRiphabliki kusento lesephula lomTsetfo lona [futsi kufaka ekhatsi umuntfu lowencatjelwe]; 40
- [(xxiii)] *'sikhulu lesiphetse umkhumbi'* kusho sikhulu lesiphetse umkhumbi futsi kubhekise kulomuntfu lowo nobe ngabe ngusiphi sikhatsi kunguye lophetse kumbe longumachuzu wemkhumbi;
- [(xxiv)] *'sikhumulo sekungena eveni'* kusho indzawo [lemiswe ngesikhatsi nesikhatsi] lemiselwe kuba yindzawo lenjalo yiNdvuna lapho 45 [sichamuki] bonkhe bantfu [kumele si-] kumele bayewuvela khona ngembikwekutsi [si-] ba-, -ngene. [si-] bahambe [si-] bavakasha kwesikhashana kumbe [si-] bahlale ngekhatshi, kumbe [singene] baphume eRiphabliki;
- [(xxv)] *'sikhwama sekucecesha'* kusho umculu wawonkhewonkhe 50 lekubhekiswe kuwo esigabeni 2(2)(g)(i) salomTsetfo];
- [(xxvi)] *'simo sesichamuki eveni'* kusho [imvume ye-] simo semuntfu eveni njengaloku kubekwe yimvume lengumacondzana nokuhlala somphelane kumbe [imvume ye-] kuhlala sikhashana [lekhishelwe] lokuniketwe 55 umuntfu ngekumisa kwalomTsetfo [futsi kufaka ekhatsi emalungelo kanye netibopho lokusukela lapho, kufake ekhatsi nobe ngutiphi timeko kanye nemibandzela yekuhlala, lokubekwe liTiko ngalesikhatsi likhipha imvume lenjalo];
- [(xxvii)] *'sisebenti sahumumende lesibukene netifikinamtfwalo'* kusho sisebenti sahumumende [seliTiko, kumbe lomunye umuntfu lonaletfo 60 tidzingakalo letimisiwe, locashwe liTiko kutsi ente loyo msebenti ngesikhatsi nesikhatsi futsi, ngetinjongo talomTsetfo, kufaka ekhatsi umuntfu locashwe liTiko, kumbe lonekontilaki neliTiko, logunyatwe

- [has] have to report before [he or she] they may [move] enter, sojourn or remain within, or [enter] depart from the Republic;
- [(xxviii)] 'premises' means any building, structure or tent, together with the land on which it is situated and the adjoining land used in connection with it, and includes any land without any building, structure or tent and any [vehicle,] conveyance[, or *ship*]; 5
- [(xxix)] 'prescribed' means [provided for] prescribed by regulation[, the verb "to prescribe" has a corresponding meaning and "*prescribed* from time to time" refers to section 7(2)];
- [(xxx)] 'prohibited person' means any person [referred to] contemplated in section 29 [of *this Act*]; 10
- [(xxxix)] "*publish*" means *publish* by notice in the *Government Gazette* and, to the extent possible and feasible under the circumstances, convey by mail or e-mail to parties or stakeholders who have requested their inclusion or have been included in mailing lists to be maintained by the *Department* in respect of subject matters in respect of which public input is called for by *this Act*, *prescribed*, advisable or expedient;] 15
- [(xxxii)] "*regulations*" means general rules adopted by the *Minister* after consultation with the *Board* in terms of *this Act* and *published*;] 20
- [(xxxiii)] 'Republic' means the Republic of South Africa [and its territory];
- [(xxxiv)] "*resident*" means the holder of a permanent residence permit referred to in section 25 of *this Act*;]
- [(xxxv)] "*ship*" includes any vessel, boat, aircraft or other *prescribed* conveyance;] 25
- [(xxxvi)] 'spouse' means a person who is a party to—
 (a) a marriage, or a customary union[,]; or
 (b) [to] a permanent homosexual or heterosexual relationship [which calls for cohabitation and mutual financial and emotional support, and is proven by a *prescribed* affidavit substantiated by a notarial contract and "*spousal relationship*" has a corresponding meaning] as *prescribed*; 30
- [(xxxvii)] 'status' means the status of the person as determined by the relevant permanent or temporary residence permit [issued] granted to a person in terms of this Act [and includes the rights and obligations flowing therefrom, including any term and condition of residence imposed by the *Department* when issuing any such permits]; 35
- [(xxxviii)] 'temporary residence permit' means a temporary residence permit [referred to] contemplated in section 10 [of *this Act*]; 40
- [(ixl)] 'this Act' means this Act, including its schedules, and includes the regulations made pursuant thereto;
- [(xl)] "*training fund*" means the public record referred to in section 2(2)(g)(i) of *this Act*;]
- 'transit visa' means a transit visa contemplated in section 10B; 45
- [(xli)] 'undesirable person' means a person [referred to] contemplated in section 30 [of *this Act*];
- [(xlii)] 'visa' means [the *prescribed* endorsement issued upon application on the valid *passport* of a *foreigner* granting such *foreigner* the authority to proceed to the *Republic* to report for a *prescribed* examination to an immigration officer at the *port of entry* with a view to admission on a specified *temporary residence*, which at any time before admission may be withdrawn by the *Department*] the authority contemplated in section 10A to proceed to a port of entry; 50
- [(xliii)] 'work' [means business, commercial or remunerative activities within the *Republic*, excluding work on the basis of a permit referred to in sections 12 or 14, or work for a foreign employer pursuant to a contract which only partially calls for activities in the *Republic*, or work as a business or profession mainly based outside the *Republic* but requiring activities within the *Republic*] includes— 60

liTiko kutsi asebentise emandla latsite futsi ente imisebenti letsite egameni kanye nasesikhundleni *seliTiko*]; locashwe ngekumisa kwesigaba 33;

- [(xxviii)] '*timiso*' kusho imitsetfo leyetayelekile leyemukelwe yi*Ndvuna* ngemuva kwekubonisana ne*Bhodi* ngekumisa kwalom*Tsetfo* nafutsi letikhishiwe;] 5
- [(xxix)] '*umbhalitimali lobhalisiwe*' kusho umuntfu lekubhekiswe kuye esigabeni 1 sem*Tsetfo* weku*Miswa* kweba*Bhalitimali* laba*Bhalisiwe* (um*Tsetfo* lochamuke neli*Lunga lePhalamende*), 1993 (um*Tsetfo* No. 67 wa 1993), futsi kufaka ekhatsi umbhalitimali lomunye longesiye *umbhalitimali lobhalisiwe*, lowemukelekile kutsi ungumbhalitimali ngaphansi kwanobe ngumuphi umtsetfo nalotfunywe ngalokucondze ngco kumbe lokungakacondzi ngco *ngumbhalitimali lobhalisiwe* kutsi ente nobe ngumuphi walomsebenti kumbe wonkhe lomsebenti locatjangelwako kulom*Tsetfo*]; 10
- [(xxx)] '*umbuso wakulelinye live*' kusho intfo lengaphili leyentiwe ngumtsetfo yaba ngumuntfu leyo lebusa *kulelinye live*; 15
- [(xxxii)] '*umcash*' kufaka ekhatsi umuntfu lobopheleleke njengemcash ngekwesivumelwano lesiboshwe yikontilaki yemsebenti lesebenta kuleyo ndzawo kumbe, endzabeni yentfo lengaphile leyentiwe ngumtsetfo yaba ngumuntfu, kusho sikhulunhloko lesiphetse salapho kumbe lomuntfu lowo leso sikhulu lesitfume yena kutsi abe nelivi lekugcina etindzabeni letiphatselene nebasebenti; 20
- [(xxxiii)] '*umCondzisijikelele*' kusho umCondzisijikelele weli*Tiko*; 25
- [(xxxiv)] '*umentisicelo wetemabhizimisi*' kusho intfo lengaphili leyentiwe ngumtsetfo yaba ngumuntfu lesungulwe ngaphansi kwemitsetfo ye*Riphabliki* kumbe *yakulelinye live*, leyontfo lechuba umsebenti webhizimisi, ngaphandle kwekufuna kwenta inzuzo, wetekulima kumbe wetekuhweba ngekhatsi kwe*Riphabliki*, nafutsi loko lokwenta sicelo semvume yetemabhizimisi lekubhekiswe kuyo esigabeni 21 [*salomTsetfo*]; 30
- [(xxxv)] '*umhlali*' kusho umnikati wemvume yekuhlala somphelane lekubhekiswe kuyo esigabeni 25 [*salomTsetfo*];
- [(xxxvi)] '*umkhumbi*' kufaka ekhatsi nobe nguwuphi umkhumbi lotfwala bagibeli kumbe imphahla, sikebhe, libhanoyi kumbe lenye intfo yekuhamba lemisiwe;] 35
- [(xxxvii)] '*umncele*' kusho *imincele* yelive lonkhe yase*Riphabliki* [futsi kufaka ekhatsi *tikhumulo tekungena eveni*, tindzawo letigudla lugu kanye netindzawo lapho lwandle lwakulelo live luphelela khona];
- [(xxxviii)] '*umndeni losondzele*' kusho bantfu labatihlobo tengati, lapho kubalwa khonawdmshado kumbe *budlelwano bebantfu labahlalisanako* njengalobunye balobo buhlobo lobunjalo, kepha bantfu lababelusendvo lunye ababalelwa kulabo bantfu; 40
- [(xxxviii)] '*umnikati*' kusho *umnikati* lobhaliswe emabhukwini futsi[, endzabeni *yemkhumbi*,] kufaka ekhatsi umuntfu lo-[wu]-cash-[il]-e [lowo *mkhumbi*] intfo yekuhamba kanye nanobe ngusiphi sitfunywa salowo mnikati kumbe semuntfu locashile [*umkhumbi*,] lesingekhatsi kwe*Riphabliki*; 45
- [(ix)] '*umsebenti*' [kusho umsebenti webhizimisi, wekuhweba kumbe umsebenti umuntfu laholelwa wona lowentiwa ngekhatsi kwe*Riphabliki*, akufaki ekhatsi umbesenti lowentiwa ngemvume lekubhekiswe kuyo esigabeni 12 kumbe 14, kumbe umsebenti wemcash *wakulelinye live* lowentiwa ngaphansi kwekontilaki le kuyincenye yayo kuphela lefuna kusetjentwe e*Riphabliki*, kumbe umsebenti lonjengebhizimisi kumbe umsebenti lofundzelwe lotinte kakhulu ngaphandle kwe*Riphabliki* kepha lofuna kusetjentwe la ngekhatsi e*Riphabliki*]; ufaka ekhatsi— 50
- (a) kwenta nobe ungumuphi umsebenti lo ngalokwetayelekile uhambelana nekuchuba ibhizimisi letsite; kumbe
- (b) kucashwa kumbe kwenta imisebenti lehambisana nekucashwa kumbe lehambisana nemsebenti lawufundzele lowo muntfu , lawuholelako kumbe langawuholeli kumbe labongwako kumbe angabongwa ngawo, ngekhatsi kwe*Riphabliki*.”; 60

(a) conducting any activity normally associated with the running of a specific business; or

(b) being employed or conducting activities consistent with being employed or consistent with the profession of the person, with or without remuneration or reward,

within the Republic.”; and

(b) the deletion of subsection (2).

Repeal of section 2 of Act 13 of 2002

3. Section 2 of the principal Act is hereby repealed.

Substitution of section 3 of Act 13 of 2002

4. The following section is hereby substituted for section 3 of the principal Act:

“Delegation of powers

3. (1) The Minister may, subject to the conditions that he or she may deem necessary, delegate any power conferred on him or her by this Act, excluding a power referred to in sections 3, 4, 5 and 7, to an officer or category of officers or an employee or category of employees or a person or category of persons in the Public Service, but shall not be divested of any power so delegated.

(2) The Director-General may, subject to the conditions that he or she may deem necessary, delegate any power conferred on him or her by this Act to an officer or category of officers or an employee or category of employees or a person or category of persons in the Public Service, but shall not be divested of any power so delegated.”.

Amendment of section 4 of Act 13 of 2002

5. Section 4 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) (a) The Board shall consist of—

(i) (aa) the Director-General; and

(bb) the Head of the National Immigration Branch of the Department;

(ii) a representative of the following Departments, at least equivalent to the rank of Deputy Director-General:

(aa) Department of Defence;

(bb) Department of Education;

(cc) Department of Environmental Affairs and Tourism;

(dd) Department of Trade and Industry;

(ee) Department of Foreign Affairs;

(ff) Department of Justice and Constitutional Development;

(gg) Department of Labour;

(hh) Department of Safety and Security; and

(ii) National Treasury;

(iii) a representative, at least equivalent to the rank of Deputy Director-General, of the—

(aa) National Intelligence Coordinating Committee; and

(bb) South African Revenue Service;

(iv) a person representing organised business;

(v) a person representing organised labour; and

(vi) up to five individual persons appointed by the Minister on the basis of their knowledge, experience and involvement pertaining to immigration law, control, adjudication or enforcement.

(b) The Minister shall designate from the members of the Board a Chairperson and Deputy Chairperson of the Board.”;

(b) by the deletion of subsection (3);

(c) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

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- [(xl)] *'umshado'* [kusho budlelwane bendvodza nemfati lobuvunyelwe ngekwemtsetfo lobucondze kuba somphelane futsi lobentiwe ngaphansi kwemitsetfo yase*Riphabliki*, kumbe]—
 (a) *umshado loboshwe ngekumisa kwemTsetfo wemShado, 1961* (umTsetfo No. 25 wa 1961; kumbe 5
 (b) *umshabo losemTsetfweni ngaphansi kwemitsetfo yakulelinye live [njengaloku kumisiwe ngesikhatsi nesikhatsi, futsi kufaka ekhatsi kuhlanganiswa ngekwelisiko];*
- [(xli)] *umtimba we-[mBuso] mbuso'* [inchazelo yaleligama] *njengaloku* ichazwe esigabeni 239 semTsetfosisekelo; 10
- [(xlii)] *'umuntfu longakemukeleki'* kusho umuntfu [lekubhekiswe kuye] *locatjangelwako* esigabeni 30 [*salomTsetfo*]; futsi
- [(xliii)] *'umuntfu lowencatjelwe'* kusho nobe ngabe ngumuphi umuntfu *lekubhekiswe kuye* esigabeni 29 *salomTsetfo*.

Kuchitjelwa kwesigaba 2 semTsetfo 13 wa 2002 15

3. Kuchitjelwa kwesigaba 2 semTsetfo wakucala.

Kufakwa kwalesinye sigaba endzaweni yesigaba 3 semTsetfo 13 wa 2002

4. Lesigaba lesilandzelako sifakwa endzaweni yesigaba 3 semTsetfo wakucala:

“Kwendluliselwa kwemandla

3. (1) Indvuna inako, ngekulandzela timeko lengatibona kutsi 20
 tidzingekele, kwendlulisela nobe nguwaphi emandla lekubhekiswe kuwo
 esigabeni 3, 4, 5 na-7, esikhulwini esigabeni setisebenti taHulumende nobe
 umuntfu nobe tigaba tebantfu, nobe sisebenti esigabeni setisebenti
 taHulumende, kepha ete emukwe nobe nguwaphi lawo mandla
 lawendlulise kanjalo. 25
- (2) UmCondzisijikelele angahle, ngekulandzela timeko langatibona
 kutsi tidzingekele, endlulisele nobe nguwaphi emandla leftweswe wona
 ngulomTsetfo esikhulwini nobe esikhulwini lesisesigabeni lesitsite
 setisebenti taHulumende, kepha ete emukwe nobe nguwaphi lawo mandla
 lawendlulise kanjalo.” 30

Kuchitjelwa kwesigaba 4 semTsetfo 13 wa 2002

5. Sigaba 4 semTsetfo wekucala sichitjelwe kanjena—

(a) ngeku faka lesigabancane lesilandzelako endzaweni yesigabancane (2):

(2) (a) IBhodi itawufaka—

- (i) (aa) UmCondzisijikelele; kanye 35
 (bb) iNhloko yeliGala laVelonkhe letetiFikanamtfwalo
 waleliTiko;
- (ii) ummeleli walamaTiko lalandzelako, lokungenani
 losesikhundleni seliSekela lemCondzisijikelele; 40
 (aa) liTiko leteMphi;
 (bb) LiTiko letemFundvo;
 (cc) LiTiko letebuNjalondzawo netekuVakasha
 (dd) liTiko lekuHweba netiMboni
 (ee) liTiko letiNzdaba tangaPhandle
 (ff) liTiko leteBulungiswa nekuTfutukiswa kwemTsetfo- 45
 sisekelo
 (gg) liTiko letebaSebenti
 (hh) liTiko letekuPhepha nekuVikela
- (ii) Malingena waVelonkhe
- (iii) ummeleli, lokungenani losesikhundleni lesilingana 50
 neseliSekela lemCondzisijikelele—
 (aa) weKomiti yekuCondzisa tebuNhloli taVelonkhe; kanye
 (bb) nemSebenti waMalingena weNingizimu Afrika;
- (iv) umuntfu lomelele temabhezimisi lahlelekile;
- (v) umuntfulomelele tebasebenti letihlelekile; 55

“A member of the Board referred to in subsection (2)[(k)] (a)(iv), (v) and [(l)] (vi) shall—”;

(d) by the substitution for subsection (5) of the following subsection:

“(5) The administrative work connected with the performance of the functions of the Board shall be performed by officers of the Department, designated by the Director-General for that purpose.”;

(e) by the deletion of subsection (6); and

(f) by the deletion of subsection (8).

Substitution of section 5 of Act 13 of 2002

6. The following section is hereby substituted for section 5 of the principal Act: 10

“Functions of Board

5. The Board shall—

- (a) advise the Minister in respect of—
- (i) the contents of regulations that may be made in terms of this Act;
 - (ii) the formulation of policy pertaining to immigration matters; and
 - (iii) any other matter relating to this Act on which the Minister may request advice; and
- (b) serve as the interdepartmental cooperation forum for all immigration matters.”. 20

Repeal of section 6 of Act 13 of 2002

7. Section 6 of the principal Act is hereby repealed.

Substitution of section 7 of Act 13 of 2002

8. The following section is hereby substituted for section 7 of the principal Act: 25

“Regulations

7. (1) The Minister may, after consultation with the Board, make regulations relating to—

- (a) the powers and duties of immigration officers;
- (b) the steps to be taken to prevent the entry of illegal foreigners into the Republic and to facilitate the tracing and identification of illegal foreigners in, and their removal from, the Republic; 30
- (c) the procedure regulating the entry into and departure from the Republic of persons at a port of entry, and the requirements and conditions to be complied with at such a port; 35
- (d) the times and places of, and the manner of conducting, an enquiry relating to, or the examination of, persons entering or desiring to enter the Republic or who, having been found in the Republic, are suspected of being prohibited persons or unlawfully resident therein;

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- (vi) bantfu labafika esihlanwini labakhetfwe yiNdvuna ngenca yelwati lwabo, sipiliyoni sabo kanye nekuba sekhatsi kwabo kutemtsetfo, ekuphatfweni, ekukwehluleleni nobe ekuboneni kutsi umtsetfo uyalandzelwa kutetifikamamtfwalo.
- (b) Indvuna itakwendlulisela emandla kunobe nguliphi kumalaunga eBhodi kutsi babe nguSihlalo kanye naSekelasihlalo weBhodi.” 5
- (b) ngekukhishwa kwesigatjana (3);
- (c) ngekufaka lamagama lalandzelako edzaweni yalamagama lendvulela pharagrafu (a) kusigabancane (4);
- (v) “Lilunga leBhodi lekubhekiswe kulo kusigatjana [(2)(k)](2)(a)(iv), (v) kanye [(l)] (vi)—”; 10
- (d) ngekufaka lesigatjana lesilandzelako endzaweni yesigabancane (5):
“(5) Umsebenti wetekuphatsa lophatselene nekwenziwa kwemisebenti yeBhodi, utakwenziwa tikhulu teliTiko letendluliselwe emandla ngumCondzisijikelele ngayo leyo njongo”; 15
- (e) ngekukhishwa kwesigatjana (6); kanye
- (f) nangekukhishwa kwesigatjana (8).

Kufakwa kwalesinye sigaba endzaweni yesigaba 5 semTsetfo 13 wa 2002

6. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 3 semTsetfo wekucala kanjena: 20

“ImiSebenti yeBhodi

5. IBhodi—

- (a) itakweluleka iNdvuna macondzana—
- (i) naloku lokucuketfwe timiso letinekwenziwa ngekumisa kwalomTsetfo; 25
- (ii) nekwakhiwa kwenchubomgomo lephatselene netindzaba tetifiki namtfwalo;
- (iii) nanobe nguyiphi lenye indzaba lephatselene nalomTsetfo iNdvuna lengahle icele kwelulekwa kuwo; futsi
- (b) itawusebenta njengemtimba lohlanganise onkhe ematiko locondzisa tonkhe tindzaba letiphatselene netetifiki namtfwalo.”. 30

Kucitfwa kwesigaba 6 semTsetfo 13 wa 2002

7. Kucitfwa kwesigaba 6 semTsetfo wakucala.

Kufakwa kwalesinye sigaba endzaweni yesigaba 7 semTsetfo 13 wa 2002

8. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 7 semTsetfo wakucala: 35

“Timiso

7. (1) INdvuna, ngemuva kwekubonisana neBhodi, inako kwenta timiso letiphatselene—

- (a) nemandla kanye nemisebenti yetisebenti tahulumende letibukene netifikinamtfwalo; 40
- (b) netinyatselo lekumele titsatfwe tekuvimbela bakhoseli labangakangeni ngekwenmtsetfo kutsi bangene eRiphabliki kanye nekwenziwa kutsi kukhonakale kutfungatsa kanye nekutfolela umkhondvo webakhoseli labangakangeni ngekwenmtsetfo ngekhatsi, kanye nekukhishwa kwabo eRiphabliki; 45
- (c) nenchubo yekuphatsa kungena ngekhatsi nekuphuma kulaseRiphabliki kwebantfu esikhumulweni sekungena eveni, kanye netidzingakalo nemibandzela lekumele kulandzelwe yona kuleso sikhumululo sekungena eveni;
- (d) netikhatsi, tindzawo kanye nekuchutjwa kweluphenyo lolumayelana nabo, nobe luhlolo lwabo, bantfu labangenako nobe labafisa kungena eRiphabliki nobe labo, ngemuva kwekutsi sebatfolakele ngekhatsi 50

- (e) the permits and the certificates which may be issued under this Act, the requirements for the issuing of permits and certificates and the conditions to which such permits or certificates may be subjected, and the circumstances under which such permits or certificates may be cancelled or withdrawn; 5
- (f) the conditions upon which prohibited persons may be allowed to pass through the Republic while journeying or being conveyed to a place outside the Republic;
- (g) the forms of warrants, permits, certificates or other documents to be issued or used, or of declarations to be made, or of registers to be kept, for the purposes of this Act, and the particulars to be provided on or inserted in any such document, declaration or register; 10
- (h) the fees that may be charged in respect of overtime services required to be performed by immigration officers;
- (i) the fees that may be charged in respect of the application for and issuing of visas, permits and certificates and other services rendered in terms of this Act; 15
- (j) the steps to be taken to prevent the departure from the Republic of a person not in possession of a passport or other appropriate documentation; 20
- (k) the requirements and conditions which should be complied with by any person who, on behalf of any other person, applies for a permit referred to in sections 11 to 22 and 25 to 27, and the registration of an immigration practitioner contemplated in section 46;
- (l) the manner in which payment of a deposit contemplated in section 34(3) may be enforced; 25
- (m) the steps to be taken to ensure proper exploitation of the local labour market before a work permit is issued in terms of section 19;
- (n) the circumstances whereunder and the manner in which a penalty shall be incurred by and recovered from the owner, agent, charterer or person in control of a conveyance and who conveyed a foreigner contemplated in section 35(7) to the Republic; 30
- (o) any matter that may be prescribed under this Act; and
- (p) generally, any matter required for the better achievement of the objects and purposes of this Act. 35

(2) Different regulations may be made under subsection (1)(c) in respect of different ports of entry, and the forms of warrants, permits, certificates, documents, declarations or registers prescribed under subsection (1)(g) may differ in respect of different categories of persons.

(3) A regulation made under subsection (1) may provide that any person who contravenes a provision thereof or fails to comply therewith shall be guilty of an offence and on conviction be liable to a fine, or to imprisonment for a period not exceeding 12 months. 40

(4) The Minister may—

- (a) exempt a person or category of persons from paying fees prescribed under subsection (1)(h); and 45
- (b) withdraw an exemption granted to a person or a category of persons under paragraph (a).

(5) Any fee which may be prescribed under subsection (1) shall be prescribed by the Minister with the concurrence of the Minister of Finance.”. 50

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- eRiphabliki, labasolelwa kwekutsi babatfu labencatjelwe nobe batihlali letingekho emtsetfweni;
- (e) netimvume kanye netitifiketi letingakhishwa ngaphansi kwalomTsetfo, tidzingo leto timvume kanye netitifiketi letingakhishwa ngaphansi kwako, kanye naleyo mibandzela timvume netitifiketi kutakuba ngaphansi kwayo, kanye netimeko leto timvume nobe titifiketi tinekukhanselwa nobe tihociswe ngaphansi; 5
- (f) netimeko bantfu labancatjelwe labanako kuvunyelwa ngaphansi kwato kwendlula kuleRiphabliki ngalesikhatsi bahamba bavakasha nobe bayiswa endzaweni lengaphandle kweRiphabliki; 10
- (g) tinhlobo tetincwadzi letigunyata kuboshwa, tetimvume, tetitifiketi nome taletinye tincwadzi lekumele tikhishwe nome tisetjentiswe, nome tetimemetelo lekumele tentiwe, nome emaregista lekumele agcinwe, ngetinjongo talomTsetfo, kanye neminingwane lekumele ifakwe kuko nome ngekhatshi kwaleyo ncwadzi, simemetelo nome iregista; 15
- (h) netimali letifanele kubitwa macondzana nekusebenta sikhatsi lesendlulele lokudzingekal kutsi sisetjentwe tisebenti tahlumende letibukene netifikanamtfwalo;
- (i) netimali letifanele kubitwa macondzana nesicelo kanye nekukhishwa kwemavisa, timvume, titifiketi kanye nalomunye umsebeni lowentiwako mayelana nalomTsetfo; 20
- (j) netinyatselo lekumelwe titsatfwe kuvimbela kuphuma eRiphabliki kwemuntfu longenayo ipasipoti nobe tincwadzi letifanele;
- (k) netidzingo kanye netimeko lekumele kuhanjiswa nato ngunobe ngumuphi umuntfu, egameni lanobe ngumuphi lomunye umuntfu, enta sicelo semvume lekubhekiswe kuyo tetigabeni 11 kuya ku-22 na-25 kuya ku-27, kanye nekubhaliswa kwemuntfu losebenta ngetifikanamtfwalo locatjangelwako esigabeni 46; 25
- (l) nendlela le kubhadalwa ngayo idiphozi lecatjangelwako esigabeni 34(3) lekunekwentiwa kutsi kuyenteka; 30
- (m) netinyatselo lekumele titsatfwe kucinisekisa kwekutsi kusetjentiswa umtfombo webasebenti bendzawo ngendlela lefanele ngembikwekutsi kukhishwe imvume yekusebenta ngaphansi kwesigaba 19;
- (n) netimeko kanye netimo lekumele kukhishwe inhlawulo ngaphansi kwato kanye nendlela leyo nhlawulo letawubhadalwa ngumnikati, sitfunywa, ngumcashi nome ngumuntfu lolawula kuhambisa kanye nalohambise sifikanamtfwalo lecatjangelwako esigabeni 35(7) wasiletsa eRiphabliki; 35
- (o) nanobe nguyiphi indzaba lenekumiswa ngaphansi kwalomTsetfo; kanye 40
- (p) ngalokwetayelekile, nanobe nguyiphi indzaba ledzinga kufezeka kancono kwetinhloso kanye netinjongo talomTsetfo.
- (2) Timiso letehlukene tingentiwa ngaphansi kwesigatjana (1)(c) mayelana netikhumulo tekungena eveni letehlukene, kanye netincwadzi letigunyata kuboshwa, tetimvume, tetitifiketi, tincwadzi, timememtelo nobe emaregista lekumiswe ngaphansi sigatjana (1)(g) kunako kwehluka macondzana netigaba letehlukene tebantfu. 45
- (3) Simiso lesentiwe ngaphansi sigatjana (1) sinekubonelela kwekutsi nobe ngumuphi umuntfu lowephula sibonelelo saso nobe lowehluleka kuhambisana naso utakuba nelicala lekwephula umtsetfo futsi atsi angalahlwa licala abopheleleke kukhokha inhlawulo, nobe kuvalelwa ejele sikhatsi lesingengi 12 wetinyanga. 50
- (4) Indvuna inako—
- (a) kucolela umuntfu ekubhadaleni timali letimiswe ngaphansi kwesigatjana (1)(h); kanye 55
- (b) ne-kuhocisa kucolela lokunikwe umuntfu nobe tigaba tebantfu ngaphansi kwapharagrafu (a).
- (5) Nobe nguyiphi imali lenekumiswa ngaphansi kwesigatjana (1) titawumiswa yiNdvuna ngekuvumelana neNdvuna yeTetimali.” 60

Substitution of section 8 of Act 13 of 2002

9. The following section is hereby substituted for section 8 of the principal Act:

“Review and appeal procedures

8. (1) An immigration officer who refuses entry to any person or finds any person to be an illegal foreigner shall inform that person on the prescribed form that he or she may in writing request the Minister to review that decision and— 5
- (a) if he or she arrived by means of a conveyance which is on the point of departing and is not to call at any other port of entry in the Republic, that request shall without delay be submitted to the Minister; or 10
- (b) in any other case than the one provided for in paragraph (a), that request shall be submitted to the Minister within three days after that decision. 15
- (2) A person who was refused entry or was found to be an illegal foreigner and who has requested a review of such a decision— 15
- (a) in a case contemplated in subsection (1)(a), and who has not received an answer to his or her request by the time the relevant conveyance departs, shall depart on that conveyance and shall await the outcome of the review outside the Republic; or 20
- (b) in a case contemplated in subsection (1)(b), shall not be removed from the Republic before the Minister has confirmed the relevant decision. 20
- (3) Any decision in terms of this Act, other than a decision contemplated in subsection (1), that materially and adversely affects the rights of any person, shall be communicated to that person in the prescribed manner and shall be accompanied by the reasons for that decision. 25
- (4) An applicant aggrieved by a decision contemplated in subsection (3) may, within 10 working days from receipt of the notification contemplated in subsection (3), make an application in the prescribed manner to the Director-General for the review or appeal of that decision. 30
- (5) The Director-General shall consider the application contemplated in subsection (4), whereafter he or she shall either confirm, reverse or modify that decision. 30
- (6) An applicant aggrieved by a decision of the Director-General contemplated in subsection (5) may, within 10 working days of receipt of that decision, make an application in the prescribed manner to the Minister for the review or appeal of that decision. 35
- (7) The Minister shall consider the application contemplated in subsection (6), whereafter he or she shall either confirm, reverse or modify that decision.”. 40

Substitution of section 9 of Act 13 of 2002

40

10. The following section is hereby substituted for section 9 of the principal Act:

“Admission and departure

9. (1) Subject to this Act, no person shall enter or depart from the Republic at a place other than a port of entry. 45
- (2) Subject to this Act, a citizen [or a *resident*] shall be admitted, provided that he or she identifies himself or herself as such [in the *prescribed manner*] and[, in the case of a *resident*,] the immigration officer records his or her entrance. 45

Kufakwa kwalesinye sigaba endzaweni yesigaba 8 semTsetfo 13 wa 2004

9. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 8 semTsetfo wekucala kanjena:

“Tinchubo tenkwenta sikhalo nekubuyeketa

8. (1) Sisebenti sahumende lesibukene tifikanamtfwalo lesalela nome ngumuphi umuntfu kutsi angene nobe lesitfolo kwekutsi usichamuki lesingekho emtsetfweni, sitakwatisa lowo muntfu efomini lelimisiwe kutsi angabhala acela umCondzisijikelele kwekutsi abuyekete leso sincumo futsi—
- (a) nangabe afike ngentfo yekuhamba letawuphuma ngaso leso sikhatsi futsi lengayi kulesinye sikhumulo sekungena eRiphabliki, leso sicelo sitakwetfulwa iNdvuna ngaphandle kwekucitsa sikhatsi; nobe
- (b) kunobe nguyiphi lenye indzaba lekungesiyo lebonelelwe kupharagrafu (a), leso sicelo sitakwetfulwa kumCondzisijikelele kungakengci emalanga lamatsatfu sitsetfwe leso sicelo.
- (2) Umuntfu lowalelwe kungena nobe lotfolakele kutsi usichamuki lesingekho emtsetfweni nalocela kutsi kubuyeketwe leso sincumo—
- (a) endzabeni lekucatjangelwa esigabaneni (1)(a), nalapho umuntfu angakatfoli imphendvulo yesicelo sakhe kute kufike sikhatsi lehamba ngaso leyontfo yekuhamba lekukhulunywa ngayo, utawuphuma ngayo leyontfo yekuhamba futsi utawulindzela umphumela wesibuyeketo ngaphandle kweRiphabliki; futsi
- (b) endzabeni lekucatjangelwa esigabaneni (1)(b), lowo muntfu akanawukhishwa eRiphabliki ngembikwekutsi iNdvuna asacinisekise sincumo lesifanele.
- (3) Nobe ngusiphi sincumo lesitsetfwe ngekwalomTsetfo, lekungesiso sincumo lesicatjangelwako esigabaneni (1), lesiphatsa kabi ngalokubonakalako emalungelo anobe ngumuphi umuntfu, sitakwatiswa lowo muntfu ngendlela lemisiwe futsi sitawuhambisana netizatfu taleso sincumo.
- (4) Nobe ngumuphi umentisicelo lophatseke kabi ngesincumo lesicatjangelwako esigabaneni (3), kungakapheli emalanga ekusebenta la-10 atfole satiso lesicatjangelwako esigabaneni (3), utakwenta sicelo ngendlela lemisiwe yiNdvuna sekutsi kubuyeketwe nobe sekwenta sikhalo ngaleso sincumo.
- (5) UmCondzisijikelele utawubuka sicelo lesicatjangelwako esigabaneni (4), lekutakutsi emvakwaloko asicinisekise kumbe asibuyisele emuva nobe asigucule leso sincumo.
- (6) Umentisicelo lophatseke kabi ngesincumo seNdvuna lesicatjangelwako esigatjaneni (5), kungakapheli emalanga ekusebenta langu-10 atfole leso sincumo, utakwenta sicelo ngendlela lemisiwe eNdvuneni sekutsi kubuyeketwe nobe sekwenta sikhalo ngaleso sincumo.
- (7) INdvuna itawubuka sicelo lesicatjangelwako esigatjaneni (6), lekutakutsi emvakwaloko isicinisekise nobe isibuyisele emuva nobe isigucule leso sincumo.”

Kufakwa kwalesinye sigaba endzaweni yesigaba 8 semTsetfo 13 wa 2004

10. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 9 semTsetfo wekucala kanjena:

“Kungeniswa kanye nekuphuma

9. (1) Ngaphansi kwalomTsetfo, akukho muntfu lotawungena nobe aphume eRiphabliki kulenye indzawo ngaphandle kwasesikhumulweni sekungena.
- (2) Ngaphansi kwalomTsetfo, sakhamuti [nobe umhlali] utawungeniswa, ingce nje nangabe atisho kutsi usakhamuti nobe ungumhlali [ngendlela lemisiwe] futsi[, endzabeni yemhlali,] nangabe

- (3) No person shall ~~[leave]~~ enter or depart from the Republic—
- (a) unless in possession of a valid passport~~[, or a certificate issued by the Department upon application in lieu thereof];~~
- (b) unless, if he or she is a person under the age of 16 years who does not hold a passport, he or she is accompanied by his or her parent who holds a passport in which his or her name was entered in terms of the ~~[provisions of the]~~ South African Passports and Travel Documents Act, 1994 ~~(Act No. 4 of 1994)~~, or on behalf of any government or international organisation recognised by the Government of the Republic; ~~[and]~~
- (c) except at a port of entry, unless—
- (i) in possession of a certificate issued by the [Department] Director-General granting permission upon application to [leave] enter or depart from the Republic at a place other than a port of entry within a certain period not exceeding six months at a time, provided that for good cause [an immigration officer] the Director-General may withdraw such permission; or
- (ii) exempted as an individual or falling within a category of persons exempted by the Minister, [as he or she deems fit,] on the recommendation of the Director-General, which exemption may be withdrawn by the [Director-General at any time] Minister; [and]
- (d) unless~~[, in the case of a resident,]~~ the entry or departure is recorded by an immigration officer[.]; and
- (e) unless examined by an immigration officer as prescribed.
- (4) A foreigner who is not the holder of a permanent residence permit may only enter the Republic as contemplated in this section if—
- (a) [by producing to an immigration officer] his or her passport [to be] is valid for [no] not less than 30 days after the expiry of the intended stay[.]; and
- (b) [if] issued with a valid temporary residence permit, as set out in this Act[, and may only depart as set out in this Act].”.

Substitution of section 10 of Act 13 of 2002

11. The following section is hereby substituted for section 10 of the principal Act: 35

“Temporary residence permits

10. (1) Upon admission, a foreigner, who is not the holder of a permanent residence permit, may enter and sojourn in the Republic only if in possession of a temporary residence permit issued by the Director-General.

(2) Subject to this Act, upon application [and upon prescribed examination at the port of entry] in the prescribed manner and on the prescribed form, one of the temporary [residences] residence permits [set out] contemplated in sections 11 to 23 may be issued to a foreigner. 40

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sisebenti sahumende lesibukene netifikamtfwalo sikubhalile phansi kungena kwakhe.

(3) Akukho muntfu lotawu-[phuma] angene nobe aphume eRiphabliki—

(a) ngaphandle kwekutsi unepasipoti lesebentako [nobe sitifiketi 5 lesikhishwe liTiko ngemuva kwekwentiwa kwesicelo saloko];

(b) ngaphandle, nangabe lowo ngumuntfu longephansi kweminyaka yebudzala le-16 longenayo ipasipoti, uhamba nemtali wakhe lonepasipoti leneligama lalowo muntfu ngekumisa kwetibonelelo temTsetfo wemaPasipoti kanye netiNcwadzi tekuHamba 10 kwaseNingizimu Afrika, 1994 (umTsetfo No. 4 wa 1994), nobe ahamba egameni lanobe ngumuphi humende nobe inhlango yemave ngemave leyemukelekile kuHulumende weRiphabliki; [kanye]

(c) nangaphandle kwasesikhumulweni sekungena, ngaphandle kwe- 15 kutsi—

(i) unesitifiketi lesikhishwe [liTiko] ngumCondzisijikelele lesimnike imvume ngalesikhatsi enta sicelo sekutsi [aphume] angene nobe aphume eNingizimu Africa kulenye indzawo lokungesiyo sikhumulo sekungena kungakapheli sikhatsi 20 lesingengi tinyanga letisitfupha ngaleso naleso sikhatsi afuna kuphuma, ingce nje nangabe [sisebenti sahumende lesibukene netifikanamtfwalo sitawukwati] umCondzi- sijikelele atawukwati kuyihocisa leyo mvume nangabe kunesizatfu lesivakalako sekutsi ente njalo; nobe 25

(ii) ucolelwe njengemuntfu yena lucobo nobe njengemuntfu lowela ngekhati kwesigaba sebantfu labacolelweyiNdvuna, [njengaloku yona ikubona kufanele] ngemuva kwesincomo lesintiwe ngumCondzisijikelele, loko kucolelwa lokungahociswa [ngumCondzisijikelele] yiNdvuna 30 [nganobe ngusiphi sikhatsi]; [futsi]

(d) ngaphandle kwalapho[, endzabeni yemhlali,] lokungena nobe [lokuphuma]kuphuma loko kubhaliwe phansi sisebenti sahumende lesibukene netifikanamtfwalo[.]; nafutsi

(e) ngaphandle kwekutsi kuhlolwe sisebenti sahumende lesibukene 35 netifikanamtfwalo njengaloku kumisiwe.

(4) *Sichamuki* singangena eRiphabliki njengalokucatjangelwako kulesigaba lesi kuphela nangabe—

(a) [ngekutsi sikhombise sisebenti sahumende lesibukene netindzaba tetifiki] ipasipoti yaso [letawusebenta] itawusebenta 40 sikhatsi lesingesingaphansi kwemalanga la-30 ngemuva kwekuphela kwesikhatsi lebesitimisele kusihlala; futsi

(b) [nangabe] sinikwe imvume yekuhlala sikhashana lesebentako, njengaloku kubekwe kulomTsetfo[, futsi nangabe singaphuma kuphela njengaloku kubekiwe kulomTsetfo].”. 45

Kufakwa kwalesinye sigaba endzaweni yesigaba 10 semTsetfo 13 wa 2002

11. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 10 semTsetfo wekucala kanjena:

“Timvume tekuhlala tesikhashana

10. (1) Ngemuva kwekungeniswa, *sichamuki* lesingesiyi umnikati 50 wemvume yekuhlala somphelane, singangena futsi sihambe sivakashe kwesikhashana eRiphabliki kuphela nangabe sinemvume yekuhlala yesikhashana lekhishwe ngumCondzisijikelele.

(2) Ngaphansi kwalomTsetfo, ngalesikhatsi umuntfu enta sicelo [nafutsi ngemuva kwekutsi entiwe luhlolo lolumisiwe esikhumulweni sekungena 55 eveni] ngendlela lemisiwe nasefomini lelimisiwe, yinye yaletimvume [letendlalwe] leticatjangelwako etigabeni 11 kuye ku-23 ingakhishelwa *sichamuki*.

(3) If issued outside the Republic, a temporary residence permit is deemed to be of force and effect only after an admission.

(4) A temporary residence permit is to be issued on condition that the holder is not or does not become a prohibited or an undesirable person.

(5) The Director-General may [For] for good cause [, as prescribed, the Department may] attach reasonable individual terms and conditions as may be prescribed to a temporary residence permit. 5

(6) Subject to this Act, a foreigner may apply to the Director-General in the prescribed manner and on the prescribed form to change his or her status or the conditions attached to his or her temporary residence permit, or both such status and conditions, as the case may be, while in the Republic. 10

(7) Subject to this Act, the Director-General may, on application in the prescribed manner and on the prescribed form, extend the period for which a permit contemplated in subsection (2) was issued.

(8) An application for a change in status does not provide a status and does not entitle the applicant to any benefit under the Act, except for those explicitly set out in the Act, or to sojourn in the Republic pending the decision in respect of that application. 15

(9) The Director-General may at any time in writing notify the holder of a temporary residence permit issued in terms of this section that, subject to subsection (10), the permit shall be cancelled for the reasons disclosed in the notice and that the holder is thereby ordered to leave the Republic within a period stated in that notice, and upon the expiration of that period the permit shall become null and void. 20

(10) The holder of a temporary residence permit who receives a notice contemplated in subsection (9) may, before the expiration of the period stated in that notice, make representations to the Director-General which he or she shall consider before making his or her decision.”. 25

Insertion of sections 10A and 10B in Act 13 of 2002

12. The following sections are hereby inserted in the principal Act after section 10: 30

“Visas

10A. (1) Any foreigner who enters the Republic shall, subject to subsections (2) and (4), on demand produce a valid visa, granted under subsection (3), to an immigration officer.

(2) Any person who holds a valid permit issued in terms of sections 13 to 22 and 25 to 27 shall, upon his or her entry into the Republic and after having been issued with that permit, be deemed to be in possession of a valid visa for the purposes of this section. 35

(3) A visa referred to in subsection (1)—

(a) may, subject to any condition that the Minister may deem fit, be granted by the Minister to any person who is not exempt, as contemplated in subsection (4), from the requirement of having to be in possession of a valid visa, and who has applied for such a visa in the prescribed manner and on the prescribed form; 40

(b) shall contain a statement to the effect that authority to proceed to the Republic to report to an immigration officer at a port of entry has been granted by the Minister to the holder of a passport, and such statement shall be endorsed in the passport concerned; and 45

(c) may for good cause be withdrawn and declared null and void by the Minister. 50

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(3) Nangabe lemvume *ikhishwe* ngaphandle kweRiphabliki, *invume yekuhlala sikhashana* itsatfwa ngekutsi inemandla futsi iyasebenta kuphela ngemuva kwekungeniswa kwemnikati wayo eRiphabliki.

(4) *Invume yekuhlala yesikhashana* itawukhishwa ngaphansi kwemibandzela letsi loyo mnikati akasuye futsi angeke abe ngumuntfu *lowencatjelwe* kumbe *longakemukeleki*. 5

(5) UmCondzisijikelele unako [Ngekufisa] ngekufisa kwenta sento lesihle [, njengaloku kumisiwe,] [liTiko lingatsekeletela] kwetsekeletela timiso kanye nemibandzela njengaloku kungamiswa levakalako lecondzene nemvume yekuhlala yesikhashana yemuntfu mumbe. 10

(6) Ngaphansi kwalomTsetfo, *sichamuki singenta sicelo kumCondzisijikelele ngendlela lemisiwe nagengelifomu lelimisiwe seku-[singasi-]gucula simo sesichamuki eveni saso nobe imibandzela leyetsekeletelwe emvumeni yaso yekuhlala sikhashana, kumbe kokubili leso simo kanye naleyo mibandzela, kungaba nobe ngukuphi kwaloko, ngalesikhatsi siseRiphabliki.* 15

(7) Ngaphansi kwalomTsetfo *umCondzisijikelele unako, nakwentiwe sicelo ngendlela lemisiwe nangelifomu lelimisiwe, kwengeta sikhatsi invume lecatjangelwako esigatjaneni (2) lekhishelwe sona.*

(8) Sicelo sekugucula simo sesichamuki eveni asiboneleli futsi asenti umentisicelo afaneleke kutfola nobe ngutiphi tinsitakalo ngaphansi kwalomTsetfo, *ngaphandle kwaletu letigaguliwe kvakhanya bha kulomTsetfo, nobe kuhamba sivakashe kwesikhashana eRiphabliki kusalindzelwe sincumo lesiphatselene naleso sicelo.* 20

(9) UmCondzisijikelele unako nganobe ngusiphi sikhatsi kubhala atise umnikati wemvume yekuhlala sikhashana lekhishwe ngekumisa kwalesigaba kwekutsi, ngekulandzela sigatjana (10), lemvume itakwesulwa ngetizatfu letiphawulwe esatisweni nekutsi lomnikati wayo uyalayetelwa kwekutsi esuke eRiphabliki kungakapheli sikhatsi lesigagulwe esatisweni, nafutsi ekupheleni kwaleso sikhatsi lemvume itakuba lite lelite. 25 30

(10) Umnikati wemvume yekuhlala sikhashana lowemukele satiso lesicatjangelwako esigatjaneni (9) unako, ngembikwekuphela kwesikhatsi lesishiwo esatisweni, angayotikhulumela kumCondzisijikelele lotakubukisisa loko lakushoko angakasitsatsi sincumo sakhe.”. 35

Kufakwa kwalesinye sigaba endzaweni yesigaba 11 semTsetfo 13 wa 2002

12. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 10 kanjena:

“EmaVisa

10A. Nobe ngusiphi sichamuki lesingena eRiphabliki, ngekuhambisana netigatjana (2) na- (4), nakabitwa kutsi ente njalo, utawukhipha ivisa lesebentako, leniketwe ngaphansi kwesigatjana (3), ayinike sisebenti sahumende lesibukene netifikanamtfwalo. 40

(2) Nobe ngumuphi umuntfu lonemvume lesebentako lekhishwe ngekuya kwetigaba 13 kuye ku-22 kanye na-25 kuye ku-27, ngalesikhatsi angena eRiphabliki nafutsi ngemuva kwekutsi asakhishelwe leyo mvume, utawutsatfwa ngekutsi unayo ivisa lesebentako ngetinjongo talesigaba. 45

(3) Ivisa lekubhekiswe kuyo esigatjaneni (1)—

(a) inako, ngekuhambisana nanobe ngumuphi umbandzela iNdvuna lengawutsatsa kwekutsi udzingekile, inganiketwa yiNdvuna kunobe ngumuphi umuntfu longakacolelwa, njengalokucatjangelwako esigatjaneni (4), kutsi enetise tidzingo tekutsi abe nevisa lesebentako, nalowente sicelo saleyo visa ngendlela lemisiwe; 50

(b) itawucukatsa sitatimende lesishoko kwekutsi ligunya lekuchubekela eRiphabliki kuyekutetfula esisebentini sahumende lesibukene netifiki esikhungweni sekungena seyiniketive yiNdvuna kumnikati wepasipoti, futsi leso sitatimende sitawungcivitwa kuleyo pasipoti lengumacondzana; 55

(c) ngekufisa kwenta intfo lenhle, ingahociswa futsi imenyetelwe yiNdvuma kutsi ilite lelite.

(4) The Minister may—

- (a) exempt any person or category of persons from subsection (1) with regard to the requirement of having to be in possession of a valid visa in order to obtain a visitor's permit contemplated in section 11, for a specified or unspecified period and either unconditionally or subject to the conditions that the Minister may impose; 5
- (b) exclude any person belonging to a category of persons contemplated in paragraph (a) from any exemption granted to that category; and
- (c) withdraw any exemption granted in terms of paragraph (a) to any category of persons or to any person, and, in the case of a person, the Minister may do so irrespective of whether that person was exempted as an individual or as a member of a category of persons. 10

(5) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding 12 months, and an immigration officer may— 15

- (a) whether or not that person has been convicted of that offence, if that person is not in custody, arrest him or her or cause him or her to be arrested without a warrant;
- (b) remove that person or cause him or her to be removed from the Republic under a warrant issued by the Minister; and 20
- (c) pending the removal of that person, detain him or her or cause him or her to be detained in the manner and at a place determined by the Director-General.

(6) If a person has been convicted and sentenced under subsection (5), that person may before the expiration of that sentence be removed from the Republic in the manner contemplated in the said subsection. 25

Transit visas

10B. (1) Subject to subsection (4)(a), no person, other than a citizen or permanent resident, who is proceeding from a place outside the Republic to a destination outside the Republic, including making use of the transit areas of South African ports of entry, shall travel through the Republic, unless he or she is in possession of a transit visa issued for that purpose in terms of subsection (2). 30

(2) The Minister may, on the conditions that he or she may impose, authorise the issue of a transit visa to any person. 35

(3) Any person who contravenes subsection (1) or who, while travelling through the Republic as contemplated in subsection (1), fails on demand by an immigration officer to produce a transit visa issued to him or her under subsection (2), or any holder of any such transit visa who contravenes any condition of that visa— 40

- (a) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years; and
- (b) may be dealt with as an illegal foreigner, whether or not that person has been convicted or sentenced as contemplated in paragraph (a).

(4) The Minister may— 45

- (a) exempt any person or category of persons from this section;
- (b) exclude any person belonging to a category of persons contemplated in paragraph (a) from any exemption granted to that category; and
- (c) withdraw any exemption granted under paragraph (a) to any category of persons or to any person and, in the case of a person, whether or not he or she was exempted as an individual or as a member of a category of persons.”. 50

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(4) Indvuna inako—

- (a) kukhipha nobe ngumuphi umuntfu nobe tigaba tebantfu labasesigabeni (1) macondzana nesidzingo sekuba nevisa lesebentako kuze atewutfole imvume yesivakashi lecatjangelwako esigabeni 11, sikhatsi lesigaguliwe nobe lesingakagagulwa kanye nekuba ngaphansi nome kungabi ngaphansi kwemibandzela lengabekwa yindvuna; 5
- (b) kukhipha nobe ngumuphi umuntfu lowela ngaphansi kwesigaba sebantfu lesicatjangelwako kupharagrafu (a) kunobe ngukuphi kucolelwa lokuniketwe lesigaba; futsi
- (c) kuhocisa nobe ngukuphi kucolelwa lokuniketwe ngekumisa kwapharagrafu (a) kunobe ngusiphi sigaba sebantfu nome kunobe ngumuphi umuntfu, kanye, endzabeni yemuntfu, iNdvuna ingakwenta loko ngaphandle kwekubuka kwekutsi ingabe lowo muntfu becacolelwe njengemuntfu yena matfupha nome njengelilunga lesigaba sebantfu. 10 15

(5) Nobe ngumuphi umuntfu lowephula sigatjana (1) utakuba nelicala lekwephula umtsetfo futsi atsi angahlwa licala abopheleleke kukhokha inhlawulo nome avalelwe ejele sikhatsi lesingenci tinyanga leti-12, futsi sisebenti sahumende lesibukene netifikanamutfalo—

- (a) nobe ngabe lowo muntfu ulahlwe licala laleso sephulomtsetfo nobe cha, nangabe lowo muntfu akavalelwa, singamvalela nobe sente kutsi avalelwe ngaphandle kwencwadzi legunyata kutsi aboshwe; 20
- (b) simkhiphe lowo muntfu nobe sente kutsi akhishwe eRiphabliki ngaphansi kwencwadzi legunyata kuboshwa lekhishwe yiNdvuna; futsi 25
- (c) kusalindzelwe kukhishwa kwalowo muntfu, singamvalela kumbe sente kwekutsi avalelwe ngendlela kanye nasenzaweni letawushiwo ngumCondzisijikelele.

(6) Nangabe umuntfu asalahlwe licala futsi etfweswe sigwebo ngaphansi kwesigatjana (5), lowo muntfu unako ngembikwekuphela kwalesigwebo kukhishwa eRiphabliki ngendlela lecatjangelwako kulesigatjana lesishiwo. 30

“Emavisa ekwendlula

10B. (1) Ngaphansi kwesigatjana (4)(a), akukho muntfu, ngaphandle kwesakhamuti nobe umhlali wasomphelane, lochamuka endzaweni lengaphandle kweRiphabliki loya endzaweni lengaphandle kweRiphabliki, kufake ekhatsi kusebentisa tindzawo letisetikhungweni tekungena eNingizimu Afrika, lotawuhamba endlule kulaseRiphabliki, ngaphandle kwekutsi ungumnikati ivisa yekwendlula lekhishelwe leyo njongo ngekumisa kwesigatjana (2). 35

(2) INdvuna inako, etikwemibandzela lengawubeka, kugunyata kukhishwa kwevisa yekwendlula iyikhiphele nobe ngumuphi umuntfu. 40

(3) Nobe ngumuphi umuntfu lowephula sigatjana (1) nobe lowo, ngalesikhatsi ahamba endlula eRiphabliki njengalokucatjangelwako esigatjaneni (1), lowehluleka ngalesikhatsi abitwa kutsi ente njalo sisebenti sahumende lesibukene netifikanamtfwalo, kukhipha ivisa yekwendlula lekhishelwe yena ngaphansi kwesigatjana (2), nobe ngumuphi umnikati waleyo visa yekwendlula lowephula nobe nguyiphi imibandzela yaleyo visa—

- (a) utakuba nelicala lekwephula umtsetfo futsi atsi angahlwa licala abopheleleke kukhokha inhlawulo nome avalelwe ejele sikhatsi lesingenci tinyanga, iminyaka lemibili; futsi 50
- (b) unako kutsi kubukwane nemkhoseli longakangeni ngekweomtsetfo, nobe ngabe lowo muntfu ulahlwe licala nome etfweswe sijeziro nome cha njengalokucatjangelwako kupharagrafu (a).

(4) INdvuna inako—

- (a) kucolela nobe ngumuphi umuntfu nome sigaba sebantfu kulesigaba; 55
- (b) kungafaki ekhatsi nobe ngumuphi umuntfu longaphansi kwesigaba sebantfu labacatjangelwako kupharagrafu (a) kunobe ngukuphi kucolelwa lokuniketwe lesigaba sebantfu; kanye

Amendment of section 11 of Act 13 of 2002

13. Section 11 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) A visitor’s permit may be issued for any purpose other than those provided for in sections 13 to 24, and subject to subsection (2), by the [Department] Director-General in respect of a foreigner who—
 (a) [holds a visa; or] complies with section 10A; and
 (b) [is a citizen of a foreign state prescribed from time to time and] provides the financial or other guarantees prescribed [from time to time] in respect of his or her departure[,];
[provided] Provided that such permit—
 (i) [cannot] may not exceed three months and upon application may be renewed by the [Department,] Director-General for a further period which shall not exceed three months; or
 (ii) may be issued by the [Department] Director-General upon application for any period which may not [to] exceed three years to a foreigner who has satisfied the [Department] Director-General that he or she controls sufficient available financial resources, which may be prescribed [from time to time], and is engaged in the Republic in—
 (aa) an academic [sabbaticals] sabbatical;
 (bb) voluntary or charitable activities;
 (cc) research; or
 (dd) any other prescribed [activities and cases] activity.”;
- (b) by the substitution for subsection (2) of the following subsection:
 “(2) The holder of a visitor’s permit may not conduct work, unless authorised by the Director-General in the prescribed manner and subject to the prescribed requirements and conditions.”;
- (c) by the deletion of subsections (3) and (4);
- (d) by the substitution for subsection (5) of the following subsection:
 “(5) Special financial and other guarantees may be prescribed in respect of the issuance of a visitor’s permit to certain prescribed classes of foreigners [prescribed from time to time].”; and
- (e) by the addition of the following subsection:
 “(6) Notwithstanding the provisions of this section, a visitor’s permit may be issued to a foreigner who is the spouse of a citizen or permanent resident and who does not qualify for any of the permits contemplated in sections 13 to 22: Provided that—
 (a) such permit shall only be valid while the good faith spousal relationship exists;
 (b) on application, the holder of such permit may be authorised to perform any of the activities provided for in the permits contemplated in sections 13 to 22; and
 (c) the holder of such permit shall apply for permanent residence contemplated in section 26(b) within three months from the date upon which he or she qualifies to be issued with that permit.”.

Repeal of section 12 of Act 13 of 2002

14. Section 12 of the principal Act is hereby repealed.

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- (c) nekuhocisa nobe ngukuphi kucolela lokuniketwe ngaphansi kwapharagrafu (a) kunobe ngusiphi sigaba sebantfu nome kunobe ngumuphi umuntfu futsi, endzabeni yemuntfu, nobe ngabe wacolelwa njengemuntfu yena matfupha nobe njengelilunga lesigaba sebantfu.”.

Kuchitjelwa kwesigaba 11 semTsetfo 13 wa 2002

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13. Sigaba 11 semTsetfo wekucala sichitjelwe kanjena—

- (a) ngekufaka endzaweni yalesigatjana lesilandzelako endzaweni yesigatjana (1):
“(1) Imvume yesivakashi ingakhishwa nobe ngutiphi tinjongo letingesito leto letibonelelwe esigabeni 13 kuye ku-24, kanye nangaphansi kwesigatjana (2), [liTiko] ngumCondzisijikelele [i-]Jayikhiphele sichamuki— 10
(a) [lesingumnikati wevisa; nome] lesihambisana nesigaba 10A; futsi
(b) [lesisakhamuti sakulelanye live lemiswe sikhatsi nesikhatsi kanye na-]lesikhipha sicinisekiso sekutsi sona sinemitfombolusito yetetimali nobe salokunye [lesimswe sikhatsi nesikhatsi] lesimisiwe macondzana nekuphuma kwaso[,]; 15
[ingce] Ingce nje leyo mvume—
(i) [ayinakwendlula] ayinako kwendlula tinyanga letintsatfu futsi itawuvuselelwa [liTiko] ngumCondzisijikelele sikhatsi lesinye lesengetiwe lesingeke sibe ngetulu kwetinyanga letintsatfu ngemuva kwekwentiwa kwesicelo; nobe 20
(ii) itawukhishwa [liTiko] ngumCondzisijikelele ngalesikhatsi kwentiwa sicelo kutsi isebente nobe sikhatsi lesingakanani [lesingendluli] lesingeke sendlule iminyaka lemitsatfu inikwe sichamuki lesenetise [liTiko] umCondzisijikelele kwekutsi sona siphetse imitfombolusito yetetimali leyenele lengatfolakala, leyo lengamiswa [ngesikhatsi nesikhatsi], kanye nekutsi sona lapha eRiphabliki— 25
(aa) sitsetse likhefu letemfundvo;
(bb) senta imisebenti yesihle nobe yekusita labanye mahhala;
(cc) senta lucwaningo; nome
(dd) senta nobe ngumuphi [leminye imisebenti kanye netintfo] umsebenti lo-[ku]misiwe.”; 30
(b) ngekufaka lesigatjana lesilandzelako endzaweni yesigabancane (2):
“(2) Umnikati wemvume yesivakashi akukafaneli ente umsebenti, ngaphandle kwanangabe agunyatwe ngumCondzisijikelele ngendlela lemiswe nangaphansi kwetidzingakalo nemibanzela lokumisiwe.”; 35
(c) ngekwesula sigatjana (3) na (4); kanye
(d) ngekufaka lesigatjana lesilandzelako endzaweni yesigatjana (5):
“(5) Kwetsembisa kwemuntfu kutsi utawukhokha timali kanye nekutsi utakwenta lokunye lokutsite kungamiswa mayelana nekukhishwa kwemvume yesivakashi lenikwa tigaba letitsite tetichamuki letimisiwe [letimisiwe ngesikhatsi nesikhatsi].”; futsi 40
(e) ngekwengeta lesigatjana lesilandzelako:
(6) Lite kunaletibonelelo talesigaba lesi, imvume yesivakashi ingakhishelwa sichamuki lesingulowakakhe wesakhamuti nobe umhlali wasomphelane nalongakafaneleki ngunobe nguyiphi yetimvume leticatjangelwako esigabeni 13 kuye ku 22: Ingce nje— 45
(a) leyo mvume itawsebenta kuphela uma kusekhona budlelwano lobuhle emkhatsini wendvodza nemfati;
(b) kutakutsi kungentiwa sicelo saloko, umnikati waleyo mvume angangunyatwa kwenta nobe nguyiphi yalemisebenti lebonelelwe kuletimvume leticatjangelwako esigabeni 13 kuye ku-22; nafutsi 50
(c) umnikati waleyo mvume atakwenta sicelo sekuhlala siphelane lesicatjangelwako esigatjaneni 26(b) kungakapheli tinyanga letintsatfu kusukela ngelilanga labefanele kutfola ngalo imvume.”.

Kuchitjelwa kwesigaba 12 semTsetfo 13 wa 2002

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14. Sigaba 12 semTsetfo wekucala sichitjelwe kanjena.

Amendment of section 13 of Act 13 of 2002

15. Section 13 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) the [*Department*] Director-General, as prescribed[,]; or[, **at the option of the applicant,**]”; and

(b) by the substitution for subsection (2) of the following subsection:

“(2) The Director-General shall, [**When**] when so requested by[,], and after consultation with[,], the Department of Education, [**the Department shall**] determine an ad hoc fee for the issuance of study permits in respect of institutions which are publicly funded or subsidised.”.

Amendment of section 14 of Act 13 of 2002

16. Section 14 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) [**The**] A treaty permit may be issued by—

(a) the [*Department*] Director-General, as prescribed; or

(b) the Department of Foreign Affairs or [**the other**] another organ of [*State*] state responsible for the implementation of the treaty concerned under a delegation from the [*Department*] Director-General, provided that—

(i) information relating to the failure of such foreigner to comply with the terms and conditions of the permit and to depart when required is conveyed to the [*Department*] Director-General;

(ii) the organ of [*State*] state concerned satisfies the [*Department*] Director-General that, under the circumstances, it has the capacity to perform this function; and

(iii) the permit is issued in accordance with the prescribed requirements, procedures and forms [for the issuance of such permit are prescribed].”.

Substitution of section 15 of Act 13 of 2002

17. The following section is hereby substituted for section 15 of the principal Act: 30

“Business permit

15. (1) A business permit may be issued by the [*Department*] Director-General to a foreigner intending to establish[,], or invest in, or who has established or invested in a business in the Republic in which he or she may be employed, and an appropriate permit for the duration of the business permit to the members of such foreigner’s immediate family; [**provided**] Provided that—

(a) such foreigner invests the prescribed financial or capital contribution in such business;

(b) the contribution referred to in paragraph (a) [**be**] forms part of the intended book value of such business; and

[(c) a chartered accountant certifies compliance with the provisions of this Act,]

[(d)](c) such foreigner has undertaken to comply with any relevant registration requirement set out in any law administered by the South African Revenue Service.

(2) The holder of a business permit may not conduct work other than work related to the business in respect of which the permit has been issued.

(3) The [*Department*] Director-General may reduce or waive the [**capitalization**] capitalisation requirements referred to in subsection (1)(a) for businesses which are prescribed [**from time to time**] to be in the national interest, or when so requested by the Department of Trade and Industry.

(4) The holder of a business permit shall [**cause the certification referred to in subsection (1)(c) to be renewed**] submit proof to the satisfaction of the Director-General that he or she has fulfilled the

Kuchitjelwa kwesigaba 13 semTsetfo wa 2002

15. Sigaba 13 semTsetfo wekucala sichitjelwe kanjena—

- (a) ngekufaka lepharagrafu lelandzelako endzaweni yapharagrafu (a) esigatjaneni (1):
“(a) ikhishwe *liTiko*, njengaloku kumisiwe[,] nome[, nangabe umfakisicelo atikhetsela loko,]”; futsi 5
- (b) ngekufaka lesigatjana lesilandzelako endzaweni yesigatjana (2):
“(2) [Nangabe *liTiko* liceliwe] UmCondzisijikelele nangabe aceliwe[,] nafutsi ngemuva kwekubonisana[,] neliTiko letemFundvo, [*liTiko litawubeka*] utawubeka imali yangaso sona lesi sikhatsi yekukhishwa 10
kwetimvume tekufundza letimacondzana netikhungo temfundvo leto letitfola tonkhe timali tato kuhulumende nome letelekelelwa nguhulumende ngetimali.

Kuchitjelwa kwesigaba 14 semTsetfo 13 wa 2002

16. Sigaba 14 semTsetfo wekucala sichitjelwe ngekufakwa kwesigatjana (2) wesigatjana lezilanzelako: 15

“(2) Imvume yesivumelwano ingakhishwa—

- (a) [*liTiko*], umCondzisijikelele, njengaloku kumisiwe, nome
- (b) *liTiko* letiNdzaba tangaPhandle nobe [leminye] lomunye [*imitimba yeMbuso le-*] umtimba wembuso lonemtfwalo wekwenta kutsi letivumelwano lekukhulunywa ngato tiyasebenta letitfunywe [*liTiko*] ngumCondzisijikelele; 20
ingce nje kwateka kutsi—
- (i) imininingwane lemayelana nekwehluleka kwaleso *sichamuki* kutfobela timeko kanye nemibandzela kwemvume kanye nekuhamba kuleli nasicelwa kutsi sente njalo kutakwendluliselwa [*eTikweni*] kumCondzisijikelele; 25
- (ii) *umtimba* [*weMbuso*] wembuso locondzene naloku wenetisa [*liTiko*] umCondzisijikelele ngekutsi, ngaphansi kwaletso timeko, unemandla ekwenta lowo msebenti; futsi
- (iii) [*kumiswa*] imvume ikhishwa ngekuhambisana netidzingakalo, tenimibandzelachubo kanye nemafo mu [*yekukhishwa kwaleyo mvume chaziwe*].” 30

Kuchitjelwa kwesigaba 15 semtsetfo 13 wa 2002

17. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 15 semTsetfo wekucala:

“Imvume yebhizimisi

15. (1) Imvume yebhizimisi ingakhishwa [*liTiko*] ngumCondzisijikelele 35
inikwe *sichamuki* lesicondze kucalisa ibhizimisi nome katalisa imali nome localise ibhizimisi nobe lotalisa imali ebhizimisini e*Riphabliki* lapho sona sitawusebenta khona, futsi imvume lefanelekile ngalesikhatsi lemvume yebhizimisi letawutsatsa sona kumalunga *emndeni losondzele* waleso *sichamuki*; [ingce nje kwateka] kutsi— 40

- (a) lesi *sichamuki* sitalisa timali nome samba sekucalisa ibhizimisi lesiyifake kuleyo bhizimisi;
- (b) lemali lekubhekiswe kuyo kupharagrafu (a) [*itakuba*] iba yincenye yentsengo yasebhukwini leyo bhizimisi letawubita yona; nekutsi
- [(c) *umbhalitimali lobhalisiwe* utawufakazela kutsi tibonelelo 45
talomTstetfo titfotjelwe];
- [(d)] (c) lesi *sichamuki* setsembisile kutsi sitawutfobela nobe ngutiphi tidzingo tekubhaliswa letihambelana naloko letendlalwe kunobe ngumuphi umtsetfo losetjentiswa bemSebenti waMalingena waseNingizimu Afrika. 50

(2) Umnikati wemvume yebhizimisi angawenta lomunye umsebenti ngaphandle kwemsebenti lophatselene nalebhizimisi leyo imvume ikhishwe macondzana nayo.

(3) [*LiTiko* li] umCondzisijikelele unako kunciphisa nobe kungatibiti tidzingakalo tekufaka samba sekucalisa ibhizimisi kuleyo bhizimisi 55
lekubhekiswe kuto esigatjaneni (1)(a), macondzana nemabhizimisi

requirements contemplated in subsection (1)(a) within 24 months of the issuance of the permit, and within every two years thereafter.

(5) A business permit may be issued to a foreigner for more than one entry [to a person] if multiple entries into the Republic by that [person] foreigner over a period of time are necessary for that [person] foreigner to conduct the business in question effectively.”.

Amendment of section 16 of Act 13 of 2002

18. Section 16 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Director-General may, as prescribed, issue a crew permit to a foreigner who is a member of the crew of a conveyance.”.

Amendment of section 17 of Act 13 of 2002

19. Section 17 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) When so requested by[,] and after consultation with[,] the Department of Health, the [Department] Director-General shall determine an ad hoc fee for the issuance of medical treatment permits in respect of institutions which are publicly funded or subsidised.”.

Amendment of section 18 of Act 13 of 2002

20. Section 18 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A relative's permit may be issued for the prescribed period by the [Department] Director-General to a foreigner who is a member of the immediate family of a citizen or a permanent resident, provided that such citizen or permanent resident provides the prescribed financial assurance[,]

(a) **certified by a chartered accountant, or, at the applicant's option,**
 (b) **to be corroborated by relevant documentation to be evaluated by the Department that he or she has the means available to support such foreigner for the requested duration of such permit, either personally or through the contribution of such foreigner].”.**

Substitution of section 19 of Act 13 of 2002

21. The following section is hereby substituted for section 19 of the principal Act:

“Work permit

19. (1) A quota work permit may be issued by the [Department] Director-General, as prescribed, to a foreigner if the foreigner falls within a specific professional category or within a specific occupational class determined by the Minister at least annually by notice in the *Gazette* after consultation with the Ministers of Labour and Trade and Industry, and as long as the number of work permits so issued for such category or class does not exceed the quota determined in the notice.

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lamiswe [ngesikhatsi nesikhatsi] njengalawo latsatfwa kwekutsi alusito esiveni nobe ngalesikhatsi *liTiko* licelwa liTiko letekuHweba netiMboni kutsi lente njalo.

(4) Umnikati wemvume yebhizimisi utakwetfula bufakazi lobutakwenelisa umCindzisijikelele bekutsi utifezile tidzingakalo leticatjangelwako esigatjananeni (1)(a) [utawubangela kutsi lokufakazela lekubhekiswe kuko esigatjaneni (1)(c) kuvuselelwe] kungakendluli tinyanga leti-24 lemvume ikhishiwe, nafutsi kungakendluli leyo naleyo minyaka lemibili ngemuva kwaloko. 5

(5) Imvume yebhizimisi ingakhishelwa sichamuki kutsi [ku] singenwe ngayo kanyenti [ikhishelwe umuntfu] nangabe kungena [kwalowo muntfu] kwaleso sichamuki eRiphabliki aphindzaphindza ngekuhamba kwesikhatsi kudzingekile kutsi [lowo muntfu akwati] leso sichamuki sikwati kuchuba ibhizimisi lekukhulunywa ngayo ngendlela leshaya emhlohlweni.”. 15

Kuchitjelwa kwesigaba 16 semTsetfo 13 wa 2002

18. Sigaba 16 semTsetfo wekucala sichitjelwe ngekufaka endzaweni yesigatjana (1) walesigatjana lesilandzelako:

“(1) UmCondzisijikelele angakhipha imvume yemuntfu losebenta entfweni yekuhamba ayikhiphele sichamuki lesisebenta entfweni yekuhamba.”. 20

Kuchitjelwa kwesigaba 17 semtsetfo 13 wa 2002

19. Sigaba 17 semTsetfo wekucala sichitjelwe ngekufaka endzaweni yesigatjana (2) walesigatjana lesilandzelako:

“(2) Nangabe [*liTiko licelwe*] umCondzisijikelele acelwe liTiko leteMphilo nafutsi ngemuva kwekubonisana nalo, *liTiko litawuncuma*] umCondzisijikelele utawuncuma imali yangaso sona leso sikhatsi yekukhishwa kwetimvume tekutfola kwelashwa lebukelwe tikhungo leto letitfolo tonkhe timali tato kuhulumende nobe letelekelelwa nguhulumende ngetimali.”. 25

Kuchitjelwa kwesigaba 18 semTsetfo 13 wa 2002

20. Sigaba 18 semTsetfo wekucala sichitjelwe ngekufaka endzaweni yesigatjana (1) walesigatjana lesilandzelako: 30

“(1) Imvume yesihlobo ingakhishwa sikhatsi lesimisiwe [*liTiko*] ngumCondzisijikelele ikhishelwe sichamuki lesililunga lemndeni losendzele wesakhamuti nome umhlali wasomphelane, ingce nje nangabe leso sakhamuti nome umhlali wasomphelane aniketa sicinisekiso setimali lesimisiwe[, 35

(a) lesifakazelwa ngumbhalitimali lobhalisiwe, nobe, ngekutikhetsela kwemfakisicelo,

(b) lesitawufakazelwa tincwadzi letiphatselene naloko latawuhlolwa *liTiko*, sekutsi sona lesakhamuti nome yena lomhlali unato tindlela tekondla leso sichamuki sikhatsi lesitawutsatfwa nguleyomvume, kungaba ngekwabo lucobo nome ngetimali letiwukhishwa ngiso lesichamuki].”. 40

Kufaka lesinye sigaba endzaweni yesigaba 19 semTsetfo 13 wa 2002

21. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 19 semTsetfo wekucala:

“Imvume yekusebenta

19. (1) Imvume yemsebenti yemanani lancunyiwe ingakhishwa [*liTiko*] ngumCondzisijikelele njengaloku kumisiwe ikhishelwe sichamuki nangabe lesichamuki siwela ngaphansi kwesigaba lesigaguliwe semsebenti lofundzelwako nome ngaphansi kwelibanga leligaguliwe lemsebenti lowentiwa bantfu labatsite lesibekwe [*yiNdvuna*] lokungenani ngemnyaka nemnyaka ngenothi ku*Gazethi* ngemuva kwekubonisana neti*Ndvuna* yetiSebenti netekuHweba netiMboni nafutsi nakungabe linani letimvume yemsebenti letikhishwe kanjalo ikhishelwe leso sigaba nome libanga lingendluli emanani lancunyiwe kunothi. 45 50

(2) A general work permit may be issued by the [Department] Director-General to a foreigner not falling within a category or class contemplated in subsection (1) if the prospective employer—

- (a) satisfies the [Department] Director-General in the manner prescribed that despite diligent search he or she has been unable to employ a person in the Republic with qualifications or skills and experience equivalent to those of the applicant; 5
- [(b) produces certification from a chartered accountant that the terms and conditions under which he or she intends to employ such foreigner, including salary and benefits, are not inferior to those prevailing in the relevant market segment for citizens and residents, taking into account applicable collective bargaining agreements and other applicable standards, as recorded by the Department of Labour, if any, provided that— 10
- (i) a copy of such certification shall be conveyed to a prescribed office of the Department of Labour; and 15
- (ii) such certification shall lapse if objected to for good cause by such office of the Department of Labour within 15 calendar days of its receipt;] 20
- (b) satisfies the Director-General in the prescribed manner that the terms and conditions under which he or she intends to employ that foreigner, including salary and benefits, are not inferior to those prevailing in the relevant market segment for citizens, taking into account applicable collective bargaining agreements and other applicable standards; and 25
- (c) has [committed] agreed in writing to notify the [Department] Director-General when such foreigner is no longer employed or is employed in a different capacity or role.; and 25
- (d) has submitted a certification from a chartered accountant of the job description and that the position exists and is intended to be filled by such foreigner.] 30

(3) A general work permit contemplated in subsection (2) shall lapse if, within six months of its issuance, and within every year thereafter, its holder fails to submit satisfactory proof to the [Department] Director-General [certification from his or her employer's chartered accountant] that he or she is still employed and of the terms and conditions of his or her employment, including the job description: Provided that a general work permit shall remain valid for a period not longer than six months in respect of a holder whose employment contract has been terminated until that holder has exhausted all applicable rights of recourse: Provided further that the period may be extended for further periods of three months at a time on submission of proof to the satisfaction of the Director-General that, due to circumstances beyond the control of the holder, the recourse procedures have not been finalised. 35 40

(4) Subject to any prescribed requirements, an exceptional skills work permit may be issued by the [Department] Director-General to an individual [of] possessing exceptional skills or qualifications and to those members of his or her immediate family determined by the [Department] Director-General under the circumstances or [by regulation] as may be prescribed. 45

(5) An intra-company transfer work permit may be issued by the [Department] Director-General to a foreigner who is employed abroad by a business operating in the Republic in a branch, subsidiary or affiliate relationship and who by reason of his or her employment is required to conduct work in the Republic for a period not exceeding two years, provided that— 50 55

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- (2) Imvume *yemsebenti* leyetayelekile ingakhishwa [*liTiko*] ngumCondzisijikelele ikhishelwe *sichamuki* lesingaweli ngaphansi kwesigaba lesicatjangelwako nome libanga lelicatjangelwako esigatjanani (1) nangabe loyo muntfu utimisele kuba *ngumcashi* waso—
- (a) enetisa [*liTiko*] umCondzisijikelele ngendlela *lemisiwe* kutsi ngisho 5
naloku afunile ngekutimisela akakwatanga kucasha umuntfu wase*Riphabliki* lonetimpawumfundvo nobe likhono kanye nesipiliyoni [letifanana naleto talomentisicelo] lokufanana naloko kwalomentisicelo;
- [(b) aveta sifakazelo lesibuya *kumbhalitimali lobhalisiwe* sekutsi 10
letimeko kanye nemibandzela loko latimisele kucasha lowo *mchamuki* ngaphansi kwayo, lokufaka ekhatsi liholo kanye netinsitakalo tebasebenti, akungaphansi kwaloko lokutfolwa *takhamuti* nome *bahlali* labasebenta leyo misebenti, 15
nawukhululuma ngetivumelwano letisebenta lapho letentiwa galesikhatsi tisebenti tindzawonye tikhulumisana khona nebacashi ngemaholo, tinsitakalo tetisebenti kanye naleminye imibandzela yekusebenta kanye nalamnye emazinga lasetjentiswa lapho, njengaloku kubhalwe phansi *liTiko* letetiSebenti, nangabe 20
loko kukhona, ingce nje kwateka kutsi—
- (i) *ikhophi yaleso sifakazelo itakwendluliselwa ehhovisi lelimisiwe leliTiko* letetiSebenti; futsi
- (ii) leso sifakazelo sitawuphela nangabe siyaphikiswa ngulelo hhovisi *leliTiko* letetiSebenti ngesizatfu lesivakalako 25
kungakapheli emalanga ekhalenda la-15 leso sifakazelo semukelwe;]
- (b) yenetisa umCondzisijikelele ngendlela lemisiwe kutsi timeko kanye nemibandzela lafisa kucasha leso sichamuki ngaphansi kwato, lokufaka ekhatsi liholo netinsitakalo tebasebenti, akusingentasi kwaloko lokutfolwa takhamuti nobe bahlali labasebenta leyo 30
misebenti, nawubuka tivumelwano letisebenta lapho letentiwe emkhatsini webasebenti nebacashi nakukhulunywana ngemaholo, tinsitakalo tebasebenti kanye naleminye imibandzela yekusebenta, kanye nalamanye emazinga lasetjentiswa lapho; nafutsi
- (c) [atimisele] avumile ngalokubhalwe phansi kwatisa [liTiko] 35
umCondzisijikelele nangabe leso *sichamuki* singasasebenti nome sesisebenta kulesinye sikhundla nome kulomunye umsebenti.; futsi
- (d) etfule sifakazelo lesibuya kumbhalitimali lobhalisiwe lesichaza kutsi lomsebenti uyini nekutsi leso sikhundla sikhona, nekutsi leso sikhundla kuhloswe kutsi sitsatfwe nguleso sichamuki.] 40
- (3) Imvume *yemsebenti* leyetayelekile lecatjangelwa esigatjanani (2) itawuphela nangabe, kutsi kungakapheli tinyanga le-6 ikhishiwe, futsi kungapheli lowo nalowo mnyaka ngemuva kwaloko, umnikati wayo ehluleka kuniketa [*liTiko*] umCondzisijikelele bufakazi lobenetisako [sifakazelo lesichamuka kumbhalitimali lobhalisiwe wemcashi wakhe] 45
lesishoko kutsi sona sisacashiwe, futsi lesichaza timeko kanye nemibandzela yekucashwa kwaso, kufake ekhatsi inchazelo yekutsi lomsebenti uyini: kuphela nje nangabe imvume yemsebenti leyetayelekile itawuhlala isebenta sikhatsi lesingengci tinyanga letisitfupha mayelana nemnikati le ikontilaki yakhe yekusebenta seyiphelisiwe kute kufike 50
sikhatsi lapho lomnikati asatihambe waticedza tonkhe tindlela tekulwela emalungelo akhe: Futsi ingce nje leso sikhatsi sitakwengetwa ngetinyanga letintsatfu ngaleso nangaleso sikhatsi etfula bufakazi lobutakwenetisa umCondzisijikelele bekutsi, ngenca yetimeko letingetulu kwemandla akhe, 55
tinchubo tekulwela emalungelo akhe atikaphetfwa.
- (4) Ngekubuka nobe ngutiphi tidzingo lesimisiwe, imvume *yemsebenti* yelikhono lelingakavami ingakhishwa [*liTiko*] umCondzisijikelele liyinike umuntfu lonelikhono nobe timphawumfundvo lokungakavami kanye nalawo malunga emndeni wakhe losendzele latawushiwo [liTiko] 60
umCondzisijikelele ngaphansi kwaletimeko leto nome [ngaphansi kweitimiso] nome njengaloku kungamiswa.

- [(a) a chartered accountant acting on behalf of the employer of such foreigner certifies that the employer needs to employ such foreigner within the Republic and such foreigner's job description;]
- [(b)](a) the employer undertakes that it will take [adequate or] prescribed measures to ensure that such foreigner will at all times comply with the provisions of this Act, and will immediately notify the [Department] Director-General if it has reason to believe otherwise; and 5
- [(c)](b) the employer furnishes the prescribed financial guarantees to defray deportation and other costs should such foreigner fail to depart when no longer allowed to sojourn in the Republic. 10
- (6) The holder of an intra-company transfer work permit may conduct work only for the employer referred to in subsection (5) and in accordance with the [job description and other elements contemplated in the certification referred to in subsection (5) or] requirements set out in his or her permit." 15

Substitution of section 21 of Act 13 of 2002

22. The following section is hereby substituted for section 21 of the principal Act:

"Corporate permit

21. (1) A corporate permit may be issued by the [Department] Director-General to a corporate applicant to employ foreigners who may conduct work for such corporate applicant. 20
- (2) After consultation with the Departments of Labour and [of] Trade and Industry, the [Department] Director-General shall determine the maximum number of foreigners to be employed in terms of a corporate permit by a corporate applicant, after having considered— 25
- [(a) the certification prepared by a chartered accountant on the basis of the relevant prescription or information of the Department of Labour, if any, that at any given time the relevant foreigners are employed on terms and conditions not inferior to those offered to citizens and residents or prevailing in the relevant market segment, taking into account collective bargaining agreements and other standards, if any;] 30
- [(b)](a) the undertaking by the corporate applicant that it will— 35
- (i) take [adequate or] prescribed measures to ensure that any foreigner employed in terms of the corporate permit will at [any time] all times comply with the provisions of this Act and the corporate permit; and
- (ii) immediately notify the [Department] Director-General if it has reason to believe that such foreigner is no longer in compliance with subparagraph [(i)] (i) [above]; 40
- [(c)](b) the financial guarantees posted in the prescribed amount and form by the corporate applicant to defray deportation and other costs should the corporate permit be withdrawn, or certain foreigners fail to leave the Republic when no longer subject to the corporate permit; and 45
- [(d)](c) corroborated representations made by the corporate applicant in respect of the need to employ foreigners, their job descriptions, the number of citizens or permanent residents employed and their positions, and other prescribed matters.
- (3) The [Department] Director-General may withdraw or [modify] amend [the] a corporate permit for good and reasonable cause. 50
- (4) The Minister may, [In] after consultation with the Minister of Trade and Industry or Minerals and Energy or Agriculture, as the case may be, and the Minister of Labour, [may] designate certain industries, or segments thereof, in respect of which the Government may— 55
- (a) reduce or waive the requirements of subsection (2)[(d)](c); [or]
- (b) enter into agreements with one or more foreign states and set as a condition of a corporate permit that its holder—

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(5) Imvume yekuntjintja bantfu ngekhatsi enkampanini ingakhishwa [*liTiko*] umCondzisijikelele ayikhiphele *sichamuki* lesicashwe yibhizimisi lesebentela lapha e*Riphabliki* eveni langesheya egaleni lenkampani, inkampani lephetfwe ngulenywe nome inkampani leyincenye yalenywe, nafutsi lapho lesi *sichamuki* ngenca yesizatfu sekucashwa kwaso sidzingeka kwekutsi sente *umsebenti eRiphabliki* sikhatsi lesingendluli iminyaka lemibili, ingce nje kwateka kutsi—

[(a) *umbhalitimali lobhalisiwe* lotfunywe *ngumcashi* waleso *sichamuki* utawufaka kwekutsi *lomcashi* unesidzingo sekucasha lesi *sichamuki* ngekhatsi kwe*Riphabliki* futsi achaze kutsi lomsebenti waleso *sichamuki* uyini;]

[(b)](a) *umcashi* utakwetsembisa kutsi utawutsatsa tinyatselo [letenele nome] letimisiwe tekucinisekisa kutsi lesi *sichamuki* sitawutfobela tibonelelo *talomTsetfo* ngaso sonkhe sikhatsi, nekutsi utakwatisa [*liTiko*] umCondzisijikelele masinyane nangabe anesizatfu lesimenta akholwe kwekutsi lesi*sichamuki* asititfobeli tibonelelo *talomTsetfo*; futsi

[(c)](b) *umcashi* atawukhipha setsembiso sekukhokha timali letimisiwe tekubhadala tindleko tekubuyiselwa *kwemuntfu eveni lakubo* kanye naletinye tindleko nakungahle kwenteke kutsi lesi *sichamuki* sehlukele *kuphuma* nangabe singasavumeleki kuhamba sivakashe kwesikhashana e*Riphabliki*.

(6) Umnikati wemvume *yemsebenti* yekuntjintja bantfu ngekhatsi enkampanini angenta *umsebenti* awentele kuphela *umcashi* lekubhekiswe kuye esigatjaneni (5) nafutsi ngekuhambisana [nenchazelo yekutsi uyini *umsebenti wakhe kanye naleminywe imibandzela lecatjangelwako kulesifakazeliso lekubhekiswe kuso esigatjaneni (5) nome*] netidzingo [leyo leshiwo] leto letishiwo kumvume yakhe.”.

Kufaka lesinye sigaba endzaweni yesigaba 21 semTsetfo 13 wa 2002

22. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 21 semTsetfo wekucala: 30

“Imvume yemakoporasi

21. (1) Imvume yemakoporasi ingakhishwa [*liTiko*] umCondzisijikelele [*liyinike*] ayinike *umfakisicelo wemakoporasi* kutsi acashe *sichamuki* kutsi tisebentele lowo *mfakisicelo wemakoporasi*.

(2) Ngemuva kwekubonisana neliTiko letetiSebenti kanye neliTiko letekuHweba netiMboni, *liTiko* litawuncuma linani lebukhulu bekugcina leti*sichamuki* letitawucashwa ngumfakisicelo *wemakoporasi* ngekumisa kwemvume yemakoporasi, ngemuva kwekubukisisa—

[(a) sifakazelo lesentiwe ngum**umbhalitimali lobhalisiwe** lesisuselwe kulokumisiwe lokuhambisana naloko nome imininingwane lebuya eTikweni laletiSebenti, nangabe ikhona, nganobe ngusiphi sikhatsi leti*sichamuki* lekukhulunywa ngato tisebenta ngaphansi kwetimeko kanye nemibandzela lokungekho ngaphansi kunaloko lokunikwe *takhamuti* kanye *nebahlali* nome loko lokukhona kulesigaba semsebenti lonjalo, nawubuka tivumelwano tekukhulumisana kwebasebenti bandzawonye kanye nebacashi ngemaholo kanye naletinye timeko lekusetjentwa ngaphansi kwato, kanye naleminywe imibandzela, nangabe ikhona;]

[(b)](a) setsembiso lesentiwe ngumfakisicelo *wemakoporasi* sekutsi—

(i) utawutsatsa [tinyatselo letenele nome] letimisiwe tekucinisekisa kutsi nobe ngusiphi *sichamuki* lesicashwe ngekumisa kwalemvume yemakoporasi [nobe ngasiphi sikhatsi] ngato tonkhe tikhatsi sitawutfobela tibonelelo *talomTsetfo* kanye nemvume yemakoporasi; futsi

(ii) utakwatisa [*liTiko*] umCondzisijikelele masinyane nangabe anesizatfu lesimenta akholwe kwekutsi lesi *sichamuki* asisamtfo belanga pharagrafuncane (i) ngenhla;

- (i) employs foreigners partially, mainly or wholly from such foreign countries; and
 - (ii) remits a portion of the salaries of such foreigners to such foreign countries;
 - (c) apply this subsection in respect of foreigners required for seasonal or temporary peak period employment; or 5
 - (d) waive or reduce the requirement of subsection (2)[(c)](b) under special conditions.
- (5) The holder of a corporate permit may also employ foreigners in terms of section 19.”. 10

Amendment of section 22 of Act 13 of 2002

23. Section 22 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of the following paragraph:

“(a) participating in a programme of cultural, economic or social exchange, organised or administered by an organ of [State] state or a [public higher education] learning institution, in conjunction with a learning institution or an organ of a foreign state, provided that— 15

(i) [after consultation with the Board, the Minister may delegate the authority to issue such permits to] such organ of [State] state or learning institution [if such organ of State has satisfied the Minister that it can ensure the compliance of such foreigner with this Act and report] reports to the [Department] Director-General on the stages and the completion of the relevant programme together with other prescribed information; and 20

(ii) it may be prescribed that, in respect of certain programmes, upon expiration of such permit such foreigner may not qualify for a status until he or she has complied with the requirement of a prescribed period of physical presence in his or her foreign country or of domicile outside the Republic; or”; and 25

(b) by the substitution in paragraph (b) for subparagraph (iii) of the following subparagraph: 30

“(iii) such foreigner may not qualify for a [temporary or] permanent residence permit [until he or she has spent two years outside the Republic] within two years after the expiry of the exchange permit, which requirement may be waived by the [Department] Director-General in extraordinary circumstances.”. 35

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- [(c)](b) setsembiso setimali lesishiwo kulesamba kanye nasefomini lokumisiwe lesentiwe ngumfakisicelo wemakoporasi sekutsi utawukhokha tindleko tekubuyiselwa kwemuntfu eveni lakubo kanye naletinye tindleko nakungahle kwenteke lemvume yemakoporasi ihociswe, nome nakungahle kwenteke kube khona *tichamuki* letitsite letingasafuni kuhamba e*Riphabliki* nangabe tingasekho ngaphansi kwemvume yemakoporasi; kanye 5
- [(d)](c) nebufakazi baloko lokushiwo ngumfakisicelo wetemabhezimisi macondzana nesidzingo sekucasha *tichamuki*, inchazelo yekutsi uyini umsebenti wato, linani letakhamuti nome *bahlali basomphelane* labacashiwe kanye netikhundla tabo, kanye naletinye tindzaba letimisiwe. 10
- (3) [*LiTiko*] UmCondzisijikelele lingahocisa nobe [*ligucule*] agucule imvume yemakoporasi nakukhona sizatfu lesihle nalesivakalako sekwenta njalo. 15
- (4) INdvuna [Ngekubonisana] ngemuva kwekubonisana neNdvuna yetekuHweba netiMboni nobe yetiBiyo neMandla nobe yetekuLima nobe yetebaSebenti, kungaba nobe nguyiphi, ingakhomba timboni letitsite, nobe tigaba letitsite tato, lemacondzana nato Hulumende—
- (a) angatinciphisa nobe angatibiti tidzingo tesigatjana (2)(b); [*nobe*] 20
- (b) angenta tivumelwane namunye nome *imibuso* leminyenti *yakulamanye emave* futsi akubeke kube ngumbandzela wemvume yemakoporasi kwekutsi umnikati wayo—
- (i) utawucasha incenye yato, linyenti lato nome tona kuphela *tichamuki* letibuya kulawo mave lamanye; futsi 25
- (ii) utawuyisa incenye yemaholo aleto *tichamuki* kulawo mave *tichamuki* letibuya kuwo;
- (c) ingasebentisa lesigatjana macondzana *netichamuki* letidzingeke kusebenta umsebenti loba khona ngetikhatsi letitsite temnyaka nome umsebenti lobamnyenti kwesikhashana; nome 30
- (d) lingatiyekela lingatibiti nome lehlise tidzingo tesigatjana (2)[(d)](b) nangabe kukhona timeko letitsite.
- (5) Umnikati wemvume yemakoporasi angaphindze acashe *tichamuki* ngekumisa kwesigaba 19.”.

Kutchitjelwa kwesigaba 22 semTsetfo 13 wa 2002

35

23. Sigaba 22 semTsetfo wekucala sichitjelwe kanjena—

(a) ngekufaka lepharagrafu lelandzelako endzaweni yapharagrafu (a):

“(a) Kuhlanganyela eluhlelweni lwekuntjintjiselana kwemave ngebantfu kutemasiko, temnotfo nome temphakatsi, lokugcugcutelwe nome lokuphetfwe ngumtimba [*wemBuso*] *wembuso* nome sikhungo sekufundza [*nobe sikhungo semfundvo lephakeme sahumende,*] bahlanganyele nesikhungo sekufundza nobe nemtimba *wembuso wakulelinye live*, ingce nje nangabe—

- (i) [ngemuva kwekubonisana neBhodi, iNdvuna itakwetfwe lowo mtimba wemBuso ligunya lekukhipha leyo mvume nangabe] lowo mtimba [*wemBuso wenetise*] wembuso nome sikhungo setemfundvo kutakwenetisa [*iNdvuna kutsi utawucinisekisa kutsi leso sichamuki siyawutfobela lomTsetfo, futsi unikete liTiko*] UmCondzisijikelele umbiko wekutsi loluhlelo selukusiphi sigaba nekutsi lutawuphela nini kanye kanye nangaleminye imininingwane *lemisiwe*; futsi 45
- (ii) macondzana netinhlelo letitsite futsi nangalesikhatsi leyo mvume seyiphelelwe sikhatsi, kungamiswa kwekutsi leso *sichamuki* singabi nelilungelo lekuba *nesimo sesichamuki eveni* size sitfobele tidzingo tesikhatsi lesimisiwe sekuba khona ngekwenyama eveni lakubo nome eveni lesitinte kulo lelingaphandle kwe*Riphabliki*; nome”; kanye 55

(b) ngekufaka lepharagrafuncane lelandzelako endzaweni yaraphararuncane (iii) kupharagrafu (b):

Substitution of section 23 of Act 13 of 2002

24. The following section is hereby substituted for section 23 of the principal Act:

“Asylum transit permit

23. (1) The [Department] Director-General may issue an asylum transit permit to a person who at a port of entry claims to be an asylum seeker [subject to the Refugees Act, 1998 (Act No. 130 of 1998)], which permit shall be valid for a period of 14 days only [on any prescribed terms and conditions].

(2) Despite anything contained in any other law, when the permit contemplated in subsection (1) expires before the holder reports in person to a Refugee Reception Officer at a Refugee Reception Office in order to apply for asylum in terms of section 21 of the Refugees Act, 1998 (Act No. 130 of 1998), the holder of that permit shall become an illegal foreigner and be dealt with in accordance with this Act.”.

Substitution of section 24 of Act 13 of 2002

25. The following section is hereby substituted for section 24 of the principal Act:

“Cross-border and transit [passes] permits

24. (1) The [Department] Director-General may issue a cross-border [pass with the same effect as a multiple admission visitor’s] permit to a citizen or a permanent resident or a foreigner who is a citizen or a resident of a prescribed foreign country with which the Republic shares a border [and who does not hold a passport but has received a prescribed identity document by the Department and is registered with the Department].

(2) The [Department] Director-General may issue a transit [visa] permit authorising—

- (a) a foreigner travelling to a foreign country to make use of the transit facilities at a port of entry[.]; or
(b) a foreigner to travel from a port of entry through the Republic to a foreign country.”.

Amendment of section 25 of Act 13 of 2002

26. Section 25 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) A permanent residence permit [is to] shall be issued on condition that the holder is not a prohibited or an undesirable person, and subject to section 28 [of this Act].”.

“(iii) leso *sichamuki* angeke sibe nelilungelo lekuba nemvume [yekuhlala sikhshana nome] yekuhlala somphelane [size sicedze iminyaka lemibili ngaphandle kweRiphabliki] kungakapheli iminyaka lemibili ngemuva kwekuphela kwemvume yekuntjintjiselana kwemave ngebantfu, lekusidzingo [LiTiko lelingasiyekela lingasibiti] umCondzisijikelele langasiyekela angasibiti ngaphansi kwetimeko letingaketayeleki.” 5

Kufaka lesinye sigaba endzaweni yesigaba 23 semTsetfo 13 wa 2002

24. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 23 semTsetfo wekucala:

“Imvume yekwendlulela kuyewubhaca kulelinye live 10

23. (1) [LiTiko lingakhipha] UmCondzisijikelele angakhipha imvume yekwendlulela kuyewukubhaca kulelinye live ikhishelwe umuntfu lekutsite asesikhumulweni sekungena eveni watsi ungulofuna kubhaca [umkhoseliswa ngaphansi kwemTsetfo webaBakhoeli, 1998 (umTsetfo No. 130 wa 1998)], lekuyimvume letawusebenta sikhatsi lesingemalanga lalishumi nakune kuphela [nangaphansi kwanobe ngutiphi timeko kanye nemibandzela lokumisiwe]. 15

(2) Lite kukhona nobe yini lokunye lokucuketfwe ngumuphi, lomunye umtsetfo, ngalesikhatsi imvume lecatjangelwako esigatjaneni (1) iphela ngembikwekutsi umnikati wayo ayewufika yena sicu sakhe esiSebentini saHulumende seKwemukela laBakhoseliswa eHhovisi leKwemukela baBakhoseliswa kute ente sicelo sekubhaca eveni ngekumisa kwesigaba 21 semTsetfo webaBakhoseli, 1998 (umTsetfo No. 130 wa 1998) umnikati waleyo mvume utakuba sichamuki lesingekho emtsetfweni futsi kutawubukwana naye ngekuhambisana nalomTsetfo.” 25

Kufaka lesinye sigaba endzaweni yesigaba 24 semTsetfo 13 wa 2002

25. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 24 semTsetfo wekucala:

“Imvume yukwewela imincele leminyenti kanye netekwendlulae

24. (1) [LiTiko lingakhipha] UmCondzisijikelele angakhipha [imvume yekwewela imincele leminyenti] lesebenta ngendlela lefanako nemvume leyetayelekile yekungeniswa kwemuntfu ngekuphindzelela ikhishelwe *sichamuki* lesisakhmuti sakulelinye live lelimisiwe lelinemcele munye neRiphabliki [lesingenayo ipasipoti kepha lesinikwe incwadzi lengumatsi lemisiwe siyiniwe liTiko futsi lesibhalisiwe liTiko]. 30

(2) [LiTiko lingakhipha] umCondzisijikelele angakhipha [ivisa] imvume yekwendlula legunyata— 35
(a) sichamuki lesiya kulelinye live kutsi sisebentise tindzawo letilusito letisesikhumulweni sekungena eveni[.]; nome
(b) sichamuki kutsi sihambe kusuka esikhumulweni sekungena eveni sendlule eRiphabliki siye kulelinye live.” 40

Kuchitjelwa kwesigaba 25 semTsetfo 13 wa 2002

26. Sigaba 25 semTsetfo wekucala sichitjelwe ngekufaka sigatjana (3) salesigatjana lesilandzelako:

“(3) Imvume yekuhlala somphelane [kumele ikhishwe] itawukhishwa ngaphansi kwemibandzela yekutsi umnikati wayo akasiye umuntfu lowencatjelwe nobe longatsandzeki, kanye nagaphansi kwesigaba 28 [salomTsetfo].” 45

Substitution of section 26 of Act 13 of 2002

27. The following section is hereby substituted for section 26 of the principal Act:

“Direct residence

26. Subject to section 25, the [*Department shall*] Director-General may issue a permanent residence permit to a foreigner who— 5
- (a) has been the holder of a work permit, including one issued under a corporate permit, in terms of this Act for five years and has proven to the satisfaction of the Director-General that he or she has received an offer for permanent employment[, provided that—
- (i) *such foreigner submitted a certification from his or her prospective permanent employer’s chartered accountant of the job description and that the position exists and is intended to be filled by such foreigner; and* 10
- (ii) *the Department of Labour certifies that the terms and conditions of such offer, including salary and benefits, are not inferior to those prevailing in the relevant market segment for citizens and residents, taking into account applicable collective bargaining agreements and other standards];* 15
- (b) [is] has been the spouse of a citizen or permanent resident for five years[, provided that] and the Director-General is satisfied that a good faith spousal relationship exists: Provided that such permit shall lapse if at any time within two years from the issuing of that permit the good faith spousal relationship no longer subsists, save for the case of death 20 25
- [(i) *the Department is satisfied that a good faith spousal relationship exists; and*
- (ii) *such permit is issued on condition that it shall lapse if at any time within three years from its application the good faith spousal relationship no longer subsists, save for the case of death];* 30
- (c) *is a child under the age of 21 of a citizen or permanent resident [under the age of 21], provided that such permit shall lapse if such foreigner does not submit an application for its confirmation within two years of his or her having turned 21 years of age; or* 35
- (d) *is a child of a citizen.”.*

Substitution of section 27 of Act 13 of 2002

28. The following section is hereby substituted for section 27 of the principal Act:

“Residence on other grounds

27. The [*Department*] Director-General may issue a permanent residence permit to a foreigner of good and sound character who— 40
- (a) has received an offer for permanent employment, provided that—

Kufakwa kwalesinye sigaba endzaweni yesigaba 26 semTsetfo 13 wa 2002

27. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 26 semTsetfo wakucala:

“Kuhlala sibili

26. Ngaphansi kwesigaba 25, [*liTiko litawukhipha*] umCondzisijikelele angakhipha imvume yekuhlala somphelane [*liyikhiphele*] ayikhiphele *sichamuki* leso— 5

(a) lesibe ngumnikati wemvume *yemsebenti* lokufaka ekhatsi imvume lekhishwe ngaphansi kwemvume yemakoporasi, ngekumisa kwalomTsetfo, iminyaka lesihlanu futsi [*lesitfole*] [*LiTiko lingakhipha*] umCondzisijikelele angakhipha sitfole setsembiso sekutsi sitawucashwa somphelane, ingce nje nangabe— 10

(i) leso *sichamuki* setfule sifakazelo senchazelo yekutsi uyini lowo msebenti lesibuya *kumbhalitimali lobhalisiwe* walowo muntfu lofuna kumcasha somphelane futsi lesishoko kutsi leso sikhundla sikhona nekutsi kuhloswe kutsi sitsatfwe ngiso leso *sichamuki*; futsi 15

(ii) *liTiko letiseSebenti lifakazela kwekutsi timeko kanye nemibandzela kwaleso setsembiso semsebenti, kufake ekhatsi liholo kanye netinsitakalo tebasebenti, akukho kuncane kunaloko lokukhona kulesigaba semsebenti lonjalo lokutfolwa takhamuti kanye nebahlali, nangabe kubukwa tivumelwano tekukhulumisana kwebasebenti bandzawonye kanye nebacashi mayelana nemaholo kanye naletinye timeko lekusetjentwa ngaphansi kwato kanye naleminyane imibandzela; 25*

(b) [*lesinguwakakhe*] lebesinguwakakhe wesakhamuti nobe umhlali weminyaka lesihlanu futsi umCondzisijikelele enetisekile kwekutsi labantfu nembala kukholelwa kwekutsi banebudlelwane bendvodza nemfati: Ingce nje nangabe leyo mvume itawuphela nangabe nobe ngasiphi sikhatsi kungakapheli iminyaka lemibili kusukela yakhishwa leyo mvume lobudlelwane bendvodza nemfati lebekukholelwa kwekutsi bukhona abusekho, ngaphandle kwanangabe kukhona lofile. 30

(i) [*liTiko lenetisekile*] kekutsi labantfu nembala bayindvodza nemfati; nekutsi

(ii) leyo mvume ikhishwe ngaphansi kwemibandzela letsi itawuphela nganobe ngusiphi sikhatsi nangabe kutakutsi kungakapheli iminyaka lemitsatfu kusukela esikhatsini lekwentwa ngaso *sicelo* kutfolakale kutsi abusekho lobudlelwane lebekukholelwa kutsi bukhona, ngaphandle kwanangabe munye wabo afile]; 40

(c) ngumntfwana longephasi kweminyaka yebudzala le-21 wesakhamuti nome umhlali wasomphelane [longaphansi kweminyaka yebudzala le-21], ingce nje nangabe leyo mvume itawuphela nangabe leso *sichamuki* asifaki *sicelo* sekutsi icinisekiswe kungakapheli iminyala lemibili sifike eminyakeni yebudzala le-21; nobe 45

(d) ngumntfwana *wesakhamuti*.”.

Kufakwa kwalesinye sigaba endzaweni yesigaba 27 semTsetfo 13 wa 2002

28. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 27 semTsetfo wakucala:

“Letinye tizatfu tekuhlala

27. [*LiTiko lingakhipha*] umCondzisijikelele angakhipha imvume yekuhlala somphelane [*liyikhiphele*] ayikhiphele *sichamuki* lesinesimilo lesihle kanye nalesitsandzekako— 50

(a) lesemukele setsembiso sekutfole umsebenti wasomphelane, ingce nje nangabe—

- (i) such foreigner [submitted a certification from a chartered accountant acting on behalf of such foreigner's prospective permanent employer] has proven to the satisfaction of the Director-General that the position exists and that the position and related job description was advertised in the prescribed form and no suitably qualified citizen or permanent resident was available to fill it; 5
- [(ii) the *Department* of Labour certifies that the terms and conditions of such offer, including salary and benefits, are not inferior to those prevailing in the relevant market segment for *citizens* or *residents*, taking into account applicable collective bargaining agreements and other standards, if any;] 10
- [(iii)](ii) the application falls within the yearly limits of available permits prescribed [from time to time] for each sector of industry, trade and commerce, after consultation with the Departments of Trade and Industry, Labour and Education; and 15
- [(iv)](iii) the permit may be extended to such foreigner's spouse and children younger than 21 years of age; 20
- (b) taking into account any prescribed requirement, has demonstrated to the satisfaction of the [*Department*] Director-General that he or she possesses extraordinary skills or qualifications, and to those members of such foreigner's immediate family determined by the [*Department*] Director-General under the circumstances or [by regulation] as may be prescribed; 25
- (c) intends to establish or has established a business in the Republic and investing in it or in an established business the prescribed financial contribution to be part of the intended book value [as certified by a chartered accountant], and to the members of such foreigner's immediate family, provided that— 30
- (i) the [*Department*] Director-General may waive or reduce such capitalisation requirements for businesses prescribed [from time to time] to be in the national interest or when so requested by the Department of Trade and Industry; and 35
- (ii) the permit shall lapse if the holder fails to [renew such certification] prove within two years of the issuance of the permit[,] and three years thereafter, to the satisfaction of the Director-General, that the prescribed financial contribution to be part of the intended book value is still invested as contemplated in this paragraph; 40
- (d) is a refugee referred to in section 27(c) of the Refugees Act, 1998 (Act No. 130 of 1998), subject to any prescribed requirement;
- (e) intends to retire in the Republic, provided that [a chartered accountant acting on behalf of such foreigner certifies that] such foreigner proves to the satisfaction of the Director-General that he or she— 45
- (i) has the right to a pension or an irrevocable annuity or retirement account which will give such foreigner a prescribed minimum payment for the rest of his or her life; or 50
- (ii) has a minimum prescribed net worth;

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- (i) *leso sichamuki [setfule sifakazelo lesibuya kumbhalitimali lobhalisiwe lotfunywe nguloyo mcashi lotimisele kucasha lesichamuki somphelane lesishoko kutsi] setfule bufakazi lobenetisa umCondzisijikelele bekutsi leso sikhundla sikhona nekutsi leso sikhundla kanye nenchazelo yekutsi uyini loyo msebenti kwakhangiswa ngendlela lemisiwe, nekutsi asikho sakhamuti nobe umhlali wasomphelane lonetimphawumfundvo letifunekako lotfolakele kutsi atsatsa leso sikhundla;* 5
- [(ii) *liTiko letebaSebenti liyafakazela kutsi timeko kanye nemibandzela yaleso sitsembiso semsebenti, kufakey ekhatsi lihlo kanye netinsitakalo tebasebenti, akukho kuncane kunaloko lokutfolakala kulesigaba semsebenti lofana nalowo lokutfolwa takhamuti nome bahlali, nawubuka tivumelwano letikhona kuleyo ndzawo tekukhulumisana kwebasebenti bandzawonye kanye nebacashi mayelana nemaholo kanye naletinye timeko lokusetjentwa ngaphansi kwato, kanye naleminyemibandzela, nangabe ikhona;]* 10
- [(iii)](ii) *leso sicelo siwela ngekhati kwemanani lakhawulelwe emnyaka nemnyaka etimvume letitfolakalako lamiswe [ngesikhatsi nesikhatsi] kulowo nalowo mkhakha wetimboni, tekuhweba kanye netemnotfo, ngemuva kwekubonisana neliTiko letekuHweba netiMboni, letebaSebenti kanye neletemFundvo; nekutsi* 20
- [(iv)](iii) *leyo mvume ingangetwa kutsi ifake lowakakhe wesichamuki kanye nebantfwabaso labangaphansi kweminyaka yebudzala le-21;* 25
- (b) *nawubuka nobe ngutiphi tidzingakalo, lesikhombisa likhono nome timphawumfundvo lokungakavami ngendlela letakwenetisa liTiko, kanye nemalunga emndeni losondzele wesichamuki latawushiwo [liTiko] ngumCondzisijikelele ngaphansi kwaletu timeko nome [ngaphansi kwetimiso]; njengaloku kungamiswa;* 30
- (c) *lesicondze kucalisa nobe selicalisile ibhizimisi eRiphabliki [lapho sitawutalisa] nekutalisa khona imali ngekufaka samba semali lesimisiwe lesitakuba yincenye yentsengo lesemabhukwini lelongotiwe yalebhizimisi, [njengaloku kufakazelwe ngumbhalitimali lobhalisiwe], kanye nemalunga emndeni losondzele waleso sichamuki, ingce nje nangabe—* 35
- (i) *[liTiko litatiyekela lingatibiti kumbe] umCondzisijikelele utatiyekela ungatibiti nobe [litawunciphisa] utawunciphisa leto tidzinglo tekufaka samba sekucalisa ibhizimisi kulawo mabhizimisi lamisiwe [ngesikhatsi nesikhatsi] kutsi atakuba lusito eveni nobe nangabe [licelwa] acelwa liTiko letekuHweba netiMboni kutsi lente njalo;* 45
- (ii) *lemvume itawuphela nangabe umnikati wayo ehluleka [kuvuselela leso sifakazeliso] kwetfula bufakazi kungakapheli iminyaka lemibili leyo mvume yakhishwa[,] futsi kungakapheli iminyaka lemitsatfu ngemuva kwaloko, ngendlela letawenetisa umCondzisijikelele, kutsi samba semali lesimisiwe lesitakuba yincenye yentsengo lesemabhukwini lelongotiwe solomane italisiwe njengalokucatjangelwako kulepharagrafu;* 50
- (d) *lesingumkhoseliswa lekubhekiswe kuye esigabeni 27(c) semTsetfo webaBakhoseliswa, 1998 (umTsetfo No. 130 wa 1998), ngekulandzela nobe ngutiphi tidzingakalo letimisiwe;* 55
- (e) *lesineminyaka yebudzala lengetulu kwa-60 futsi lesitimisele kutsatsa umhlalaphansi eRiphabliki, ingce nje nangabe [umbalitimali lobhalisiwe lotfunywe ngulesichamuki atawufakazela kwekutsi] leso sichamuki setfula bufakazi lobentisa umCondzisijikelele kutsi sona—* 60

- (f) has provided a certification by a chartered accountant proven to the satisfaction of the Director-General that he or she has a prescribed minimum net worth and has paid a prescribed amount to the [Department] Director-General; or
- (g) is the relative of a citizen or permanent resident within the first step of kinship.” 5

Amendment of section 28 of Act 13 of 2002

29. Section 28 of the principal Act is hereby amended—

- (a) by the substitution for the heading to the section of the following heading: 10
“Withdrawal of permanent residence permit”;
- (b) by the substitution for paragraph (a) of the following paragraph:
“(a) [within four years of the issuance of such permit, has been] is convicted of any of the offences listed in [Schedule] Schedules 1 and 2;”;
- (c) by the substitution for paragraph (b) of the following paragraph: 15
“(b) has failed to comply with the terms and conditions of his or her permit;”; and
- (d) by the substitution in paragraph (c) for subparagraph (iii) of the following subparagraph: 20
“(iii) the Minister[, on recommendation of the Director-General,] may grant an exemption from the requirement of residence in respect of certain residents or class of residents;”.

Substitution of section 29 of Act 13 of 2002

30. The following section is hereby substituted for section 29 of the principal Act:

“Prohibited persons 25

29. (1) The following foreigners are prohibited persons and do not qualify for a visa, admission into the Republic, a temporary or a permanent residence permit:

- (a) [those] Those infected with or carrying infectious, communicable or other diseases or viruses as prescribed [from time to time]; 30
- (b) anyone against whom a warrant is outstanding or a conviction has been secured in the Republic or a foreign country [with which the Republic has regular diplomatic relations] in respect of genocide, terrorism, murder, torture, [drug trafficking] drug-related charges, money laundering or kidnapping; 35
- (c) anyone previously deported and not rehabilitated by the [Department] Director-General in the prescribed manner;
- (d) a member of or adherent to an association or organisation advocating the practice of racial hatred or social violence; [and]
- (e) anyone who is or has been a member of or adherent to an organisation 40
or association utilising crime or terrorism to pursue its ends[.]; and
- (f) anyone found in possession of a fraudulent residence permit, passport or identification document.

(2) [After consultation with the] The Director-General may, for good cause [the Minister may], declare a person referred to in subsection (1) not to be a prohibited person.” 45

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- (i) sinelilungelo lekutfola impesheni nome samba lesitsite semali salabatsetse umhlalaphansi lesikhokhwa njalo njalo ngemuva kwesikhatsi lesitsete lesingabuyiselwa emuva nome imali yemhlalaphansi lengabuyeli emuva, lokutawuniketa leso *sichamuki* imbhadalo yesamba semali sekugcina *lemisiwe* 5
lesitayitfolo imphilo yaso yonkhe; futsi
- (ii) sinesamba semali sekugcina *lesimisiwe* lesisele nasekudvonswe tonkhe letinye tindleko;
- (f) [lesetfule sifakazelo lesentiwe ngumbhalitimali lobhalisiwe sekutsi] setfule bufakazi lobenetise umCondzisijikelele bekutsi sona 10
sinesamba semali sekugcina *lesimisiwe* lesisele nasekudvonswe tonkhe letinye tindleko futsi sikhokhele *liTiko* umCondzisijikelele samba semali *lesimisiwe*; nobe
- (g) lesisihlobo sengati *sesakhamuti* nome *umhlali*.

Kuguculwa kwesigaba 28 semTsetfo 13 wa 2002

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29. Sigaba 28 semTsetfo wekucala sichitjelwe kanjena—

- (a) ngekufaka lesihloko lesilandzelako endzaweni yesihloko salesigaba:
“**Kuhociswa kwemvume yekuhlala somphelane**”
- (b) ngekufaka lepharagrafu lelandzelako endzaweni yapharagrafu (a):
“(a) [kutakutsi kungakapheli iminyaka lemine leyo mvume yakhishwa, abe asatfolwe] atfolwe anelicala lanobe ngusiphi saletephulomtsetfo letiseluhlwini [IweShejuli] lwaboShejuli 1 na 2;” 20
- (c) ngekufaka lepharagrafu lelandzelako endzaweni yapharagrafu (b):
“(b) ehlulekile kuhambisana netimeko kanye nemibandzela wemvume yakhe;” futsi 25
- (d) ngekufaka kupharagrafu (c) lepharagrafuncane lelandzelako endzaweni yapharagrafu (iii):
“(iii) *iNdvuna*, [nakukhona tincomo letentiwe ngumCondzisijikelele], ingakhulula *bahlali* kumbe *sigaba sebahlali* lesitsite kulesidzingakalo lesifuneka *kumhlali;*” 30

Kufakwa kwalesinye sigaba endzaweni yesigaba 29 semTsetfo 13 wa 2002:

30. Lesigatjana lesilandzelako sifakwe endzaweni yesigaba 29 semTsetfo wakucala:

“**Bantfu labencatjelwe**”

29. (1) *Letichamuki* letilandzelako tibantfu labencatjelwe futsi atinalo lilungelo lekuba nevisa, kungeniswa eRiphabliki, [nemvume] invume 35
yekuhlala sikhshana nobe somphelane:
- (a) [Ieto] Leto letiphetfwe nobe letitfwele tifo letitsatselwanako, letengelelanako nobe letinye tifo nobe emagciwane njengaloku kumisiwe [ngesikhatsi nesikhatsi];
- (b) nobe ngubani lekuphume incwadzi yekutsi aboshwe nobe lolahlwe 40
licala *eRiphabliki* nobe kulelinye live [iRiphabliki levamisile kuba nebudlelwane nalo lobusemkhatsini wemave lamabili] macondzana nekubhujiswa kwebantfu, buphekula, kubulala, kuhweba ngetidzakamiva, emacala lahambisana naloko, kugucula imali letfolakele ngebugebengu ibe nguleyemukelile nobe kutfumba bantfu; 45
- (c) nobe ngubani lowake *wabuyiselwa eveni lakubo* ngaphambilini futsi longakabuyiselwa [liTiko] ngumCondzisijikelele esimeni lesihle ngendlela *lemisiwe*;
- (d) lilunga laloko nobe lelihambisana nembutsano nobe inhlango lekhutsata tento tekuzonda letinye tinhlango nobe tebudlova 50
emphakatsini: **[kanye]**
- (e) nobe ngubani lolilunga nobe lowake waba lilunga laloko nobe lelihambisana nenhlango nobe umbutsano losebentisa bugebengu nobe buphekula kufeza tinjongo tabo[.]; kanye
- (f) nobe ngubani lotfolakele anemvume yekuhlala somphelane, ipasipoti 55
nobe incwadzi yamatisi mbumbulu.

Substitution of section 30 of Act 13 of 2002

31. The following section is hereby substituted for section 30 of the principal Act:

“Undesirable persons

30. (1) The following foreigners may be declared undesirable by the [Department] Director-General, as prescribed, and after such declaration, do not qualify for a visa, admission into the Republic, a temporary or a permanent residence permit: 5

- (a) [anyone] Anyone who is or is likely to become a public charge;
- (b) anyone identified as such by the Minister [after consultation with the Board, or in the case of urgency, by the Minister who, in such cases, shall inform the Board as soon as practicable]; 10
- (c) anyone who has been judicially declared incompetent;
- (d) an unrehabilitated insolvent;
- (e) anyone who has been ordered to depart in terms of this Act;
- (f) anyone who is a fugitive from justice; and 15
- (g) anyone with previous criminal convictions without the option of a fine for conduct which would be an offence in the Republic, with the exclusion of certain prescribed offences.

(2) Upon application [from] by the affected person, the [Department] Minister may, for good cause, waive any of the grounds of undesirability [provided that it reports such decisions to the Minister and the Board, with reasons].” 20

Amendment of section 31 of Act 13 of 2002

32. Section 31 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph: 25
 “(b) the officers and crew of [an official] a public [ship] conveyance of a foreign state, while such [ship] conveyance is in the port of entry.”;
- (b) by the substitution for subsection (2) of the following subsection: 30
 “(2) Upon application, the Minister~~], as he or she deems fit, after consultation with the Board,~~ may under terms and conditions determined by him or her— 30
 - (a) allow a distinguished visitor and certain members of his or her immediate family and members in his or her employ or of his or her household to be admitted to and sojourn in the Republic [for a period not exceeding six months], provided that such foreigners do not intend to reside in the Republic permanently; 35
 - (b) grant a foreigner or a category of foreigners the rights of permanent residence for a specified or unspecified period when special circumstances exist which would justify such a decision~~[;];~~ [provided] 40
Provided that the Minister may—
 - (i) exclude one or more identified foreigners from such categories; and
 - (ii) for good cause, withdraw such rights from a foreigner or a category of foreigners;

(2) [Ngemuva kwekubonisana nemCondzisijikelele] umCondzisijikelele, [futsi nayifuna] ngekufuna kwesekela intfo lenhle letsite, [iNdvuna ingamemetela] angamemetela umuntfu lekubhekiswe kuye esigatjaneni (1) kutsi akasasiye umuntfu lowencatjelwe.

Kufakwa kwalesinye sigaba endzaweni yesigaba 30 semTsetfo 13 wa 2002 5

31. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 30 semTsetfo wakucala:

“Bantfu labangakemukeleki

30. (1) Letichamuki letilandzelako tingamenyetelwa [liTiko] ngumCondzisijikelele kutsi tibantfu labangakemukeleki, njengaloku kumisiwe, futsi ngemuva kwekumenyetelwa lokunjalo, ete tibe neligunya lekutfo 10
ivisa, kungeniswa eRiphabliki nobe imvume yekuhlala somphelane:

- (a) [umuntfu] Nobe ngubani lonakekelwa nobe lekunekwenteka kutsi anakekelwe nguhulumende;
- (b) nobe ngubani lokhonjwe yiNdvuna kutsi ungumuntfu lonjalo [ngemuva kwekubonisana neBhodi, nobe endzabeni 15
lephutfumako, lokhonjwe yiNdvuna lekungiyoy, etindzabeni letifana naleti, letakwatisa iBhodi masinyane njengaloku kungakhonakala];
- (c) nobe ngubani lomenyetelwe likhotho kutsi akakwati kutentela lutfu;
- (d) umuntfu lowehluleke kukhokha tikweledi takhe longeke abuye akwati 20
kutimela ngetinyawo takhe;
- (e) nobe ngubani lotjelwe kutsi akaphume ngekumisa kwalomTsetfo;
- (f) nobe ngubani lobalekela bemtsetfo; kanye
- (g) nanobe ngubani lowake walahlwa licala lebugebengu phambilini longazange anikwe litfuba lekukhokha inhlawulo, ngendzaba 25
yekutiphatsa kwakhe lokungaba sephulomtsetfo eRiphabliki, loko lokukhiphela ngaphandle tephulomtsetfo letitsite letimisiwe.

(2) Ngalesikhatsi kwentiwa sicelo semuntfu lotsintsekako, [liTiko lingatiyekela lingatinaki] INdvuna, ngesizatfu lesivakalako lingatinaki nobe ngutiphi taletizatfu tekuba ngumuntfu longakemukeleki, [ingce nje 30
nangabe liTiko litawubikela iNdvuna neBhodi ngaletyo tincumo kanye netizatfu tekwenta loko].”.

Kuguculwa kwesigaba 31 semTsetfo 13 wa 2002

32. Sigaba 31 semTsetfo wekucala sichitjelwe kanjena—

(a) ngekufaka lepharagrafu lelandzelako endzaweni yeparagrafu (b) 35
esigatjaneni (1):

“(b) tisebenti kanye nebantfu labasebenta [emkhunjini wembuso wakulelinye] entfweni yekuhamba yawonkhewonke yakulelinye live, ngalesikhatsi [lowo mkhumbi usesikhumulweni] leyontfo yekuhamba isesikhumulweni sekungena eveni”.

(b) ngekufaka lesiga lesilandzelako endzaweni yesigatjana (2):

“(2) Ngalesikhatsi kwentiwa sicelo, iNdvuna, [nangabe yona ikubona kulungile, ngemuva kwekubonisana neBhodi] nafutsi ngaphansi kwetimeko kanye nemibandzela lokubekwe ngiyo—

(a) ingavumela sivakashi lesihloniphekile kanye nemalunga latsite emndeni 45
losondzele waso kanye nebantfu labasisebentelako nobe bantfu labahlala emtini waso kutsi banganiswe ngekhatso futsi bahambe bavakashe kwesikhashana eRiphabliki [sikhatsi lesingendluli tinyanga letisitfupha], ingce nje nangabe letichamuki leto tingakatimiseli kuhlala eRiphabliki somphelane; 50

(b) inganiketa sichamuki nobe luhlobo lolutsite lwetichamuki timfanelo bahlali labahleti somphelane sikhatsi lesigaguliwe nobe lesingakagagulwa nangabe kukhona timeko letikhetsekile letenta kutsi kube yintfo lekahle kutsatsa lesi sincumo[;]; [ingce] Ingce nje nangabe iNdvuna— 55

(i) itawukhiphela ngaphandle sinye nobe tinyenti tichamuki letikhonjiwe kulolo hlobo lwetichamuki; futsi

- [(c) authorise any person or category of persons to enter the *Republic* at a place other than a *port of entry*, in which case the *Department* shall issue to such person(s) the *prescribed* written permission or *passport* endorsement, provided that such authorisation may be withdrawn at any time by the *Minister*; and] 5
- [(d)](c) for good cause, waive any prescribed requirement or form[, provided that if such consultation requirement would unduly delay an urgent action, the *Minister* may inform the *Board* after the fact of any action taken under this subsection and of the reasons for the urgency.]; and 10
- (d) for good cause, withdraw an exemption granted by him or her in terms of this section.”; and 10
- (c) by the addition of the following subsection: 15
- “(3) The provisions of sections 10 and 25 shall not apply to a foreigner— 20
- (a) who prior to 1 February 1937 lawfully entered the Republic for the purpose of permanent residence therein; 15
- (b) who by virtue of the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001), enjoys any immunities and privileges in the Republic; or
- (c) to whom a written authority or permission to enter the Republic has been issued in terms of section 1 or 3 of the Immigration Quota Act, 1930 (Act No. 8 of 1930), and who entered the Republic within the period stated in that authority or permit or within that period as lawfully extended.”. 20

Amendment of section 32 of Act 13 of 2002

33. Section 32 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 25

“(1) Any illegal foreigner shall depart, unless authorised by the [*Department*] Director-General in the prescribed manner to remain in the Republic pending his or her application for a status.”.

Amendment of section 33 of Act 13 of 2002

34. Section 33 of the principal Act is hereby amended— 30
- (a) by the substitution for subsection (1) of the following subsection: 30
- “(1) An inspectorate [shall be] is hereby established [through regulations] and shall consist of [such] the persons, including immigration officers, [as may be] determined by the Minister.”;
- (b) by the substitution for subsection (2) of the following subsection: 35
- “(2) (a) [On the recommendation of the Director-General, the] The Minister shall appoint the head of the inspectorate.
- (b) The Director-General shall appoint immigration officers and other persons required to exercise the functions of the inspectorate.
- (c) The Minister may prescribe— 40
- (i) the procedure to be followed in the appointment of immigration officers or categories of immigration officers;
- (ii) the requirements for the appointment contemplated in subparagraph (i); and
- (iii) the allocation of functions to immigration officers or categories of immigration officers.”; and 45

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- (ii) nayifuna kwesekela sento lesitsite lesihle, itawuhocisa timfanelo letiniketwe *sichamuki* nobe luhlobo lolutsite *lwetichamuki*;
- [(c) **ingagunyata nobe ngumuphi umuntfu nobe luhlobo lwebantfu kutsi angene eRiphabliki kulenye indzawo lengesiso *sikhumulo sekungena eveni*, lekutakutsi nakwenteke njalo *liTiko* likhiphele lowo muntfu kumbe bantfu imvume lebhaliwe lemisiwe, nobe sitembu lesitawushaywa *epasipotini* yakhe njengaloku *kumisiwe*, ingce nje kwateka kutsi lelo gunya litawukwati kuhociswa yi*Ndvuna* nganobe ngusiphi sikhatsi; futsi]** 5
- [(d)](c) nayifuna kwesekela sento lesitsite lesihle, ingasiyekela ingasibiti sidzingakalo nobe lifomu lalokumisiwe, [ingce nje kwateka kutsi nangabe leso sidzingakalo sekubonisana sitawubambelela ngalokungenasidzingo kutsatfwa kwesinyatselo lesiphutfumako, *iNdvuna* ingatisa *iBhodi* ngemuva kwekutsi sesitsetfwe nobe ngusiphi leso sinyatselo lesitsetfwe ngaphansi kwalesigatjana lesi kanye netizatfu taloko kuphutfuma.]; nafutsi 10
- (d) nayifuna kwesekela sento lesitsite lesihle, ingakuhocisa lokucolela lekwentile ngekumisa kwalesigaba.”; futsi 15
- (c) ngekwengeta lesigaba lesilandzelako: 20
- “(3) Tibonelelo tetigaba 10 na 25 atinawusebenta esichamukini—
- (a) leso lesangena eRiphabliki ngalokusemtsetfweni ngembikwa 1 Febhuwari 1937 ngenjongo yekuhlala khona somphelane; 25
- (b) leso lesitfola nobe ngukuphi kucolelwa kanye netimfanelo eRiphabliki ngaphansi kwemTsetfo wekuTfola Colelwa kanye netiMfanelo, 2001 (umTsetfo No. 37 wa 2001; nobe 25
- (c) leso lesikhishelwe ligunya nobe imvume lokubhaliwe ngekumisa kwesigaba 1 nobe 3semTsetfo wesiLinganiso setiFikanamtfwalo, 1930 (umTsetfo No. 8 wa 1930) naleso lesangena eRiphabliki ngekhatsi kwalesikhatsi lesishiwo kulelo gunya nobe imvume nobe ngekhatsi kwaleso sikhatsi njengaloku sengetwe ngalokusemtsetfweni.”. 30

Kuguculwa kwesigaba 32 semTsetfo 13 wa 2002

33. Ngaloku kuguculwa sigaba 32 semTsetfo wakucala ngekufaka lesigatjana lesilandzelako endzaweni yesigatjana (1):

“(1) Nobe ngusiphi *sichamuki lesingekho emtsetfweni* sitawuphuma eRiphabliki, ngaphandle kwekutsi sigunyatwe [*liTiko*] ngumCondzisijikelele ngendlela lemisiwe kutsi sihlale ngalesikhatsi sisalindzele umphumela *wesicelo* saso *sesimo sesichamuki eveni*.”. 35

Kuguculwa kwesigaba 33 semTsetfo 13 wa 2002

34. Sigaba, 33 semTsetfo wekucalo Sichitjelwe ngekufaka endzaweni yesigatjana lesigaba lesilandzelako: 40

(a) ngekufaka lesigatjana lesilandzelako endzaweni yesigatjana (1):

“(1) Ngaloku kusungulwa [Licembu lebahloli litawusungulwa ngaphansi kwetimiso] futsi litawufaka [*labo*] bantfu, kufake ekhatsi tisebenti tahulumende letibukene netindzaba tetifikanamtfwalo, labatawubekwa yi*Ndvuna*.”; 45

(b) ngekufaka lesigatjana lesilandzelako endzaweni yesigatjana (2):

“(2) (a) [Ngemuva kwesincomo lesentiwe ngumCondzisijikelele] INdvuna itawubeka inhloko yelicembu lebahloli.

(b) UmCondzisijikelele utawubeka tisebenti tahulumende letibukene netifikanamtfwalo kanye nalabanye bantfu labadzingeka kwenta umsebenti welicembu lebahloli. 50

(c) Indvuna ingamisa—

(i) inchubo letawulandzelwa ekubekeni kwetisebenti tahulumende letibukene netifikanamtfwalo nobe tigaba tisebenti tahulumende letibukene netifikanamtfwalo; 55

(ii) tidzingakalo tekubeka tisebenti tahulumende letibukene netifikanamtfwalo leticatjangelwako kupharagrafuncane (*i*); kanye

- (c) by the substitution for subsection (4) of the following subsection:
- “(4) An immigration officer may, for the purposes of this Act—
- (a) at any time before the commencement or in the course of an investigation conduct an inspection in loco in accordance with subsections (5) and (9);
- (b) by notice in writing call upon any person who is in possession of or has the custody of or control over any thing which in the opinion of the [Department] Director-General is relevant to the investigation to produce such thing, and the [Department] Director-General may inspect and retain any thing so produced for a reasonable time; and
- (c) by notice in writing call upon any person to appear before the [Department] Director-General and to give evidence or to answer questions relevant to the subject matter of the investigation[,];
- [provided] Provided that any of such notices shall specify the time when and the place where the person to whom it is directed shall appear, be signed by an immigration officer, be served by an immigration officer or [by] a sheriff by delivering a copy thereof to the person concerned or by leaving it at such person’s last known place of residence or business, and shall specify the reason why the [article] thing is to be produced or the evidence is to be given.”.

Amendment of section 34 of Act 13 of 2002 20

35. Section 34 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
- “Without the need for a warrant, an immigration officer may arrest an illegal foreigner or cause him or her to be arrested, and shall, irrespective of whether such foreigner is arrested, deport him or her or cause him or her to be deported and may, pending his or her deportation, detain him or her or cause him or her to be detained in a manner and at [the] a place [under the control or administration of the Department] determined by the Director-General, provided that the foreigner concerned—”;
- (b) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:
- “Any person other than a citizen or a permanent resident who having been—”;
- (c) by the addition of the following subsection:
- “(11) A person detained on a ship may not be held in detention for longer than 30 days without an order of court.”.

Substitution of section 35 of Act 13 of 2002

36. The following section is hereby substituted for section 35 of the principal Act:

“[Ships] Duties with regard to conveyances 40

35. (1) Save for extraordinary circumstances necessitating otherwise, no [master] person in charge of a conveyance shall cause [his or her ship] that conveyance to enter the Republic [by landing or shoring] at any place other than a port of entry.

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- (iii) kwabelwa umsebenti kwetisebenti tahlumende letibukene |
netifiki nobe tigaba tetisebenti tahlumende letibukene netifiki.”;
- kanye
- (c) ngekufaka lesigatjana lesilandzelako endzaweni yesigatjana (4):
“(4) Sisebenti sahlumende lesibukene netifikanamtfwalo ngetinjongo 5
talamTsetfo—
- (a) nobe ngasiphi sikhatsi ngembikwekucalisa nobe ngekuhamba
kweluphenyo, singenta luhlolo lwaleyo ndzawo ngekuhambisana
netigatjana (5) na (9);
- (b) ngenothisi lebhaliwe, singatjela nobe ngubani umuntfu lekungeyakhe 10
nobe lesesandleni sakhe nobe lengaphansi kwakhe nobe nguyiphi intfo
ngekubona [kweliTiko] kwemCondzisijikelele iphatselene neluphenyo
kutsi lowo muntfu ayivete leyontfo, futsi [liTiko lingayihlola libuye
liyigcine] umCondzisijikelele angayihlola abuye ayigcine nobe nguyiphi
lentfo levetwe kanjalo sikhatsi lesemukelekile; futsi 15
- (c) ngenothisi lebhaliwe, singabita nobe ngubani umuntfu kutsi avele
[ngembikweliTiko] ngembikwemCondzisijikelele futsi anike bufakazi
nobe aphenzvule imibuto letsintsana nendzikimba yenzaba yalolo
luphenyo[;] : [ingce]
- Ingce nje nangabe nobe ngusiphi saletu tatiso sitawugagula sikhatsi lengaso 20
kanye nedzawo lapho lomuntfu lesicondzise kuye atawuvela khona,
sisayinwe sisebenti sahlumende lesibukene netifikanamtfwalo, ihanjiswe
sisebenti sahlumende lesibukene netifikanamtfwalo kumbe [ngusherifu]
sherifu ngekutsi kuyiswe ikhophi yayo kulomuntfu locondzene naloko nobe
ishiywe endzweni lapho lowo muntfu wagcinwa ahlala khona nobe achubela 25
khona ibhizimisi, futsi itawugagula sizatfu [leyontfo] lentfo letawuvetelwa
sona nobe lobo bufakazi butawunikelwa sona.”.

Kuguculwa kwesigaba 34 semTsetfo 13 wa 2002

35. Sigaba 34 semTsetfo wekucala sichitjelwe kanjena—
- (a) ngekufaka lamagama lalandzelako endzaweni yemagama lendvulela 30
pharagrafu (a) esigatjaneni (1):
“Ngaphandle kwekudzinga incwadzi yesigunyato, sisebenti sahlumende
lesibukene netifikanamtfwalo singabopha sichamuki lesingekho emtsetfveni
nobe sibangele kuboshwa kwaso, futsi, akusho lutfo kutsi lesi sichamuki
siboshiwe kumbe cha, sitawubuyisela lowo muntfu eveni lakubo sibangele 35
kubuyiselwa kwalowo muntfu eveni lakubo, futsi ngalesikhatsi kusalidzelwe
kubuyiselwa kwemuntfu eveni lakubo, sitawuvalela lowo muntfu nobe
sibangele kuvalelwa kwakhe ngendlela kanye nasendzaweni [lokungaphansi
futsi lokuphetfwe liTiko] leshiwo ngumCondzisijikelele, ingce nje kwateka
kutsi lesi sichamuki lesicondzene naloko—”; 40
- (b) ngekufaka lamagama lalandzelako endzaweni yemagama lendvulela
pharagrafu (a) esigabenincane (5):
“Nobe ngubani lomunye umuntfu longesiso sakhamuti kumbe umhlali
wasomphelane lotakutsi ngemuva kwekutsi— ”; nafutsi
- (c) ngekwengeta lesigatjana lesilandzelako: 45
“(11) Umuntfu lovalelwe emkhunjini akanawuhlala avalelwe emalanga
langetulu kula-30 ngaphandle kwencwadzi yasekhotu.”.

Kuguculwa kwesigaba 35 semTsetfo 13 wa 2002

36. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 35 semTsetfo wakucala:

[Imikhumbi] Imisebenti macondzana netintfo tekuhamba 50

35. (1) Ngaphandle kwekutsi kukhona timeko letingaketayeleki letenta
kuba nesidzingo sekwenta tintfo ngendlela leyehlukile, akukho [sikhulu
lesiphetse umkhumbi lesitakwenta] umuntfu lophetse intfo yekuhamba
lotakwenta kutsi [umkhumbi waso ungene] leyontfo yekuhamba ingene
eRiphabliki ngekutsi [uhlale phansi nobe ume] kunobe nguyiphi indzawo 55
lenye lengesiso sikhumulo sekungena eveni.

- (2) An immigration officer or other authorised person employed by the [Department] Director-General may—
- (a) board any [ship] conveyance which is entering or has entered into any port of entry and for good cause prohibit or regulate disembarkation from, or the offloading of, such [ship] conveyance in order to ascertain the status or citizenship of its passengers; and 5
- (b) request the person in control of a port of entry or any person acting under his or her authority to order the [master] person in charge of a conveyance to park, moor or anchor [his or her ship] that conveyance in such port of entry at such distance from the shore or landing place or in such position as he or she may direct. 10
- (3) The [master of a ship] person in charge of a conveyance entering or prior to entering a port of entry shall upon demand [shall] deliver to an immigration officer—
- (a) a list stating— 15
- (i) the names of all passengers on board the [ship] conveyance, classified according to their respective destinations; and
- (ii) such other details as may be prescribed [from time to time];
- (b) a list of stowaways, if any have been found;
- (c) a list of the crew and all other persons, other than passengers and stowaways, employed, carried or present on the [ship] conveyance; and 20
- (d) a return, under the hand of the medical officer of that [ship] conveyance or, if there is no such medical officer, under the hand of the [master] person in charge of a conveyance himself or herself, stating— 25
- (i) any cases of disease, whether infectious or otherwise, which have occurred or are suspected to have occurred upon the voyage;
- (ii) the names of the persons who have suffered or are suffering from such disease; 30
- (iii) details of any birth or death which occurred upon the voyage between such port of entry and a previous port; and
- (iv) any other prescribed matter or event[,];
- [provided] Provided that such immigration officer may— 35
- (aa) exempt from the requirements of this subsection the master of a ship destined for any other port in the Republic, subject to compliance with the duty to deliver such lists or return at such port and with any directive such immigration officer may issue to the master; and
- (bb) if satisfied that a name should be added to or deleted from any of such lists, authorise such addition or deletion. 40
- (4) If a [ship] conveyance arrives at a port of entry with a passenger on board bound for a destination outside the Republic who is not on board when the [ship] conveyance leaves such port of entry and has not been admitted, the [master] person in charge or the owner of that [ship] conveyance shall forfeit a sum fixed by the immigration officer within a prescribed limit. 45

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(2) *Sisebenti sahumende lesibukene netifikanamtfwalo* nobe lomunye umuntfu locashwe [*liTiko*] ngumCondzisijikelele—

(a) singakhwela kunobe [*ngumuphi umkhumbi longenako nobe losongenile*] *nguyiphi intfo yekuhamba lengenako nobe lese ingenile* kunobe ngusiphi sikhumulo *sekungena eveni*, futsi nasicabanga kutsi 5
loko kuyintfo lelungile, singabalela nobe sente kutsi bantfu behliswe nobe kwehliswe imphahla [*kulomkhumbi*] kulentfo yekuhamba kuze kucinisekiswe kutsi siyini *simo semuntfu eveni* sebagibeli kumbe kutsi *batakhamuti* takuphi labantfu labagibele lomkhumbi; futsi

(b) singacela umuntfu lophetse *sikhumulo sekungena eveni* kumbe nobe 10
ngumuphi umuntfu losebenta ngaphansi kweligunya lalowo muntfu kutsi elayete [*sikhulu lesiphetse umkhumbi kutsi siwpake, siwumise kumbe siwubophe umkhumbi waso*] umuntfu lophetse intfo *yekuhamba kutsi, ayipake, ayimise nobe ayibophe intfo yakhe yekuhamba* kuleso sikhumulo *sekungena eveni* ebangeni lelisukela 15
elugwini lwelwandle nobe esikhumulweni setindiza lelitawushiwo ngiso, kumbe lisho kutsi umkhumbi awume ubheke ngakuphi.

(3) [*Sikhulu lesiphetse umkhumbi longena*] umuntfu lophetse intfo yekuhamba lengenako nobe ngembi kwekungena *esikhumulweni sekungena eveni* nangabe sitjelwa kutsi sente njalo, sitakwetfula 20
embikwesisebenti sahumende lesibukene netifikanamtfwalo—

(a) luhlu lolusho—

(i) emagama abo bonkhe bagibeli [*labasemkhunjini labasentfweni yekuhamba*, lolwehlukaniswe ngetindzawo letehlukahlukene lapho bagibeli balibangise khona; kanye 25

(ii) naleyo leminye imininingwane [*lemiswe ngesikhatsi nesikhatsi*] njengaloku ingamiswa

(b) luhlu lwebantfu lebebatifihle emkhunjini, nangabe kukhona labatfolakele;

(c) luhlu lwebantfu labasebenta [*emkhunjini entfweni yekuhamba* 30
kanye nabo bonkhe labanye bantfu lekungesibo bagibeli nobe bantfu lebebatifihle emkhunjini, labo labasebentako, labatfwelwe ngumkhumbi nobe labasekhatsi emkhunjini; kanye

(d) nembiko longaphansi kwesandla sadokotela [*walowo mkhumbi*] waleyontfo yekuhamba nobe, nangabe kungekho 35
dokotela, longaphansi kwesandla [*sesikhulu lesiphetse umkhumbi sona ngekwaso*] semuntfu lophetse intfo yekuhamba yena *ngekwakhe*, losho—

(i) nobe ngutiphi tifo letibe khona, kungaba nguletitsatselwanako nobe letinye, letivelile nobe lekusolelwa kutsi tivelile 40
kuloluhambo;

(ii) emagama ebantfu lebebaphetfwe nobe labasolo baphetfwe nguleto tifo;

(iii) iminingwane yebantfwana labatelwe nobe bantfu labafile ngalesikhatsi saloluhambo emkhatsini waleso sikhumulo 45
sekungena eveni kanye nesikhumulo saphambilini; kanye

(iv) nanobe nguyiphi lenye indzaba nobe sehlakalo lokumisiwe[.];

[ingce] Ingce nje kwateka kutsi leso *sisebenti sahumende lesibukene netifikanamtfwalo*—

(aa) sitawucolela *sikhulu lesiphetse umkhumbi* lesilibangise kulesinye 50
sikhumulo lesiseRiphabliki kuletidzingakalo talesigatjana, nangabe kuyatiwa kwekutsi sitawukufobela umtfwalo wekwetfula leto tinhla nobe umbiko lekukhulunywa ngawo kuleso sikhumulo lesiya kuso kanye nanobe ngutiphi imilayeto leso *sisebenti sahumende lesibukene netifikanamtfwalo* lesingatikhiphela leso *sikhulu lesiphetse umkhumbi*; futsi 55

(bb) nangabe senelisekile kutsi kuneligama lekumele lifakwe nobe likhishwe kunobe ngutiphi leto tinhlu, sitawugunyata loko kufakwa nobe kukhishwa.

(4) Nangabe [*umkhumbi ufika*] intfo yekuhamba ifika *esikhumulweni* 60
sekungena eveni itfwele umgibeli lolibangise endzaweni lengaphandle kweRiphabliki longekho emkhunjini ngalesikhatsi [*umkhumbi usishiya*] intfo yekuhamba *isishiya* leso sikhumulo futsi nalo-

(5) An immigration officer may require the [*master of a ship*] person in charge of a conveyance to muster the crew of such [*ship*] conveyance on the arrival of such [*ship*] conveyance in any port of entry and again before it leaves such port of entry.

(6) The competent officer of customs at any [*harbour*] port of entry may refuse to give to the [*master of any ship*] person in charge of a conveyance clearance papers to leave that [*harbour*] port of entry, unless he or she has complied with [the provisions of] this Act and produced a certificate of an immigration officer to that effect. 5

(7) A [*master*] person in charge of a conveyance shall ensure that any 10
foreigner conveyed to a port of entry—

(a) for purposes of travelling to a foreign country, holds a valid passport and transit visa, if required[.]; and

(b) holds a valid passport and visa, if required.

(8) A person in charge of a conveyance shall be responsible for the 15
detention and removal of a person conveyed if such person is refused admission in the prescribed manner, as well as for any costs related to such detention and removal incurred by the Department.”.

Repeal of section 36 of Act 13 of 2002

37. Section 36 of the principal Act is hereby repealed. 20

Repeal of section 37 of Act 13 of 2002

38. Section 37 of the principal Act is hereby repealed.

Substitution of section 40 of Act 13 of 2002

39. The following section is hereby substituted for section 40 of the principal Act:

“Keeping of registers of lodgers by certain persons 25

40. (1) The person in charge of any premises, whether furnished or unfurnished, where lodging or sleeping accommodation is provided for payment or reward shall, if those premises fall within a prescribed class, in the prescribed manner keep a register of all persons who are provided with lodging or sleeping accommodation thereon, and every such person shall sign the register and furnish therein the prescribed particulars regarding himself or herself. 30

(2) Every person in charge of premises referred to in subsection (1) shall, when required to do so by an immigration officer or police officer, produce the register referred to in that subsection for inspection. 35

(3) Any person who—

(a) contravenes or fails to comply with a provision of subsection (1) or (2);

(b) gives false or incorrect particulars for the purposes of subsection (1); or

(c) hinders any officer referred to in subsection (2) in the performance of his or her functions, 40

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.”.

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ngakangeniswa, [*sikhulu lesiphetse umkhumbi*] umuntfu lophetse nobe umnikati [walowo mkhumbi sitawulahlekelwa] waleyontfo yekuhamba batawulahlekelwa samba semali lesincunywe *sisebenti sahumumende lesibukene netifikanamtfwalo* lesingendluli esambeni semali lesimisiwe. (5) *Sisebenti sahumumende lesibukene netifikanamtfwalo* singacela [*sikhulu lesiphetse umkhumbi kutsi sigcogcele*] umuntfu lophetse intfo yekuhamba kutsi agcogcele ndzawonye bantfu labasebenta kulowo [*mkhumbi*] intfo yekuhamba ngalesikhatsi [ufika] ifika kunobe ngusiphi *sikhumulo sekungena eveni*, siphindze sente njalo ngembikwekutsi *umkhumbi usishiye leso sikhumulo sekungena eveni.* 5 10

(6) *Sisebenti sahumumende lesibukene* nempahla lechamuka kulamanye emave lesineligunya lesikunobe [*nguliphi litheku*] ngusiphi sikhumulo sekungena eveni singala kunika [*sikhulu lesiphetse umkhumbi sanobe ngumuphi umkhumbi*] umuntfu lophetse intfo yekuhamba wanobe nguyiphi intfo yekuhamba emaphepha [lasivumela] lamvumela kutsi [siphume] aphume kulelo litheku ngaphandle kwekutsi [*siti-tfobe*] atitfobele tibonelelo *talomTsetfo* futsi [*saveta*] waveta sitifiketi *sesisebenti sahumumende lesibukene netifikanamtfwalo* lesisho kutsi [*sikwentile*] ukwentile loko. 15

(7) [*Sikhulu lesiphetse umkhumbi sitawucinisekisa*] Umuntfu lophetse intfo yekuhamba utawucinisekisa kutsi nobe ngusiphi sichamuki lesitfwelwe sayiswa esikhumulweni sekungena eveni— 20

(a) ngenjongo yekuhamba siye *kulelinye live* sinepasipoti kanye nevisa *yekwendlula lokusebentako*, nangabe [*iyadzinge*] kuyadzinge[:]; futsi 25

(b) sinepasipoti nevisa lesebentako, nangabe *kuyadzinge*.

(8) Umuntfu lophetse intfo yekuhamba utakuba nemtfwalo wekuvalelwa kanye nekususwa kwemuntfu loletfwe lapho nangabe lowo muntfu alelwa kungeniswa ngendlela lemisiwe, kanye nanobe ngutiphi tindleko letiphatselene naloko kuvalelwa nekususwa liTiko lelingene kuto. 30

Kucitfwa kwesigaba 36 semTsetfo 13 wa 2002

37. Sigaba 36 semTsetfo wakucala.

Kucitfwa kwesigaba 37 semTsetfo wa 2002

38. Sigaba 38 semTsetfo wakucala sicitsiwe.

Kufakwa kwesigaba lesinye endzaweni yesigaba 40 semTsetfo 13 wa 2002 35

39. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 40 semTsetfo wakucala:

“Kugcinwa kweregista yebantfu labahlala endzaweni igcinwa bantfu labatsite

40. (1) Umuntfu lophetse kunobe nguwapshi emabala, angaba nempahla yasendlini lapho kuniketwa khona indzawo yekuhlala nobe yekulala lekhokhelwako nobe lebungwako ngalokutsite, nangabe lawo mabala awela ngaphansi kwelibanga lelimisiwe, kutawugcina iregista, ngendlela lemisiwe, yabo bonkhe bantfu labanikwa indzawo yekuhlala nobe yekulala kuleyo ndzawo, futsi lowo nalowo umuntfu lonjalo utawusayina leregista futsi anikete lapho imininingwane lephatselene naye. 40 45

(2) Lowo nalowo muntfu lophetse emabaleni lekubhekiswe kuwo esigatjaneni (1), ngalesikhatsi acelwa kutsi ente njalo sisebenti sahumumende lesibukene netifikanamtfwalo, utawuveta leregista lekubhekiswe kuyo kuleso sigatjana kutsi ihlolwe. 50

(3) Nobe ngumuphi umuntfu— 50

(a) lowephula nobe lowehluleka kuhambisana nesibonelelo sesigatjana (1) nobe (2);

(b) loniketa imininingwane lengemanga nobe lengesiyo ngetinjongo tesigatjana (1); nobe

(c) lovimbela nobe ngusiphi sisebenti sahumumende lekubhekiswe kuso esigatjaneni (2) ekwenteni umsebeni waso, 55

Substitution of section 41 of Act 13 of 2002

40. The following section is hereby substituted for section 41 of the principal Act:

“Identification

41. (1) When so requested by an immigration officer or a police officer, any person shall identify himself or herself as a citizen, permanent resident or foreigner [~~when so requested by an immigration officer or a police officer~~], and if on reasonable grounds such immigration officer or [a] police officer is not satisfied that such person is entitled to be in the Republic, such person may be interviewed by an immigration officer or a police officer about his or her identity or status, and such immigration officer or [a] police officer may take such person into custody without a warrant, and shall take reasonable steps, as may be prescribed, to assist the person in verifying his or her identity or status, and thereafter, if necessary detain him or her in [a prescribed manner and place until such person’s prima facie status or citizenship is ascertained] terms of section 34. 5 10 15

(2) Any person who assists a person contemplated in subsection (1) to evade the processes contemplated in that subsection, or interferes with such processes, shall be guilty of an offence.”.

Amendment of section 43 of Act 13 of 2002

41. Section 43 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph: 20

“(a) abide by the terms and conditions of his or her status, including any terms and conditions attached to the relevant permit by the [*Department*] Director-General upon its issuance, extension or renewal, and that status shall expire upon the violation of those conditions; and”.

 25

Substitution of section 44 of Act 13 of 2002

42. The following section is hereby substituted for section 44 of the principal Act:

“Organs of [State] state

44. When possible, any organ of [*State*] state shall endeavour to ascertain the status or citizenship of the persons receiving its services and shall report to the [*Department*] Director-General any illegal foreigner, or any person whose status or citizenship could not be ascertained, [~~advising through public notices or directly the person concerned of such reporting practice,~~] provided that such requirement shall not prevent the rendering of services to which illegal foreigners and foreigners are entitled under the Constitution or any law[, including the law of contract].”.

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utakuba nelicala lekwephula umtsetfo lekutakutsi angahlwa licala abopheleleke kukhokha inhlawulo nobe kuvalelwa ejele sikhatsi lesingendluli tinyanga letilishumi nakubili.”.

Kufakwa kwesigaba lesinye endzaweni yesigaba 41 semTsetfo 13 wa 2002

40. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 41 semTsetfo wakucala: 5

“Kutatisa kutsi ungubani

“41. (1) Ngalesikhatsi acelwa *sisebenti sahumumende lesibukene netetifikanamtfwalo* nobe liphoyisa kutsi ente njalo, nobe ngumuphi umuntfu utatatisa kutsi ngabe *usakhamuti*, ungumhlali wasomphelele nobe *usichamuki* yini [*ngalesikhatsi umuntfu acelwa sisebenti sahumumende lesibukene netetifikanamtfwalo nobe liphoyisa*] kutsi ente njalo, futsi nakukhona sizatfu lesivakalako lesenta leso *sisebenti sahumumende sibukene netetifikanamtfwalo* nobe liphoyisa singenetiseki kwekutsi leso *sichamuki* sinelilungelo lekuba seRiphabliki, lowo muntfu angabutwa imibuto *sisebenti sahumumende lesibukene netetifikanamtfwalo nobe liphoyisa ngekutsi ungubani nobe ngesimo sesichamuki eveni sakhe, futsi leso sisebenti sahumumende lesibukene netetifikanamtfwalo* nobe liphoyisa [*singayisa*] bangayisa lowo muntfu ekuvalelweni ngaphandle kwencwadzi yesigunyato, futsi batawutsatsa tinyatselo letivakalako, njengaloku kumisiwe, kwelekelela lomuntfu kufakazela kwekutsi ungubani nobe kufakazela simo semkhosel eveni swa, nangabe sikhona sidzingo saloko, [simvalele] bamvalele [ngendlela kanye nasendzaweni lokumisiwe kuze kube sikhatsi lapho sekutfolakele bufakazi lobucinile bekucinisekisa simo sesichamuki eveni salowo muntfu nobe bekutsi usakhamuti] ngekumisa kwesigaba 34. 10 15 20 25

(2) Nombwe ngumuphi umuntfu lowelekelela umuntfu locatjangelwa esigatjaneni (1) kutsi agweme letinchubo leticatjangelwa kuleso sigatjaneni, nobe lophazamisa leto tinchubo, utakuba nelicala lekwephula umtsetfo.”.

Kuguculwa kwesigaba 43 semTsetfo 13 wa 2002 30

41. Sigaba 43 semTsetfo wekucala sichitjelwe ngekufaka lepharagrafu lelandzelako endzaweni yapharagrafu (a) :

“(a) sitawutfoBELA timeko kanye nemibandzela *yesimo sesichamuki eveni* saso, kufake ekhatsi nobe ngutiphi timeko kanye nemibandzela lokufakwe [*liTiko*] ngumCondzisijikelele kuleyo mvume lecondzene naso ngalesikhatsi ikhishwa, yengetwa nobe ivuselelwa, futsi leso simo sesichamuki eveni sitawuphela nasitakwephula leyo mibandzela; futsi”.

Kufakwa kwesigaba endzaweni yesigaba 44 semTsetfo 13 wa 2002

42. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 44 semTsetfo wakucala:

“ImiTimba [yemBuso] yembuso 40

44. Nangabe loko kunendlela yekutsi kwenteke, nobe nguwuphi umTimba [*wemBuso*] wembuso utawuphokophela kucinisekisa kutsi siyini *simo sesichamuki eveni* nobe kutsi ngabe labantfu labatfola lusito lwawo *batakhamuti* yini, futsi utawubikela [*liTiko*] umCondzisijikelele nganobe ngusiphi sichamuki lesingekho emtsetfweni, nobe nganobe ngumuphi umuntfu lesehlulekile kucinisekisa kutsi siyini simo sesichamuki eveni nobe kutsi ingabe lowo muntfu *usakhamuti* yini, [*futsi utakwatisa ngesatiso sawonkhewonkhe nobe watise lowo muntfu lotsintsekako matfupha ngaleyo nchubo yekubikela liTiko*], ingce nje kwateka kutsi leso sidzingakalo singeke sivimbele kutsi *tichamuki letingekho emtsetfweni* kanye *netichamuki* tiniketwe lolusito lebanelilungelo lekulutfo ngaphansi kwemTsetfosisekelo nobe ngaphansi kwanobe nguwuphi umtsetfo [, kufake ekhatsi umtsetfo wekontilaki].”.

Substitution of section 45 of Act 13 of 2002

43. The following section is hereby substituted for section 45 of the principal Act:

“Other institutions

45. Prescribed institutions or persons other than organs of [State] state may, in the prescribed manner, be required [by regulation] to endeavour to ascertain the status or citizenship of the persons with whom they enter into commercial transactions, as prescribed, and shall report to the [Department] Director-General any illegal foreigner, or any person whose status or citizenship could not be ascertained, provided that such requirement shall not prevent the rendering of services or performance to which illegal foreigners and foreigners are entitled under the Constitution or any law[, including the law of contract].”

Repeal of section 47 of Act 13 of 2002

44. Section 47 of the principal Act is hereby repealed.

Amendment of section 49 of Act 13 of 2002

45. Section 49 of the principal Act is hereby amended—

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1)(a) Anyone who enters or remains in, or departs from the Republic in contravention of this Act, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding three months.

(b) Any illegal foreigner who fails to depart when so ordered by the [Department] Director-General, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding nine months.

(2) Anyone who knowingly assists a person to enter or remain in, or depart from the Republic in contravention of this Act, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding one year.”;

(b) by the substitution for subsections (6), (7), (8) and (9) of the following subsections, respectively:

“(6) Anyone failing to comply with one of the duties or obligations set out under sections [42] 38 to 46 [of this Act], shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding 18 months.

(7) Anyone participating in a conspiracy of two or more persons to conduct an activity intended to [violate] contravene this Act [repeatedly], shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding four years, provided that if part of such activity is conducted or intended to be conducted in a foreign country, the offence shall be punishable by imprisonment not exceeding four years without the option of a fine.

(8) Anyone who wilfully or through gross negligence produces a false certification contemplated by this Act, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding one year[, and shall be suspended from the relevant professional association for a period not exceeding two years].

Kufakwa kwesigaba endzaweni yesigaba 45 semTsetfo 13 wa 2002

43. Lesigaba lesilandzelako sifakwe endzaweni yesigaba 45 semTsetfo wakucala:

“Letinye tikhungo

45. Tikhungo letimisiwe nobe bantfu labamisiwe, lokungesiyo imitimba [yemBuso] yembuso, ngendlela lemisiwe, bangadzingeka [nge- kwetimiso] kutsi baphokophele kucinisekisa kutsi siyini simo sesichamuki eveni nobe kutsi ingabe batakhamuti yini labantfu leto tikhungo nobe labo bantfu labatsengiselana nabo lokutsite nobe labenta nabo ibhizimisi, njengaloku kumisiwe, futsi batawubikela [liTiko] umCondzisijikelele nganobe ngusiphi sichamuki lesingekho emtsetfweni nobe nganobe ngumuphi umuntfu lebehlulekile kucinisekisa kutsi siyini simo sesichamuki eveni sakhe nobe kutsi ingabe lowo muntfu usakhamuti yini, ingce nje kwateka kutsi leso sidzingakalo singeke sivimbele kutsi tichamuki letingekho emtsetfweni kanye nerichamuki baniketwe lolusito nobe kwentelwa lokutsite lebanelilungelo lekukutfole ngaphansi kwemTsetfosisekelo nobe ngaphansi kwanobe nguwuphi umtsetfo, [kufake ekhatsi umtsetfo wekontilaki].”.

Kucitfwa kwesigaba 47 semTsetfo 13 wa 2002

44. Kucitfwa sigaba 47 semTsetfo wakucala.

Kuchitjelwa kwesigaba 49 semTsetfo 13 wa 2002

45. Sigaba 49 semTsetfo wakucala sichitjelwe kanjena—

(a) ngekufaka letigatjana letilandzelako endzaweni yetigatjana (1) na (2) ngekulandzelana kwato:

“(1) (a) Nobe ngubani longena nobe lohlalako angaphumi nobe lophuma eRiphabliki ngendlela leyephula lomTsetfo utakuba nelicala lekwephula umtsetfo lekutakutsi angalahlwa licala abopheleleke kukhokha inhlawulo nobe avalelwe ejele sikhatsi lesingendluli tinyanga letintsatfu.

(b) Nobe ngusiphi sichamuki lesingekho emtsetfweni lesehlulekako kuphuma kuleli ngalesikhatsi sitjelwa [liTiko] ngumCondzisijikelele kutsi asente njalo, sitakuba nelicala lekwephula umtsetfo lekutakutsi singalahlwa licala sibopheleleke kukhokha inhlawulo nobe sivalelwe ejele sikhatsi lesingendluli tinyanga letiyimfica.

(2) Nobe ngubani lotsi ati kepha elekelele umuntfu kutsi angene nobe ahlale angaphumi, nobe lophuma eRiphabliki ngendlela leyephula lomTsetfo utakuba nelicala lekwephula umtsetfo lekutakutsi angalahlwa licala abopheleleke kukhokha inhlawulo nobe avalelwe ejele sikhatsi lesingendluli umnyaka munye.”;

(b) ngekufaka letigatjana letilandzelako endzaweni yetigatjana (6), (7), (8) na (9) ngekulandzelana kwato:

“(6) Nobe ngubani lowehluleka kutfobela munye walomtfwalo nobe sinye saletibopho lokwendlalwe ngaphansi kwetigaba [42] kuya ku 46 [talomTsetfo], utakuba nelicala lekwephula umtsetfo 38 lekutakutsi angalahlwa licala abopheleleke kukhokha inhlawulo nobe kuvalelwa ejele sikhatsi lesingendluli tinyanga letilishumi nesiphohlongo.

(7) Nobe ngubani lohlanganyela ekwakheni sigungu sebantfu babili nobe labangetulu sekwenta sento lesihlose kwephula lomTsetfo [ngekuphindzaphindza], utakuba nelicala lekwephula umtsetfo lekutakutsi angalahlwa licala abopheleleke kukhokha inhlawulo nobe kuvalelwa ejele sikhatsi lesingendluli iminyaka lemine, ingce nje kwateka kutsi nangabe incenye yaleso sento sentiwe nobe sihlose kwentiwa kulelinye live, leso sephulomtsetfo sitawujeziswa ngekuvalelwa ejele sikhatsi lesingendluli iminyaka lemine ngaphandle kwekunikwa litfuba lekukhokha inhlawulo.

(8) Nobe ngubani lotsi ngekucinisa inhloko nobe ngekungawunaki lokubi kakhulu umsebenti wakhe akhiphe sitifiketimbumbulu lesicatjangelwako kulomTsetfo, utakuba nelicala lekwephula umtsetfo lekutakutsi angalahlwa licala abopheleleke kukhokha inhlawulo nobe kuvalelwa ejele sikhatsi

- (9) Anyone, other than a duly authorised civil servant, who [produces] manufactures or provides or causes the manufacturing or provision of a document purporting to be a document issued or administered by the Department, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding two years.”; 5
- (c) by the substitution in subsection (11) for the expression “37(10)” of the expression “34(10)”;
- (d) by the substitution for subsection (12) of the following subsection:
“(12) A [Court] court may make an order as to costs in favour of the Department to the extent necessary to defray the [costs] expenses referred to in section [37]34(3) against— 10
(a) any illegal foreigner referred to in [subsection] section [37]34(3);
(b) any person who contravened section [45] 38 or 42;
(c) any person who conveyed into the Republic a foreigner without the required transit visa; or 15
(d) any person who committed an offence contemplated in [subsections] subsection (5), (7), (8) or (10), which order shall have the effect of a civil judgment of that court.”; and
- (e) by the addition of the following subsections:
“(13) Any person who pretends to be, or impersonates, an immigration officer shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding four years. 20
(14) Any person who for the purpose of entering or remaining in, or departing from, or of facilitating or assisting the entrance into, residence in or departure from, the Republic, whether in contravention of this Act or not, commits any fraudulent act or makes any false representation by conduct, statement or otherwise, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding four years. 25
(15) Any person who—
(a) for the purpose of entering the Republic, or of remaining therein, in contravention of this Act, or departing from the Republic, or of assisting any other person so as to enter or so to remain or so to depart, utters, uses or attempts to use— 30
(i) any permit, certificate, written authority or other document which has been issued by lawful authority, or which, though issued by lawful authority, he or she is not entitled to use; or 35
(ii) any fabricated or falsified permit, certificate, written authority or other document; or
(b) without sufficient cause has in his or her possession—
(i) any stamp or other instrument which is used or capable of being used for purposes of fabricating or falsifying or unlawfully recording on any document any endorsement under this Act or required to be submitted in terms of this Act; 40
(ii) any form officially printed for purposes of issuing any permit, certificate, written authority or other document under this Act or required to be submitted in terms of this Act, or any reproduction or imitation of any such form; 45

lesingendluli umnyaka mune, [futsi utawumiswa kuba lilunga lenhlangano yebantfu labafundzele umsebenti lofanana newakhe sikhatsi lesingendluli iminyaka lemibili].

- (9) Nobe ngubani, lomunye umuntfu lokungesiye losebentela hulumende logunyatwe ngalokufanelekile, [lokhapha] lowakha nobe loniketa nobe lowenta kutsi kwakhiwe nobe kuniketwe incwadzi letisho kutsi iyincwadzi lekhishwe nobe lephetfwe *liTiko*, utakuba nelicala lekwephula umtsetfo lekutakutsi angalahlwa licala abopheleleke kukhokha inhlawulo nobe kuvalelwa ejele sikhatsi lesingendluli iminyaka lemibili.”
- (c) ngekufaka lesisho lesitsi “34(10)” endzaweni yesisho lelitsi “37(10)” esigatjaneni (11); 10
- (d) ngekufaka lesigatjaneni lesilandzelako endzaweni yesigatjana 12:
“(12) [*LiKhotso*] lingagunyata mayelana netindleko lekumele *liTiko* libuyiselwe tona kufika ezingeni lelidzingekele kutsi kukhokhwe tindleko lekubhekiswe kuto esigabeni [37] 34(3) letitawubitwa— 15
- (a) kunobe ngusiphi *sichamuki lesingekho emtsetfweni* lekubhekiswe kuso [esigatjaneni] esigabeni [37] 34(3);
- (b) kunobe ngubani umuntfu lowephule sigaba [45] 38 nobe 42;
- (c) kunobe ngubani lotfwale waletsa *sichamuki eRiphabliki* ngaphandle kwevisa yekwendlula ledzingekele: nobe 20
- (d) kunobe ngubani lowente sephulomtsetfo lesicatjangelwako esigatjaneni (5), (7), (8) nobe (10),
lelo gunya lesitakuba nemandla esincumo selicala lesibito salelo khotso.”; futsi
- (e) ngekwengeta letigatjana letilandzelako endzaweni: 25
“(13) Nobe ngumuphi umuntfu lotenta shangatsi nobe lotsatsa indzawo yesisebenti sahumende lesibukene netifiki utakuba nelicala lekwephula umtsetfo lekutakutsi angalahlwa licala abopheleleke kukhokha inhlawulo nobe kuvalelwa ejele sikhatsi lesingendluli iminyaka lemine. 30
- (14) Nobe ngumuphi umuntfu lotsi, ngetinjongo tekungena nobe kuhlala angaphumi, nobe kuphuma, nobe tekwenta kube lula nobe kwelekelela kungena, kuhlala nobe kuphuma eRiphabliki, kungaba ngendlela leyephula lomTsetfo lona nobe cha, lowenta sento sebuphiciphici nobe lokhuluma lokungemanga ngekutiphata kwakhe, ngesitatimende nobe ngalenywe indlela. utakuba nelicala lekwephula umtsetfo lekutakutsi angalahlwa licala abopheleleke kukhokha inhlawulo nobe kuvalelwa ejele sikhatsi lesingendluli iminyaka lemine. 35
- (15) Nobe ngumuphi umuntfu—
- (a) ngetinjongo tekungena eRiphabliki, nobe tekuhlala angaphumi, ngendlela leyephula lomTsetfo, nobe tekuphuma eRiphabliki, nobe tekwelekelela nobe ngumuphi lomunye umuntfu kutsi angene nobe ahlale angaphumi nobe aphume, lophimisa ngemlomo, losebentisa nobe lozama kusebentisa— 40
- (i) nobe nguyiphi imvume, sitifiketi, ligunya lelibhaliwe nobe lenye incwadzi lekhishwe ngalokusemtsetfweni ngulabaneligunya, nobe leyo ncwadzi ngisho naloku ikhishwe ngalokusemtsetfweni ngulabaneligunya, kepha langakafaneleki kutsi ayisebentise; nobe 45
- (ii) nguyiphi imvumembumbulu, sitifiketimbumbulu, ligunya-mbumbulu lelibhaliwe nobe lenye incwadzimbumbulu nobe lokubhalwe emanga; nobe 50
- (b) lotsi angenaso sizatfu lesivakalako abe—
- (i) nanobe ngusiphi sitembu nobe umshini losetjentiselwa nobe lonekusetjentiswa ngetinjongo tekwenta tincwadzimbumbulu nobe tincwadzi letingemanga nobe kungcivita nobe nguyiphi incwadzi sitembu lesingaphansi kwalomTsetfo nobe lesidzizingakala kwekutsi sibe khona ngekumisa kwalomTsetfo; 55
- (ii) nanobe nguliphi lifomu lelishicilelwe ngetinjongo tekukhipha nobe nguyiphi imvume sitifiketi, ligunya lelibhaliwe nobe lenye incwadzi lengaphansi kwalomTsetfo nobe lokudzizingakala kwekutsi sibe khona ngekumisa kwalomTsetfo, nobe ngusiphi sitfombe nobe umfanekiso walelo fomu; 60

- (iii) any passport, travel document, identity document or other document used for the facilitation of movement across borders, which is blank or reflects particulars other than those of the person in whose possession it is found; or
- (iv) any fabricated or falsified passport, travel document, identity document or other document used for the facilitation of movement across borders,
- shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding four years.
- (16) Any person who—
- (a) contravenes or fails to comply with any provision of this Act, if such contravention or failure is not elsewhere declared an offence, or if no penalty is prescribed in respect of an offence; or
- (b) commits any other offence under this Act in respect of which no penalty is elsewhere prescribed,
- shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding two years.”.

Amendment of section 50 of Act 13 of 2002

46. Section 50 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Any owner or [*master of a ship*] person in charge of a conveyance who through negligence contravenes the provisions of section 35(7), shall be liable to an administrative fine of a prescribed amount not exceeding R10 000, which fine shall be imposed by the [*Department*] Director-General.”.

General

47. The principal Act is hereby amended—

- (a) by the substitution for italic type-face of ordinary type-face wherever it occurs in the text of the principal Act, excluding numbers; and
- (b) by the substitution for the word “*Department*” of the word “Director-General” in sections 13(1) and (3), 17(1), 20(2), 22, 25(4), 28, 33(13), 34(3) and (9), 38(4), 46(2) and (3) and 50(1) and (2), wherever it occurs.

Substitution of Schedule 3 to Act 13 of 2002

48. The following Schedule is hereby substituted for Schedule 3 to the principal Act:

“[Laws] Acts repealed [or amended]

No. and year of [law] <u>Act</u>	Short title	Extent of the repeal [or amendment]
Act No. 96 of 1991	Aliens Control Act, 1991	The whole repealed
Act No. 75 of 1995	Aliens Control Amendment Act, 1995	The whole repealed

- (iii) nobe nguyiphi ipasipoti, incwadzi yekuhamba, incwadzi yamatisi nobe lenye incwadzi lesetjentiselwa kwenta kube malula kwewela imincele, lokungakabhalwa lutfo nobe lokukhombisa
- (iv) imininingwane leminyengesiyo yalowo muntfu letfolakele kuye nobe nguyiphi ipasipotimbumbulu, incwadzi yekuhambambumbulu, incwadzi yamatisimbumbulu nobe lenye incwadzibumbulu lesetjentiselwa kwenta kube malula kwewela imincele, 5
- utakuba nelicala lekwephula umtsetfo lekutakutsi angahlwa licala abopheleleke kukhokha inhlawulo nobe kuvalelwa ejele sikhatsi lesingendluli iminyaka lemine. 10
- (16) Nobe ngumuphi umuntfu—
- (a) lowephula nobe lowehluleka kutfobela nanobe ngusiphi sibonelelo salomTsetfo, nangabe loko kwephula umtsetfo nobe kwehluleka akukamenyetelwa njengesephulomtsetfo kulenye indzawo, nobe nangabe asikho sijeziwo lesimisiwe mayelana nalokwephula umtsetfo; nobe 15
- (b) lowenta nobe ngusiphi lesinye sephulomtsetfo ngaphansi kwalomTsetfo le macondzana naso kungakamiswa sijeziwo kulenye indzawo, utakuba nelicala lekwephula umtsetfo lekutakutsi angahlwa licala abopheleleke kukhokha inhlawulo nobe kuvalelwa ejele sikhatsi lesingendluli iminyaka lemibili. 20

Kuchitjelwa kwesigaba 50 semTsetfo 13 wa 2002

46. Sigaba 50 semTsetfo wakucala sichitjelwe ngekufaka lesigatjana lesilandzelako endzaweni yetigatjana (3): 25

“(3) Nobe ngumuphi *umnikati* nobe [*sikhulu lesiphetse umkhumbi*] umuntfu lophetse intfo yekuhamba lotsi ngekungawunaki umsebenti wakhe ephule tibonelelo tesigaba 35(7), utawubopheleleka kutsi akhokhe inhlawulo yesamba *lesimisiwe* lengendluli R10 000, leyo inhlawulo letawubitwa [*liTiko*] ngumCondzisijikelele.” 30

Lokwetayelekile

47. LemTselo wekucala uchitjelwe kanjena—

- (a) ngekufaka luhlobo lwembhalo lowetayelekile endzaweni yeluhlobo lwembhalo wema-ithaliki nobe kukuphi lapho uvela khona embhalweni wemTsetfo wakucala, kufake ekhatsi tinombolo; kanye 35
- (b) ngekufaka ligama lelitsi “umCondzisijikelele” endzaweni yeligama lelitsi liTiko” esigabeni 13(1) na (3), 17(1), 20(2), 22, 25(4), 28, 33(13), 34(3) na (9), 38(4), 46(2) na (3) kanye na 50(1) na (2), nobe kukuphi lapho avela khona.

Kufaka lenye iShejuli endzaweni yaShejuli 3 yemTsetfo 13 wa 2002 40

48. LeShejuli lelandzelako ifakwe endzaweni yaShejuli 3 yemTsetfo wakucala:

“[Imitsetfo lecitsiwe [nobe lochitjelwe]

Inombolo yemtsetfo nemyaka wawo	Libito lelifinyetiwe	Lizinga umtsetfo locitfwe [nobe lochitjelwe] ngalo	45
UmTsetfo No. 96 wa 1991	UmTsetfo wekuPhatfwa kweBantfu beTive, 1991	Wonkhe ucitsiwe	
UmTsetfo No. 75 wa 1995	UmTsetfo wekuChibela, wekuPhatfwa kweBantfu beTive	Wonkhe ucitsiwe	50

Transitional provisions

49. (1) Subject to this section—

- (a) the provisions of this Act shall not affect anything done or omitted in terms of the principal Act before the date of commencement of this Act; and
- (b) anything done under the provisions of the principal Act prior to the commencement of this Act, which can be done under the principal Act as amended by this Act, shall be deemed to have been done under the principal Act as amended by this Act. 5

(2) Despite section 4(7) of the principal Act, the Minister may on or after the date of commencement of this Act dissolve the Board and appoint a new Board: Provided that the tenure of the Board and Chairperson shall continue until such appointment becomes effective. 10

(3) The staff appointed by the Board prior to the commencement of this Act shall be deemed to have been designated by the Director-General in terms of this Act.

(4) All matters in respect of exemptions for consultation with the Board which were pending upon the date of promulgation of this Act must be disposed of by the Board prior to the appointment of the new Board contemplated in subsection (2). 15

(5) An application for a permit in respect of section 26(b) of the principal Act, submitted prior to the amendment of that section by this Act, shall be dealt with and finalised in terms of that section prior to its amendment by this Act. 20

Short title and commencement

50. This Act is called the Immigration Amendment Act, 2004, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

In op. i. 7. 2005 GG 27725 27.6.2005
Proc. 30/2005

Tibonelelo tesikhatsi sengucuko

49. (1) Ngaphansi kwalesigaba—

(a) Tibonelelo talomTsetfo titawutsintsa nobe yini leyentiwe nobe lengakentiwa ngekumisa kwemTsetfo wakucala ngembi kwelusuku lwekucala kusebenta kwalomtsetfo; futsi 5

(b) Nobo yini leyentiwe ngaphansi kwetibonelelo temTsetfo wakucala ngembi kwekucalisa kusebenta kwalomTsetfo, loko lokungentiwa ngaphansi kwemtsetfo wakucala njengaloku uchitjelwe ngulomTsetfo lona, kutawutsatfwa kwekutsi kwentiwe ngaphansi kwemTsetfo wakucala njengalo ulochichelewelwe ngulomtsetfo lona. 10

(2) Lite kunesigaba 4(7) semTsetfo wakucala, iNdvuna, nobe ngemuva kwelusuku lwekucalisa kusebenta kwalomTsetfo, ingahlakata iBhodi bese ibeka iBhodi lensha: Ingce nje sikhatsi letawusebenta sona iBhodi kanye naSihlalo kutawuchubeka kuze loko kubekwa kucalise kusebenta.

(3) Bantfu labasebentako labacashwe yiBhodi ngembikwekucalisa kusebenta kwalomTsetfo, batawutsatfwa kwekutsi bebatfunywe ngumCondzisijikelele ngekumisa kwalomTsetfo. 15

(4) Tonkhe tindzaba letimayelana nekucolelwa lekumele kuboniswane ngato neBhodi lebetingakaphetfwa ngelusuku lwekumemnyetelwa kwalomTsetfo, kumele tiphETFwe yiBhodi ngembi kwekubekwa kweBhodi lensha lecatjangelwako esigatjaneni (2). 20

(5) Siculo semvume lesentiwe ngaphansi kwesigaba 26(b) semTsetfo wakucala. Lesentiwe ngembi kwekuchitjelwa kwaleso sigaba ngulomTsetfo lona, kutawubukwana naso futsi siphETFwe ngekumiswa kwaleso sigaba singachitjelwalwa ngulomTsetfo.

Libito lelifinyetiwe kanye nekucala kusebenta

50. (1) *LomTsetfo* lona utawubitwa ngekutsi ngumTsetfo wekuGucula umTsetfo wetiFikanamtfwalo, 2004, futsi utawucala kusebenta ngelusuku lolutawuncunywa nguMengameli ngesimemetelo ku*Gazethi*. 25