

REPUBLIC OF SOUTH AFRICA  
REPUBLIK VAN SUID-AFRIKA

Vol. 554 Cape Town, 26 August 2011 **No. 34561**  
Kaapstad,

**THE PRESIDENCY**

No. 690 26 August 2011

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

**No. 13 of 2011: Immigration Amendment Act, 2011**

**LIHHOVISI LEMENGAMELI**

No. 690 26 August 2011

Ngaloku kwentiwa satiso sekutsi uMengameli uwuvumile lomTsefo lolandzelako, lekungumTsetfo lokhishwako lapha kutsi watiwe ngumphakatsi wonkhe:—

**No. 13 wa 2011: UmTsetfosivinywa Wekuchibiyela Umtsetfo Wetifika Namtfwalo, 2011**

**GENERAL EXPLANATORY NOTE:**

- [ ] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

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*(English text signed by the President)  
(Assented to 21 August 2011)*

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# ACT

To amend the Immigration Act, 2002, so as to substitute certain words of the Preamble to the Act; to delete, insert or substitute certain definitions; to revise provisions relating to the Immigration Advisory Board; to revise provisions relating to the making of regulations; to provide for the designation of ports of entry; to revise provisions relating to visas for temporary sojourn in the Republic and for the procedures with regard thereto; to provide for the mandatory transmission and use of information on advance passenger processing; to provide for the transmission of passenger name record information; to revise provisions relating to permanent residence; to revise penal provisions; to correct certain important technical aspects in the text of the Act; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of Preamble to Act 13 of 2002, as substituted by section 1 of Act 19 of 2004**

1. The Preamble to the Immigration Act, 2002 (Act No. 13 of 2002) (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraphs (a) and (c) of the following paragraphs respectively: 5

- “(a) **[temporary]** visas and permanent residence permits are issued as expeditiously as possible and on the basis of simplified procedures and objective, predictable and reasonable requirements and criteria, and without consuming excessive administrative capacity; 10
- (c) interdepartmental coordination and public consultations enrich the **[functions]** management of immigration **[control]**.”.

**INCHAZELO LEJWAYELEKILE:**

[ ] Emagama labhalwe ngalomnyama lakubakaki labasikwele abonisa lokususiwekuloMtsetfo lomisiwe.

\_\_\_\_\_ Emagama ladvwetjelwe ngemugca logcwele abonisa lokufakiwe kuloMtsetfo lomisiwe.

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*(English text signed by the President)*  
*(Assented to 21 August 2011)*  
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## UMTSETFO

Kuchibiyela Umtsetfo Wetifikanamtfwalo, 2002, kute kutsi kukhishwe kufakwe emagama latsite kuSandvulelo saloMtsetfo; kukhipha, kufaka noma kukhipha ufake tinchazelo letitsite; kubuyeketa imibandzela lehambelana neLibhodi Leliluleka Ngetetifikanamtfwalo; kubuyeketa ngemibandzela lehambelana nekushaywa kwemitsetfo lemisiwe; kwentela kubekwa kwemachweba ekungena; kubuyeketa imibandzela lephatselene nemavisa kwentela kuvakasha kwesikhashana eRiphabhulikhi kanye netinchubo letihambisana naloko; kwentela luhlelo lwekuchumana lolubekiwe kanye nekusetjentiswa kwelwatiso ngekulungiselela umhambi ngalokusezingeni lelisetulu; kuniketela kuchumana kwemarekhodi ngelwatiso lwetihambi; kubuyeketa imibandzela lehambelana nebahlali ngalokugcwele; kubuyeketa imibandzela lecinile; kulungisa letinye tintfo letilukhuni kulengcikitsi yaloMtsetfo; kanye nekuniketela kutindzaba letiphatselene naloko.

**N**GAKO-KE kutawumiswa yiPhalamende yeRiphabhulikhi yaseNingizimu Afrika ngalendlela:—

**Kushicilelwa kweSandvulelo seMtsetfo 13 wanga 2002, njengoba kukhishwe kwafakwa sigaba 1 seMtsetfo 19 wanga 2004**

1. Sandvulelo seMtsetfo Wetifikanamtfwalo, 2002 (Umtsetfo Nom. 13 wanga 2002) 5  
(njengoba lapha ubalwe njengeMtsetfo wekucala) uyachitjiyelwa ngekukhipha indzima  
(a) na (c) yalenzima lelandzelako ngekulandzelana:

- “(a) [kwesikhashane] emavisa kanye netimvume tekuhlala ngalokugcwele tini-  
ketwa ngekuphufuma ngendlela lekungakhonakala ngayo kanye nangendlela  
netinjongo letilula, letingacombelwa futsi tinetidzingo letilinganene kanye 10  
nendlela, kantsi letingeke tatsatsa umsebenti lomnyenti wetekulawula;  
(c) kusebentisana kwematiko langekhatsi kanye nekutsintsana nemmango  
kunotsisa [imisebenti] kuphatfwa [kulawulwa] kwetifikanamtfwalo;”.

**Amendment of section 1 of Act 13 of 2002, as amended by section 2 of Act 19 of 2004 and section 1 of Act 3 of 2007**

**2. Section 1 of the principal Act is hereby amended—**

- (a) by the insertion in subsection (1) after the definition of “admission” of the following definition: 5  
“**‘advance passenger processing’** means the pre-clearance of persons, in the prescribed manner, prior to boarding conveyances by means of a boarding advice issued to owners or persons in charge of conveyances;”;
- (b) by the substitution in subsection (1) for the definition of “corporate applicant” of the following definition: 10  
“**‘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] visa referred to in section 21;”;
- (c) by the deletion in subsection (1) of the definition of “customary union”;
- (d) by the substitution in subsection (1) for the definition of “immigration officer” of the following definition: 15  
“**‘immigration officer’** means an officer appointed [in terms of section 33] by the Director-General to perform the functions of either the permitting office, port of entry or inspectorate as contemplated in this Act;”;
- (e) by the substitution in subsection (1) for the definition of “marriage” of the following definition: 20  
“**‘marriage’** means— 25  
(a) a marriage concluded in terms of—  
(i) the Marriage Act, 1961 (Act No. 25 of 1961); or  
(ii) the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998); [or]  
(b) [a legal marriage under the laws of a foreign country] a civil union concluded in terms of the Civil Union Act, 2006 (Act No. 17 of 2006); or  
(c) a marriage concluded in terms of the laws of a foreign country;”;
- (f) by the insertion in subsection (1) after the definition of “owner” of the following definition: 30  
“**‘passenger name record’** means the record of the data of a person as contemplated in section 35(3)(a) created by the owner or person in charge of a conveyance or his or her authorised agents for each journey booked by or on behalf of any person;”;
- (g) by the substitution in subsection (1) for the definition of “passport” of the following definition: 35  
“**‘passport’** means any passport or travel document containing the prescribed information and characteristics issued—  
(a) under the South African Passports and Travel Documents Act, 1994 (Act No. 4 of 1994); 45  
(b) on behalf of a foreign state recognised by the Government of the Republic to a person who is not a South African citizen;  
(c) on behalf of any international organisation as prescribed, including regional or sub-regional organisations, to a person who is not a South African citizen; or 50  
any other document approved by the Minister and issued under special circumstances to a person who cannot obtain a document contemplated in paragraphs (a) to (c);”;

**Kuchitjiyelwa kwesigaba 1 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 2 seMtsetfo 19 wanga 2004 nesigaba 1 seMtsetfo 3 wanga 2007**

2. Sigaba 1 seMtsetfo wekucala siyachitjiyelwa—
- (a) lokufaka kusigatjana (1) ngemuva kwalenchazelo letsi “kungeniswa” kufakwe lenchazelo lelandzelako: 5  
“‘kungeniswa kwemgibeli’ kushiwo kuvunyelwa kwebantfu kutsi bakhone kungena, ngendlela lechaziwe, ngembi kwekutsi kugitjelwe kwekuhamba ngekwemibono yekugibela leniketwe banikati noma bantfu labaphetse tiftutsi;”;
- (b) lokukhishwa kufakwe kusigatjana (1) kufakwe lenchazelo letsi “soma- 10  
bhizinisi lofake sicelo” kufakwe lenchazelo lelandzelako:  
“‘somabhizinisi lofake sicelo’ kushiwo umuntfu losemtsetfweni losungulwe ngaphansi kwemitsetfo yaseRiphabhulikhi [welve langaphandle lowenta ibhizinisi, lekungasiyo yekuhlomula, tekulima noma tekutsengiselana eRiphabhulikhi kanye] lofake sicelo sekuba [imvume] nevisa yekubhizinisa lebalwe kusigaba 21;”;
- (c) lokususa kusigatjana (1) salenchazelo lelandzelako “kuhlanganiswa ngekwelisiko”;
- (d) lokukhishwa kufakwe kusigatjana (1) kufakwe lenchazelo letsi “sisebenti 20  
lesisebenta ngetifikanamfwalo” kufakwe lenchazelo lelandzelako:  
“‘sisebenti lesisebenta ngetifikanamfwalo’ kushiwo sisebenti lesicashwe [ngekweigaba 33] nguMcondzisi Jikelele kutsi ente umsebenti walelihho visi leliniketa timvume, emachweba ekungena noma abe ngumhloli njengoba kuvetiwe kuloMtsetfo;”;
- (e) lokukhishwa kufakwe kusigatjana (1) kufakwe lenchazelo letsi “umshado” 25  
kufakwe lenchazelo lelandzelako:  
“‘umshado’ kushiwo—  
(a) umshado lowentiwe ngeke—  
(i) Marriage Act, 1961 (Umtsetfo Nom. 25 wanga 1961); noma  
(ii) Recognition of Customary Marriages Act, 1998 (Umtsetfo 30  
Nom. 120 wanga 1998);  
(b) [umshado losemtsetfweni ngaphansi kwemitsetfo yelive langaphandle] kuhlanganiswa ngekwemitsetfo lokwentiwe ngeke-Civil Union Act, 2006 (Umtsetfo Nom. 17 wanga 2006); noma  
(c) umshado lowentiwe ngekwemitsetfo yelive langaphandle;”;
- (f) lokufaka kusigatjana (1) ngemuva kwalenchazelo letsi “umnikati” kufakwe 35  
lenchazelo lelandzelako:  
“‘lirekhodi ngeligama lemgibeli’ kushiwo lirekhodi ngelwati nge-  
muntfu njengoba kuvetiwe kusigaba 35(3)(a) lelisungulwe ngumnikati  
noma lomuntfu lophetse tekutfutsa noma labo lababatfumile laba-  
semsetfweni kulolo nalolo luhambo loluhleliwe lwahlelwe ngunoma  
ngumuphi umuntfu noma lowo lammele;”;
- (g) lokukhishwa kufakwe kusigatjana (1) kufakwe lenchazelo letsi “ipasipoti” 45  
kufakwe lenchazelo lelandzelako:  
“‘ipasipoti’ kushiwo noma ngabe nguyiphi ipasipoti noma incwadzi  
yemvume yekungena kulamanye emave lacuketse lolwati lolubekiwe  
kanye neticu letikhishwe—  
(a) ngaphansi kwe-South African Passports and Travel Documents Act,  
1994 (Umtsetfo Nom. 4 wanga 1994);  
(b) ngekumelela umbuso wangaphandle lotsatfwa njengembuso ngu- 50  
Hulumende waseRiphabhulikhi kumuntfu longasuye umhlali  
waseNingizimu Afrika;  
(c) ngekumela noma ngabe nguyiphi inhlango yangaphandle nje-  
ngoba kubekiwe, kufaka ekhatsi tinhlango tetigodzi noma  
tetigojana, kumuntfu lekangasuye umhlali waseNingizimu Afrika; 55  
noma  
ngabe nguwuphi umculu lovunyelwe nguNgcongcoshe wabuye  
wakhishwa ngaphansi kwetimo letikhetsekile kumuntfu lekangeke  
akwati kutfola umculu lobalwe kutindzima (a) kuya ku (c);”;

- (h) by the substitution in subsection (1) for the definition of “port of entry” of the following definition:  
“**‘port of entry’** means a place designated as such by the Minister [where all persons have to report before they may enter, sojourn or remain within, or depart from the Republic] in terms of section 9A;”;
- (i) by the insertion after the definition of “port of entry” of the following definition:  
“**‘port of entry visa’** means the authority to travel from a port of entry of another country to any port of entry of the Republic for the purposes of admission into the Republic, as contemplated in section 10A;”;
- (j) by the deletion of the definition of “Republic”;
- (k) by the substitution in subsection (1) in the definition of “spouse” for paragraph (a) of the following paragraph:  
“(a) a marriage [, or a customary union] as defined in this Act; or;”;
- (l) by the substitution in subsection (1) for the definition of “status” of the following definition:  
“**‘status’** means the status of the person as determined by the relevant visa or permanent [or temporary] residence permit granted to a person in terms of this Act;”;
- (m) by the deletion of the definition of “temporary residence permit”; and
- (n) by the substitution in subsection (1) for the definition of “visa” of the following definition:  
“**‘visa’** means the authority to temporarily sojourn in the Republic for purposes of—  
(a) transit through the Republic as contemplated in section 10B;  
(b) a visit as contemplated in section 11;  
(c) study as contemplated in section 13;  
(d) conducting activities in the Republic in terms of an international agreement to which the Republic is a party as contemplated in section 14;  
(e) establishing or investing in a business as contemplated in section 15;  
(f) working as a crew member of a conveyance in the Republic as contemplated in section 16;  
(g) obtaining medical treatment as contemplated in section 17;  
(h) staying with a relative as contemplated in section 18;  
(i) working as contemplated in section 19 or 21;  
(j) retirement as contemplated in section 20;  
(k) an exchange programme as contemplated in section 22; or  
(l) applying for asylum as contemplated in section 23, whichever is applicable in the circumstances;”.

**Amendment of section 4 of Act 13 of 2002, as amended by section 5 of Act 19 of 2004**

**3. 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;  
(bb) the Head of the Immigration Services Branch of the Department;  
(ii) any representative, at least equivalent to the rank of Deputy Director-General, from any department or organ of state whom the Minister considers relevant;  
(iii) a person representing organised business;  
(iv) a person representing organised labour; and

- (h) lokukhipha kusigatjana (1) kufakwe lenchazelo letsi “lichweba lekungena” kufakwe lenchazelo lelandzelako:  
“‘lichweba lekungena’ kushiwo indzawo lebalwe njengaleyo [lapho khona wonkhe umuntfu kufanele abike ngembi kwekungena, kuvakasha kwesikhashane noma kuhlala kuleli, noma kuhamba eRiphabhulikhi] nguNgcongcoshe ngekwalesigaba 9A;”;
- (i) lokufaka ngemuva kwalenchazelo letsi “emachweba ekungena” kufakwe lenchazelo lelandzelako:  
“‘ivisa yemachweba ekungena’ kushiwo ligunya lekuhamba kusuka kulichweba lalelinye live kuya kunoma nguliphi lichweba lekungena eRiphabhulikhi kwentela tinjongo tekvamukelwa eRiphabhulikhi, njengoba kuvetiwe ku 10A;”indzawo lebitwe njalo nguNgcongcoshe ngekwesigaba 10A;”;
- (j) lokukhishwa kwalenchazelo letsi “iRiphabhulikhi”;
- (k) lokukhishwa kufakwe kusigatjana (1) kulenchazelo letsi “umlingani” kufakwe indzima (a) yalenzima lelandzelako:  
“(a) umshado [, noma kuhlanganiswa ngekwesintfu] njengoba ucha-ziwe kuloMtsetfo; noma;”;
- (l) lokukhishwa kufakwe kusigatjana (1) kufakwe lenchazelo letsi “simo” kufakwe lenchazelo lelandzelako:  
“‘simo’ kushiwo simo semuntfu njengoba sincunye yivisa noma imvume noma kuhlala ngalokuphelele [noma kwesikhashane] nge-ndlela lefanele nekuhlala ngalokugcwele ngemvume leniketwe umuntfu ngekwaloMtsetfo;”;
- (m) lokukhishwa kwalenchazelo letsi “imvume yekuhlala kwesikhashana”; kanye
- (n) nalokukhishwa kufakwe kusigatjana (1) kufakwe lenchazelo letsi “ivisa” kufakwe lenchazelo lelandzelako:  
“‘ivisa’ kushiwo ligunya lekuhlala kwesikhashane eRiphabhulikhi kwentela tinjingo te—  
(a) tekudlula eRiphabhulikhi njengoba kuvetiwe kusigaba 10B;  
(b) tekuvakasha njengoba kuvetiwe kusigaba 11;  
(c) tekufundza njengoba kuvetiwe kusigaba 13;  
(d) kwenta imisebenti eRiphabhulikhi ngekwesivumelwano sanga-phandle lapho khona iRiphabhulikhi iyincenye njengoba kuvetiwe kusigaba 14;  
(e) kusungula noma kusisa kutemabhezini njengoba kuvetiwe kusigaba 15;  
(f) kusebenta njengelilunga lalabasebenta emkhunjini eRiphabhulikhi njengoba kuvetiwe kusigaba 16;  
(g) kutfola kulashwa njengoba kuvetiwe ku 17;  
(h) kuhlala nesihlobo njengoba kuvetiwe kusigaba 18;  
(i) kusebenta njengoba kuvetiwe kusigaba 19 noma 21;  
(j) tekutsatsa umhlala phansi njengoba kuvetiwe kusigaba 20;  
(k) luhlelo lwekuntjintjana njengoba kuvetiwe kusigaba 22; noma  
(l) tekubhalela bu-asayilamu njengoba kuvetiwe kusigaba 23, noma ngabe ngukuphi lokufanelekile kulesimo;”.

**Kuchitjiyelwa kwesigaba 4 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 5 seMtsetfo 19 wanga 2004**

3. Sigaba 4 seMtsetfo wekucala siyachitjiyelwa—
- (a) lokukhipha kwesigatjana (2) kufakwe lesigatjana lesilandzelako:  
“(2) (a) IBhodi itawuba nalamalunga lalandzelako—  
(i) (aa) Umcondzisi-Jikelele;  
(bb) Inhloko yeLitiko Egatjeni leMisebenti yeTifikanamtfwalo;  
(ii) Noma ngabe ngubani lomelele, lokungenani abe sezingeni Lasekela Mcondzisi-Jikelele, lovela kunoma ngabe nguliphi litiko noma umtimba wembuso Ngcongcoshe lambona ngatsi ufanele;  
(iii) Umuntfu lomele temabhezini lahleliwe;  
(iv) Nemuntfu lomele temisebenti lehleliwe; kanye

(v) up to five individual persons appointed by the Minister in the prescribed manner 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.”; and

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

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

**Amendment of section 7 of Act 13 of 2002, as substituted by section 8 of Act 19 of 2004**

4. Section 7 of the principal Act is hereby amended—

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

“(e) [the permits] a port of entry visa, visas, permanent residence permits and the certificates which may be issued under this Act, the requirements for the issuing of [permits] a port of entry visa, visas, permanent residence permits and certificates and [the] terms and conditions to which such [permits] port of entry visa, visas, permanent residence permits or certificates may be subjected, and the circumstances under which such [permits] a port of entry visa, visas, permanent residence permits or certificates may be cancelled or withdrawn;”;

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

“(g) the forms of warrants, permanent residence permits, a port of entry visa, visas, 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;”;

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

“(i) the fees that may be charged in respect of the application for and issuing of a port of entry visa, visas, permanent residence permits and certificates and other services rendered in terms of this Act, including advance passenger processing and passenger name record information transmission;”;

(d) by the deletion in subsection (1) of paragraph (k);

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

“(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] charge of a conveyance and who conveyed a foreigner contemplated in section 35[(7)](9) to the Republic;”;

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

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

**Amendment of section 9 of Act 13 of 2002, as substituted by section 10 of Act 19 of 2004**

5. Section 9 of the principal Act is hereby amended—

(a) by the substitution for subsection (3) of the following subsection: 55



(v) Bantfu labafinyelela kulabasihlanu lababekwe nguNgcongcoshe ngendlela lefanele ngekuya ngelwati lwabo, kanye nelwati nge-msebenti kanye nekungenelela lokuphatselene nemitsetfo yetifika namtfwalo, kulawula, kujaja noma kucindzetela.”

- (b) Ngcongcoshe utawubeka Sihlalo naSekela Sihlalo kumalunga eBhodi.”; kanye 5
- (b) lokukhishwa kufakwe kusigatjana (4) kulamagama lalandzela indzima (a) yalamagama lalandzelako:
- “Lilunga leBhodi lelibalwe kusigatjana (2)(a)[(iv), (v) kanye ne (vi)] (iii), (iv) kanye ne (v) atawu—”. 10

**Kuchitjiyelwa kwesigaba 7 seMtsetfo 13 wanga 2002, njengoba kukhishwe kwafakwa sigaba 8 seMtsetfo 19 wanga 2004**

**4. Sigaba 7 seMtsetfo Wekucala siyachitjiyelwa—**

- (a) lokukhishwa kufakwe kusigatjana (1) indzima (e) yalenzima lelandzelako: 15
- “(e) [timvume] emavisa ekungena kumachweba, emavisa, timvume tekuhlala ngalokugcwele kanye netitifketi letingakhishwa ngaphansi kwaloMtsetfo, letidzingo tekukhishwa [kwetimvume], emavisa [timvume] kanye netitifketi kanye netimo lapho letimvume, [timvume] emavisa ekungena kumachweba, emavisa, timvume tekuhlala ngalokugcwele noma titifiketi tingasulwa noma timiswe;”;
- (b) lokukhishwa kufakwe kusigatjana (1) kundzima (g) yalenzima lelandzelako: 20
- “(g) lendlela yewaranti yekuhamba, imvume yekuhlala ngalokugcwele, ivisa yekungena kumachweba ekungena emavisa, titifiketi noma letinye tincwadzi lekufanele tiniketwe noma tisetjentiswe, noma timemetelo lekufanele tentiwe, noma emarejista lekufanele agcinwe, kwentela tinjongo taloMtsetfo, kanye neminingwane letawuniketwa noma letawufakwa kuleto tincwadzi, simemetelo noma irejista;”;
- (c) lokukhishwa kufakwe kusigatjana (1) kundzima (i) yalenzima lelandzelako 30
- yalenzima lelandzelako:
- “(i) letimali letingabitwa ngekuhambisana nalesicelo sekukhishwa ivisa yakumachweba ekungena, emavisa, timvume tekuhlala ngalokugcwele kanye netitifketi naletinye tinsita letiniketwa ngekwaloMtsetfo, kufaka ekhatsi kuhanjiswa kwebagibeli ngendlela lephakeme kanye nekusabalaliswa kwemarekhodi emagama ebagibeli;”;
- (d) lokususa kusigatjana (1) sendzima (k);
- (e) lokukhishwa kufakwe kusigatjana (1) kundzima (n) yalenzima lelandzelako: 40
- “(n) letimo lengaphansi kwato nangalendlela inhlawulo kufanele itfolwe kulomnikati, sisebenti, umshayeli noma umuntfu [ekulawula] longumlawuli wesitfutsi nalohambisa umuntfu wangaphandle lovetwe kusigaba 35[(7)](9) eRiphabhulikhi;”;
- (f) nalokukhishwa kwesigatjana (2) kufakwe lesigatjana lesilandzelako: 45
- “(2) Imitsetfo lemisiwe kufanele yentiwe ngaphansi kwesigatjana (1)(c) ngekwemachweba ekungena lahlukene, kanye nemawaranti ekuhamba, timvume tekuhlala ngalokugcwele, [timvume], emavisa yakumachweba ekungena, emavisa, titifiketi, tincwadzi, timemetelo noma emarejista labalwe ngaphansi kwesigatjana (1)(g) angahluka ngekwemikhakha lehlukene yebantfu.”. 50

**Kuchitjiyelwa kwesigaba 9 seMtsetfo 13 wanga 2002, njengoba kukhishwe kwafakwa sigaba 10 seMtsetfo 19 wanga 2004**

**5. Sigaba 9 seMtsetfo wekucala siyachitjiyelwa—**

- (a) lokukhipha kwesigatjana (3) kufakwe lesigatjana lesilandzelako:

- “(3) No person shall enter or depart from the Republic—
- (a) unless he or she is in possession of a valid passport, and in the case of a minor, has his or her own valid passport;
  - (b) except at a port of entry, unless exempted in the prescribed manner by the Minister, which exemption may be withdrawn by the Minister;
  - (c) unless the entry or departure is recorded by an immigration officer in the prescribed manner; and
  - (d) unless his or her relevant admission documents have been examined in the prescribed manner and he or she has been interviewed in the prescribed manner by an immigration officer: Provided that, in the case of a child, such examination and interview shall be conducted in the presence of the parent or relative or, if the minor is not accompanied by the parent or relative, any person of the same gender as the minor.”; and
- (b) by the substitution for subsection (4) of the following subsection:
- “(4) A foreigner who is not the holder of a permanent residence permit contemplated in section 25 may only enter the Republic as contemplated in this section if—
- (a) his or her passport is valid for [not less than 30 days after the expiry of the intended stay] a prescribed period; and
  - (b) issued with a valid [temporary residence permit] visa, as set out in this Act.”.

**Insertion of section 9A in Act 13 of 2002**

6. The following section is hereby inserted after section 9 of the principal Act:

**“Place of entry or exit**

- 9A. (1)** The Minister may, in the prescribed manner, designate any place in the Republic, which complies with the prescribed requirements, where all persons have to report before they may enter, sojourn or remain within, or depart from, the Republic.
- (2)** The Minister may, on good cause shown, withdraw the designation contemplated in subsection (1) at any time.”;

**Amendment of section 10 of Act 13 of 2002, as substituted by section 11 of Act 19 of 2004 and section 2 of Act 3 of 2007**

7. Section 10 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:  
**“[Temporary residence permits] Visas to temporarily sojourn in Republic”;**
  - (b) by the substitution for subsection (1) of the following subsection:  
“(1) Upon admission, a foreigner, who is not a holder of a permanent residence permit, may enter and sojourn in the Republic only if in possession of a [temporary residence permit] visa issued by the Director-General for a prescribed period.”
  - (c) by the substitution for subsection (2) of the following subsection:  
“(2) Subject to this Act, upon application in person and in the prescribed manner [and on the prescribed form, one of the temporary residence permits contemplated in sections 11 to 23 may be issued to], a foreigner may be issued one of the following visas for purposes of—
- (a) transit through the Republic as contemplated in section 10B;
  - (b) a visit as contemplated in section 11;
  - (c) study as contemplated in section 13;

- “(3) Akekho umuntfu lekufanele angene noma aphume eRiphabhulikhi—
- (a) ngaphandle kwekutsi abe nepasipoti lesemntsetfweni, kantsi uma ngabe kungumntfwana, abe aneyakhe ipasipoti lesemntsetfweni, 5
- (b) ngaphandle kwasemachwebeni ekungena, ngaphandle kwekutsi aniketwe imvume nguNgcongcoshe ngendlela lebekiwe, kantsi leyo mvume ingahociswa nguNgcongcoshe; 10
- (c) ngaphandle kwekutsi lokungena noma loko kuphuma kubhalisiwe ngumsebenti losebenta ngetifikanamtfwalo ngendlela lechaziwe; futsi 10
- (d) ngaphandle uma ngabe tincwadzi takhe letifanele tekutsatfwa seticubunguliwe ngendlela lebekiwe kantsi naye sekucociswene naye ngendlela lechaziwe ngumsebenti losebenta ngebachamuki. Uma ngabe lowo kungumntfwana, loko kucubungula noma leto tingogco kufanele tentiwe umtali akhona noma sihlobo noma, uma ngabe lomtfwana angapheleketelwa ngumtali noma sihlobo, noma ngabe ngumuphi umuntfu lonebulili lobufanako nebalomntfwana.”; kanye 15
- (b) nalokukhishwa kwesigatjana (4) kufakwe lesigatjana lesilandzelako: 20
- “(4) Umchamuki longenayo imvume yekuhlala ngalokugcwele lovetwe kusigaba 25 angangena eRiphabhulikhi kuphela ngalendlela levetwe kulesigaba uma ngabe— 20
- (a) ipasipoti yakhe itawuba semntsetfweni [kungakapheli emalanga langema-30 ngemuva kwekuphelelwa sikhatsi kwekuhlala lokuhlosiwe] sikhatsi lesibekiwe; kantsi 25
- (b) itawuniketwa nevisa lesemntsetfweni [imvume yekuhlala yesikhashane], njengoba kubekiwe kuloMtsetfo.”.

#### Kufakwa kwesigaba 9A kuMtsetfo 13 wanga 2002

6. Lesigaba lesilandzelako sitawufakwa ngemuva kwesigaba 9 seMtsetfo wekucala:

“Indzawo yekungena noma yekuphuma 30

9A. (1) Ngcongcoshe angabeka noma nguyiphi indzawo eRiphabhulikhi, ngendlela lebekiwe, lehambisana naletidzingo letibekiwe, lapho khona bonkhe bantfu kufanele babike ngembi kwekutsi bangene, betele kutovakasha noma bahlale kuleli, noma asuka kuleli laseRiphabhulikhi.

(2) Ngcongcoshe angahocisa lesikhundla lesivetwe kusigatjana (1) nganoma ngasiphi sikhatsi, ngendlela lenhle lekhonejswako.”. 35

#### Kuchitjiyelwa kwesigaba 10 seMtsetfo 13 wanga 2002, njengoba kukhishwe kwafakwa sigaba 11 seMtsetfo 19 wanga 2004 nesigaba 2 seMtsetfo 3 wanga 2007

7. Sigaba 10 seMtsetfo wekucala siyachitjiyelwa—

- (a) Lokukhishwa lesihloko kufakwe lesihloko lesilandzelako: 40
- “[Timvume tekuhlala kwesikhashane] emaVisa ekuvakashela eRiphabhulikhi kwesikhashane”;
- (b) lokukhishwa kwesigatjana (1) kufakwe lesigatjana lesilandzelako; 45
- “(1) Uma sekatssetfwe, umchamuki, longenamvume yekuhlala ngalokugcwele, angangena ahlale eRiphabhulikhi uma ngabe kuphela [imvume yekuhlala kwesikhashane] anevisa leniketwe nguMcondzisi-Jikelele yesikhatsi lesibekiwe.”;
- (c) ngekukhipha sigatjana (2) walesigatjana lesilandzelako: 50
- (2) Ngekuya ngaloMtsetfo, uma umuntfu afaka sicelo nangalendlela lebekiwe [nangalendlela lebekiwe, yinye yaletimvume tekuhlala kwesikhashane lebalwe kutigaba 11 kuya kuma-23 inganiketwa], umuntfu wangaphandle anganiketwa yinye yalamavisa lalandzelako kwentela—
- (a) kudlula eRiphabhulikhi njengoba kuvetiwe kusigaba 10B; 55
- (b) kuvakasha njengoba kuvetiwe kusigaba 11;
- (c) kufundza njengoba kuvetiwe kusigaba 13;

- (d) conducting activities in the Republic in terms of an international agreement to which the Republic is a party as contemplated in section 14;
- (e) establishing or investing in a business as contemplated in section 15;
- (f) working as a crew member of a conveyance in the Republic as contemplated in section 16;
- (g) obtaining medical treatment as contemplated in section 17;
- (h) staying with a relative as contemplated in section 18;
- (i) working as contemplated in section 19 or 21;
- (j) retirement as contemplated in section 20;
- (k) an exchange programme as contemplated in section 22; or
- (l) applying for asylum as contemplated in section 23.”;
- (d) by the substitution for subsection (6) of the following subsection:
- “(6) (a) Subject to this Act, a foreigner, other than the holder of a visitor’s or medical treatment visa, may apply to the Director-General in the prescribed manner **[and on the prescribed form]** to change his or her status or **[the] terms and conditions** attached to his or her **[temporary residence permit] visa**, or both such status and **terms and conditions**, as the case may be, while in the Republic.
- (b) An application for a change of status attached to a visitor’s or medical treatment visa shall not be made by the visa holder while in the Republic, except in exceptional circumstances as prescribed.”.

**Amendment of section 10A of Act 13 of 2002, as inserted by section 12 of Act 19 of 2004**

**8. Section 10A of the principal Act is hereby amended—**

- (a) by the substitution for the heading of the following heading:
- “**[Visas] Port of entry visa;**
- (b) by the substitution for subsections (1) and (2) of the following subsections:
- “(1) Any foreigner who enters the Republic shall, subject to subsections (2) and (4), on demand produce a valid port of entry 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]**—
- (a) a valid visa for purposes of—
- (i) study as contemplated in section 13;
- (ii) conducting activities in the Republic in terms of an international agreement to which the Republic is a party as contemplated in section 14;
- (iii) establishing or investing in a business as contemplated in section 15;
- (iv) working as a crew member of a conveyance in the Republic as contemplated in section 16;
- (v) obtaining medical treatment as contemplated in section 17;
- (vi) staying with a relative as contemplated in section 18;
- (vii) working as contemplated in section 19 or 21;
- (viii) retirement as contemplated in section 20;
- (ix) an exchange programme as contemplated in section 22; or
- (x) applying for asylum as contemplated in section 23; or
- (b) a permanent residence permit issued in terms of sections 25 to 27,
- shall, upon his or her entry into the Republic and after having been issued with that visa or permanent residence permit, be deemed to be in possession of a valid port of entry visa for the purposes of this section.”;
- (c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
- “A port of entry visa referred to in subsection (1)—”;

- (d) kwenta imisebenti eRiphabhulikhi ngekuya ngesivumelwano sangaphandle lapho khona iRiphabhulikhi iyincenye njengoba kuvetiwe kusigaba 14;
- (e) kusungula noma kusisa kubhizinisi njengoba kuvetiwe kusigaba 15;
- (f) kusbenta njengelilunga lalabasita emkhunjini eRiphabhulikhi njengoba kuvetiwe kusigaba 16;
- (g) kutfola kulashwa njengoba kuvetiwe kusigaba 17
- (h) kuhlala nesihlobo njengoba kuvetwe kusigaba 18;
- (i) kusebenta njengoba kuvetwe kusigaba 19 noma 20;
- (j) kutsatsa umhlalaphansi njengoba kuvetiwe kusigaba 20; noma
- (k) Kuntjijwa kwetinhlelo njengoba kuvetiwe kusigaba 22; noma
- (l) Kufaka sicelo sebu-asayilamu njengoba kuvetwe kusigaba 23.”;
- kanye
- (d) nalokukhishwa kwesigatjana (6) kufakwe lesigatjana lesilandzelako:
- “(6) (a) Ngekuya ngaloMtsetfo, umchamuki, ngaphandle kwalona lonemvume yekuvakasha noma ivisa yekutolwashwa, angafaka sicelo kuMcondzisi-Jikelele ngendlela lebekiwe [ngendlel lebekiwe] kugucula simo sakhe noma lemibandzela lebekiwe kumvume noma imibandzela [imvume yekuhlala kwesikhashane], kwivisa noma timo totimbili, etikhatsini letihlukene letibekwe nguNgcongcoshe, ngalesikhatsi aseRiphabhulikhi.
- (b) Sicelo sekugucula simo lesinamatsiselwe kuvisa yalovakashile noma yekulashwa angeke sentiwa ngulomnikati wevise ngalesikhatsi aseRiphabhulikhi, ngaphandle kwekusenta ngaphansi kwetimo tsite njengoba kubekise.”.

**Kuchitjiyelwa kwesigaba 10A seMtsetfo 13 wanga 2002, njengoba kufakwe kusigaba 12 seMtsetfo 19 wanga 2004**

**8. Sigaba 10A seMtsetfo wekucala siyachitjiyelwa—**

- (a) lokukhishwa kufakwe lesihloko lesilandzelako:
- “[emavisa] Ivisa yekungena kumachweba;
- (b) ngekukhipha sigatjana (1) na (2) waletigatjana letilandzelako:
- “(1) Noma ngabe ngumuphi umchamuki longena eRiphabhulikhi kufanele, ngekuya ngesigatjana (2) na (4), uma ngabe kudzingekile kufanele anikete ivisa lesemtsetfweni yekungena kumachweba, leniketwe ngaphansi kwesigaba (3), kusisebenti wasehhovisi letifikanamtfwalo.
- “(2) Noma ngabe ngumuphi umuntfu lone [imvume lesemtsetfweni leniketive ngekwesigaba 12 kuya kuma-22 na 25 kuya kuma-27]—
- (a) visa lesemtsetfweni entela tinjongo—
- (i) tekufundza njengoba kuvetiwe kusigaba 13;
- (ii) tekuvumelana nemave angaphandle lapho khona iRiphabhulikhi iyincenye njengoba kuvetiwe kusigaba 14
- (iii) kusungula nona kusisa kubhizinisi njengoba kuvetiwe kusigaba 15;
- (iv) kusbenta njengelilunga lalabasita emkhunjini eRiphabhulikhi njengoba kuvetiwe kusigaba 16;
- (v) kutfola kulashwa njengoba kuvetiwe kusigaba 17;
- (vi) kuhlala nesihlobo njengoba kuvetwe kusigaba 18;
- (vii) kusebenta njengoba kuvetiwe kusigaba 19 na 21;
- (viii) kutsatsa umhlalaphansi njengoba kuvetiwe kusigaba 20;
- (ix) tekuntjintja tinhlelo njengoba kuvetiwe kusigaba 22; noma
- (x) Kufaka sicelo sebu-asayilamu njengoba kuvetwe kusigaba 23; noma
- (b) imvume yekuhlala ngalokugcwele leniketwe ngekwesigaba 25 kuya ku 27, utawutsatfwa njengemuntfu lonevise lesemtsetfweni kwentelwa tinjongo talesigaba, ngalesikhatsi angena eRiphabhulikhi ngemuva kwekutsi aniketwe leyo visa noma imvume.”.
- (c) ngekukhipha kusigatjana (3) kufakwe lamagama lalandzela indzima (a) yalamagama lalandzela:
- “Ivise yemachweba lebalwe kusigatjana (1)—”;

- (d) by the substitution in subsection (3) for paragraph (a) of the following paragraph:  
“(a) may, subject to any **[condition] terms and conditions** 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 port of entry visa, and who has applied for such a port of entry visa in the prescribed manner **[and on the prescribed form]**.”; and
- (e) by the substitution in subsection (4) for paragraph (a) of the following paragraph:  
“(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 port of entry visa in order to obtain a visitor’s **[permit] visa** contemplated in section 11, for a specified or unspecified period and either unconditionally or subject to the conditions that the Minister may impose.”.

**Substitution of section 13 of Act 13 of 2002, as amended by sections 15 and 47 of Act 19 of 2004**

9. The following section is hereby substituted for section 13 of the principal Act:

**“Study visa**

13. (1) A study visa may be issued, in the prescribed manner, to a foreigner intending to study in the Republic for a period not less than the period of study, by the Director-General: Provided that such foreigner complies with the prescribed requirements.

(2) The holder of a study visa may conduct certain work as prescribed.”.

**Amendment of section 14 of Act 13 of 2002, as amended by section 16 of Act 19 of 2004**

10. Section 14 of the principal Act is hereby amended by the substitution in paragraph (b) of subsection (2) for the words preceding subparagraph (i) of the following words:

“(b) **[the Department of Foreign Affairs]** a department or another organ of state responsible for the implementation of the treaty concerned under a delegation from the Director-General**[, provided]: Provided that—**”.

**Amendment of section 15 of Act 13 of 2002, as amended by section 17 of Act 19 of 2004 and section 5 of Act 3 of 2007**

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

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

“**[A]** Subject to subsection (1A), a business **[permit] visa** may be issued by the 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] visa** for the duration of the business **[permit] visa** to the members of such foreigner’s immediate family: Provided that—”;

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

“(c) such foreigner has undertaken to —

(i) comply with any relevant registration requirement set out in any law administered by the South African Revenue Service; and

(ii) employ the prescribed percentage or number of citizens or permanent residents within a period of 12 months from the date of issue of the visa.”; and

- (d) Lokukhishwa kwesigatjana (3) kufakwe indzima (a) yalenzima lelandzelako:  
“(a) anganiketwa nguNgcongcoshe kunoma ngabe ngubani lekangelaligunya, ngekuya nganoma ngumiphi [simo] imibandzela leyingabonwa nguNgcongcoshe kutsi ifanele, njengoba ivetwe kusigatjana (4), kuletidzingo tekutsi abe nevisa yekungena kumachweba, kanye nelekufanele abhalele kuba nevisa yekungena kumachweba ngendlela lechaziwe [kanye nangendlela lechaziwe];”; kanye 5
- (e) Ngekukhipha kusigatjana (4) kufakwe indzima (a) waletindzima letilandzelako:  
“(a) kuniketa noma ngubani imvume noma incenye yebantfu labakusigatjana (1) ngekuhambisana netidzingo tekutsi kufanele [permit] ube bevisa lekungiyo yekungena kumachweba kute kutsi utfole ivisa yekuvakasha lebalwe kusigaba 11, yesikhatsi lesibaliwe noma lesingakabalwa noma ngekungabi nemibandzela noma ngekuya ngemibandzela lengabekwa nguNgcongcoshe;”. 15

**Kukhishwa kwesigatjana 13 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngetigaba 15 and 47 seMtsetfo 19 wanga 2004**

9. Lesigaba lesilandzelako siyakhishwa kufakwa sigaba 13 seMtsetfo wekucala 20

**“Ivisa yekuyofundza**

13. (1) Ivisa yekuyofundza inganiketwa umchamuki lofuna kutofundza eRiphabhulikhi aniketwe sikhatsi lesingekho ngaphansi kwalesi lato-sifundza, ngendlela lebekiwe, aniketwe nguMcondzisi-Jikelele: Uma ngabe lowo mchamuki uyahambisana naletidzingo letidzingeakako. 25
- (2) Lona lonevisa yekufundza angenta imisebenti letsite njengoba kungabe kubekiwe.”.

**Kuchitjiyelwa kwesigaba 14 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 16 seMtsetfo 19 wanga 2004**

10. Sigaba 14 seMtsetfo wekucala siyachitjiyelwa ngekukhipha kundzima (b) wesigatjana (2) kulamagama lalandzela indzinyana (i) yalamagama lalandzelako:  
“(b) [Litiko leTangaphandle] Litiko noma lomunye umtimba wembuso lone-msebenti wekucalisa kusebenta kwalesivumelwano lesitsintsekako ngaphansi kwelitsimba lelivela kuMcondzisi-Jikelele, uma ngabe—”. 30

**Kuchitjiyelwa kwesigaba 15 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 17 seMtsetfo 19 wanga 2004 nesigaba 5 seMtsetfo 3 wanga 2007**

11. Sigaba 15 seMtsetfo wekucala siyachitjiyelwa—

- (a) lokukhishwa kufakwe kusigatjana (1) kulamagama lalandzela indzima (a) yalamagama lalandzelako:  
“[A] Ngekuya ngesigatjana (1A), ivisa [imvume] yebhizinisi ingakhishwa nguMcondzisi-Jikelele kumchamuki lofuna kusungula noma kusisa noma losungule nalosise, ebhizinisini eRiphabhulikhi, lokubalwe kutsi kutawuba kunshisekelo yavelonkhe, lapho angacashwa khona, kanye [imvume] nevisa lefanele kute kuphele lesikhatsi [imvume] salevisa yebhizinisi yemalunga emndeni walomchamuki: uma ngabe—”; kanye 40
- (b) lokukhishwa kwesigatjana (1) kufakwe indzima (c) walenzima lelandzelako:  
(c) lowo mchamuki uncume—  
(i) kuhambisana nanoma ngukuphi kubhalisa lokufanele lokudzingeakako lokukhonjiswe kunoma ngumuphi umtsetfo lolawulwa yi South African Revenue Service; kanye 50  
(ii) kucasha, lamaphesenti labekiwe noma inombolo yebantfu noma bahlali ngalokugcwele ngesikhatsi lesilingana tinyanga letili-12 kusukela kulolusuku lekuniketwe ngalo ivisa.”; kanye 55

(c) by the insertion after subsection (1) of the following subsection:

“(1A) No business visa may be issued or renewed in respect of any business undertaking which is listed as undesirable by the Minister from time to time in the Gazette, after consultation with the Minister responsible for trade and industry.”.

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**Amendment of section 19 of Act 13 of 2002, as amended by section 21 of Act 19 of 2004 and section 6 of Act 3 of 2007**

12. Section 19 of the principal Act is hereby amended—

(a) by the deletion of subsection (1);

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

“(2) A general work [permit] visa may be issued by the Director-General to a foreigner not falling within a category [or class] contemplated in subsection [1] (4) [if the prospective employer—

(a) satisfies the 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;

(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

(c) has agreed in writing to notify the Director-General when such foreigner is no longer employed or is employed in a different capacity or role] and who complies with the prescribed requirements.”;

(c) by the deletion of subsection (3); and

(d) by the substitution for subsections (4) and (5) of the following subsections:

“(4) Subject to any prescribed requirements, [an exceptional] a critical skills work [permit] visa may be issued by the Director-General to an individual possessing [exceptional] such skills or qualifications determined to be critical for the Republic from time to time by the Minister by notice in the Gazette and to those members of his or her immediate family determined by the Director-General under the circumstances or as may be prescribed.

(5) An intra-company transfer work permit may be issued by the 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—

(a) the employer undertakes that it will take prescribed measures to ensure that such foreigner will at all times comply with the provisions of this Act, and will immediately notify the Director-General if it has reason to believe otherwise; and

(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] complies with the prescribed requirements.”.

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**Amendment of section 21 of Act 13 of 2002, as amended by section 22 of Act 19 of 2004**

13. Section 21 of the principal Act is hereby amended—

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

“(1) [A] Subject to subsection (1A), a corporate [permit] visa may be issued by the Director-General to a corporate applicant, to employ

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(c) ngekufaka ngemuva kwesigatjana (1) kwalesigatjana lesilandzelako:

“(1A) Ayikho ivisa yebhizinisi langaniketwa noma ivuselelwe ngekwanoma nguyiphi ibhizinisi leyentiwako lebalwe njengalengakafaneli nguNgcongcoshe ngaleso naleso sikhatsi kuGazethi, ngemuva kwekutsintsana na Ngcongcoshe lobukene netimbiwa nemandla.”

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**Kuchitjiyelwa kwesigaba 19 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 21 seMtsetfo 19 wanga 2004 nesigaba 6 seMtsetfo 3 wanga 2007**

12. Sigaba 19 seMtsetfo wekucala siyachitjiyelwa—

(a) lokukhishwa kwesigatjana (1);

(b) lokukhipha kwesigatjana (2) kufakwe lesigatjana lesilandzelako:

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“(2) Ivisa [imvume] yemsebenti lojwayelekile inganiketwa nguMcondzisi-Jikelele kumchamuki longaweli ngaphansi kwaloluhla [noma sigaba] lolubalwe kusigatjana lesivetwe ku [1] 4 [Uma ngabe umcashu lofuna kucasha—

(a) anelisa Umcondzisi-Jikelele ngendlela lechaziwe ngekutsi noma kube neluphenyo lolusezingeni lelisetuluakakwatanga kucasha umuntfu eRiphabhulikhi lanaleticu noma emakhono kanye nelwati lolulingana nalolo lalolofake sicelo;

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(b) anelisa Umcondzisi-jikelele ngendlela lebekiwe kutsi lemi-bandzela lafuna kucasha ngawo lomchamuki, kufaka ekhatsi lihlo nalatakuhlomula. Awasiwo langavuni lihlanga kulawo labekise kutemsebenti wasbantfu bakuleli, kubuye kunakwe netivumelwano lekucociswene ngato kanye nalamanye emazinga lakhona; kanye

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(c) bavumelene ngalokubhalwe phansi kwatisa Umcondzisi-Jikelele uma ngabe lowo mchamuki akasacashwanga noma ucashwe kusikhundla lesihlukile noma umsebenti] lesihambisana nalokubekiwe lokudzingekako.”;

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(c) kukhishwa kwesigatjana (3); kanye

(d) lokukhipha kwesigatjana (4) na (5) kufakwe letigatjana letilandzelako:

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“(4) ngekuya nganoma ngabe ngutiphi tidzingo letibekiwe, [lokukhetsekile] imvume yemakhono labalulekile ingakhishwa [imvume] nguMcondzisi-Jikelele kulawo nalawo [lokukhetsekile] makhono noma tiku letincunye kutsi tibalulekile eRiphabhulikhi ngaleso naleso sikhatsi tibanwe nguNgcongcoshe ngesatiso kuGazethi kanye nakulawo malunga emndeneni wakhe lekancunye nguMcondzisi-Jikelele ngaphansi kwaletimo noma ngalendlela lekungachazwa ngayo.

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(5) Imvume yekudluliselwa kwetintfo ngekhatshi enkapanini inganiketwa nguMcondzisi-Jikelele kumchamuki [ucashwe emaveni angaphandle ngekwebhizinisi lesebenta eRiphabhulikhi kuleligatja, lokuchibeyelako noma agcwalisele kubudlelwano kantsi ngekwetizatfu tekucashwa kwakhe tiyadzingeka kwenta umsebenti eRiphabhulikhi sikhatsi lesingadluli iminyaka lemibili, uma ngabe—

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(a) umcashu utsatsa kutsi utawutsatsa tinyatselo letibekiwe kucinisekisa kutsi lowo mchamuki ngaso sonkhe sikhatsi ihambisane neMtsetfo, kantsi kutawufanele ngekushesha atise Umcondzisi-Jikelele uma ngabe kungenasizatfu sekukholwa ngaleny indlela; kanye

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(b) Umcashu uniketa lokucinisekisiwe ngemali kukhokhela kubuyiselwa emuva kanye naletinye tindleko uma ngabe lowo mchamuki ahluleka kuhamba uma ngabe angasavumelekile kuhlala eRiphabhulikhi] lohambisana naletidzingo letibaliwe.”.

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**Kuchitjiyelwa kwesigaba 21 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 22 seMtsetfo 19 wanga 2004**

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13. Sigaba 21 seMtsetfo wekucala siyachitjiyelwa—

(a) lokukhipha kwesigatjana (1) kufakwe lesigatjana lesilandzelako:

“(1) [A] Ngekuya ngesigaba (1A), Ivisa [imvume] yekubhizinisa ingakhishwa nguMcondzisi-Jikelele kulofaka sicelo sekubhizinisa,

- foreigners who may conduct work for such corporate applicant in the Republic.”;
- (b) by the insertion after subsection (1) of the following subsection:  
“(1A) No corporate visa may be issued or renewed in respect of any business undertaking which is listed as undesirable by the Minister from time to time in the Gazette, after consultation with the Minister responsible for trade and industry.”;
- (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:  
“[After consultation with the Departments of Labour and Trade and Industry, the] The Director-General shall determine, in consultation with the prescribed departments, the maximum number of foreigners to be employed in terms of a corporate [permit] visa by a corporate applicant, after having considered---”;
- (d) by the deletion of subsection (5); and
- (e) by the addition of the following subsection:  
“(6) A foreigner employed in terms of a corporate visa shall work for the holder of that corporate visa.”.

**Amendment of section 22 of Act 13 of 2002, as amended by sections 23 and 47 of Act 19 of 2004**

14. Section 22 of the principal Act is hereby amended—
- (a) by the substitution in paragraph (b) for the words preceding subparagraph (i) of the following words:  
“who is under 25 years of age and has received an offer to conduct work for no longer than one year], provided]: Provided that---”;
- (b) by the deletion of “and” in subparagraph (iii) of paragraph (b); and
- (c) by the addition in paragraph (b) of the following subparagraph:  
“(iv) no visa may be granted under this section if the offer to conduct work pertains to an undesirable work as published by the Minister from time to time in the Gazette, after consultation with the Minister responsible for trade and industry.”.

**Substitution of section 23 of Act 13 of 2002, as amended by section 24 of Act 19 of 2004**

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

**“Asylum transit [permit] visa**

- 23. (1) The Director-General may, subject to the prescribed procedure under which an asylum transit visa may be granted, issue an asylum transit visa to a person who at a port of entry claims to be an asylum seeker, valid for a period of five days only, to travel to the nearest Refugee Reception Office in order to apply for asylum.**
- (2) Despite anything contained in any other law, when the visa contemplated in subsection (1) expires before the holder reports in person 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 visa shall become an illegal foreigner and be dealt with in accordance with this Act.”.**

lowenta ibhizinisi kulemikhakha lekhishwa njalo njalo ku*Gazethi*, kute acashe ebachamuki labangenta umsebenti waleso sicelo sekubhizinisa e*Riphabhulikhi*.”;

- (b) lokukhishwa kufakwe kusigatjana (2) kulamagama lalandzela indzima (a) yalamagama lalandzelako: 5  
“(1A) Ayikho ivisa yekubhizinisa lenganikwa noma ivuselelwe nganoma nguliphi libhizinisi lelibhalwe njengalelingakalungelwa lelibonwe ngu*Ngcongcoshe* ngaleso naleso sikhatsi ku*Gazethi*, ngemuva kwekutsintsana na*Ngcongcoshe* lophetse tetimbiwa nemandla.”;
- UMcondzisi-jikelele utawuncuma, ngemuva kwekutsintsana nematiko labaliwe, linani lebachamuki lekufanele bacashwe ngekwemvume yekubhizinisa leniketwe ibhizinisi yemchamuki, ngemuva kwekutsatsa—”; 10
- (c) lokukhishwa kwesigatjanana (2) kufakwe lamagama lalandzela indzima (a) walamagama lalandzelako: 15  
“[Ngemuva kwekutsintsana ne*Litiko Letemisebenti neTimboni Nekuhwebelana*,] Umcondzisi-Jikelele utawuncuma, ngemuva kwekutsintsana nematiko labaliwe, linani lebachamuki lekufanele licashwe ngekusebentisa ivisa [imvume] yekubhizinisa yalofaka sicelo semsebenti, ngemuva kwekutsi sekatsitse—”; 20
- (d) ngekukhipha sigatjana (5); kanye
- (e) nalokufakwa kwalesigatjana lesilandzelako:  
“(6) Umchamuki locashwe ngekwemvume yekubhizinisa kutawufanele kutsi asebentele lona longumnikati walemvume yekubhizinisa.”.

**Kuchitjiyelwa kwesigaba 22 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngetigaba 23 na 47 seMtsetfo 19 wanga 2004** 25

14. Sigaba 22 seMtsetfo wekucala siyachitjiyelwa—

- (a) ngekukhipha kundzima (b) kulamagama lalandzela indzinyana (i) kufakwe lamagama lalandzelako: 30  
“longaphansi kweminyaka lengema-25 budzala kantsi sekatofole sicelo sekwenta umsebenti longadluli umnyaka munye [, uma ngabe]: *Uma ngabe*—”;
- (b) ngekukhishwa kwa “kanye” kundzinyana (iii) wenzima (b); kanye
- (c) ngekufaka kundzima (b) kulendzinyana lelandzelako: 35  
“(iv) ayikoho ivisa lenganikwa ngaphansi kwalesigaba uma ngabe lesicelo sekwenta umsebenti sisho umsebenti longafanele njengoba kushicilelwe ngu*Ngcongcoshe* ngaleso naleso sikhatsi ku*Gazethi*, ngemuva kwekubonisana na*Ngcongcoshe* lophetse tetimbiwa nemandla.”.

**Kukhishwa kwesigaba 23 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 24 seMtsetfo 19 wanga 2004** 40

15. lesigaba lesilandzelako siyakhishwa kufakwa sigaba 23 seMtsetfo wekucala:

**“Ivise [imvume] yekungena eveni leniketwa ema-asayilamu**

23. (1) Umcondzisi-Jikelele anganiketa imvume yekungena kuna-asayilamu, ngekuya nganoma ngumiphi imibandzela, lengasebenta emalanga langadluli kumalanga lasihlanu, kumuntfu lekatibita ngekutsi uyi-asayilamu kumachweba ekungena, ngemuva kwekutsi asungule ngalendlela lefunekako kutsi lowo muntfu ufanele kutsi afake sicelo se-asayilamu, kutsi ahambele e*Hhovisi* lelisedvute lapho Kwamukelwa khona bachamuki kute kutsi abhalele i-asayilamu. 45 50

(2) Ngaphandle kwekutsi kube nanoma yini lecuketfwe kulomunye umtsetfo, uma ngabe lemvume levetwe kusigatjana (1) iphela ngembi kwekutsi lona longumnikati afika e*Hhovisi* Lekwamukela Bachamuki kute kutsi abhalele i-asayilamu ngekwesigaba 21 se-*Refugees Act*, 1998 (Umtsetfo Nom. 130 wanga 1998), lona lonaleyo mvume utawutsatfwa njengemchamuki longekho emtsetfweni kantsi kutawusetjentwa ngaye ngekusebentisa loMtsetfo.”. 55

**Repeal of section 24 of Act 13 of 2002, as amended by section 25 of Act 19 of 2004**

16. Section 24 of the principal Act is hereby repealed.

**Amendment of section 26 of Act 13 of 2002, as amended by section 27 of Act 19 of 2004**

17. Section 26 of the principal Act is hereby amended— 5
- (a) by the substitution for the words preceding paragraph (a) of the following words: 10
- “Subject to section 25 and any prescribed requirements, the Director-General may issue a permanent residence permit to a foreigner who—”;
- and
- (b) by the substitution for paragraphs (a) and (b) of the following paragraphs: 15
- “(a) has been the holder of a work [permit] visa [, 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; 20
- (b) has been the spouse of a citizen or permanent resident for five years and the Director-General is satisfied that a good faith spousal relationship exists: Provided that such permanent residence permit shall lapse if at any time within two years from the issuing of that permanent residence permit the good faith spousal relationship no longer subsists, save for the case of death;”.

**Amendment of section 27 of Act 13 of 2002, as amended by section 28 of Act 19 of 2004 and section 8 of Act 3 of 2007**

18. Section 27 of the principal Act is hereby amended—
- (a) by the substitution for the words preceding paragraph (a) of the following words: 25
- “The Director-General may, subject to any prescribed requirements, issue a permanent residence permit to a foreigner of good and sound character who—”;
- (b) by the substitution in paragraph (c) for the words preceding subparagraph (i) of the following words: 30
- “(c) intends to establish or has established a business in the Republic, as contemplated in section 15, and investing in it or in an established business, as contemplated in section 15, the prescribed financial contribution to be part of the intended book value, and to the members of such foreigner’s immediate family[, provided]: Provided that—”; and 35
- (c) by the substitution in paragraph (c) for subparagraph (ii) of the following subparagraph: 40
- “(ii) the permanent residence permit shall lapse if the holder fails to prove within two years of the issuance of the permanent residence 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;”.

**Amendment of section 29 of Act 13 of 2002, as amended by section 30 of Act 19 of 2004**

19. Section 29 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 50
- “The following foreigners are prohibited persons and do not qualify for a port of entry visa, admission into the Republic, a [temporary] visa or a permanent residence permit.”;

**Kucitfwa kwesigaba 24 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 25 seMtsetfo 19 wanga 2004**

16. Sigaba 24 seMtsetfo wekucala siyacitfwa.

**Kuchitjiyelwa kwesigaba 26 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 27 seMtsetfo 19 wanga 2004**

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17. Sigaba 26 seMtsetfo wekucala siyachitjiyelwa—

(a) ngekukhipha emagama lalandzela indzima (a) yalamagama lalandzelako:

“Ngekuya ngesigaba 25 kanye nanoma ngutiphi tidzingo letibaliwe, Umcondzisi-Jikelele anganiketa imvume yekuhlala ngalokugcwele kumchamuki leka—”; kanye

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(b) ngekukhipha tindzima (a) na (b) waletindzima letilandzelako:

“(a) bekangulone [imvume] visa yekusebenta [kufaka ekhatsi yinye leniketwe ngaphansi kwemvume yekutsengisa] ngekwalo-Mtsetfo iminyaka lesihlanu kantsi utfolakele anetisa Umcondzisi-Jikelele kutsi utfole umsebenti ngalokugcwele;

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(b) bekangumlingani wemhlali noma umhlali ngalokugcwele iminyaka lesihlanu kanye neMcondzisi-Jikelele uyaneliseka kutsi kunebudlelwane lobuhle lobukhona emkhatsni wabo: Kuye ngekutsi leyo mvume yekuhlala ngalokugcwele itawuphela uma ngabe nganoma ngabe ngusiphi sikhatsi eminyakeni lemibili kusukela lelilanga leyakhishwa ngalo lemvume yekuhlala ngalokugcwele kutfolakale kutsi lobudlelwane lobuhle lobukhona emkhatsini wabo abusekho, ngaphandle kwekutsi kube khona loшонile;”.

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**Kuchitjiyelwa kwesigaba 27 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 28 seMtsetfo 19 wanga 2004 nesigaba 8 seMtsetfo 19 wanga 2004**

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18. Sigaba 27 seMtsetfo wekucala siyachitjiyelwa—

(a) lokukhishwa kwemagama lalandzela indzima (a) kulamagama lalandzelako:

“Umcondzisi-Jikelele anganiketa imvume yekuhlala ngalokugcwele kumchamuki lotiphetsa kahle, ngekuya nganoma ngutiphi tidzingo”;

(b) lokukhishwa kundzima (c) kwentelwe lamagma lalandzela indzinyana (i) yalamagama lalandzelako:

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“(c) ahlosa kusungula noma sewusungule libhizinisi eRiphabhulikhi, lelibalwe kusigaba 15, kubuye kusiswe kulo noma kulibhizinisi leselivele lisunguliwe, njengoba kuvetiwe kusigaba 15, kantsi lokukhokhwa kwetimali kutawuba yincenye yalokudzingekako, kantsi nakuwo emalunga emndeni walabachamuki [, uma ngabe]: Uma ngabe—”; kanye

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(c) ngekukhipha lokukhishiwe kundzima (c) kufakwe kundzinyana (ii) wale-ndzinyana lelandzelako:

(ii) lemvume yemhlali ngalokugcwele itawuphela uma lomnikati wayo ahluleka kucinisekisa kungakapheli iminyaka lemibili yalokuniketwa kwalemvume yekuhlala ngalokugcwele bese kuba minyaka lemitsatfu ngemuva kwaloko, ngekuneliseka kweMcondzisi-Jikelele, kutsi lemali lebekiwe lekufanele ikhokhwe kutsi ibe yincenye yebungako balencwadzi lehlosiwe solo isasisiwe njengoba kuvetiwe kulenzima;”.

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**Kuchitjiyelwa kwesigaba 29 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 19 seMtsetfo 3 wanga 2004**

19. Sigaba 29 seMtsetfo wekucala siyachitjiyelwa—

(a) lokukhishwa kufakwe kusigatjana (I) kulamagama lalandzelwa indzima (a) alamagama lalandzelako:

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“Labachamuki labalandzelako babantfu labangakavumeleki kubangena kantsi abakalungeli kuna nevisa yakumachweba ekungena, kutsi bangene eRiphabhulikhi, [imvume] ivisa noma iphemithi yekuba ngumhlali ngalokugcwele;”;

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- (b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:  
“~~(b)~~ anyone against whom a warrant is outstanding or a conviction has been secured in the Republic or a foreign country in respect of genocide, terrorism, human smuggling, trafficking in persons, murder, torture, drug-related charges, money laundering or kidnapping;”; and 5
- (c) by the substitution in subsection (1) for paragraph (f) of the following paragraph:  
“~~(f)~~ anyone found in possession of a fraudulent [**residence permit,**] visa, passport, permanent residence permit or identification document.”. 10

**Amendment of section 30 of Act 13 of 2002, as amended by section 31 of Act 19 of 2004**

20. Section 30 of the principal Act is hereby amended— 15
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:  
“The following foreigners may be declared undesirable by the Director-General, as prescribed, and after such declaration[,] do not qualify for a port of entry visa, visa, admission into the Republic [, a temporary] or a permanent residence permit.”; 20
- (b) by the substitution in subsection (1) for paragraphs (f) and (g) of the following paragraphs:  
“(f) anyone who is a fugitive from justice; [**and]**  
(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 [.] and”; and 25
- (c) by the addition of the following paragraph:  
“(h) any person who has overstayed the prescribed number of times.”.

**Substitution of section 35 of Act 13 of 2002, as amended by section 36 of Act 19 of 2004** 30

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

**“Duties with regard to conveyances**

**35. (1) Save for exceptional circumstances necessitating otherwise, no person in charge of a conveyance shall cause that conveyance to enter the Republic at any place other than at a port of entry.** 35

(2) (a) The owner or person in charge of a prescribed conveyance entering into, departing from or in transit through the Republic, shall comply with the provisions of this section by enabling electronic transmission and receipt of the prescribed information to the Director-General in the prescribed manner. 40

(b) The owner or person in charge of a conveyance entering into, departing from or in transit through the Republic, shall within the prescribed period prior to boarding persons onto his or her conveyance, electronically transmit the prescribed information to the Director-General in respect of each person. 45

(c) The owner or person in charge of a conveyance shall act in accordance with a boarding advice issued by the Director-General in respect of each person contemplated in paragraph (b).

(3) (a) The owner or person in charge of a conveyance entering into, departing from or in transit through the Republic by air or conveying persons on domestic flights within the Republic, shall comply with the provisions of this section by enabling electronic transmission of the prescribed passenger name record information in respect of all persons 50

- (b) ngekukhipha kusigatjana (1) kufakwe indzima (b) yalenzima lelandzelako  
“(b) noma ngabe ngubani loniketwe iwaranti noma lonelicala abekwe eRiphabhulikhi noma eveni langaphandle ngoba abalekiselwa kubulawa, ludlame lekubulawa, kunyenyiswa kwebantfu, kushu-shunjiswa kwebantfu, kubulawa, kulinyatwa, emacala lahambisana netidzakamiva, kubolekiswa kwemali noma kutfumba;” kanye 5
- (c) nalokukhishwa kufakwe kusigatjana (1) kundzima (f) yalenzima lelandzelako:  
“(f) noma ngabe ngubani lotfolakala [imvume yekuhlala,] nevisa lekohlisako ipasipoti, imvume yekuhlala ngalokugcwele, noma matisi.”. 10

**Kuchitjiyelwa kwesigaba 30 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 31 seMtsetfo 19 wanga 2004**

**20. Sigaba 30 seMtsetfo wekucala siyachitjiyelwa—**

- (a) Lokukhishwa kufakwe kusigatjana (1) kumagama lalandzela indzima (a) yalamagama lalandzelako: 15  
“labachamuki labalandzelako bangatsatfwa njengalabangafunwa nguMcondzisi-Jikelele, njengoba kubekiwe, kantsi ngemuva kwaleso simemetelo [,] angeke bavumeleke kuba nevisa yakumachweba eku-njena, kutsi bamukeleke eRiphabhulikhi [, yesikhashane] noma imvume yekuhlala ngalokugcwele;”;
- (b) lokukhishwa kufakwe kusigatjana (1) sendzima (f) na (g) yaletindzima letilandzelako: 20  
“(f) noma ngabe ngubani lobalekile abalekela bulungiswa; [kanye]  
(g) noma ngabe ngubani lowake waba nemacala ebugebengu anganiketwa kutsi alikhokhele kusento lesitawutsatfwa njengelicala eRiphabhulikhi, ngekungafaki ekhatsi lamanye emacala latsite labaliwe [-J; kanye”]; kanye
- (c) nekungeta lendzima lelandzelako: 25  
“(h) noma ngabe ngumuphi umuntfu lohleli ngalokudlulele lamahlandla etikhatsi labekiwe.”. 30

**Kukhishwa kwesigaba 35 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 36 seMtsetfo 19 wanga 2004**

**21. Lesigaba lesilandzelako siyakhishwa kufakwe sigaba 35 seMtsetfo wekucala:**

**“Imisebenti ngekuhambelana nebatfutsi 35**

**35. (1) Ngaphandle kwetimo letikhetsekile letidzinga kwentiwe ngalenywe indlela, akekho umuntfu lonesitfutsi angenta kutsi leso sitfutsi singene eRiphabhulikhi kunoma nguyiphi indzawo ngaphandle kwe-machweba ekungena.**

(2) (a) umnikati noma lomuntfu lophetse leso sitfutsi lesibaliwe lesingena eRiphabhulikhi, noma siyasuka noma siyadlula kuleli kufanele sihambisane nalembandzela yalesigaba ngekutsi sivumele kusetjentiswa kwemishini kanye nekutfole lwatiso lolubekiwe lweMcondzisi-Jikelele ngendlela lechaziwe. 40

(b) Lomnikati noma lomuntfu lekunguye lophetse lesitfutsi longena, asuka, adlula eRiphabhulikhi, kutawufanele ngendlela lebekiwe nesikhatsi lesibekiwe ngembi kwekutsi bantfu bagibele kusitfutsi sakhe, baniketwe lolwati lolubekiwe ngekwe-mishini kuMcondzisi-Jikelele ngekwe-muntfu ngamunye. 45

(c) Lomnikati noma lomuntfu lophetse sitfutsi kutawufanele kutsi asebente ngekuhambisana nembono wekugibela lokhishwe nguMcondzisi-Jikelele ngekwe-muntfu ngamunye lovetwe kundzima (b). 50

(3) (a) Lomnikati noma lomuntfu lophetse sitfutsi lesingena, sisuka noma sidlula eRiphabhulikhi ngekuhamba emoyeni noma atfutsa ebantfu ngetindziza takuleli ekhatsi eRiphabhulikhi, kufanele kutsi ahambisane nemibandzela yalesigaba ngekutsi avumele kuhlolwa ngekwe-mishini kwalowo mgibeli ligama lakhe lelivela kulwatiso lwemarekhodi kufaka 55

booked to travel on his or her conveyance to the Director-General in the prescribed manner.

(b) The owner or person contemplated in paragraph (a) shall, within the prescribed period prior to the scheduled time of departure of his or her conveyance, electronically transmit the prescribed passenger name record information to the Director-General in the prescribed manner. 5

(c) The information contemplated in paragraph (a) shall be used by the Director-General for the better achievement of the objectives of this Act and the Director-General shall adopt prescribed measures to safeguard the protection of that information in accordance with legislation governing the protection of personal information. 10

(4) An immigration officer or other authorised person employed by the Director-General may—

(a) board any conveyance which is entering or has entered into any port of entry and on good cause shown prohibit or regulate disembarkation from, or the offloading of, such conveyance in order to ascertain the status or citizenship of its passengers; and 15

(b) request the person in control of a port of entry or any person acting under his or her authority to order the person in charge of a conveyance to park, moor or anchor that conveyance in such port of entry at such distance from the shore or landing place or in such position as such immigration officer or other authorised person employed by the Director-General may direct. 20

(5) The person in charge of a conveyance entering or prior to entering a port of entry shall upon demand deliver to an immigration officer— 25

(a) a list stating—

(i) the names of all passengers on board of that conveyance, classified according to their respective destinations; and

(ii) such other details as may be prescribed;

(b) a list of stowaways, if any have been found; 30

(c) a list of the crew and all other persons, other than passengers and stowaways, employed, carried or present on the conveyance; and

(d) a return, under the hand of the medical officer of that conveyance or, if there is no such medical officer, under the hand of the person in charge of a conveyance himself or herself, stating— 35

(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 suffered or are suffering from such disease; 40

(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 that such immigration officer may—

(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 45

(bb) if satisfied that a name should be added to or deleted from any such lists, authorise such addition or deletion. 50

(6) If a conveyance arrives at a port of entry with a passenger on board bound for a destination outside the Republic and that passenger is not on board when the conveyance leaves such port of entry and has not been admitted, the person in charge or the owner of that conveyance shall forfeit a sum fixed by the immigration officer within a prescribed limit. 55



- ekhatsi bonkhe bantfu lababhukhelwe kutsi bahambe ngesitfutsi sakhe kuMcondzisi-Jikelele ngendlela lechaziwe.
- (b) Lomnikati noma umuntfu lobalwe ngenhla kundzima (a) kufanele ahambise ngekwemishini llolwati lwemagama emarekhodi ngebagibeli awayise kuMcondzisi-Jikelele ngendlela lechaziwe, ngalesikhatsi lesibekiwe ngembi kwekutsi kufike sikhatsi sekuhamba kwalesitfutsi sakhe. 5
- (c) Lolwatiso loluvetwe kundzima (a) kutawufanele kutsi lusetjentiswe nguMcondzisi-Jikelele kute kutsi kuphumelele tinjongo taloMtsetfo kantsi neMcondzisi-Jikelele kufanele atsatse tindlela letibekiwe tekuvikela kuvikeleka kwalolo lwatiso ngekuhambisana ne-*Protection of Personal Information Act*, 2010 nanoma ngabe nguwuphi umtsetfo loshayiwe. 10
- (4) Umsebenti losebenta ngebachamuki nanoma ngabe ngumuphi umuntfu lonikwe imvume locashwe nguMcondzisi-Jikelele—
- (a) angagibela nanoma ngusiphi sitfutsi lesingena noma lesingene kunoma nguliphi lichweba lekungena kantsi loko kukhombise ngesihle kuvimbela noma kulawula kwehla, noma kwehlisa umtfwalo, kuleso sitfutsi kute kutsi sitfole simo noma kuniketwa imvume yekuba wakuleli kwebagibeli baso; futsi 15
- (b) nekucela lomuntfu lolawulaemachweba ekungena nanoma ngubani lomele leso sikhundla kutsi atjele lomnikati wesitfutsi kutsi apake kuphi, agcine leso sitfutsi kulelo lichweba lekungena likhashane nedzawo yekwehlela noma yekufikela noma kuleyo ndzawo lengabekwa ngumsebenti losebenta ngetichamuki noma lowo lobekiwe waniketwa ligunya nguMcondzisi-Jikelele. 20
- (5) Umuntfu longumnikati wesitfutsi lesingena noma lesifuna kungena kumachweba ekungena kufanele ngekulawulwa kutsi ente njalo anikete sisebenti lesisebenta ngebachamuki— 25
- (a) luhla loluchaza—
- (i) emagama abo bonkhe bagibeli labakulesitfutsi, bachazwe ngendlela yetindzawo labaya kuto; kanye 30
- (ii) naleminywe imininingwane njengoba ingabe ibekiwe;
- (b) luhla lalabagibele ngalokungekho emtsetfweni, uma ngabe bakhona labatfolakele;
- (c) luhlu lwebantfu labasebenta kusitfutsi kanye nabo bonkhe bantfu, ngaphandle kwebagibeli nalaba labagibele ngalokungekho emtsetfweni, labacashiwe, labakhona kusitfutsi; kanye 35
- (d) lwekubuyela emuva, lokungaphansi kwadokotela waleso sitfutsi noma, uma ngabe kungenadokotela, ngaphansi kwalomuntfu lokunguye lolawula lesitfutsi, lechaza—
- (i) tifo letikhona, kutsi ngabe tiyatsatselana noma njani, leseticubukile noma ticubuke ngalesikhatsi saloluhambo; 40
- (ii) emagama ebantfu labaphetfwe noma labangenwe nguleto tifo;
- (iii) imininingwane yalabashonele noma labatalelwe kuleso sitfutsi ngesikhatsi saloluhambo emkhatsini wemachweba leku- ngenwe kulo nalokuyophunywa kulo; kanye 45
- (iv) noma ngabe nguluphi ludzaba lolubekiwe noma sehlakalo: 45
- Uma ngabe lowo losebenta ngebachamuki kufanele—
- (aa) ahociswe kuletidzingo talesigatjana lapho lolawula umkhumbi acondze kunoma ngabe nguliphi lichweba eRiphabhulikhi, ngekuya ngekuhambisana nalomsebenti lekufanele awente lolo luhla noma lwekubuyela emuva kulelo lichweba kanye nganoma ngabe nguliphi ligunya lelingakhishwa ngulowo losebenta ngebachamuki alinikete lolawula umkhumbi, kanye 50
- (bb) uma ngabe kunelisa kutsi ligama lingangetwa noma likhishwe kuloluhla, kufanele anikete ligunya laloko kungeta noma kukhipha. 55
- (6) Uma ngabe sitfutsa sifika kulichweba lekungena linemgibele lekungafanele kutsi ehle lapha eRiphabhulikhi lekangekho kulesitfutsi ngalesikhatsi lesitfutsi sisuka kulelo lichweba kantsi futsi akakamukelwa, lomuntfu lophetse noma lomnikati waleso sitfutsi utawulahlekelwa yimali letawubekwa ngulona losebenta ngebachamuki lengaba ngekhatsi kwalena lebekiwe. 60

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

(8) The competent officer of customs at any port of entry may refuse to give to the person in charge of a conveyance clearance papers to leave that port of entry, unless he or she has complied with this Act and produced a certificate issued by an immigration officer to that effect.

(9) A person in charge of a conveyance shall ensure that any foreigner conveyed to a port of entry, for purposes of travelling to a foreign country, holds a valid passport and transit visa or port of entry visa, if required.

(10) A person in charge of a conveyance shall be responsible for the 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.

**Amendment of section 43 of Act 13 of 2002, as amended by section 41 of Act 19 of 2004**

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

“(a) abide by the terms and conditions of his or her status, including any terms and conditions attached to the relevant visa or permanent residence permit, as the case may be, by the Director-General upon its issuance, extension or renewal, and that status shall expire upon the violation of those terms and conditions; and”.

**Repeal of section 46 of Act 13 of 2002, as amended by section 47 of Act 19 of 2004**

23. Section 46 of the principal Act is hereby repealed.

**Amendment of section 49 of Act 13 of 2002, as amended by section 45 of Act 19 of 2004**

24. Section 49 of the principal Act is hereby amended by the substitution for subsections (1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15) and (16) 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] two years.

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

(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] five years.

(3) Anyone who knowingly employs an illegal foreigner or a foreigner in violation of this Act, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding one year, provided: Provided that such person's second conviction of such an offence shall be punishable by imprisonment not exceeding two years or a fine, and the third or subsequent convictions of such offences by imprisonment not exceeding [three] five years without the option of a fine.

(7) Umsebenti losebenta ngebachamuki angadzinga kutsi lomuntfu lophetse lesitfutsi kutsi ahlanganise labasebenta ngekhatsi kwesitfutsi uma ngabe leso sitfutsi sifika kunoma ngabe nguliphi lichweba lekungena kantsi akwente loko futsi ngembi kwekutsi sisuke kulelichweba lekungena.

(8) Umsebenti losebenta ngalokungena eveni lofanele kunoma ngabe nguliphi lichweba lekungena angala kuniketa lomuntfu lophetse sitfutsi imvume yekutsi asuke kulelichweba, ngaphandle kwekutsi abe ahambisene naloMtsetfo abuye anikete sitifiketi lesikhishwe ngulona losebenta ngebachamuki lesihambisana naloko.

(9) umuntfu lekunguye lophetse sitfutsi kufanele acinisekise kutsi noma ngumuphi umuntfu wangaphandle lotfutswako ayiswe kulichweba lekungena, kwentela tizatfu tekuhamba aye eveni langaphandle, unepasipoti lesemtsetfweni kanye nevisa yekudlula noma ivisa, uma kunesidzingo.

(10) umuntfu lophetse sitfutsi kufanele abe nemfwalo wekubanjwa kanye nekukhululwa kwentfu lebekamfutsa uma ngabe lowo muntfu alelwa kutsi angene ngalendlela lechaziwe, kanye ngananoma ngutiphi tindleko letiphatselene naloko kubanjwa kanye nekukhululwa letitawube titfwelwe Litiko.”

**Kuchitjiyelwa kwesigaba 43 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 41 seMtsetfo 19 wanga 2004**

22. Sigaba 43 seMtsetfo wekucala siyachitjiyelwa ngekukhipha kufakwe indzima (a) yalenzima lelandzelako:

“(a) ngekuboshwa yimibandzela yesimo sakhe, kufaka ekhatsi noma ngabe nguyiphi imibandzela lenamatsiselwe kulemvume, imvume yekuhlala ngalokugcwele noma ivisa, leniketwe nguMcondzisi-Jikelele ngalesikhatsi iniketwa, kuniketwe sikhatsi lesingetiwe noma kuyivuselela kabusha, kantsi naleso simo sayo kufanele siphelwe sikhatsi uma ngabe kucekelwe phansi leyo mibandzela; kanye”.

**Kucitfwa kwesigaba 46 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 47 seMtsetfo 19 wanga 2004**

23. Sigaba 46 seMtsetfo wekucala siyacitfwa.

**Kuchitjiyelwa kwesigaba 49 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngesigaba 45 seMtsetfo 19 wanga 2004**

24. Sigaba 49 seMtsetfo wekucala siyachitjiyelwa lokukhipha kwetigatjana (1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15) kanye ne (16) kufakwe letigatjana letilandzelako ngekulandzelana kwato:

“(1) (a) Noma ngabe ngubani longenako noma lohlala, noma losuka eRiphabhulikhi ngekutsi uphule loMtsetfo, utawuba nelicala kantsi kutawufanele kutsi agwetjwe akhiphe inhlawulo noma aboshwe sikhatsi lesingadluli [tinyanga letintsatfu] iminyaka lemibili.

(b) noma ngabe ngubani longasuye wakuleli longene ngalokungekho emtsetfweni longahambi ngalesikhatsi atjelwe kutsi alishiye leli uma atjelwa nguMcondzisi-Jikelele, utawuba nelicala kantsi kutawufanele kutsi agwetjwe akhiphe inhlawulo noma aboshwe sikhatsi lesingadluli [tinyanga letiyimfica] iminyaka lemine.

(2) Noma ngabe ngubani lekasita umuntfu kutsi angene noma ahlale kuleli, noma kutsi aphume eRiphabhulikhi ngekuphula loMtsetfo, utawuba nelicala kantsi kutawufanele kutsi agwetjwe akhiphe inhlawulo noma aboshwe sikhatsi lesingadluli [umnyaka munye] iminyaka lesihlanu.

(3) Noma ngabe ngubani locasha umuntfu lochamuka ngaphandle ngalokungekho emtsetfweni ati noma umchamuki lophule loMtsetfo, utawuba nelicala kantsi kutawufanele kutsi agwetjwe akhiphe inhlawulo noma aboshwe sikhatsi lesingadluli umnyaka munye [, inkhani-nje]: Inkhani-nje kuye ngekutsi lelicala lalowo muntfu lesibili angajeziselwa lona ngekuboshwa iminyaka lengadluli kulemibili noma akhokhe inhlawulo, kantsi kwesitsatfu noma uma aphindza emacala lafana nalawo angaboshelwa wona iminyaka lengadluli [mitsatfu] lesihlanu anganiketwa imvume yekuhlalawulo.

(5) Any [civil] public servant who provides false or intentionally inaccurate or unauthorised documentation or benefit to an illegal foreigner, or otherwise facilitates such illegal foreigner to disguise his or her identity or status, or accepts any undue financial or other consideration to perform an act or to exercise his or her discretion in terms of this Act, shall be guilty of an offence and liable on conviction to [a fine or to] imprisonment not exceeding [two] eight years without the option of a fine [, provided]: Provided that if such [civil] public servant is employed by the Department, such offence shall be punishable by imprisonment not exceeding [three] 15 years without the option of a fine. 5

(6) Anyone failing to comply with one of the duties or obligations set out under sections 38 to 46, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding [18 months] five years. 10

(7) Anyone participating in a conspiracy of two or more persons to conduct an activity intended to contravene this Act, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding [four] seven years [, provided]: 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] eight years without the option of a fine. 15

(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] three years. 20

(9) Anyone, other than a duly authorised [civil] public servant, who 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] 10 years without the option of a fine. 25

(10) Anyone who through offers of financial or other consideration or threats, compels or induces an officer to contravene this Act or to breach such officer's duties, shall be guilty of an offence and liable on conviction—

- (a) to a fine or to imprisonment not exceeding [18 months] five years; or 30
- (b) if subsequently such officer in fact contravenes this Act or breaches his or her duties, to [a fine or to] imprisonment not exceeding [three] five years without the option of a fine.

(11) Anyone guilty of the offence contemplated in section 34(10) shall be liable on conviction to a fine or to imprisonment not exceeding [six months] three years. 35

(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] eight years.

(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] eight years. 40

(15) Any natural or juristic person, or a partnership, who— 45

- (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—
  - (i) any permanent residence permit, port of entry visa, visa, certificate, written authority or other document which has been issued by lawful authority, or which, though issued by lawful authority, he, [or] she or it is not entitled to use; or 50

(5) Noma ngabe ngusiphi sisebenti [semango] sahumende lesiniketa tincwadzi letingemanga noma letingakalungi noma letingekho emtsetfweni noma lohlomulako ngemchamuki, noma alekelele kutsi lowo mchamuki afihle buve bakhe nesimo sakhe, noma atsatse imali ngalokungafanele, noma ngabe kuvuma kwenta sehlakalo noma kutsi asebentise sikhundla sakhe ngekwaloMtsetfo, utawuba nelicala [inhlawulo noma ku] kantsi kutawufanele kutsi agwetjwe akhiphe inhlawulo noma aboshwe sikhatsi lesingadluli [lemibili] iminyaka lesiphohlongo anganiketwa imvume yekuhlawula: Inkhani nje uma ngabe lesi sisebenti [semango] sahumende sicashwe Litiko, lelo cala litawujeziswa ngekuboshwa iminyaka lengadluli [mitsatfu] kuma-15 ngaphandle kwekuniketwa imvume yenhlawulo. 5 10

(6) Noma ngubani lohluleka kulandzelela nekuhambisana namunye walemisebenti kanye nalemitfwalo lebekwe ngaphansi kwesigaba 38 kuya ku 46, utautfolakala anelicala kufanele ahlawule noma aboshwe [tinyanga letili-18] iminyaka lengadluli kulesihlanu. 15

(7) Noma ngubani loba yincenye yelizungu lwalababili noma ngetulu kutsi bente umsebenti lohambisana nekucekela phansi loMtsetfo, utawuba nelicala kantsi kutawufanele kutsi agwetjwe akhiphe inhlawulo noma aboshwe sikhatsi lesingadluli iminyaka lesikhombisa : Inkhani nje uma ngabe incenye yalowo msebenti wentelwe noma uhloswe kwentelwa eveni lelingaphandle, lelicala litawujeziswa ngekuboshwa iminyaka lengadluli [lemine] kusiphohlongo kunganiketwa imvume yenhlawulo. 20

(8) Noma ngabe ngubani lofisako noma ngebudlabha bakhe akhiphe sitifiketi lesingemanga lesivetwe nguloMtsetfo, utawuba nelicala kantsi kutawufanele kutsi agwetjwe akhiphe inhlawulo noma aboshwe sikhatsi lesingadluli [umnyaka munye] iminyaka lemitsatfu. 25

(9) Noma ngabe ngubani, ngaphandle kwesisebenti [semango] sahumende lesiniketwe ligunya, lowakha noma anikete noma ente kutsi kwakhiwe noma anikete tincwadzi letibukeka njengetincwadzi letiniketwe noma letilawulwa Litiko utawuba nelicala kantsi kutawufanele kutsi agwetjwe aboshwe [ahlawuliswe] sikhatsi lesingadluli [mibili] iminyaka leli-10 ngaphandle kwekuniketwa inhlawulo. 30

(10) Noma ngabe ngubani uma aniketwe imali noma afuna kuyitsatsa noma asatjiswa, acindzetela noma agcugcutela sisebenti kutsi siphule loMtsetfo noma kwephula umsebenti, waleso sisebenti utawuba nelicala kantsi utawugwetjwa— 35

- (a) aniketwe ihlawulo noma aboshwe [tinyanga letili-18] iminyaka lengadluli kulesihlanu; noma
- (b) uma ngemuva kwaloko lesi sisebenti sephula lona Mtsetfo noma angenti kahle imisebenti yakhe, [utawuhlawuliswa] noma aboshwe iminyaka lengadluli [lemitsatfu] kulesihlanu ngaphandle kwekuniketwa imvume yekuhlawula. 40

(11) noma ngabe ngubani lonalelicala lelivetwe kusigaba 34(10) utawugwetjwa aniketwe inhlawulo noma avalelwe iminyaka lengadluli [tinyanga letisitfupha] kulemitsatfu.

(13) Noma ngabe ngubani lowenta ngatsi, noma lotenta, losebenta ngebachamuki, utawuba nelicala kantsi utawuhlawuliswa noma aboshwe iminyaka lengadluli [lemine] kulesiphohlongo. 45

(14) Noma ngabe ngubani lonenhloso yekungena noma yekuhlala, noma yekuphuma, noma yekusita noma yekusita kungena, kuhlala noma kusuka, eRiphabhulikhi, noma ngabe wephule loMtsetfo noma cha, ente noma ngabe ngukuphi lokungekho emtsetfweni noma ameleleke ngalokungasikahle, ente sitatimende lekungasiso noma njani, utawuba nelicala noma aboshwe iminyaka lengadluli [lemine] kulesiphohlongo. 50

(15) noma ngabe ngubani umuntfu nje noma wemtsetfo, noma labasebentisanako—

- (a) ngetinjongo tekungena eRiphabhulikhi, noma kuhlala khona, ngekuphula loMtsetfo, noma baphume eRiphabhulikhi, noma basite noma ngabe ngubani kungena noma kuphuma noma kuhlala, kungenelela, kusebentisa noma kuzama kusebentisa— 55

- (i) noma ngabe nguyiphi imvume yekuhlala ngalokugcwele ivisa yekungena kumachweba, ivisa, sitifiketi, imvume lebhalwe phansi noma noma ngabe ngutiphi tincwadzi letiniketwe ngekweemtsetfo, noma ngabe tiniketwe ngekweemtsetfo, [noma] lowo muntfu akukafanele kutsi atisebentise; noma 60

- (ii) any fabricated or falsified permanent residence permit, port of entry visa, visa, certificate, written authority or other document; or
  - (b) without sufficient cause has in his, [or] her or its 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;
    - (ii) any form officially printed for purposes of issuing any permanent residence permit, port of entry visa, visa, 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;
    - (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] 15 years without the option of a fine.
- (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] seven years.”.

**Amendment of section 50 of Act 13 of 2002, as amended by sections 46 and 47 of Act 19 of 2004**

25. Section 50 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:

“(1) Any foreigner who leaves the Republic after the expiry of his or her visa shall be [liable to an administrative fine of a prescribed amount not exceeding R3000, which fine shall be imposed by the Director-General on detection of the overstay and exacted when such foreigner is admitted or makes an application with the Director-General] dealt with in terms of section 30(1)(h).”;
  - (b) by the substitution for subsection (3) of the following subsection:

“(3) Any owner or person in charge of a conveyance who through negligence contravenes the provisions of section 35[(7)](9), shall be liable to an administrative fine of a prescribed amount [not exceeding R10 000], which fine shall be imposed by the Director-General”; and
  - (c) by the addition of the following subsection:

“(4) Any owner or person in charge of a conveyance who—

    - (a) fails to comply with the provisions of section 35(2)(a), (b) or (c) or (3)(a); or
    - (b) transmits inaccurate information contemplated in section 35(2)(b) or (3)(b),

shall be liable to an administrative fine of a prescribed amount, which fine shall be imposed by the Director-General.”.

- (ii) Noma ngabe nguyiphi imvume yekuhlala ngalokugcwele lengasilo liciniso noma yekutibumbela, ivisa yekungena kumachweba, ivisa, sitifiketi, umbhalo logunyatiwe noma ngabe nguwuphi umculu; noma
- (b) ngaphandle kwesizatfu [noma] lesanele aphantse— 5
- (i) noma ngabe ngusiphi sitembu noma lutfo lolutsite lolusetjentiselwa noma kufanele kutsi kungasetjentiswa kwentela tizatfu tekukhucita lokufanako noma lokungemanga noma lokungekho emtsetfweni lokutincwadzi letigunyatwe ngaphansi kwaloMtsetfo noma kucelwe kutsi kwetfulwe ngaphansi kwaloMtsetfo; 10
- (ii) Noma ngabe nguliphi lifomu lelikhicitwe kwentelwa tizatfu tekuniketa noma ngabe nguyiphi imvume yekuhlala ngalokugcwele, ivisa yekungena kumachweba, ivisa noma imvume, sitifiketi, imvume lebhaliwe noma ngabe nguyiphi incwadzi ngaphansi kwaloMtsetfo noma lokucelwa kutsi kwetfulwe ngekwaloMtsetfo, noma ngabe ngukuphi kukhicitwa kabusha noma kwenta lifomu lelifana nalo; 15
- (iii) noma ngabe nguyiphi ipasipoti, incwadzi yekuhamba, matisi noma noma ngabe ngutiphi tincwadzi letisetjentiswa nakuhanjwa kuphunywa imincele, letingakabhalwa lutfo noma tinemini-ningwane yalomunye kungasuye lona letitfolakala kuye; noma 20
- (iv) noma ngabe nguyiphi ipasipoti leyentiwe noma lengasilo liciniso, incwadzi yekuhamba, matisi noma ngabe ngutiphi tincwadzi letisetjentiselwa kuphuma emagede ekuya ngaphandle kuleli, 25
- utawuba nelicala kantsi kutawufanele kutsi agwetjwe akhiphe [inhlawulo noma ku] noma aboshwe sikhatsi lesingadluli [lemine] iminyaka leli-15 anganiketwa imvume yenhlawulo.
- (16) Noma ngabe ngubani—
- (a) lophula Inoma ahluleke kulandzelela imibandzela yaloMtsetfo, uma ngabe loko kwaphula noma kuhluleka kuhambelana nanoma nguwuphi umbandzela waloMtsetfo, uma ngabe loko kwaphula noma kuhluleka kungakavetwa ndzawo njengelicala, noma akunanhlawulo lebekiwe ngekwalelicala; noma 30
- (b) wenta lelinye licala lelingaphansi kwaloMtsetfo lapho khona kungena-sigwebo lesibekiwe, utawufolakala anelicala kantsi utawugwetjwa kufuneka inhlawulo noma aboshwe iminyaka lengadluli [lemibili] kusikhombisa.”. 35

**Kuchitjiyelwa kwesigaba 50 seMtsetfo 13 wanga 2002, njengoba kuchitjiyelwe ngetigaba 46 na 47 seMtsetfo 19 wanga 2004**

25. Sigaba 50 seMtsetfo wekucala siyachitjiyelwa—
- (a) lokukhipha kwesigatjana (1) kufakwe lesigatjana lesilandzelako: 40
- “(1) Noma ngabe ngumuphi umchamuki loshiya iRiphabhulikhi ngemuva kwekutsi imvume yakhe iphelelwe sikhatsi [ihambisana nekulawula inhlawulo yemali leballiwe lengadluli R3 000, kutsi nguyiphi inhlawulo lekufanele iniketwe nguMcondzisi-Jikelele uma atfola ngalokuhlala lokwecile kanye nalenguncamashi uma lowo mchamuki atsetfwe noma enta sicelo neMcondzisi-jikelele] noma ivisa kutawusetjentwa ngaye ngekwesigaba 30(1)(h).”; 45
- (b) lokukhishwa kwesigatjana (3) kufakwe lesigatjana lesilandzelako: 50
- “(3) Noma ngabe ngumuphi umnikati noma lophetse leso sitfutsi bese kuyenteka ngebudlabha bakhe aphule imibandzela yesigaba 35[7](9), kutawufanele akhokhe inhlawulo yekuphatsa yemali leyinhlawulo letawubekwa [lengadluli R10 000], lapho khona inhlawulo itawubekwa nguMcondzisi-Jikelele”; kanye
- (c) nekufakwa kwalesigatjana lesilandzelako: 55
- “(4) Noma ngabe ngumuphi umnikati noma umuntfu lolawula sitfutsi—
- (a) lekahluleka kuhambisana nalemibandzela yesigaba 35(2)(a), (b) noma (c) noma (3)(a); noma
- (b) aniketa lwatiso lolungasikahle loluvelwe kusigaba 35(2)(b) noma (3)(b), 60
- Kutawufanele kutsi akhokhe inhlawulo yekulawula yelinani lemali leballiwe, leyo inhlawulo itawubekwa nguMcondzisi-Jikelele.”.

**Substitution of words**

26. The principal Act is hereby amended—

- (a) by the substitution for the word “permit” or “permits”, wherever it occurs in the Act, of the word “visa” or “visas”, as the case may be, except in cases where—
  - (i) reference is made to a permanent residence permit; and
  - (ii) there is an amendment effected by any of the sections of this Act, excluding this section;
- (b) by the substitution for the words “temporary residence permit” or “temporary residence permits”, wherever they occur in the Act, of the word “visa” or “visas”, as the case may be;
- (c) by the substitution for the word “condition” or “conditions”, wherever it occurs in the Act, of the words “terms and conditions”, except in cases where the phrase ‘ “terms and conditions” or “terms or conditions” ’ are used; and
- (d) by the substitution for the words “21 years”, wherever they occur in the Act, of the words “18 years”.

**Short title and commencement**

27. This Act is called the Immigration Amendment Act, 2011, and comes into operation on a date determined by the President by proclamation in the *Gazette*.



**Kukhishwa kwemagama kufakwe lamanye****26. LoMtsetfo wekucala utawuchithiyelwa—**

- (a) Ngekukhipha leligama lelitsi “imvume” noma “timvume”, lapho livela khona kuloMtsetfo, ngaphandle kwetindzawo lapho khona—
- (i) kukhulunywa ngemvume yekuhlala ngalokugcwele; kanye 5
  - (ii) nesichibiyelo letentiwe ngunoma ngabe ngusiphi sigaba saloMtsetfo, kungafaki ekhatsi lesigaba, salamagama “ivisa” noma “emavisa”;
- (b) lokukhishwa kwalamagama “imvume yekuhlala kwesikhashane” noma “timvume tekuhlala kwesikhashane”, lapho tivela khona kuloMtsetfo timele leligama “ivisa” noma “emavisa”; 10
- (c) ngekukhipha kufakwe leligama “umbandzela” noma “imibandzela”, noma ngabe uyavela kuloMtsetfo, kufakwe lamagama “imigomo nemibandzela”, asetjentisiwe; kanye
- (d) kukhishwa kwalenombolo neligama “iminyaka lenge-21” lapho kuvela khona kuloMtsetfo yalenombolo neligama “iminyaka leli-18”. 15

**Sibloko lesifushane nekucala kusebenta**

27. LoMtsetfo ubitwa ngeMtsetfosivivinywa Wekuchibiyela Umtsetfo Wetifika Namtfwalo, 2011, kantsi utawucala kusebenta ngalelilanga lelitawuncunywa nguMengameli ngekulimemetela *kuGazethi yaHulumende*. 20



