

OFFICE OF THE PRESIDENT

No. 1537.

6 October 1995

NO. 76 OF 1995: ALIENS CONTROL AMENDMENT ACT, 1995.

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

GENERAL EXPLANATORY NOTE:

- \*\* \*\* WORDS BETWEEN ASTERISKS INDICATE OMISSIONS FROM EXISTING ENACTMENTS.
- << >> WORDS BETWEEN POINTED BRACKETS INDICATE INSERTIONS IN EXISTING ENACTMENTS.

ACT

To amend the Aliens Control Act, 1991, so as to insert or amend certain definitions; to further provide for delegations by the Minister; to further regulate the issuing of provisional permits; to further regulate passports and visas; to further regulate the duties of immigration officers at ports; to further regulate agreements between the Minister and shipowners relating to compliance with certain provisions of the Act; to regulate anew the appointment, composition and duties of the Immigrants Selection Board; to substitute the system of permits for permanent residence with a new system of immigration permits and to make new provision for the granting of such permits; to provide for categories of temporary residence permits and to further regulate the issuing of such permits; to further regulate the granting of exemptions; to further regulate the invalidity and cancellation of permits; to repeal the provisions with regard to the issuing of permits to leave the Republic; to further regulate an immigration officer's powers with regard to prohibited persons; to further regulate the entering of premises; to repeal the restriction of the jurisdiction of courts of law; to further regulate the detention of persons; to further regulate the Ministers's power to make regulations; to further regulate offences, penalties and evidence; and to provide for matters connected therewith.

(Afrikaans text signed by the President.)  
(Assented to 28 September 1995.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of Arrangement of Act 96 of 1991

1. The arrangement of the Aliens Control Act, 1991 (Act No. 96 of 1991) (hereinafter referred to as the principal Act), is hereby amended(a) by the substitution for the words "Permit for permanent residence in Republic" under Chapter III of the words "Immigration permit";

- (b) by the substitution for the words "Temporary residence permit to sojourn in Republic" under Chapter III of the words "Temporary residence permit";
- (c) by the deletion of the words "Permit to leave Republic" and "Return by person who has permit to leave Republic permanently" under Chapter IV;
- (d) by the substitution for the words "Punishment of, and dealing with, persons previously dealt with under Act as prohibited persons" under Chapter V of the words "Punishment of, and dealing with, prohibited persons";

(e) by the substitution for the words "Removal of certain categories of persons from Republic" under Chapter VI for the words "Removal of certain persons from Republic"; and

(f) by the substitution for the words "Restriction of jurisdiction of courts of law, and restriction on detention" under Chapter VII of the words "Restriction on detention".

Amendment of section 1 of Act 96 of 1991, as amended by section 5 of Act 206 of 1993

2. Section 1 of the principal Act is hereby amended(a) by the substitution for the definition of "alien" of the following definition:

"'alien' means a person who is not a South African citizen \*\*or a citizen of a state the territory of which formerly formed part of the Republic\*\*";

(b) by the insertion after the definition of "board" of the following definition:

"<<' customary union' means the association of a man and a woman in a conjugal relationship according to indigenous law and custom, where neither the man nor the woman is party to a subsisting marriage, which is recognised by the Minister in terms of subsection (2)>>";

(c) by the insertion after the definition of "immigration officer" of the following definition:

"<<'immigration permit' means an immigration permit issued under section 25;>>";

(d) by the insertion after the definition of "immigration officer" of the following definition:

"<<'marriage' includes a customary union;>>";

(e) by the substitution for the definition of "passport" of the following definition:

'passport' means any passport \*\*,tourist passport, other\*\* <<or>> travel document \*\*or prescribed document of identification\*\* issued(a) to a person \*\*on behalf of the Government of the Republic\*\* <<under the South African Passports and Travel Documents Act, 1994 (Act No. 4 of 1994)>>;

(b) on behalf of the government of any country or territory, recognized by the Government of the Republic, to a person who is a citizen of the country or territory concerned but not also a South African citizen; <<or>>

(c) on behalf of any international organization, so recognized, to a person who is not a South African citizen \*\*; or

(d) to a person in accordance with an agreement between the Government of the Republic and the government of a state the territory of which formerly formed part of the Republic\*\*, and which(i) contains a personal description of such person, the name of the country in which he <<or she>> was born and the date of his <<or her>> birth, and to which a photograph of him <<or her>> is attached in which all his <<or her>> features are clearly and correctly depicted; and

(ii) in the case contemplated in paragraph (c), was recognized beforehand as such by the Minister;";

by the substitution for the definition of "port" or "port of entry" of the following definition:

"'port' or 'port of entry' means (a) any place on the coast of the Republic;

(b) any \*\*railway station or\*\* place in the Republic at or near any of the borders thereof; or

(c) any airport \*\*or aerodrome\*\* in the Republic, <<designated as such by the Minister and>> where an immigration officer is stationed;";

(g) by the substitution for the definition of "temporary residence permit" of the following definition:

" 'temporary residence permit' means \*\*a permit\*\* <<any of the permits>> referred to in section 26;";

(h) by the insertion after the definition of "this Act" of the following definition:

" <<visa' means a visa referred to in section 11.>>"; and

(i) by the addition of the following subsection, the existing section becoming subsection (1):

<<"(2) (a) A customary union shall be recognised by the Minister for the purpose of this Act, if the Minister is satisfied upon information submitted to him or her in the prescribed form by the applicant and the person alleged to be the applicant's spouse in the customary union, that the applicant is in fact a spouse in the customary union in question.

(b) The Minister may, in addition to any information submitted in terms of paragraph (a) or to clarify any information so submitted, require that further information be submitted to him or her, or may call upon any person to appear before him or her and require or allow such person to give such information orally or produce such other information as in the opinion of the Minister may assist him or her in deciding the matter in question.>>".

Amendment of section 4 of Act 96 of 1991

3. Section 4 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister may, subject to such conditions as he <<or she>> may deem necessary, delegate any power conferred on him <<or her>> by this Act, excluding a power referred to in sections 24, \*\*37 and\*\* 47, and 50 to the extent to which it applies to section 47, and 56, to an officer or employee in the \*\*service of the Department\*\* <<public service,>> but shall not be divested of any power so delegated and may set aside or amend any decision of the delegate made in the exercise of such a power.".

Amendment of section 5 of Act 96 of 1991, as amended by section 1 of Act 3 of 1993

4. Section 5 of the principal Act is hereby amended by (a) the substitution for subsection (1) of the following subsection:

"(1) Subject to the provisions of \*\*subsections (2) and\*\* <<subsection>> (3), no person shall enter the Republic at any place other than a port of entry.";

(b) by the deletion of subsection (2);

(c) by the substitution for subsection (3) of the following subsection:

"(3) The Minister may on such conditions as he <<or she>> may determine, exempt any particular person <<or category of persons>> from the provisions of subsection (1)."; and

(d) by the addition of the following subsection:

<<"(6) The court of the district in which the person referred to in subsection (5) is found, shall have jurisdiction to bear the offence.>>".

Amendment of section 10 of Act 96 of 1991, as amended by section 9 of Act 3 of 1993

5. Section 10 of the principal Act is hereby amended(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) The Director-General may at any time <<cancel a permit issued under paragraph (a) or>> extend the period or alter the conditions or purpose so specified, in such permit."; and

(b) by the substitution for paragraph (c) of subsection (5) of the following paragraph:

"(c) If a person has been convicted and sentenced under paragraph (b), he <<or she>> may before the expiry of that sentence be removed from the Republic in the manner contemplated in that paragraph, and the provisions of section \*\*43(2) and (3)\*\* <<44(4) and (5)>> shall apply mutatis mutandis in respect of his <<or her>> removal.".

Substitution of section 11 of Act 96 of 1991, as amended by sections 3 and 9 of Act 3 of 1993

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

"Passports and visas

11. <<(1) Any person who enters the Republic and fails on demand by an immigration officer to produce to him or her a valid passport and, subject to the provisions of subsections (3) and (5), a valid visa granted under subsection (4), shall be a prohibited person, unless he or she is proved to be a South African citizen.

(2) Any person under the age of 16 years shall, on entering the Republic, be deemed to be in possession of a valid passport if he or she is accompanied by his or her parent who is in possession of a passport in which the name of that person was inserted under the provisions of the South African Passports and Travel Documents Act, 1994 (Act No. 4 of 1994), or by the issuing authority.

(3) Any person who holds a valid permit issued under section 25 or 26(1)(b), (d) or (e) shall, upon his or her first entry

into the Republic after the issuing of such permit, be deemed to be in possession of a valid visa for the purpose of this section.

(4) A visa referred to in subsection (1)-

(a) may be granted by the Minister to any person who is not exempted from the requirement of a visa under subsection (5) and who has applied for such a visa in the prescribed form in order to obtain a visitor's, business or medical permit referred to in section 26(1), subject to any conditions the Minister may deem fit;

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

(ii) the person mentioned in the statement, if the visa is issued in the form prescribed for that purpose; and

(c) may at any time be withdrawn and declared null and void by the Minister.

(5) The Minister may (a) exempt any person or category of persons from the provisions of subsection (1) with regard to a visa in order to obtain a visitor's, business or medical permit referred to in section 26(1), for a specified or unspecified period and either unconditionally or subject to such conditions as the Minister may impose;

(b) exclude from any exemption granted to a category of persons under paragraph (a) any person belonging to that category; and

(c) withdraw any exemption granted under paragraph (a) to any category of persons or to any person, and, in the case of a person, the Minister may do so irrespective of whether such person was exempted as an individual or as a member of a category of persons.

(6) Any person who is a prohibited person under subsection (1) shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding 12 months and, whether or not he or she has been convicted of that offence, an immigration officer may, if such person is not in custody, arrest him or her or cause him or her to be arrested without a warrant, and may remove him or her or cause him or her to be removed from the Republic under a warrant issued by the Minister and may, pending his or her removal, detain him or her or cause him or her to be detained in the manner and at a place determined by the Director-General.

(7) If a person has been sentenced under subsection (6), such person may before the expiration of that sentence be removed from the Republic in the manner contemplated in the said subsection, and the provisions of section 44 (4) and (5) shall mutatis mutandis apply in respect of that removal.>>".

Amendment of section 15 of Act 96 of 1991

7. Section 15 of the principal Act is hereby amended by the addition of the following subsection:

" <<(3) An immigration officer may, if he or she is satisfied that a name should be added to, or deleted from, any list referred to in subsection (1), authorize such addition or deletion.>>".

Amendment of section 16 of Act 96 of 1991

8. Section 16 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (5) of the following paragraph:

"(a) If any person referred to in subsection (1) is for any reason not removed from the Republic on the ship on which he <<or she>> was conveyed to the Republic (except by reason of the fact that he <<or she>> was found not to be a prohibited person), the owner of that ship shall at the request of the immigration officer convey that person, <<or have him or her conveyed,>> free or charge to the State, to a place outside the Republic,<<and any person, not being an immigration officer, charged by the Director-General with the duty of escorting that person to such place, shall be deemed to be an immigration officer while he or she is performing the duty with which he or she has so been charged.>>".

Amendment of section 21 of Act 96 of 1991

9. Section 21 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) In order to facilitate the clearance of a ship<<(a)>> habitually calling at <<any one or more of>> the various ports <<; or>> <<(b) whose owner or master is duly represented by an agent at the port of call,>> the Minister may in his <<or her>> discretion enter into an agreement (with or without the giving of security) with the owner or master of such ship or the **representative** <<agent>> of such owner or master whereby the owner or master undertakes or it is undertaken on **his** behalf <<of the owner or master so represented,>> that the provisions of sections <<15,>> 16, 17 and 18 will be complied with in so far as they relate to such owner or master."

Substitution of section 23 of Act 96 of 1991

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

"Restriction on entry into and residence in Republic

23. Subject to the provisions of sections 28 and 29, no alien shall

(a) enter or sojourn in the Republic with a view to permanent residence therein, unless he <<or she>> is in possession of **a permit for permanent residence** <<an immigration permit>> issued to him <<or her>> in terms of section 25; or

(b) enter or sojourn in the Republic with a view to temporary residence therein, unless he <<or she>> is in possession of a permit for temporary residence issued to him <<or her>> in terms of section 26."

Substitution of section 24 of Act 96 of 1991

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

"Establishment of Immigrants Selection Board

24. <<(1) There is hereby established a board to be known as

the Immigrants Selection Board, consisting of (a) a central committee seated at Pretoria; and

(b) at least one regional committee for each of the provinces of the Republic, seated in each province at an office of the Department designated by the Director-General.

(2) The board or any committee thereof shall have the powers, functions and duties conferred upon, entrusted to or imposed upon it by or under this Act.

(3) (a) The central committee shall consist of at least five members, and each regional committee shall consist of at least three members, appointed in terms of subsection (4).

(b) All the members of the central committee and all the chairpersons of the regional committees, shall be members of the board.

(4) (a) The members of the central committee and the members of the regional committees shall be appointed by the Minister from persons who do not hold any office of profit under the Republic (i) in accordance with the principles of transparency and openness; and

(ii) with due regard to a person's suitability to serve as a member by virtue of his or her qualifications and experience.

(b) Such members shall be

(i) paid such remuneration, allowances and gratuities; and

(ii) granted such leave privileges, as the Minister may, with the concurrence of the Minister of Finance, determine.

(c) The members shall be appointed for such period of office as the Minister may either generally or in respect of any particular member determine, and a member shall remain in office for that period unless he or she resigns or dies at an earlier date, or unless he or she is removed from office by the Minister on account of misconduct or inability to perform the duties of his or her office efficiently.

(d) Any vacancy in the central or a regional committee shall be filled in accordance with the provisions of subsection (4).

(5) (a) The Minister shall designate one of the members of the central committee as the chairperson thereof.

(b) The members of a regional committee shall at the committee's first meeting elect a chairperson from their number.

(c) If the chairperson is absent from any meeting of a committee, the members present shall elect one of their number to preside at such meeting.

(d) The chairperson of the central committee shall also be chairperson of the board, and the provisions of subparagraph (c) shall apply mutatis mutandis in respect of meetings of the board.

(6) (a) The quorum for any meeting of the board or a committee shall be a majority of the total number of members of the board or committee, as the case may be.

(b) The decision of a majority of members present at any meeting of a committee or the board, shall be the decision of that committee or the board, as the case may be, and in the event of an equality of votes the person presiding at the meeting in question shall have a casting vote in addition to his or her deliberative vote.

(7) (a) The board shall convene at such times and places as the Minister may determine, with a view to advising the Minister with regard to any matter which he or she refers to the board for consideration.

(b) The meetings of any committee shall be held at such times and places as the Director-General may determine.

(8) The administrative work in connection with the functions of the board or a committee shall be performed by officers and employees of the Department, designated by the Director-General.

(9) (a) Subject to the provisions of paragraph (b), a member of the board or a committee shall not vote or in any other manner participate in the proceedings at any meeting of the board or committee, nor be present at the venue where such a meeting is held, if, in relation to any matter before the board or committee, he or she has any interest which may preclude him or her from performing his or her functions as a member of the board or committee in a fair, unbiased and proper manner.

(b) If at any stage during the course of any proceedings before the board or a committee it appears that any member has or may have an interest which may cause a conflict of interests on his or her part (i) such member shall forthwith and fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining members to discuss the matter and determine whether such member is precluded from participating in such meeting by reason of a conflict of interest;

and (ii) such disclosure and the determination of the remaining members shall be recorded in the minutes of the meeting in question.

(c) If any member of the board or a committee fails to disclose any interest as required by paragraph (b) or, subject to the provisions of that paragraph, he or she is present at the venue where a meeting of the board or a committee is held or in any manner whatsoever participates in the proceedings of the board or committee, the relevant proceedings of the board or committee shall be null and void.>>".

Substitution of section 25 of Act 96 of 1991

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

"Immigration permit

25. <<(1) An application by an alien for a permit to immigrate to the Republic, shall be made in the form prescribed by the Director-General, shall contain the prescribed information and shall be submitted to the Director-General.

(2) (a) Subject to the provisions of paragraph (b) and subsection (12), the Director-General shall submit every application received by him or her to a regional committee of the board together with any information relating to the applicant which he or she may have obtained and shall furnish such further information to that committee as it may require in connection with



such applicant.

(b) A regional committee shall not consider an application referred to it under paragraph (a), unless the applicant intends taking up permanent residence within the province in respect of which that regional committee has been appointed.

(3) If the issue to the applicant of an immigration permit would not be in conflict with the provisions of this Act or any other law, the regional committee concerned may authorize the issue to the applicant of such a permit and make the authorization subject to the condition that the applicant shall pursue his or her occupation in the province in which he or she intends to take up permanent residence, for a minimum period of 12 months, and any other condition which the committee may deem necessary.

(4) The regional committee concerned may authorize the issue to the applicant of an immigration permit if the applicant (a) (i) is of a good character; and

(ii) will be a desirable inhabitant of the Republic; and

(iii) is not likely to harm the welfare of the Republic; and

(iv) does not and is not likely to pursue an occupation in which, in the opinion of the regional committee, a sufficient number of persons are available in the Republic to meet the requirements of the inhabitants of the Republic; or

(b) is a destitute, aged or infirm member of the family of a person permanently and lawfully resident in the Republic who is able and undertakes in writing to maintain him or her.

(5) Notwithstanding the provisions of subsection (4), but subject to the provisions of subsections (3) and (6), a regional committee may, upon application by the spouse or the dependent child of a person permanently and lawfully resident in the Republic, authorize the issue of an immigration permit.

(6) A regional committee may, in the case of a person who applies for an immigration permit and who has entered into a marriage with a person who is permanently and lawfully resident in the Republic, less than two years prior to the date of his or her application, refuse to authorize such a permit unless the committee is satisfied that such marriage was not contracted for the purpose of evading any provision of this Act.

(7) When a regional committee has authorized the issue of an immigration permit the Director-General shall issue the permit subject to the condition that the person to whom it is issued, shall enter the Republic for the purpose of permanent residence therein within a period of six months from the date of issue of the permit: Provided that the Director General may, on the application of the person to whom such permit has been issued, from time to time extend the period of its validity for such period, not exceeding six months at a time, and on the conditions that the Director-General may determine.

(8) If any person to whom a permit has been issued in terms of subsection (7) does not enter the Republic for the purpose of permanent residence therein within a period of six months from the date of issue of such permit or within the further period which the Director-General may determine, the validity of such permit shall lapse.

(9) (a) A regional committee may, on an application mentioned in subsection (1) made by an alien who has been permitted under this Act to temporarily sojourn in the Republic in terms of a permit referred to in section 26(1) (b), authorize the issue to him or her of a permit in terms of this section mutatis

mutandis as if he or she were outside the Republic, and upon the issue of that permit he or she may reside permanently in the Republic.

(b) Notwithstanding the provisions of paragraph (a), a regional committee may authorize a permit in terms of this section to any person who has been permitted under section 26(1) to temporarily sojourn in the Republic, if such person is a person referred to in subsection (4) (b) or (5).

(10) If a regional committee rejects an application submitted to it in terms of subsection (2), that committee shall not be obliged to reconsider such application, and a regional committee shall not consider another such application by the same person before the expiration of a period of not less than one year from the date on which the said person was informed of the decision of the committee: Provided that if the Director-General receives any new information regarding such person which may influence a regional committee to reverse its decision, he or she may at any time request that committee to reconsider the first-mentioned application.

(11) After receipt of a request in terms of subsection (10), the regional committee shall reconsider the application in question as if it had been submitted to that committee in terms of subsection (2).

(12) A regional committee(a) shall at the request of the chairperson of the central committee, whenever that chairperson deems it necessary, or whenever review proceedings have been instituted in the prescribed manner; or

(b) may of its own accord, refer any application to the central committee for consideration or reconsideration.

(13) Whenever an application is referred to the central committee in terms of subsection (12), the central committee may(a) confirm or set aside the decision of a regional committee in respect of such application; and

(b) if a decision is set aside or if the regional committee concerned has not yet made a decision-

(i) consider that application as if it had been submitted to the central committee in terms of subsection (2); or

(ii) refer the application back to that regional committee together with such recommendations as the central committee deems fit, in which case the regional committee shall reconsider that application in the same manner mutatis mutandis provided for in subsection (11).

(14) Any person who endeavours to induce any member of a committee or any officer or employee whose duty it is to deal with applications for, or the issue of, permits under this section to effect, vote for or recommend the authorization of the issue of such a permit, shall be guilty of an offence.

(15) The Director-General may, for the purposes of subsection (1), prescribe different forms for different categories of persons.>>".

Substitution of section 26 of Act 96 of 1991

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

"Temporary residence permit

26. <<(1) There shall for the purposes of this Act be the following categories of temporary residence permits:

- (a) A visitor's permit, which may be issued to any alien who applies for permission to temporarily sojourn in the Republic for any bona fide purpose other than a purpose for which a permit referred to in paragraphs (b) to (f) is required;
- (b) a work permit, which may be issued to any alien who applies for permission(i) to be temporarily employed in the Republic with or without any reward; or
  - (ii) to temporarily manage or conduct any business in the Republic whether for his or her own account or not;
- (c) a business permit, which may be issued to any alien who applies for permission to enter the Republic to attend to business matters, other than business matters for which a work permit is required;
- (d) a study permit, which may be issued to any alien who applies for permission to enter and temporarily sojourn in the Republic as a bona fide student at any primary, secondary or tertiary educational institution;
- (e) a workseeker's permit, which may be issued to any alien who applies for permission to enter the Republic in order to enter into a contract of employment with an employer in the Republic referred to in paragraph (b) (i) or to enter into a contract for the purposes of paragraph (b) (ii); and (f) a medical permit, which may be issued to any alien who applies for permission to enter the Republic for the purposes of receiving medical treatment.

(2) (a) Subject to paragraph (b) and subsection (5), application for a work permit, study permit or a workseeker's permit referred to in subsection (1), may only be made while the applicant is outside the Republic and such applicant shall not be allowed to-enter the Republic until a valid permit has been issued to him or her.

(b) Paragraph (a) shall not apply in respect of the holder of a workseeker's permit, if he or she applies for a work permit in the Republic after the contract of employment or other contract contemplated in the workseeker's permit has been entered into.

(3) (a) An immigration officer, in the case of an application for a visitor's permit, business permit or a medical permit referred to in subsection (1), or the Director-General, in the case of an application for any of the permits referred to in that subsection, may, on the application of an alien who has complied with all the relevant requirements of this Act, issue to him or her the appropriate permit in terms of subsection (1) to enter the Republic or any particular portion of the Republic and to sojourn therein, during such period and on such conditions as may be set forth in the permit.

(b) The Director-General shall only issue a work or workseeker's permit with due regard to the provisions of section 25(4) (a) (i) and (iv) of this Act.

(4) (a) If an immigration officer or the Director-General, as the case may be, intends issuing a temporary residence pen-nit under subsection (3) to an alien, he or she may, in order to ensure that the period of sojourn stated in the permit or the purpose for, or the conditions under, which the permit was issued are observed or complied with, require the alien, before the permit is issued to him or her, to deposit with him or her an amount fixed by the immigration officer, not exceeding an amount generally

determined by the Director-General, or to lodge with him or her in the prescribed manner, a guarantee by a bank finally registered in terms of the Banks Act, 1990 (Act No. 94 of 1990), for the amount concerned.

(b) An amount or guarantee deposited or lodged with an immigration officer in terms of paragraph (a) shall, subject to paragraph (c), be refunded to the alien or cancelled as the case may be, after his or her final departure from the Republic or upon his or her acquisition of an immigration pen-nit:

Provided that when an immigration officer is satisfied that an alien, at the expiry of his or her permit, does not have sufficient funds to cover the costs of his or her departure from the Republic, such immigration officer may recover from the deposit or guarantor, as the case may be, the amount which is necessary to defray such costs.

(c) If, in the opinion of the Director-General, an alien failed to leave the Republic upon the expiry of the permit or to comply with the purpose for which, or with a condition subject to which, a permit was issued to him or her under subsection (3), the Director-General may order that the amount deposited with the immigration officer be forfeited to the State or, if a guarantee was lodged with the immigration officer, that the amount payable in terms of the guarantee be recovered for the benefit of the State.

(5) When a temporary residence permit is issued to an alien, an appropriate permit in terms of this section may also be issued to the spouse and to a dependent child of that alien, as well as to an alien who is in the employ and a member of the household of the first-mentioned alien, if the spouse, child or employee accompanies or resides with the first-mentioned alien.

(6) The Director-General may from time to time extend the period for which, or alter the conditions subject to which, a pen-nit was issued under subsection (3), and a permit so altered shall be deemed to have been issued under the said subsection.

(7) Any person to whom a permit was issued under subsection (3) and who remains in the Republic after the expiration of the period for which, or fails to comply with the purpose for which, or with a condition subject to which, it was issued, shall be guilty of an offence and may be dealt with under this Act as a prohibited person.>>".

Amendment of section 27 of Act 96 of 1991, as amended by section 9 of Act 3 of 1993

14. Section 27 of the principal Act is hereby amended(a) by the substitution for subsection (1) of the following subsection:

"(1) An alien who at any time entered the Republic and, irrespective of the circumstances of his <<or her>> entry, is not or is not deemed to be in possession of **\*\*a permit for permanent residence\*\*** <<an immigration permit>> issued to him <<or her>> under section 25 or a temporary residence permit issued to him or her under section 26 or has not under section 28 been exempted from the provisions of section 23 (a) or (b), shall present himself <<or herself>> to an immigration officer or to an officer of the Department in one of its offices.";

(b) by the substitution for subsection (3) of the following subsection:

"(3) An alien referred to in subsection (1) who fails to comply with the provisions of that subsection or an alien referred to in subsection (2) who fails to comply with the provisions of the last-mentioned subsection

or any alien so referred to who fails, on being called upon to do so by an immigration officer, then and there to furnish to such immigration officer the particulars determined by the Director-General to enable such immigration officer to consider the issuing to the said alien of a temporary residence permit under section 26<<(1)a>> , shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months, and whether or not he <<or she>> has been convicted of that offence, any immigration officer may, if he <<or she>> is not in custody, arrest him <<or her>> or cause him <<or her>> to be arrested without a warrant, and may remove him <<or her>> or cause him or her to be removed from the Republic under a warrant issued by the Minister and may, pending such removal, detain him <<or her>> or cause him <<or her>> to be detained in such manner and at such place as may be determined by the Director-General."; and

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

"(5) The provisions of section \*\*43(2) and (3)\*\* <<44(4) and (5)>> shall mutatis mutandis apply to any alien referred to in subsection (3) of this section in the same manner in which they apply to persons referred to in subsection (1) of the first-mentioned section."

Amendment of section 28 of Act 96 of 1991, as amended by section 37 of Act 132 of 1993

15. Section 28 of the principal Act is hereby amended(a) by the substitution for subsection (2) of the following subsection:

"(2) Notwithstanding the provisions of this Act, the Minister may, << if he or she is satisfied that there are special circumstances which justify his or her decision,>> exempt any person or category of persons from \*\*all or any of\*\* the provisions of \*\*this Chapter\*\* <<section 23>>, and for a specified or unspecified period and \*\*either unconditionally or\*\* subject to such conditions as the Minister may impose, and may do so also with retrospective effect."; and

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

"(5) The Minister may, <<notwithstanding any provision to the contrary in this Act,>> issue to any person whose exemption is withdrawn under subsection (4), \*\*a\*\* <<an appropriate>> temporary residence permit referred to in section 26 to sojourn in the Republic or any particular part of the Republic."

Amendment of section 29 of Act 96 of 1991

16. Section 29 of the principal Act is hereby amended(a) by the substitution for subsection (2) of the following subsection:

"(2) If an alien referred to in paragraph (b) of subsection (1) ceases, while he <<or she>> is in the Republic, to belong to any category of persons contemplated in that paragraph, he <<or she>> may, after the expiration of a period of three months as from such cessation, be dealt with under this Act as a prohibited person, unless, <<notwithstanding any provision to the contrary in this Act,>> the board has in terms of section 25 granted him <<or her>> permission to remain in the Republic for the purpose of permanent residence therein or \*\*unless\*\* he <<or she>> has been granted \*\*permission\*\* <<an appropriate permit>> in terms of section 26 to remain in the Republic during such period and on such conditions as the immigration officer concerned may have determined."; and

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

Amendment of section 30 of Act 96 of 1991, as amended by section 4 of Act 3 of 1993

17. Section 30 of the principal Act is hereby amended(a) by the substitution for subsection (2) of the following subsection:

<<"(2) The Minister may withdraw an immigration permit issued in terms of section 25 and by notice in writing order the holder of such permit to leave the Republic within a period stated in that notice if(a) the application for such a permit contains incorrect information; or

(b) the holder of such a permit or his or her agent has furnished incorrect information in connection with that application or any application for the extension of the validity of such permit; or

(c) the said holder fails to comply with a condition imposed under section 25(3); or

(d) the said holder, within a period of three years from the date of issue of the permit, without the consent of the Minister engages in the Republic in any occupation other than the occupation stated in the permit to be his or her occupation; or

(e) the said holder obtained the permit on the basis of a marriage entered into less than two years prior to the date of issue of the permit, and such marriage is judicially annulled or terminated within two years subsequent to the said date, unless the Minister is satisfied that such marriage was not contracted for the purposes of evading any provision of this Act; or it appears to the satisfaction of the Minister that the said holder did not enter the Republic for the purpose of permanent residence therein, and upon the expiration of the period mentioned in the said notice, the permit shall become null and void.>>>"; and

(b) by the addition of the following subsection:

"<<(6) Unless the Minister directs otherwise, a permit issued in a family context or under section 25(5) or 26(5), as the case may be, to the spouse, dependent child or employee of an alien whose permit is cancelled under this section, shall also become null and void in the manner mutatis mutandis provided for in subsection (2) or (3).>>".

Amendment of section 35 of Act 96 of 1991, as amended by section 9 of Act 3 of 1993

18. Section 35 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: .

"(1) No person shall leave the Republic for the purpose of proceeding to another country(a) unless he <<or she>> is, at the time when he <<or she>> leaves the Republic, in possession of \*\*-

(i)\*\* a passport;

\*\* (ii) a permit issued to him in terms of section 37(1) (a); or

(iii) a permit issued to him in terms of section 37(1) (b);\*\* or (b) unless, if he <<or she>> is a person under the age of 16 years who does not hold a passport issued to himself <<or herself,>> he <<or she>> is accompanied by his <<or her>> parent who holds a passport in which his or her name was entered \*\*on behalf of the Government of the Republic\*\* <<in terms of the provisions of the South African Passports and Travel Documents Act, 1994 (Act No. 4 of 1994),>> or <<on behalf of>> \*\*a\*\*

<<any>> government <<or international organization>> recognized by the Government of the Republic; and

(c) except at a port of entry and, subject to the provisions of subsection (2), unless he <<or she>> has presented himself <<or herself>> there to an immigration officer \*\*-

(i)\*\* unless the passport \*\*or permit\*\* referred to in paragraph (a) that he <<or she>> holds bears an endorsement, or he <<or she>> is in the possession of a certificate by the Minister or an immigration officer to the effect, that he <<or she>> has been granted permission to leave the Republic from time to time at a place other than a port of entry \*\*; or

(ii) unless he is a person belonging to a category of persons authorized under section 5(2) to enter the Republic at a place referred to in that section and the place where he or she leaves the Republic is that place\*\*. ".

Amendment of section 36 of Act 96 of 1991

19. Section 36 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister may, on the conditions which he <<or she>> deems fit, exempt any person <<or category of persons>> from the provisions of section 35(1)".

Repeal of section 37 of Act 96 of 1991

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

Repeal of section 38 of Act 96 of 1991

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

Amendment of section 41 of Act 96 of 1991

22. Section 41 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (6) of the following paragraph:

"(b) If any person has been convicted and sentenced in respect of an offence under paragraph (a), he <<or she>> may before the expiration of his <<or her>> sentence be removed from the Republic in the manner contemplated in that paragraph, and the provisions of section \*\*43(2) and (3)\*\* <<44(4) and (5)>> shall mutatis mutandis apply in respect of such person."

Substitution of section 43 of Act 96 of 1991, as amended by section 9 of Act 3 of 1993

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

"Punishment of, and dealing with, prohibited persons

43. \*\*(1)\*\* If any person after having been refused permission to enter, removed from, or ordered to leave the Republic (whether before or after the commencement of this Act), is found within the Republic, he <<or she>> shall be guilty of an offence and (a) on conviction he <<or she>> shall be liable to a fine or to imprisonment for a period not exceeding 12 months; <<and>> (b) he <<or she>> \*\*may be removed at any time from the Republic under a warrant issued by an immigration officer\*\* <<shall be dealt with in accordance with the provisions of section 44>>\*\*; and

(c) if he is not in custody, he may be arrested without a warrant and, pending his removal, be detained in the manner and at the place determined by the Director-General.

(2) Imprisonment imposed under subsection (1) shall terminate as soon as the person concerned is removed from the Republic.

(3) An officer in charge of the prison concerned shall, if a warrant for the removal or release of a person referred to in this section is produced to him by an immigration officer or police officer, deliver such person to that immigration officer or police officer, and if such person is not released he shall be deemed to be in lawful custody while he is in the custody of an immigration officer or police officer for the time being in possession of that warrant\*\*."

Substitution of section 44 of Act 96 of 1991, as amended by section 9 of Act 3 of 1993

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

"Removal of certain persons from Republic

44. (1) <<(a)>> An immigration officer \*\*shall cause any person who is a prohibited person and enters or is found in the Republic to be removed therefrom\*\* <<may, if a person who is a prohibited person, enters or is found in the Republic, and is not in custody, arrest him or her, or cause him or her to be arrested, without a warrant, and shall, irrespective of whether such person is arrested or not, remove him or her from the Republic under a warrant issued by the Minister, or cause him or her to so be removed from the Republic and may, pending his or her removal, detain him or her or cause him or her to be detained in the manner and at the place determined by the Director-General.

(b) An immigration officer may, before any prohibited person is removed under paragraph (a) or subsection (2), require such person to deposit with the Department a sum of money sufficient to cover any expenses that may be incurred by the Department in connection with the removal, detention, maintenance and custody of such person.

(c) If a deposit is fixed in terms of paragraph (b), the immigration officer may in the prescribed manner enforce payment of such deposit if so authorized by the Minister.

(d) If ordered by a court of law, any assets of the person concerned in the Republic, which he or she acquired in contravention of the provisions of section 32, shall be forfeited to the State.

(e) Any person who fails to comply with an order made in terms of paragraph (c) shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding 12 months.>> (2) Any person (other than a South African citizen \*\*by birth or descent\*\*) who(a) having been removed from the Republic or, while being subject to an order issued under a law to leave the Republic, returns thereto without lawful authority or fails to comply with such order; or

(b) having been refused permission to enter the Republic, whether before or after the commencement of this Act, has entered the Republic, shall be guilty of an offence and liable on



conviction to a fine or to imprisonment for a period not exceeding 12 months and may, if not already **under** in detention, be arrested without warrant and removed from the Republic under a warrant issued by the Minister and, pending his <<or her>> removal, be detained in the manner and at the place determined by the Director-General.

(3) If any person has been convicted and sentenced under **subsection (1)** <<section 43 or this section,>> he <<or she>> may, before the expiration of his <<or her>> sentence, be removed from the Republic in the manner contemplated in **that subsection** <<this section>> **and the provisions of section 43(2) and (3) shall mutatis mutandis apply in respect of his removal**.

<<(4) Imprisonment imposed under section 43 or this section shall terminate as soon as the person concerned is removed from the Republic.

(5) An officer in charge of the prison concerned shall, if a warrant for the removal or release of a person referred to in this section is produced to him or her by an immigration officer or police officer, deliver such person to that immigration officer or police officer, and if such person is not released he or she shall be deemed to be in lawful custody while he or she is in the custody of an immigration officer or police officer who is at that time in possession of that warrant.>>".

Substitution of section 45 of Act 96 of 1991

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

"Removal of persons from Republic because of certain offences

45. (1) Any person (other than a South African citizen **by birth or descent**) who, whether before or after the commencement of this Act, has been convicted of an offence referred to in section 58 or Schedule I or 11 in respect of which he <<or she>> has been sentenced to a fine of not less than R4000, whether or not with imprisonment as an alternative, or to imprisonment for a period of not less than 12 months, whether or not as an alternative to a fine, may be arrested and removed from the Republic under a warrant issued by the Minister and, pending his <<or her>> removal, be detained in the manner and at the place determined by the Director-General.

(2) The provisions of section **43(2) and (3)** <<44(4) and (5)>> shall mutatis mutandis apply in respect of any person referred to in subsection (1) of this section."

Substitution of section 46 of Act 96 of 1991

26. The following section is hereby substituted for section 46 of the principal Act:

"Removal from Republic of persons who because of offences are deemed undesirable inhabitants of or visitors to Republic

46. (1) Any person (other than a South African citizen **by birth or descent**) who is convicted of any offence committed by him <<or her>> in the Republic within three years after he <<or she>> entered the Republic by virtue of **a** <<an immigration>> permit issued to him <<or her>> in terms of section 25 or after he <<or she>> was exempted in terms of section 28 from the obligation to obtain such a permit or while

a visitor to the Republic and who, by reason of the circumstances of such offence, his <<or her>> previous convictions (if any) and his <<or her>> family affairs, is deemed by the Minister to be an undesirable inhabitant of or visitor to the Republic, may be arrested and removed from the Republic under a warrant issued by the Minister and may, pending his <<or her>> removal, be detained in the manner and at the place determined by the Director-General.

(2) The provisions of section \*\*43(2) and (3)\*\* <<44(4) and (5)>> shall mutatis mutandis apply in respect of any person referred to in subsection (1) of this section."

Amendment of section 47 of Act 96 of 1991

27. Section 47 of the principal Act is hereby amended by the deletion of subsection (2).

Amendment of section 51 of Act 96 of 1991, as substituted by section 6 of Act 3 of 1993

28. Section 51 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) If a person has been sentenced under subsection (1) he <<or she>> may be removed from the Republic in the manner provided for in that subsection before the expiration of his <<or her>> sentence, and the provisions of section \*\*43(2) and (3)\*\* <<44(4) and (5)>> shall mutatis mutandis apply in respect of the removal of such person."

Amendment of section 53 of Act 96 of 1991, as amended by section 9 of Act 3 of 1993

29. Section 53 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) If a person is serving a sentence of imprisonment under subsection (2), he <<or she>> may be removed from the Republic in the manner contemplated in that subsection before the expiration of such sentence, and the provisions of section \*\*43(2) and (3)\*\* <<44(4) and (5)>> shall mutatis mutandis apply in respect of his <<or her>> removal."

Amendment of section 54 of Act 96 of 1991

30. Section 54 of the principal Act is hereby amended (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) <<subject to the provisions of subsections (5) to (10), with a warrant,>> enter upon <<and conduct a search of>> any premises;"

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

"(c) examine any books, records, statements, registers or other documents found on such premises and which in any way relate to the occupation of or residence on such premises, and make copies of or extracts from such books, records, statements, registers or other documents <<or seize, against the issue of a receipt, anything on or in the premises which in his or her opinion has a bearing on the matters mentioned in paragraph (d), or which he or she wishes to retain for further examination or for safe custody;>>"

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

(d) by the addition of the following subsections:

"<<(4) A person from whom a book or document has been taken under subsection (1) (c) shall at his or her request be allowed, at his or her own expense and under supervision, to make copies thereof or extracts therefrom at any reasonable time.

(5) A warrant referred to in subsection (1) shall be issued by a magistrate who has jurisdiction in the area where the premises in question are situated, and shall only be issued if it appears to the magistrate from information on oath that there are reasonable grounds for believing that a prohibited person, or any book, record, statement, register or other document mentioned in subsection (1) is upon or in such premises, and shall specify which of the acts mentioned in paragraphs (b) to (e) of that subsection may be performed thereunder by the person to whom it is issued.

(6) A warrant issued in terms of this section shall be executed by day unless the magistrate who issues the warrant authorizes the execution thereof by night at times which shall be reasonable, and any entry upon or search of any premises specified in such warrant shall be conducted with strict regard to decency and order, including(a) a person's fight to, respect for and the protection of his or her dignity;

(b) the fight of a person to freedom and security; and

(c) the fight of a person to his or her personal privacy.

(7) Any immigration officer executing a warrant in terms of this section shall immediately before commencing with the execution(a) identify himself or herself to the person in control of the premises, if such person is present, and hand to such person a copy of the warrant or, if such person is not present, affix such copy to a prominent place on the premises;

(b) supply such person at his or her request with particulars

(8) (a) Any immigration officer may without a warrant enter upon any premises, other than a private dwelling, and search for, seize and remove any book, record, statement, register or other document referred to in subsection (1)-

(i) if the person who is competent to do so consents to such entry, search, seizure and removal; or

(ii) if he or she upon reasonable grounds believes that(aa) the required warrant will be issued to him or her in terms of subsection (5) if he or she were to apply for such warrant;

and

(bb) the delay caused by the obtaining of any such warrant would defeat the object of the entry, search, seizure and removal.

(b) Any entry and search in terms of paragraph (a) shall be executed by day, unless the execution thereof by night is justifiable and necessary.

(9) (a) Any immigration officer who may on the authority of a warrant issued in terms of subsection (5), or under the provisions of subsection (8), enter upon and search any premises,

may use such force as may be reasonably necessary to overcome resistance to such entry or search.

(b) No immigration officer may enter upon or search any premises unless he or she has audibly demanded admission to the premises and has notified the purpose of his or her entry, unless such officer is upon reasonable grounds of the opinion that any book, record, statement, register or other document may be destroyed if such admission is first demanded and such purpose is first notified.

(10) A warrant issued in terms of this section may be issued on any day and shall be of force until (a) it is executed; or

(b) it is cancelled by the magistrate who issued it or, if the magistrate is not available, by any other magistrate; or

(c) the expiry of one month from the day of its issue; or

(d) the purpose for the issuing of the warrant has lapsed, whichever may occur first.>>".

Substitution of section 55 of Act 96 of 1991 31. The following section is hereby substituted for section 55 of the principal Act:

"Restriction on detention 55. <<(1) If any person is detained under the provisions of this Act elsewhere than on a ship, such detention shall, subject to the provisions of subsection (5), not be for a period longer than 48 hours from the time of his or her arrest, or from the time on which he or she was taken into custody, or from the time on which an examination in terms of section 7 commences, as the case may be.

(2) If the period of 48 hours expires on a day which is not an ordinary working day, the said period shall be extended to four o'clock in the afternoon of the first ordinary working day thereafter.

(3) If an examination referred to in section 7(1)(iii) or (iv) is not concluded before the period of 48 hours has expired, the immigration officer shall (a) release the person in question; or

(b) issue to that person a provisional permit in terms of section 10; or (c) after he or she has in writing in the prescribed form informed the person in question of the reasons for such further detention, detain that person for such longer period, not exceeding a period of 48 hours at a time, for as long as may be reasonable and necessary.

(4) For the purpose of this section 'ordinary working' day means any day of the week from Monday to Friday, other than a public holiday.

(5) Subsections (1) to (4) shall not apply in respect of a person detained under this Act pending his or her removal: Provided that such a detention shall not be for a longer period than is under the circumstances reasonable and necessary, and that any detention exceeding 30 days shall be reviewed immediately, by a judge of the Supreme Court of the provincial division in whose area of jurisdiction the person is detained, designated by the Judge President of that division for the purpose, and provided further that such detention shall be reviewed in this manner after the expiry of every subsequent period of 90 days.>>".

Amendment of section 56 of Act 96 of 1991, as amended by section 7 of Act 3 of 1993

32. Section 56 of the principal Act is hereby amended(a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:

"(c) the procedure regulating the entry <<into and departure from the Republic>> of persons \*\*into the Republic\*\* at a port of entry, <<and the requirements and conditions to be complied with at such a port;>>"

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

the permits and the certificates which may be issued under this Act, the conditions subject to which such permits or certificates may be issued, the circumstances under which such permits or certificates may be cancelled or withdrawn, the fees which may be charged in respect of <<the application for, and the issuing of,>> such permits or certificates, and the amount and nature of the security required to ensure compliance with the conditions upon which a permit to enter and reside for a specified period may be issued to a prohibited person;"

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

(j) the fees that may be charged in respect of the <<application for and>> issuing of visas;"

(d) by the substitution for paragraph (l) of subsection (1) of the following paragraph:

"(l) the requirements and conditions which should be complied with by any person who on behalf of any other person applies for a permit referred to in section 25 or 26 or for the extension of the period of validity of a permit referred to in section 26, <<and the registration of any person, other than an attorney, who makes it his or her business to make such applications on behalf of other persons, including the requirements and conditions under which such registration may take place as well as the circumstances under which such registration may be cancelled;>>"

(e) by the addition to subsection (1) of the following paragraphs:

<<"(m) the manner in which payment of a deposit referred to in section 44 may be enforced;

(n) the steps to be taken to ensure proper exploitation of the local labour market before a work permit or workseeker's permit is issued under section 26(1);

(o) the powers, functions and duties of the Immigration Selection Board and its committees, which are deemed necessary for the better achievement of the objects and purposes of this Act;

(p) the manner in which and the conditions whereunder a decision of a regional committee of the Immigration Selection Board made under section 25, may be subjected to review by the central committee of that board;

(q) the circumstances whereunder and the manner in which a penalty shall be incurred by and recovered from the owner, agent or person in control of a conveyance and who conveyed a prohibited person referred to in section 11 to the Republic,>>"; and by the addition of the following subsection:

<<"(5) Any fees which may be prescribed under subsection (1) shall be prescribed by the Minister with the concurrence of the Minister of Finance.>>".

Amendment of section 57 of Act 96 of 1991, as amended by section 9 of Act 3 of 1993

33. Section 57 of the principal Act is hereby amended(a) by the substitution for paragraph (a) of the following paragraph:

"(a) in any manner aids or abets a person in entering or remaining <<or attempting to enter or remain>> in the Republic, or in departing <<or attempting to depart>> from the Republic with the intent to proceed to another country, in contravention of this Act;"

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

"(c) conveys or causes to be conveyed <<to or>> into the Republic a person who is not in possession of a <<valid visa or of a valid>> passport and who is not a South African citizen **by birth or descent**;" and

(c) by the substitution for paragraph (e) of the following paragraph:

"(e) for the purpose of entering or remaining in the Republic, or of facilitating or assisting the entrance into or residence in the Republic of himself <<or herself>> or any other person, <<whether>> in contravention of this Act <<or not,>> commits any fraudulent act or makes any false representation by conduct, statement or otherwise,".

Amendment of section 58 of Act 96 of 1991, as amended by sections 8(b) and 9 of Act 3 of 1993

34. Section 58 of the principal Act is hereby amended by the substitution for subsections (2) and (3) of the following subsections:

"(2) If a person has been convicted of a contravention of section 32(1) (a) or (b) <<or section 32(2) or 57,>> **the court shall ascertain** <<he or she shall be liable to pay to the State>> the amount of the costs incurred <<or required>> by the State in <<detaining and>> removing the alien concerned from the Republic **and, irrespective of any penalty imposed, order the person convicted to pay that amount to the State**."

(3) An **order made** <<amount payable>> in terms of subsection (2) shall, <<when fixed by the Director-General,>> have the effect of a civil judgment in a magistrate's court. "

Amendment of section 59 of Act 96 of 1991

35. Section 59 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) A certificate,<<including a certificate in respect of a copy of or extract from any book, record, statement, register or other document referred to in section 54(1) (c)>>, or written authority under the hand of

an immigration officer shall in any proceedings under this Act be prima facie proof of the facts stated therein, and it shall not be necessary to tender oral evidence in respect of such facts, unless the court before which such proceedings are held, specially so directs, in which case a postponement shall be granted to enable the immigration officer whose presence is required, to attend."

Substitution of Schedule II of Act 96 of 1991

36. The following Schedule is hereby substituted for Schedule 11 of the principal Act:

"Schedule II

Offences referred to in section 45

Dealing in, selling or being in possession of unwrought precious metal or rough or uncut precious stones in contravention of a law.

Contravention of any provision of the Insolvency Act, 1936 (Act No. 24 of 1936).

Contravention of section 319 (3) of the Criminal Procedure Act, 1955 (Act No. 56 of 1955).

Contravention of section 36 or 37 of the General Law Amendment Act, 1955 (Act No. 62 of 1955).

Contravention of any provision of the Sexual Offences Act, 1957 (Act No. 23 of 1957), which constitutes an offence under that Act.

Contravention of the \*\*Prevention of\*\* Corruption Act, \*\*1958 (Act No. 6 of 1958)\*\* <<1992 (Act No. 94 of 1992)>>.

\*\*Contravention of section 22A of the Heraldry Act, 1962 (Act No. 18 of 1962).\*\* Contravention of section 18 of the \*\*Price Control\*\* <<Sales and Service Matters>> Act, 1964 (Act No. 25 of 1964).

\*\*Contravention of section 2(1) of the Indecent or Obscene Photographic Matter Act, 1967 (Act No. 37 of 1967).\*\* Contravention of section 39 (1)(h), (i), (j), (k), (l) or (m) of the Arms and Ammunition Act, 1969 (Act No. 75 of 1969). - Contravention of the Intimidation Act, 1982 (Act No. 72 of 1982).

Contravention of section 54 \*\*55, 56(1) (a), (b), (c), (g), (i), (j), (k), (m), (n), (o) or (p), 57 (1), 59 or 60\*\* of the Internal Security Act, 1982 (Act No. 74 of 1982).

\*\*An offence in respect of which a penalty in terms of section 58 of the Internal Security Act, 1982, has been imposed.\*\* Contravention of the Protection of Information Act, 1982 (Act No. 84 of 1982).

\*\*Contravention of section 92 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983).\*\* Dealing in, being in possession of or conveying endangered, scarce and protected game or plants or parts or remains thereof in contravention of a Provincial Ordinance.

Contravention of a law of exchange control."

Short title and commencement

37. This Act shall be called the Aliens Control Amendment Act, 1995, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

