

CHAPTER 4:02

IMMIGRATION ACT

Acts 18/1979, 32/1979 (s. 16), 29/1981 (s. 59), 13/1983 (s. 21), 23/1984 (s. 24), 8/2000; 22/2001 (s. 4), S.I. 78/1987.

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SCHEDULE

Specified Offences.

AN ACT to regulate the entry of persons into and the departure of persons from Zimbabwe; to prohibit the entry into and to provide for the removal from Zimbabwe of certain persons; to provide for the control of aliens; and to provide for matters incidental to or connected with the foregoing

[Date of commencement: 1st June, 1979.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Immigration Act [*Chapter 4:02*].

2 Interpretation

In this Act—

“alien” means a person who is not a Zimbabwe citizen;

“Chief Immigration Officer” means the Chief Immigration Officer referred to in paragraph (a) of subsection (1) of section *five*;

“domicile” has the meaning assigned thereto in section *three*;

“immigration officer” means—

(a) the Chief Immigration Officer;

(b) an immigration officer referred to in paragraph (b) of subsection (1) of section *five*;

(c) to the extent that the powers and duties of an immigration officer are conferred or imposed on any person in terms of subsection (2) of section *five*, any such person;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“permit” means a permit issued in terms of this Act;

“port of entry” means any place prescribed as a port of entry;

“port of exit” means any place prescribed as a port of exit;

“prohibited person” means any person who, in terms of this Act, is deemed or declared to be a prohibited person;

“repealed Act” means the Departure from Rhodesia (Control) Act [*Chapter 24 of 1974*], the Deportation Act [*Chapter 25 of 1974*] or the Immigration Act [*Chapter 27 of 1974*];

“students permit” means a students permit issued in terms of this Act;

“temporary employment permit” means a temporary employment permit issued in terms of this Act;

“temporary permit” means a temporary permit issued in terms of this Act;

“travel document” means a passport or other document of identity of a class recognized by the Minister which is issued by or on behalf of the Government or any other government or other authority recognized by the Government;

“Zimbabwe citizen” means a citizen of Zimbabwe in terms of the laws relating to citizenship.

3 Domicile

(1) Subject to this section, a person shall be regarded, for the purposes of this Act, as being domiciled in a country if—

- (a) he resides permanently in that country; or
- (b) that country is the country to which he returns as a permanent resident.

(2) A person who resides in Zimbabwe by virtue of the fact that—

- (a) he has been allowed to enter or remain in Zimbabwe through error, oversight, misrepresentation or a contravention of this Act or a repealed Act; or
- (b) it has not been discovered that he is a prohibited person or an alien;

shall not acquire a domicile in Zimbabwe.

(3) No person shall, for the purposes of this Act, have a domicile in Zimbabwe unless he has lawfully ordinarily resided therein for a continuous period of ten years, which period shall not include—

- (a) any period during which a person has—
 - (i) been detained in any prison, reformatory or mental hospital in or outside Zimbabwe; or
 - (ii) resided in Zimbabwe in terms of any permit other than a residence permit;

or

- (b) any period of residence of a person while he is such a person as is described in paragraph (e) of subsection (2) of section *fifteen* or who has entered Zimbabwe in terms of a convention or scheme referred to in paragraph (f) of that subsection:

Provided that, where the President, in terms of the proviso to subparagraph (ii) of paragraph (c) of subsection (1) of section 4 of the Citizenship of Zimbabwe Act [*Chapter 4:01*], has authorized the Minister responsible for the administration of that Act to accept a shorter period than ten years for the registration of a person as a citizen of Zimbabwe, the reference in this subsection to ten years shall be deemed in respect of such person to be a reference to such shorter period.

[Subsection amended by s. 2 of Act 8/2000.]

(4) Subject to subsection (5)—

- (a) a person shall, for the purposes of this Act, lose his domicile in Zimbabwe if he—
 - (i) has voluntarily departed from and resides outside Zimbabwe with the intention of making his home outside Zimbabwe; or
 - (ii) is absent from Zimbabwe for a continuous period of five years or such longer period as the Minister may, at his request, fix before the expiry of that period:

Provided that the Minister may, in special circumstances, fix a longer period in terms of this subparagraph after the expiry of the period of five years;

[Subparagraph amended by s. 2 of Act 8/2000.]

- (b) the fact that a person has taken up residence outside Zimbabwe shall be *prima facie* evidence of his intention of making his home outside Zimbabwe and the onus of proving otherwise shall be on the person whose status is in question;
- (c) the fact that a person who was domiciled in Zimbabwe has made any statement, whether for the purposes of this Act or any other enactment or otherwise, to the effect that he is no longer a resident or no longer regards himself as a resident of Zimbabwe shall be *prima facie* evidence that he has lost his domicile in Zimbabwe.

(5) Any period during which a person—

- (a) resides outside Zimbabwe by reason of his service—
 - (i) with the State; or
 - (ii) with an international organization of which Zimbabwe is a member; or
 - (iii) in the employment of—
 - A. a person resident in Zimbabwe; or
 - B. a society, body of persons or company, the central control and management of which are in Zimbabwe; or
 - C. a body incorporated directly by a law in force in Zimbabwe;

or

- (b) resides outside Zimbabwe on account of ill health or disability; or
- (c) resides outside Zimbabwe to attend any educational institution; or
- (d) resides outside Zimbabwe, having left Zimbabwe for a reason described in paragraph (a), (b) or (c) of subsection (1) of section 3 of the Refugees Act [*Chapter 4:03*]; or

- (e) who is the wife of a person referred to in paragraph (a), (b), (c) or (d), is absent from Zimbabwe for the purpose of being with him;

shall not be taken into account for the purpose of determining the length of that person's absence from Zimbabwe or that of a child under the age of eighteen years of that person who accompanies that person, nor shall such residence be regarded as evidence of an intention of making a home outside Zimbabwe.

(6) A request made in terms of subsection (1) of section 13 of the Citizenship of Zimbabwe Act [Chapter 4:01] shall, for the purposes of this Act, be treated as a request made to the Minister in terms of subparagraph (ii) of paragraph (a) of subsection (4).

3A Marriages of convenience

(1) Notwithstanding any other provision of this Act, if an immigration officer is satisfied that two persons, either or both of whom are not lawfully ordinarily resident in Zimbabwe—

- (a) have married each other primarily for the purpose of obtaining a right of entry into Zimbabwe for either or both of them; or
(b) have married each other without any intention of living together as a married couple in Zimbabwe;

those persons shall be deemed, for the purposes of this Act, not to be married to each other.

(2) For the purpose of subsection (1), if two married persons have not lived together since their marriage ceremony was performed it shall be presumed, unless the contrary is shown, that they married each other without any intention of living together as a married couple.

[Section inserted by s. 3 of Act 8/2000.]

4 Application of Act despite entry into Zimbabwe

No person shall be exempted from the provisions of this Act or allowed to remain in Zimbabwe by virtue only of the fact that—

- (a) he had not been informed that he could not enter or remain in Zimbabwe; or
(b) he had been allowed to enter or remain in Zimbabwe through error, oversight, misrepresentation or a contravention of this Act or a repealed Act; or
(c) it had not been discovered that he was a prohibited person or an alien.

PART II

ADMINISTRATION

5 Chief Immigration Officer and immigration officers

(1) For the purposes of this Act, there shall be—

- (a) a Chief Immigration Officer; and
(b) such number of immigration officers as may be required;

whose offices shall be public offices and form part of the Public Service.

(2) The Minister may confer or impose all or any of the functions of an immigration officer in terms of this Act upon any person who is a police officer or any person who is employed by the State and, in the opinion of the Minister, is qualified to exercise those functions.

6 Delegation of functions of Minister

(1) Subject to such conditions as he may fix, the Minister may, in relation to all cases or any case or class of cases, confer or impose upon any immigration officer or class of immigration officers all or any of his functions in terms of this Act, other than his functions in terms of paragraph (a) or (g) of subsection (1) and subsections (6) and (7) of section *fourteen*, paragraph (f) of subsection (2) of section *fifteen* and section *forty-one*.

(2) The Minister may withdraw any function conferred or imposed in terms of subsection (1).

7 Powers of search and inquiry of immigration officers

(1) An immigration officer may, for the purpose of exercising his functions under this Act—

- (a) enter upon and search any aircraft, boat, train, motor vehicle or premises in Zimbabwe:
Provided that an immigration officer may not enter or search any premises unless he believes on reasonable grounds that evidence relating to a contravention of this Act is to be found on those premises;
- (b) subject to subsection (2), search any person where he believes on reasonable grounds that the search is necessary for the prevention or detection of a contravention of this Act;
- (c) take the finger-prints, palm-prints and photograph of any person who is, or is on reasonable grounds suspected of being, a prohibited person;
- (d) question any person who desires to enter or leave Zimbabwe or whom he believes on reasonable grounds to be a prohibited person or an alien;
- (e) require the captain of an aircraft, the master of a boat, the guard or conductor of a train or the person in charge of a motor vehicle arriving from any place outside or about to depart from Zimbabwe, to furnish

a list of all persons in the aircraft, boat, train or motor vehicle, as the case may be, together with such other information as may be prescribed, and the person concerned shall comply with such requirements.

(2) When it is desired to search the body of a woman in terms of paragraph (b) of subsection (1), the search, unless made by a medical practitioner, shall be made only by a woman and shall be conducted with strict regard to decency and, if there is no woman available for such search who is an immigration officer, the search may be made by any woman specially named for the purpose by an immigration officer.

8 Functions of immigration officers in respect of prohibited persons and others

(1) Subject to section *nine*, an immigration officer may arrest any person whom he suspects on reasonable grounds to have entered or to be in Zimbabwe in contravention of this Act and may detain such person for such reasonable period, not exceeding fourteen days, as may be required for the purpose of making inquiries as to such person's identity, antecedents and national status and any other fact relevant to the question of whether such person is a prohibited person.

(2) Subject to subsections (5) and (6), an immigration officer may—

- (a) subject to subsection (3), remove or cause to be removed from Zimbabwe any prohibited person; and
- (b) pending the completion of arrangements for the removal of a person in terms of paragraph (a) and such removal, subject to section *nine*, detain that person.

(3) In relation to the removal of a prohibited person in terms of paragraph (a) of subsection (2)—

- (a) the Chief Immigration Officer may direct the route by which, and the place to which, such prohibited person shall be removed; and
- (b) the person removing such prohibited person may take, or cause to be taken, all such measures as may be reasonably necessary to effect the removal of such prohibited person.

(4) When—

- (a) leave to enter Zimbabwe is refused or any person is informed for the first time that he is a prohibited person in terms of this Act, notice in writing specifying the provision of this Act under which leave to enter Zimbabwe is refused or the person is a prohibited person, as the case may be, shall be given to the person concerned;

Provided that, whenever it is alleged that, by virtue of section *three A*, the person is deemed not to be married for the purposes of this Act, the notice shall specify the grounds on which he is deemed by virtue of that section not to be married;

[Proviso inserted by s. 4 of Act 8/2000.]

- (b) any person is arrested or detained in terms of subsection (1) or (2), he shall be informed forthwith of the reason for his arrest or detention, as the case may be.

(5) Subsection (2) shall not apply in relation to a person who—

- (a) is exempted in terms of section *sixteen*, until his exemption is withdrawn; or
- (b) is the holder of a temporary permit or students permit, until the permit is cancelled or withdrawn or otherwise for any reason ceases to be valid.

(6) A person shall not be removed from Zimbabwe in terms of paragraph (a) of subsection (2) until the period referred to in paragraph (a) of subsection (2) of section *twenty-one* has expired or, if he appeals in terms of that section or makes representations in terms of subsection (1) of section *twenty-three*, until his appeal is dismissed, abandoned or withdrawn or the decision in connection with which the representations are made is confirmed, as the case may be, but, subject to section *nine*, he may be detained during such period:

Provided that, where a person has been refused leave to enter Zimbabwe, he shall not be entitled to enter or remain in Zimbabwe for the purpose of noting or prosecuting his appeal or making representations to the Minister, as the case may be, or to be present at the hearing of an appeal and, if he has entered Zimbabwe, he shall forthwith leave Zimbabwe.

9 Detention of persons

(1) Subject to subsection (2), a person may be detained in terms of section *eight* in a prison, police cell or other convenient place.

(2) Subject to subsection (3) and to such other conditions as he may fix, the Minister may permit a person detained in terms of subsection (1), with or without sureties, to enter into a bond for his release in an amount approved by the Minister and may require that person to deposit such sum as he may fix to satisfy any judgment which may be given on the bond.

(3) The conditions of the bond entered into in terms of subsection (2) shall specify that such person shall—

- (a) appear within such period and before such person as may be specified in the bond; and
- (b) report himself to the immigration officer or such other person as may be specified in the bond at such times as may be fixed in the bond.

(4) Upon breach of any condition of a bond entered into in terms of subsection (2), any magistrates court may, on the application of the Minister, give judgment against the person referred to in that subsection or his sureties in accordance with the bond, and such person may be arrested and detained in a prison, police cell or

other convenient place until any inquiries have been completed or, if he is found to be a prohibited person, until he is removed from Zimbabwe.

10 Duty of officer in charge of prison or police cell

An officer in charge of a prison or police cell shall receive into custody or retain in custody any person detained or to be detained in terms of section *eight* when required in writing by an immigration officer to do so, and any person detained in a prison solely by virtue of this section shall be treated as a person awaiting trial.

PART III

ENTRY INTO ZIMBABWE

11 Ports of entry

- (1) Subject to subsection (2), no person shall enter Zimbabwe at any place other than a port of entry.
- (2) Subsection (1) shall not apply to—
 - (a) any person who, having been authorized by the Minister to enter Zimbabwe at a place other than a port of entry, complies with the terms and conditions of such authority; or
 - (b) an entry into Zimbabwe by a person who remains within Zimbabwe after such entry as a recognized refugee or protected person in terms of the Refugees Act [*Chapter 4:03*].
- (3) A prohibited person who is permitted by or under this Act to enter or re-enter Zimbabwe shall not enter or re-enter Zimbabwe at any port of entry other than that through which his entry or re-entry has been authorized by an immigration officer.
- (4) In any prosecution for a contravention of—
 - (a) subsection (1)—
 - (i) the onus of proving that that subsection did not apply to him shall lie upon the accused; and
 - (ii) if it is proved that the accused entered Zimbabwe, it shall be presumed, unless the contrary is proved, that he entered Zimbabwe at a place other than a port of entry;
 - (b) subsection (3), if it is proved that the accused entered Zimbabwe, it shall be presumed, unless the contrary is proved, that he entered Zimbabwe at a port of entry other than an authorized port of entry.
- (5) Any person who—
 - (a) contravenes subsection (1) or (3); or
 - (b) contravenes or fails to comply with any term or condition referred to in paragraph (a) of subsection (2);shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001]

12 Persons entering Zimbabwe to appear before and comply with directions of immigration officer

- (1) Subject to subsection (2) and any regulations referred to in paragraph (c) of subsection (2) of section *forty-one*, any person who enters Zimbabwe shall, on arrival at a port of entry—
 - (a) present himself to an immigration officer; or
 - (b) if an immigration officer is not at the time on duty or available at the port of entry, remain at the port of entry until an immigration officer comes on duty or becomes available and then present himself to the immigration officer;and shall comply with such directions as may be prescribed.
- (2) Subsection (1) shall not apply to a person referred to in—
 - (a) paragraph (a) of subsection (2) of section *eleven*, who enters Zimbabwe in accordance with the terms and conditions of the authority referred to therein; or
 - (b) paragraph (b) of subsection (2) of section *eleven*, in respect of this last entry into Zimbabwe before becoming a recognized refugee or protected person in terms of the Refugees Act [*Chapter 4:03*].
- (3) An immigration officer may require any person presenting himself in terms of subsection (1) to do all or any of the following—
 - (a) to produce a valid travel document and submit to an appropriate endorsement being made therein;
 - (b) to make and sign a declaration in the prescribed form;
 - (c) to produce documentary or other evidence relative to his claim to enter or remain in Zimbabwe;
 - (d) to submit to any examination or test to which he may lawfully be subjected in terms of this Act;
 - (e) if he is suspected of being afflicted or infected with or suffering from any disease or being afflicted with any infirmity of mind or body or physical incapacity which under this Act would render him a prohibited person, to submit to an examination by a Government medical officer or such other medical practitioner as may be designated by the Minister;and any person so required shall comply with such requirement.

(4) Subject to this Act, an immigration officer shall permit a person who complies with the requirements of subsection (3) to enter Zimbabwe if he is satisfied that such person is not a prohibited person or a person referred to in subsection (1) of section *eighteen*.

[Subsection amended by s. 5 of Act 8/2000.]

(5) Any person found in Zimbabwe who is suspected by an immigration officer, on reasonable grounds, of being a prohibited person or of having entered Zimbabwe in contravention of this Act or a repealed Act may be required to appear before an immigration officer and the provisions of subsection (3) shall apply, *mutatis mutandis*.

(5a) Any person who—

(a) contravenes subsection (1) or (3); or

(b) fails without just cause to appear before an immigration office when required to do so in terms of subsection (4);

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

(6) If, in any prosecution for a contravention of subsection (1), it is proved that the accused entered Zimbabwe, it shall be presumed, unless the contrary is proved, that he failed, on arrival at a port of entry, to present himself to an immigration officer and comply with the directions referred to in that subsection.

13 Production of travel documents by persons entering Zimbabwe

(1) Subject to subsection (2), no person shall enter Zimbabwe unless, if he is—

(a) of the age of sixteen years or over, he is—

(i) in possession of a valid travel document issued to him; or

(ii) accompanied by another person who is in possession of a valid travel document issued jointly to that other person and the person entering Zimbabwe;

or

(b) under the age of sixteen years, he is—

(i) in possession of a valid travel document issued to him; or

(ii) accompanied by another person who is in possession of a valid travel document issued to that other person in which are endorsed the particulars of that person entering Zimbabwe.

(2) Subsection (1) shall not apply to any person who—

(a) enters Zimbabwe as a *bona fide* member of the crew of an aircraft used as public transport or of a train; or

(b) is given a permit to enter Zimbabwe:

Provided that such person shall not remain in Zimbabwe otherwise than in terms of such permit; or

(c) enters Zimbabwe in accordance with the terms and conditions of an authority referred to in paragraph (a) of subsection (2) of section *eleven*; or

(d) is referred to in paragraph (b) of subsection (2) of section *eleven*, in respect of his last entry into Zimbabwe before becoming a recognized refugee or protected person in terms of the Refugees Act [Chapter 4:03].

(3) In any prosecution for a contravention of—

(a) subsection (1)—

(i) the onus of proving that that subsection did not apply to him shall lie upon the accused;

(ii) if it is proved that the accused entered Zimbabwe, it shall be presumed, unless the contrary is proved, that he was not in possession of a valid travel document issued to him or that he was not accompanied by another person who was in possession of a valid travel document—

A. issued jointly to that other person and him; or

B. issued to that other person in which were endorsed his particulars;

as the case may be;

(b) the proviso to paragraph (b) of subsection (2), if it is proved that the accused entered Zimbabwe and was given a permit so to enter Zimbabwe, it shall be presumed, until the contrary is proved, that he remained in Zimbabwe otherwise than in terms of such permit.

(3a) Any person who contravenes subsection (1) or the proviso to paragraph (b) of subsection (2) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001]

14 Prohibited persons

(1) Subject to this Act, the following persons are prohibited persons—

- (a) any person or class of persons deemed by the Minister, on economic grounds or on account of standards or habits of life, to be undesirable inhabitants or to be unsuited to the requirements of Zimbabwe;
- (b) any person who at the time of his entry into Zimbabwe is likely to become a public charge—
 - (i) by reason of infirmity of mind or body; or
 - (ii) because he is not in possession, for his own use, of sufficient means to support himself and such of his dependants as he brings or has brought into Zimbabwe;
- (c) any person who is—
 - (i) an epileptic or mentally disordered or defective as defined in section 2 of the Mental Health Act [Chapter 15:06]; or
 - (ii) deaf and dumb, or deaf and blind, or dumb and blind, or otherwise physically incapacitated; unless in any such case he or a person accompanying him or some other person gives security to the satisfaction of the Minister for his permanent support in Zimbabwe, or for his removal therefrom whenever required by the Minister;
- (d) any person who is infected or afflicted with or suffering from a prescribed disease, unless he is in possession of a permit to enter and remain in Zimbabwe issued upon conditions fixed in the permit and complies with such conditions;
- (e) any person who, not having received a free pardon, has been convicted in Zimbabwe or elsewhere of—
 - (i) any offence specified in Part I of the Schedule; or
 - (ii) any offence at common law or in terms of any enactment, not specified in Part I of the Schedule, for which he is sentenced to imprisonment without the option of a fine, whether such imprisonment is suspended or not; or
 - (iii) any offence specified in Part II of the Schedule, other than an offence referred to in subparagraph (ii), and who is declared by the Minister in terms of subsection (2) to be a prohibited person;
- (f) any person who—
 - (i) is a prostitute or homosexual; or
 - (ii) lives or has lived on, or knowingly receives or has received, any part of the earnings of prostitution or homosexuality; or
 - (iii) has procured persons for immoral purposes;
- (g) any person who, from information received from any source, is deemed by the Minister to be an undesirable inhabitant of or undesirable visitor to Zimbabwe;
- (h) any person who—
 - (i) before the dissolution of the Federation, had been deported or removed from, ordered to leave or prohibited from entering or remaining in the Federation in terms of any law; or
 - (ii) before the 1st June, 1979, had been deported or removed from or ordered to leave Zimbabwe or deemed or declared to be prohibited immigrant;
- (i) any person who has entered or remained in Zimbabwe in contravention of this Act or a repealed Act, whether or not he has been prosecuted for such contravention;
- (j) any person declared in terms of subsection (6) to be a prohibited person;
- (k) the wife and children under the age of eighteen years and any other dependants of a person referred to in paragraphs (a) to (j).

(2) A person shall be declared to be a prohibited person in terms of subparagraph (iii) of paragraph (e) of subsection (1) by notice in writing served on him or, if his whereabouts are unknown or he has departed from Zimbabwe, by notice in the *Gazette*.

(3) If an immigration officer is of the opinion that any person who has entered Zimbabwe but who has not acquired a domicile in Zimbabwe has become, or is likely to become, a public charge—

- (a) by reason of infirmity of mind or body; or
- (b) because he is not in possession, for his own use, of sufficient means to support himself and such of his dependants as he has brought into Zimbabwe;

the immigration officer may apply to the Minister for a declaration that such person is a prohibited person.

(4) Before making an application in terms of subsection (3), the immigration officer shall notify the person concerned of his intention to do so and ask him whether he has any representations which he wishes to make to the Minister.

(5) Any representations in terms of subsection (4) shall be reduced to writing and signed by the person concerned and shall be forwarded by the immigration officer with the application in terms of subsection (3).

(6) On receiving an application and any representations forwarded in terms of subsection (5) the Minister—

- (a) may declare the person concerned to be a prohibited person;
- (b) if he declares the person to be a prohibited person, shall cause written notice thereof to be transmitted to the immigration officer concerned.

(7) The Minister may revoke any decision or declaration in terms of paragraph (a) or (g) of subsection (1) or subsection (6) affecting any person or class of persons and, if he does so, he may again exercise his powers in terms of this section in respect of that person or class of persons and this subsection shall again apply in respect of the exercise of those powers.

15 Persons who are not prohibited persons

(1) In this section—

“child”, in relation to a person, means anyone under the age of eighteen years who is that person’s offspring, whether born in or out of wedlock;

“spouse”, in relation to a person, means that person’s spouse by a union which is recognised—

(a) under the tenets of the religion which that person professed when the union was contracted; or

(b) under the law of the country in which the union was contracted;

and includes a marriage referred to in subsection (5) of section 3 of the Customary Marriages Act [Chapter 5:07]:

Provided that no one shall be deemed to be a person’s spouse if a union referred to in this definition exists between that person and anyone else who resides or who is entitled to reside in Zimbabwe.

[Subsection substituted by s. 6 of Act 8/2000.]

(2) The following persons or classes of persons shall not be prohibited persons—

(a) a Zimbabwe citizen;

(b) ...

[Paragraph repealed by s. 6 of Act 8/2000.]

(c) ...

[Paragraph repealed by s. 6 of Act 8/2000.]

(d) any person who is proved to the satisfaction of an immigration officer or, in the event of an appeal to a magistrates court, to the satisfaction of the magistrate, to be the spouse or child of a person described in paragraph (a) if the spouse or child, as the case may be, is not such a person as is described in paragraph (a), (d), (e), (f) or (g) of subsection (1) of section *fourteen*;

[Paragraph amended by s. 6 of Act 8/2000.]

(e) any person who is—

(i) duly accredited to Zimbabwe by the government of any sovereign state; or

(ii) employed in the legation, chancellery or office of a person referred to in subparagraph (i); or

(iii) a member of the household or an employee of any person referred to in subparagraph (i) or (ii);

(f) any person, other than a person described in paragraph (c), (d), (e), (f) or (g) of subsection (1) of section *fourteen*, who enters Zimbabwe—

(i) under any convention with the government of a neighbouring territory or state; or

(ii) in accordance with any scheme of recruitment and repatriation approved by the Minister;

and who complies with such conditions as may be fixed by the Minister;

(g) any person who claims to be a refugee for the purposes of the Refugees Act [Chapter 4:03] and any person who is a member of his family for the purposes of that Act, until such first-mentioned person has been afforded an opportunity to apply for recognition as a refugee in terms of section 7 of that Act;

(h) any person who applies in terms of section 7 of the Refugees Act [Chapter 4:03] for recognition as a refugee, and any person who is a member of his family for the purposes of that Act, until a final decision is reached in terms of that section upon such application;

(i) any person who is a recognized refugee or protected person in terms of the Refugees Act [Chapter 4:03].

16 Exemptions by Minister from section 14

(1) Notwithstanding anything to the contrary in this Act, the Minister may, by order in writing, exempt any person described in subsection (1) of section *fourteen* from the provisions of that subsection subject to such terms and conditions as he may fix:

Provided that, if the Minister exempts any person described in paragraph (e) of subsection (1) of section *fourteen*, the exemption shall only apply in respect of such offences as are specified in the order.

(2) The Minister may at any time, by notice in writing to the person concerned, cancel any order in terms of subsection (1) and thereafter the provisions of section *fourteen* to which the order relates shall apply to that person.

17 Prohibition of entry of prohibited person

(1) Subject to this Act—

(a) a prohibited person shall not enter or remain in Zimbabwe;

(b) an immigration officer shall refuse a prohibited person leave to enter Zimbabwe and, if he has entered Zimbabwe, such person shall forthwith depart from Zimbabwe.

- (2) Nothing in subsection (1) shall be construed as—
- (a) entitling any person who is not a prohibited person to enter, be or remain in Zimbabwe; or
 - (b) limiting any discretion conferred upon an immigration officer or any other person in terms of this Act to issue or refuse to issue a permit permitting any person who is not a prohibited person to enter, be or remain in Zimbabwe.

[Subsection inserted by s. 7 of Act 8/2000.]

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001]

18 Refusal of entry to potential prohibited person

(1) An immigration officer may refuse any person leave to enter Zimbabwe if he believes on reasonable grounds that consideration is being, or is about to be, given to deeming or declaring that person to be a prohibited person in terms of paragraph (a), subparagraph (iii) of paragraph (e) or paragraph (g) of subsection (1) of section *fourteen*.

(2) A person refused leave to enter Zimbabwe in terms of subsection (1) shall have no right to appeal or make representations in terms of Part IV in respect of such refusal and, if he has entered Zimbabwe, shall forthwith leave Zimbabwe.

(3) A refusal of leave to enter Zimbabwe in terms of subsection (1) shall lapse when it is withdrawn or on the expiry of thirty days after notice thereof was given in terms of paragraph (a) of subsection (4) of section *eight* to the person concerned, whichever is the sooner.

(4) Any person who, without just cause, fails to leave Zimbabwe forthwith in terms of subsection (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001.]

19 Permits

In regulations in terms of section *forty-one* the Minister—

- (a) shall provide for students permits, temporary employment permits and temporary permits;
- (b) may provide for other permits for persons, whether aliens or prohibited persons, to enter or remain in Zimbabwe.

20 Endorsement of return tickets

(1) An immigration officer may, as a condition of permitting a visitor to enter or remain in Zimbabwe, endorse any air, sea or rail ticket acquired by that visitor “Not Refundable in Zimbabwe”.

(2) Where a ticket has been endorsed in terms of subsection (1), no person shall, without the authority in writing of the Minister, purchase the ticket, exchange the ticket for any other thing or in any other way give value for the purchase price thereof or any part of the purchase price thereof.

(3) Any person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001.]

PART IV

APPEALS AND REVIEWS

21 Appeals

(1) Subject to subsection (2), subsection (2) of section *eighteen* and section *twenty-two*, any person who receives notice in writing in terms of paragraph (a) of subsection (4) of section *eight* that leave to enter Zimbabwe has been refused or that he is a prohibited person, may appeal to the nearest magistrates court against the refusal of leave to enter Zimbabwe or the allegation that he is a prohibited person, as the case may be.

(2) An appeal in terms of subsection (1) shall be noted—

- (a) where the person is in Zimbabwe when he receives the notice referred to in that subsection, not later than three days, Saturdays, Sundays and public holidays excluded, after receiving such notice;
- (b) where the person is outside Zimbabwe when he receives the notice referred to in that subsection, not later than ten days, Saturdays, Sundays and public holidays excluded, after receiving such notice.

(3) A magistrates court—

- (a) may, of its own motion, and shall, at the request of the appellant or of an immigration officer, reserve for the decision of the Supreme Court any question of law which arises upon an appeal heard before such magistrates court; and

(b) shall state such question in the form of a special case for the opinion of the Supreme Court and transmit such special case to the registrar thereof;
and for the purpose of paragraph (a) a question of domicile shall be treated as a question of law.

(4) A question of law stated in accordance with paragraph (b) of subsection (3) may be heard by and argued before the Supreme Court or any judge thereof at any convenient time, and the Supreme Court may—

- (a) call for further information to be supplied by the magistrate if it or he considers such information necessary;
- (b) give such answer on such case, supplemented by such information, if any, as may be supplied by the magistrate as it or he thinks fit;
- (c) make such order as to the costs of the proceedings as it or he thinks fit.

22 Jurisdiction of courts

(1) No appeal shall lie against a decision made in terms of—

- (a) paragraph (a) or (g) of subsection (1) or subsection (6) of section *fourteen*, unless such appeal is directed solely to the identity of the person affected by the decision; or
- (b) subparagraph (iii) of paragraph (e) of subsection (1) of section *fourteen*, unless such appeal is directed solely to—
 - (i) the identity of the person affected by the decision; or
 - (ii) the question of whether the person affected by the decision has been convicted of an offence specified in Part II of the Schedule.

(2) No information or reasons on which a decision in terms of section *fourteen* or a decision to withdraw or cancel a permit was made may be disclosed in any court if the Minister certifies that its disclosure is not in the public interest, and no court may question the adequacy of the grounds for any such decision.

23 Representations to Minister

(1) Any person affected by a decision made in terms of paragraph (a) or (g) of subsection (1) of section *fourteen* may, within twenty-four hours, Saturdays, Sundays and public holidays excluded, of being served with the notice referred to in paragraph (a) of subsection (4) of section *eight*, make representations in writing addressed to the Minister against such decision and the Minister may confirm or reverse such decision.

(2) No person referred to in subsection (1) shall be entitled to be given any information or reasons as to the grounds for any decision referred to therein or for the confirmation of any such decision.

PART V

DEPARTURE FROM ZIMBABWE

24 Ports of exit

(1) Subject to subsection (2), no person shall depart from Zimbabwe at any place other than a port of exit.

(2) Subsection (1) shall not apply to any person who—

- (a) having been authorized by the Minister to depart from Zimbabwe at a place other than a port of exit, complies with the terms and conditions of such authority; or
- (b) departs from Zimbabwe for a reason described in paragraph (a), (b) or (c) of subsection (1) of section 3 of the Refugees Act [*Chapter 4:03*].

(3) In any prosecution for a contravention of subsection (1)—

- (a) the onus of proving that that subsection did not apply to him shall lie upon the accused; and
- (b) if it is proved that the accused departed from Zimbabwe, it shall be presumed, unless the contrary is proved, that he departed from Zimbabwe at a place other than a port of exit.

(4) Any person who—

- (a) contravenes subsection (1); or
- (b) contravenes or fails to comply with any term or condition referred to in paragraph (a) of subsection (2).

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001.]

25 Persons departing from Zimbabwe to appear before and comply with directions of immigration officer

(1) Subject to this section and any regulations referred to in paragraph (c) of subsection (2) of section *forty-one*, any person who wishes to depart from Zimbabwe shall, on arrival at a port of exit—

- (a) present himself to an immigration officer; or
- (b) if an immigration officer is not at the time on duty or available at the port of exit, remain at the port of exit until an immigration officer comes on duty or becomes available and then present himself to the immigration officer;

and shall comply with such directions as may be prescribed.

(2) Subsection (1) shall not apply to a person referred to in subsection (2) of section *twenty-four*.

(3) Where any person wishes to depart from Zimbabwe at a port of exit which has not been prescribed as a designated port of exit for the purposes of this subsection, an immigration officer may issue to such person a permit in the prescribed form exempting him from the requirements of subsection (1) in respect of his departure at that port of exit.

(4) A permit issued in terms of subsection (3) may be issued for—

- (a) a particular departure; or
- (b) departures during such period or periods as may be specified therein.

(5) An immigration officer may require any person presenting himself in terms of subsection (1) to produce a travel document and submit to an appropriate endorsement being made thereon or, if he has no such document, to give his name and address and any person so required shall comply with such requirement.

(5a) Any person who—

- (a) contravenes subsection (1); or
- (b) without just cause, fails to comply with any requirement in terms of subsection (5);

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001.]

(6) In any prosecution for a contravention of subsection (1)—

- (a) the onus of proving that that subsection did not apply to him shall lie upon the accused;
- (b) if it is proved that the accused departed from Zimbabwe, it shall be presumed, unless the contrary is proved, that he failed, on arrival at a port of exit, to present himself to an immigration officer and to comply with such directions as may be prescribed.

26 Production of travel documents by persons departing from Zimbabwe

(1) Subject to subsection (2), no person shall depart Zimbabwe unless, if he is—

- (a) of the age of sixteen years or over, he is—
 - (i) in possession of a valid travel document issued to him; or
 - (ii) accompanied by another person who is in possession of a valid travel document issued jointly to that other person and the person departing from Zimbabwe;
- (b) under the age of sixteen years, he is—
 - (i) in possession of a valid travel document issued to him; or
 - (ii) accompanied by another person who is in possession of a valid travel document issued to that other person in which are endorsed the particulars of the person departing from Zimbabwe.

(2) Subsection (1) shall not apply to any person who—

- (a) departs from Zimbabwe as a *bona fide* member of the crew of an aircraft used as public transport or of a train; or
- (b) is given a permit in the prescribed form allowing him to depart from Zimbabwe; or
- (c) departs from Zimbabwe for a reason described in paragraph (a), (b) or (c) of subsection (1) of section 3 of the Refugees Act [Chapter 4:03].

(2a) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001.]

(3) In any prosecution for a contravention of subsection (1)—

- (a) the onus of proving that that subsection did not apply to him shall lie upon the accused;
- (b) if it is proved that the accused departed from Zimbabwe, it shall be presumed, unless the contrary is proved, that he was not in possession of a valid travel document issued to him or that he was not accompanied by another person who was in possession of a valid travel document—
 - (i) issued jointly to that other person and him; or
 - (ii) issued to that other person in which were endorsed his particulars;as the case may be.

27 Prohibition of departure of person contrary to this Part

An immigration officer shall refuse to allow a person who fails to comply with this Part to depart from Zimbabwe.

28 Impounding of travel documents unlawfully acquired or possessed

An immigration officer may impound any travel document if—

- (a) he has reasonable grounds to believe that the travel document was obtained by fraud or false pretences;
- or

- (b) he finds the travel document in the possession of a person other than the person to whom it was issued, unless that person has some lawful excuse for possessing the travel document; or
 - (c) the travel document has been mutilated in any way; or
 - (d) an amendment, endorsement or addition has been made to or inserted in the travel document by any person other than an official duly authorized to do so;
- and, if he does so, shall, unless he returns it to the lawful holder thereof, transmit the travel document to the authority which issued it or on behalf of which it was issued.

PART VI

ALIENS

29 Additional restrictions on immigration of aliens

(1) Subject to this section and without derogation from section *thirteen*, an alien shall not enter, be or remain in Zimbabwe unless he is in possession of—

- (a) a permit permitting him to enter, be or remain in Zimbabwe, as the case may be; or
- (b) a visitors entry certificate in terms of section *thirty-one* permitting him to enter, be or remain in Zimbabwe, as the case may be, and, except where a visa is dispensed with in pursuance of an arrangement to which Zimbabwe is a party, a visa or endorsement of a person authorized by the Government to place visas or such endorsement upon travel documents or other documents.

(2) Subsection (1) shall not apply to an alien who—

- (a) has his domicile in Zimbabwe; or
- (b) enters Zimbabwe as a *bona fide* member of a crew of an aircraft used as public transport or of a train; or
- (c) is a *bona fide* scholar under the age of eighteen years who has been authorized by the Minister to attend an educational institution in Zimbabwe, other than the University of Zimbabwe or any other prescribed educational institution; or
- (d) is such a person as is described in paragraph (e) or (f) of subsection (2) of section *fifteen*; or
- (e) is exempted by the Minister in terms of section *thirty* from subsection (1), but only for the period of the exemption; or
- (f) is lawfully within Zimbabwe in terms of the Refugees Act [*Chapter 4:03*].

(2a) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001.]

(3) In any prosecution for a contravention of subsection (1)—

- (a) the onus of proving that that subsection did not apply to him shall lie upon the accused;
- (b) if it is proved that the accused entered Zimbabwe, it shall be presumed, unless the contrary is proved, that he was not in possession of a permit referred to in paragraph (a) of subsection (1) or a visitors entry certificate or visa referred to in paragraph (b) of subsection (1), as the case may be.

30 Exemption from section 29

(1) The Minister may, by order in writing, exempt any alien, subject to such conditions as the Minister may impose, from all or any of the provisions of subsection (1) of section *twenty-nine*:

Provided that the Minister shall not issue any order in terms of this subsection which has the effect of permitting an alien to reside permanently in Zimbabwe.

(2) The Minister may at any time, by notice in writing to the person concerned, cancel any order in terms of subsection (1) and thereafter subsection (1) of section *twenty-nine* shall apply to that person.

31 Visitors entry certificate

(1) An immigration officer may, on the application of an alien who has complied with all the prescribed requirements—

- (a) endorse the travel document of the alien or any other document with a visitors entry certificate, which shall be—
 - (i) subject to prescribed conditions; and
 - (ii) valid for the period stated therein, which shall not exceed six months in the first instance;
- or
- (b) refuse such visitors entry certificate.

(2) An alien who is refused a visitors entry certificate in terms of paragraph (b) of subsection (1) may apply to the Minister for such a certificate and the Minister may issue or refuse such a certificate:

Provided that nothing in this subsection shall be construed as permitting an alien to be or remain in Zimbabwe for the purpose of making an application in terms of this subsection or pending the decision of the Minister.

(3) Subject to this Act, the Minister may extend the period of validity of a visitors entry certificate or amend the conditions relating to such a certificate.

32 Production of documents

(1) A police officer or immigration officer may demand from any person whom he suspects on reasonable grounds of being an alien the production of his visitors entry certificate or any permit, as the case may be.

(2) If a person referred to in subsection (1) fails—

(a) to produce any certificate or permit referred to in that subsection; or

(b) to satisfy the police officer or immigration officer that he is not an alien or that he is not required in terms of this Part to be in possession of any certificate or permit referred to in that subsection;

the police officer or immigration officer may arrest such person.

(3) Sections *eight*, *nine* and *ten* shall apply, *mutatis mutandis*, in respect of a person arrested in terms of subsection (2).

(4) If an alien to whom a visitors entry certificate or permit has been issued fails or neglects to produce it within seventy-two hours of any officer or immigration officer demanding its production, he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001.]

PART VII

OFFENCES AND PENALTIES

33 Attempt to influence issue of permit

Any person who attempts by bribery to induce or who by bribery induces any immigration officer whose duty it is to deal with applications for or the issue of permits under this Act to issue or vote for or recommend the authorization of the issue of any such permit, shall be guilty of an offence and liable to a fine not exceeding level 14 or three times the value of the bribe, whichever is the greater, or to imprisonment for a period not exceeding twenty years or to both such fine and such imprisonment.

[Section as amended by Act 22 of 2001.]

34 Re-entry of prohibited person

(1) Any person—

(a) referred to in subparagraph (i) or (ii) of paragraph (h) of subsection (1) of section *fourteen*; or

(b) who has been removed from or ordered to leave Zimbabwe or has not been authorized in terms of this Act to enter or remain in Zimbabwe;

and who is found within Zimbabwe shall be guilty of an offence unless he is in possession of a permit authorizing him to enter or remain in Zimbabwe.

(1a) Any person who is guilty of an offence in terms of subsection (1) shall be liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001.]

(2) If a person has been sentenced to imprisonment for contravening subsection (1), he may be removed from Zimbabwe in terms of this Act before the expiry of his sentence and upon such removal the said sentence shall terminate.

(3) Any person who serves any sentence for a contravention of subsection (1) or is removed from Zimbabwe as referred to in subsection (2) shall, if he returns to Zimbabwe, again be subject to this section.

35 Escape from lawful detention or custody

Any person who is lawfully arrested or detained in terms of this Act and who escapes or attempts to escape from custody or detention shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001.]

36 Other offences

(1) Any person who—

(a) for the purpose of entering, remaining in or departing from Zimbabwe in contravention of this Act or any other enactment or of assisting any other person so to enter, remain or depart, whether or not such other person is *doli capax*—

(i) makes any statement, verbally or in writing, which he knows to be false or does not know or reasonably believe to be true; or

(ii) forges any permit or travel document or any other certificate or document whatsoever or uses any such permit, travel document, certificate or document knowing it to be forged; or

- (iii) is in possession of or uses any permit or travel document or any other certificate or document whatsoever which he is not entitled to possess or use;

[Subparagraph substituted by s. 8 of Act 8/2000.]

or

- (a1) outside Zimbabwe—

- (i) forges any Zimbabwean permit or travel document; or
- (ii) is in unlawful possession of or uses any forged Zimbabwean permit or travel document, knowing it to be forged; or
- (iii) is in unlawful possession of or uses any Zimbabwean permit or travel document which he is not entitled to possess or use;

[Paragraph inserted by s. 8 of Act 8/2000.]

or;

- (b) if required to provide information in terms of regulations referred to in paragraph (n) of subsection (2) of section *forty-one*, makes any statement which he knows to be false or does not know or reasonably believe to be true; or
- (c) assists any person, whether or not such person is *doli capax*, to enter, remain in or depart from Zimbabwe in contravention of this Act; or
- (d) subject to subsection (2), conveys any person into or out of Zimbabwe in contravention of this Act; or
- (e) commits any fraudulent act or makes any false representation, by conduct, statement or otherwise, for the purpose of facilitating or assisting the entry into or departure from Zimbabwe of himself or any other person, whether or not such person is *doli capax*, in contravention of this Act; or
- (f) is in unlawful possession of, or makes use of, any permit or travel document issued to another; or
- (g) delivers a permit or travel document issued to him to any other person for use by such other person; or
- (g1) knowingly assists another person to obtain a permit or travel document to which that other person is not entitled; or

[Paragraph inserted by s. 8 of Act 8/2000.]

- (g2) offers any money or property to a Zimbabwean citizen in order to induce that Zimbabwean citizen to enter into a marriage or form of marriage with the object of—
 - (i) securing or facilitating the entry into Zimbabwe of a person who would not otherwise be permitted to enter Zimbabwe; or
 - (ii) ensuring that a person who would not otherwise have a right to remain in Zimbabwe obtains such a right;

[Paragraph inserted by s. 8 of Act 8/2000.]

or

- (g3) being a Zimbabwean citizen, accepts or agrees to accept any money or property to enter into a marriage or form of marriage for an object referred to in paragraph (g2); or

[Paragraph inserted by s. 8 of Act 8/2000.]

- (h) contravenes or fails to comply with the conditions under which any exemption, permit, certificate or other document has been granted or issued to him under this Act; or
- (i) hinders or obstructs any police officer or immigration officer in the execution of his duties under this Act; or
- (j) contravenes any provision of this Act for the contravention of which no penalty is specially provided;

shall be guilty of an offence and liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

[Subsection as amended by s. 8 of Act 8/2000 and by Act 22 of 2001]

(2) In any prosecution for an offence in terms of paragraph (d) of subsection (1), it shall be a defence if the accused proves that he did not know, had no reason to believe and could not reasonably ascertain, that the person referred to in that paragraph was being conveyed in contravention of this Act.

37 Forfeiture of vehicles, aircraft or boats

- (1) Where any person is convicted under this Act of—

- (a) entering or attempting to enter or departing or attempting to depart from Zimbabwe; or
- (b) assisting any person to enter or depart from Zimbabwe; or
- (c) conveying or attempting to convey any person into or out of Zimbabwe;

in contravention of this Act, the court may order that any vehicle, aircraft or boat used for the purpose of or in connection with the commission of the offence shall be forfeited to the State:

Provided that, if it is proved that such vehicle, aircraft or boat is not the property of the person convicted and that its owner was—

- (a) unaware that the vehicle, aircraft or boat, as the case may be, was being so used; and

(b) unable to prevent its use for the purpose of or in connection with the commission of the offence; the court shall not make such order in respect thereof.

(2) Subsections (3) to (6) of section 62 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply, *mutatis mutandis*, where an order is made in terms of subsection (1).

(3) Where a police officer or an immigration officer believes on reasonable grounds that any vehicle, aircraft or boat which is liable to forfeiture in terms of subsection (1) is likely to be removed from Zimbabwe unless it is detained or security therefor is given, he may, subject to subsection (4), seize and detain any such vehicle, aircraft or boat so that it may be submitted to the jurisdiction of the court to be dealt with in accordance with subsection (1).

(4) Subject to subsection (5) and to such other conditions as he may fix, the Minister may permit the owner or other person entitled to the lawful possession of a vehicle, aircraft or boat detained in terms of subsection (1), with or without sureties, to enter into a bond for the release of the vehicle, aircraft or boat in an amount approved by the Minister and may require such person to deposit such sum as he may fix to satisfy any judgment which may be given on the bond.

(5) The conditions of a bond entered into in terms of subsection (4) shall specify that the person referred to in that subsection shall submit the vehicle, aircraft or boat to the jurisdiction of the court when so required by the Minister and the bond may contain such other conditions as the Minister thinks fit to impose in the circumstances.

(6) Upon breach of any condition of a bond entered into in terms of subsection (4), any magistrates court may, on the application of the Minister, give judgment against the person referred to in that subsection or his sureties in accordance with the bond.

PART VIII

GENERAL

38 Persons in transit through Zimbabwe

When any person—

(a) has been removed from any country other than Zimbabwe under a warrant or order issued or made in such other country on the ground of his being an alien or of his having been found guilty of an offence in such country; and

(b) in the course of such removal enters and passes through Zimbabwe in custody;

he shall, on such entry into Zimbabwe and throughout the period of his passage through Zimbabwe in custody, be deemed to be, by reason of such warrant or order, in lawful custody and, if he escapes, he may be apprehended without warrant by any police officer or immigration officer and returned forthwith to the custody from which he escaped.

38A Liability of air carriers where passengers fail to produce valid documents

(1) In this section—

“air carrier” means a person who operates an air service to or from Zimbabwe in accordance with a permit issued in terms of the Air Services Act [*Chapter 13:01*];

“travel document”, in relation to a person who requires a visa to enter Zimbabwe, includes such a visa.

(2) Where a person enters Zimbabwe on board an aircraft operated by an air carrier and, on being required to do so, fails to produce to an immigration officer a valid travel document which he is required to possess in terms of section *thirteen*, the air carrier shall be liable, in respect of that person, to pay the Minister on demand—

(a) such sum as may be prescribed with the approval of the Minister responsible for finance and the Minister responsible for the administration of the Air Services Act [*Chapter 13:01*]; and

(b) any costs reasonably incurred in the detention of that person in terms of section *nine*.

(3) If an air carrier proves, to the satisfaction of the Minister, that a person produced a valid travel document to an employee of the air carrier immediately before embarking on the flight to Zimbabwe, the air carrier shall not incur liability under subsection (2) in respect of that person.

(4) The Minister may recover any amount payable under subsection (2) by proceedings in a court of competent jurisdiction.

(5) Any amount paid or recovered under this section shall be paid into the Consolidated Revenue Fund.

(6) For the purposes of this section, a travel document shall be regarded as valid unless its invalidity or falsity is reasonably apparent.

[Section inserted by s. 9 of Act 8/2000.]

39 Indemnity

No liability shall attach to any immigration officer in respect of any loss or damage suffered by any person as a result of the exercise or purported exercise of any power conferred or imposed upon the immigration officer by or in terms of this Act if such immigration officer acts in good faith and without culpable ignorance or negligence.

40 Evidence

(1) A certificate or written statement under the hand of an immigration officer shall, in any proceedings under this Act or in any criminal proceedings in respect of a contravention of this Act, be *prima facie* evidence of the facts stated therein and it shall not be necessary to tender oral evidence of such facts unless the court before which the proceedings are held so directs, in which event a postponement shall be allowed to enable the immigration officer whose oral evidence is required to attend.

(2) Any order, warrant, permit, certificate or other document which may be issued in terms of this Act shall be valid if signed by an immigration officer or an officer in the Public Service authorized by the Minister to do so.

(3) An order in terms of subsection (1) of section *sixteen* or subsection (1) of section *thirty* may be proved in any court by production of a copy of the order certified under the hand of the Chief Immigration Officer as a true and correct copy.

(4) In any proceedings in terms of this Act against any person—

- (a) described in the charge as being an alien; or
- (b) charged with assisting an alien to contravene this Act;

that person or, as the case may be, the person whom he is charged with so assisting, shall be deemed to be an alien unless the contrary is proved.

(5) Section 329 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply, *mutatis mutandis*, in respect of any proceedings relating to any question arising out of the provisions of this Act.

41 Regulations

(1) The Minister may make regulations for any matter for which he may by regulation provide or which may be prescribed and, generally, for the better carrying out of the objects and purposes of this Act.

(2) Regulations in terms of subsection (1) may provide for—

- (a) the powers and duties of an immigration officer;
- (b) the steps to be taken to prevent the entry into Zimbabwe of prohibited persons;
- (c) the manner in which persons entering or departing from Zimbabwe by train shall be dealt with and that all or any of the provisions of section *twelve* or *twenty-five*, as the case may be, shall not apply to such persons;
- (d) the times, places and conduct of the inquiry or examination, medical or otherwise, of persons entering or desiring to enter Zimbabwe or who, being found in Zimbabwe, are suspected of being prohibited persons;
- (e) the procedure for, and the manner of, the detention of prohibited persons and unlawful residents pending their removal from Zimbabwe and the procedure for, and the manner of, such removal;
- (f) certificates which may be issued for the purposes of this Act and, in relation to any such certificate—
 - (i) the form thereof and the conditions upon which it may be issued, renewed or extended;
 - (ii) the circumstances in which it may be cancelled or withdrawn or deemed to have been cancelled or withdrawn and the consequences of such cancellation or withdrawal;
 - (iii) the fee payable therefor;
- (g) in relation to any permit—
 - (i) the purposes for which it is issued;
 - (ii) the form thereof and the conditions upon which it may be issued, renewed or extended;
 - (iii) the circumstances in which it may be cancelled or withdrawn or deemed to have been cancelled or withdrawn and the consequences of such cancellation or withdrawal;
 - (iv) the taking and disposal of a deposit as a condition of the issue thereof;
 - (v) the fee payable therefor;
- (h) the declaration, by notice in the *Gazette* or otherwise, of any person or class of persons to be deemed to be the holders of temporary permits, and for the conditions on which such permits are deemed to have been issued and for the withdrawal of any such declaration;
- (i) the conditions under which prohibited persons may be allowed to pass through Zimbabwe while journeying or being conveyed to a place outside Zimbabwe;
- (j) the conditions subject to which visitors may enter or remain in Zimbabwe;
- (k) the form of warrants or other documents issued or used, or of declarations to be made or of the records to be kept, for the purposes of this Act and the particulars to be inserted in any such document or declaration and the fees payable therefor;
- (k1) requiring public carriers to provide their passengers with forms and documents, other than travel documents, required under this Act for entry into or departure from Zimbabwe;
[Paragraph inserted by s. 10 of Act 8/2000.]
- (l) the statistics to be kept of persons departing from Zimbabwe;
- (m) in regard to appeals heard under section *twenty-one*—
 - (i) the procedure to be followed;

- (ii) the manner of securing the attendance of witnesses;
 - (iii) the penalties which may be imposed upon a witness in an appeal who, without reasonable excuse—
 - A. fails to attend the hearing of the appeal; or
 - B. refuses to be sworn or to answer fully and satisfactorily any lawful questions put to him;
 - (iv) the lapsing of any appeal for want of prosecution thereof;
 - (n) the information relating to his liability for National Service in terms of the National Service Act [*Chapter 11:08*] to be provided by any person entering or leaving Zimbabwe;
 - (o) the conditions on which former residents of Zimbabwe may resume residence in Zimbabwe otherwise than as new immigrants or be deemed to have regained their domicile for the purposes of this Act.
- (3) The Minister may, by regulation, make additional provision for controlling, restricting or prohibiting the entry into Zimbabwe of persons who are not lawfully ordinarily resident therein, and such regulations may provide for all or any of the following matters—
- (a) the qualifications which a person must possess before he is permitted to enter Zimbabwe and prohibiting the entry of persons who do not possess such qualifications and in particular—
 - (i) requirements as to education, training and experience;
 - (ii) requirements as to capital or income;
 - (iii) that the person must have obtained employment in Zimbabwe before his arrival of such nature and for such period as may be prescribed;
 - (b) the evidence which shall be adduced for any of the qualifications referred to in paragraph (a);
 - (c) the guarantees which may be required in regard to any employment and to the maintenance and repatriation of any person and his dependants;
 - (d) the prohibition of the entry of persons seeking employment in Zimbabwe except in such occupations and subject to such conditions as may be prescribed;

Provided that regulations made under this paragraph shall not, solely in order to protect the interests of persons engaged in any particular profession, trade or industry, prohibit the entry of any person seeking employment in Zimbabwe;
 - (e) the setting up of an authority to advise the Minister as to the best method of exploiting the capacity of Zimbabwe to absorb immigrants;
 - (f) the setting up of boards or other authorities for the selection of immigrants and the functions of such boards or other authorities and the remuneration and allowances of the members thereof.
- (4) Without derogation from the Interpretation Act [*Chapter 1:01*], any regulations referred to in subsection (3) may—
- (a) prescribe different requirements for different classes of persons or for persons of different occupations;
 - (b) limit the number of persons, or the number of persons from any specified country or group of countries, who may be permitted to enter Zimbabwe during any specified period;
 - (c) provide that the Minister may, notwithstanding any limitation imposed in terms of paragraph (b), by written order provide that a specified number of persons in a specified occupation and from a specified country or group of countries may be permitted to enter Zimbabwe during any specified period in addition to the number of persons limited in terms of such paragraph;
 - (d) provide that the Minister may, in his discretion, by notice in writing, exempt any person or class of persons from such regulations.

42 Minister may amend Schedule

(1) The Minister may, by statutory instrument, at any time amend Part I of the Schedule by adding thereto or removing therefrom the description of any offence.

(2) The Minister may, by statutory instrument, at any time amend Part II of the Schedule by altering any monetary amount specified therein, to take into account any change in the value of money.

[Subsection inserted by s. 11 of Act 8/2000.]

43 Savings

(1) Any permit, warrant, direction, certificate, notice, authority or order issued or given or any bond or deposit entered into or given or any appointment made or any other thing done in terms of a repealed Act which, immediately before the 1st June, 1979, was valid shall, on and after that date, be given effect to as if it had been issued, given, entered into, made or done, as the case may be, in terms of the appropriate provisions of this Act, and this Act shall apply in respect thereof accordingly:

Provided that any order or warrant issued in terms of subsection (1) of section 3 or any warrant issued in terms of subsection (1) of section 7 of the Deportation Act [*Chapter 25 of 1974*] which was not revoked before the 1st June, 1979, shall remain in force until revoked by the Minister and that Act shall continue to apply in respect of such a warrant.

(2) Subject to subsection (1), any person who, immediately before the 1st June, 1979—

- (a) was a prohibited immigrant by virtue of paragraph (f) of subsection (1) of section 5 of the Immigration Act [Chapter 27 of 1974] shall, on and after that date, be deemed to be or to have been declared, as the case may be, to be a prohibited person in terms of paragraph (e) of subsection (1) of section *fourteen*.
Provided that section *sixteen* shall apply, *mutatis mutandis*, in respect of such a person; or
- (b) was or was deemed or declared to be a prohibited immigrant in terms of the Immigration Act [Chapter 27 of 1974] shall, on and after that date, be deemed to be or to have been deemed or declared to be a prohibited person in terms of the appropriate provision of this Act;
and this Act shall apply in respect of those persons accordingly.

SCHEDULE (Sections 14 and 42)

SPECIFIED OFFENCES

PART I

1. Treason, sedition or public violence.
2. Murder or assault with intent to murder or to do grievous bodily harm or with any other particular intent.
3. Arson or malicious damage to property.
4. Rape, incest, sodomy, bestiality, indecent assault, any unnatural offence, a contravention of any enactment forbidding carnal intercourse or indecent or immoral acts with a girl under a specified age or with an idiot or imbecile, indecent exposure, public indecency, criminal *injuria* or abortion or the termination of pregnancy in contravention of any enactment.
5. Bigamy
6. *Plagium* or abduction.
7. Theft, receiving stolen property knowing it to be stolen, fraud, forgery or uttering a forged document knowing it to be forged.
8. Counterfeiting coin or currency or uttering coins or currency knowing them to be counterfeit.
9. Perjury, subornation of perjury or defeating or obstructing the administration of justice.
10. Robbery, bribery or extortion or housebreaking with intent to commit an offence.
11. Dealing in or being in possession of unwrought precious metal or rough or uncut precious stones in contravention of any enactment.
12. Dealing in or being in possession of dangerous or habit-forming drugs or being in possession of any pipes or other utensils used in connection with the smoking of such drugs in contravention of any enactment.
13. Driving or riding in a vehicle without the consent of the owner or person in lawful charge thereof in contravention of any enactment.
14. Any offence in terms of any enactment which, in the opinion of the Minister or, in the case of an appeal to a magistrates court, in the opinion of the magistrate, is substantially similar to any offence at common law specified in this Part.
15. Any attempt, incitement or conspiracy to commit an offence specified in paragraphs 1 to 14.
16. Any offence, not being an offence under the law of Zimbabwe, by whatever name called, which, in the opinion of the Minister or, in the case of an appeal to a magistrates court, in the opinion of the magistrate, is substantially similar to an offence specified in paragraphs 1 to 15.

PART II

Any offence at common law or in terms of any enactment not specified in Part I, if a fine of not less than level six or a sentence of imprisonment without the option of a fine has been imposed, whether such fine or imprisonment is suspended or not.

[Paragraph as amended by s. 12 of Act 8/2000 and by Act 22 of 2001]

Any offence, not being an offence under the law of Zimbabwe, by whatever name called, which, in the opinion of the Minister or, in the case of an appeal to a magistrates court, in the opinion of the magistrate, is substantially similar to an offence specified in paragraph 1.