

No. 23, 1964.]

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

ACT

To amend the Admission of Persons to the Union Regulation Act, 1913, the Aliens Act, 1937, the South African Citizenship Act, 1949, the Departure from the Union Regulation Act, 1955, and the Commonwealth Relations Act, 1962, and to provide for other incidental matters.

(English text signed by the State President.)
(Assented to 5th March, 1964.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. The following section is hereby substituted for section five of the Admission of Persons to the Union Regulation Act, 1913:

"Persons who are not to be deemed prohibited persons.

5. (1) The following persons or classes of persons shall not be prohibited persons for the purposes of section four, namely—

- (a) any member of a military force of any country which has been granted consent by the Government to enter the Union;
- (b) the officers and crew of a public ship of any foreign state while the ship is in port;
- (c) any diplomatic agent as defined in section one of the Diplomatic Privileges Act, 1951 (Act No. 71 of 1951), or any person accredited to the Governor-General as consul-general or consul or vice-consul for any foreign state, or any person employed in the legation or chancery or office of such a diplomatic agent, consul-general, consul or vice-consul, or any member of the household of any person mentioned in the preceding provisions of this paragraph, or a servant of any such person: Provided that the period during which any person resided in the Union (whether before or after the first day of August, 1913) while he was such a person as is mentioned in the preceding provisions of this paragraph, shall not be taken into account in determining whether he has or has not acquired a domicile in the Union or in any province;
- (d) any person who for the purpose of employment enters the Union—
 - (i) under such conditions as may have been prescribed from time to time in accordance with any law; or
 - (ii) under any convention with the Government of a neighbouring territory or state; or
 - (iii) in accordance with any scheme of recruitment and repatriation approved by the Minister,

and who is not a person described in paragraph (c), (d), (e), (f), (g), (h), (i) or (j) of sub-section (1) of section four: Provided that the period during which a person resided in the Union after having entered the Union in accordance with any provision of this paragraph shall not be taken into account in determining whether he has or has not acquired a domicile in the Union or in any province: Provided further that the exemption by this section of any person mentioned in this paragraph from any provision of this Act shall cease on the termination of the employment for the purpose of which he entered the Union as aforesaid;

- (e) any person born before the commencement of this Act in any part of South Africa included in the Union whose parents were lawfully resident therein and were not at that time

Substitution of section 5 of Act 22 of 1913, as amended by section 3 of Act 22 of 1914, section 4 of Act 37 of 1927, section 3 of Act 15 of 1931, section 3 of Act 19 of 1933, section 1 of Act 27 of 1937, section 2 of Act 43 of 1953, and section 3 of Act 60 of 1961.

restricted to temporary or conditional residence by any law then in force, and any person born in any place after the commencement of this Act whose parents were at the time of his birth domiciled in any part of South Africa included in the Union, provided such person, if born outside the Union, entered or enters or was or is brought into the Union before the first day of June, 1937, or within three years from the date of his birth;

(f) any person domiciled in any province who is not such a person as is described in paragraph (e), (f) or (i) of sub-section (1) of section four;

(g) any person who is proved to the satisfaction of a passport control officer or in case of an appeal, to the satisfaction of the board, to be the wife or the child under the age of sixteen years of any person exempted by paragraph (f) of this section, provided the wife or the child (as the case may be) is not such a person as is described in paragraph (d), (e), (f), (g) or (h) of sub-section (1) of section four: Provided that no child who is not accompanied by its mother shall be admitted unless its mother is already resident in the Union or is deceased, or the Minister in any special case authorizes the admission of such child.

(2) Nothing in sub-section (1) contained shall be construed as entitling a person to whom the provisions of paragraph (a) of sub-section (1) of section four apply, to enter and reside in a province in which he was not lawfully resident before the first day of August, 1913.

(3) Nothing in paragraph (e) of sub-section (1) contained shall be construed so as to exclude from the operation of paragraph (a) of sub-section (1) of section four—

(a) any person born outside the Union out of any marriage or union entered into after the tenth day of February, 1953; or

(b) any person born outside the Union after the tenth day of February, 1954; or

(c) any person other than a person referred to in paragraph (a) born outside the Union on or before the tenth day of February, 1954, who did not enter or was not brought into the Union in accordance with the provisions of paragraph (e) of sub-section (1) before the tenth day of February, 1956.

(4) Nothing in paragraph (g) of sub-section (1) contained shall be construed so as to exclude from the operation of paragraph (a) of sub-section (1) of section four—

(a) the wife of any person by a marriage or union entered into after the tenth day of February, 1953, or any child born outside the Union out of any such marriage or union; or

(b) any child born outside the Union after the tenth day of February, 1954; or

(c) as from the tenth day of February, 1956, the wife of any person by a marriage or union entered into on or before the tenth day of February, 1953, or any child other than a child referred to in paragraph (a), born outside the Union on or before the tenth day of February, 1954,

unless the Minister or a passport control officer acting upon directions issued by the Minister, authorizes any such wife, person or child to enter the Union in accordance with the provisions of paragraph (e) or (g) of sub-section (1).

(5) In paragraph (g) of sub-section (1)—

(a) "child" means the off-spring of the exempted person by his wife as hereinafter defined, or by a deceased woman who, if she had been alive, could have been recognized as his wife (as so defined) or whose union with the exemp-

ted person could have been registered as a marriage under section *two* of the Indians Relief Act, 1914 (Act No. 22 of 1914);

- (b) "wife" includes any one woman between whom and the exempted person in question there exists a union recognized as a marriage under the tenets of any Indian religion, even though a simultaneous union of that exempted person with another woman would also be recognized as a marriage under the tenets of that religion: Provided that no woman shall be deemed to be the wife of that exempted person—
- (i) if he entered into a marriage or such a union as aforesaid with any other woman who is still living and who resides or is entitled to reside in any province or whom a passport control officer has recognized as his wife under the said paragraph (g); or
- (ii) if he has, by any woman who is still living, off-spring residing or entitled to reside in any province."

2. Section *six* of the Aliens Act, 1937, is hereby amended by the insertion in sub-section (2) after the word "Union" where it occurs for the first time of the words "or who has entered the Union by aircraft".

Amendment of section 6 of Act 1 of 1937, as amended by section 10 of Act 69 of 1962.

3. Section *ten* of the South African Citizenship Act, 1949 (hereinafter referred to as the principal Act), is hereby amended by the substitution in sub-section (2) and in sub-section (3) for the words "period of residence" wherever they occur of the words "period of residence or ordinary residence".

Amendment of section 10 of Act 44 of 1949, as amended by section 9 of Act 64 of 1961 and section 20 of Act 69 of 1962.

4. Section *seventeen* of the principal Act is hereby amended—

- (a) by the substitution for sub-section (1) of the following sub-section:

"(1) A South African citizen by registration or naturalization shall cease to be a South African citizen if he resides outside the Union for a continuous period of not less than seven years exclusive of any period during which—

- (a) he so resides in the service of the Government of the Union;
- (b) he so resides as the representative or employee of a person or association of persons resident or established in the Union, or in the service of an international organization of which the Government of the Union is a member; or
- (c) in the case of a wife or minor child of a person referred to in paragraph (a) or (b), such wife or child so resides with such person; or
- (d) in the case of the wife or minor child of a person who is a South African citizen by birth or descent, such wife or child so resides with such person; or
- (e) he so resides and in respect of which the Minister has granted exemption under sub-section (5).";

- (b) by the insertion after sub-section (4) of the following sub-sections:

"(5) (a) The Minister may in his discretion grant any exemption contemplated in paragraph (e) of sub-section (1) in respect of any person or class of persons and for a definite or an indefinite period and either unconditionally or subject to such conditions as the Minister may deem fit.

- (b) Where any such exemption is granted in respect of any class of persons, the Minister may exclude from such exemption any person belonging to that class.

Amendment of section 17 of Act 44 of 1949, as amended by section 12 of Act 64 of 1961.

(c) Any such exemption, whether granted in respect of a class of persons or any person belonging to any class of persons or in respect of a particular person, may at any time be withdrawn by the Minister in his discretion.

(6) Any exemption under sub-section (5) may, in any case where in the opinion of the Minister special circumstances exist, also be granted after the person in respect of whom it is granted has, by virtue of the provisions of sub-section (1), already ceased to be a South African citizen by registration or naturalization, and in that event such person shall be deemed not to have ceased to be such a citizen, as if he had not, during the period in respect of which the exemption is granted, resided outside the Union."

5. Section *twenty-five bis* of the principal Act is hereby amended by the addition of the following sub-section, the existing section becoming sub-section (1):

Amendment of section 25*bis* of Act 44 of 1949, as inserted by section 16 of Act 64 of 1961.

"(2) The provisions of sub-sections (11), (11)*bis* and (14) of section *ten* shall *mutatis mutandis* apply with reference to a certificate referred to in sub-section (1)."

6. Section *twenty-nine* of the principal Act is hereby amended by the insertion in sub-section (2) after the word "sub-section" where it occurs for the third time of the expression "(4)*bis*".

Amendment of section 29 of Act 44 of 1949, as amended by section 18 of Act 64 of 1961.

7. Section *forty-one* of the principal Act is hereby amended with effect from the date of commencement thereof by the insertion after the word "Act" of the words "and any amendment thereof" and after the words "South-West Africa" of the words "including the Eastern Caprivi Zipfel referred to in section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951)".

Amendment of section 41 of Act 44 of 1949.

8. The following section is hereby substituted for section *six* of the Departure from the Union Regulation Act, 1955:

Substitution of section 6 of Act 34 of 1955, as amended by section 64 of Act 69 of 1962.

6. Any person to whom a permit endorsed as provided in sub-section (6) of section *five* has been issued and who has left the Union for the purpose of proceeding to a place outside the Union, shall—

(a) if he thereafter returns to the Union, be deemed, for the purposes of section *two*, to have left the Union without a valid passport or a permit;

(b) for all purposes become a prohibited person, within the meaning of the Admission of Persons to the Union Regulation Act, 1913 (Act No. 22 of 1913), in the Union with effect from the time he so left the Union."

9. Section *thirteen* of the Commonwealth Relations Act, 1962, is hereby amended by the substitution for sub-section (1) of the following sub-section:

Amendment of section 13 of Act 69 of 1962.

"(1) Any person admitted to the Republic before the thirty-first day of May, 1962, under the provisions of the Admission of Persons to the Union Regulation Act, 1913 (Act No. 22 of 1913), who did not before the first day of April, 1963, cause to be published such a notice as is referred to in section *twenty-nine* of the South African Citizenship Act, 1949 (Act No. 44 of 1949), and who becomes an alien within the meaning of the Aliens Act, 1937 (Act No. 1 of 1937), in consequence of the amendment of section *one* of that Act by section *six* of this Act, shall as from the first day of April, 1963, for all purposes be deemed to be an alien who at all times before that date sojourned in the Republic for the purpose of temporary sojourn therein, unless before such date he made in the presence of an officer or employee in the public service designated by the Minister of the Interior a declaration in the form prescribed by the said Minister by notice in the *Gazette*, that he is in the Republic for the purpose of permanent residence therein."

10. Section *nine* shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel referred to in section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and for the purposes of the application of this section any reference in the said section *nine* to the Republic shall be construed as including a reference to the said territory. Application of section 9.

11. Section *three* shall be deemed to have come into operation on the thirty-first day of May, 1962. Date of commencement of section 3.

12. This Act shall be called the Residence in the Republic Regulation Act, 1964. Short title.