



**REPUBLIC OF SOUTH AFRICA**

# **GOVERNMENT GAZETTE**

## **STAATSKOERANT**

### **VAN DIE REPUBLIEK VAN SUID-AFRIKA**

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#### **OFFICE OF THE PRESIDENT**

No. 1537.

6 October 1995

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

No. 76 of 1995: Aliens Control Amendment Act, 1995.

#### **KANTOOR VAN DIE PRESIDENT**

No. 1537.

6 Oktober 1995

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 76 van 1995: Wysigingswet op Vreemdelinge-beheer, 1995.

**GENERAL EXPLANATORY NOTE:**

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

                 Words underlined with a solid line indicate insertions in existing enactments.

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# 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.)*

**B**E 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;

**ALGEMENE VERDUIDELIKENDE NOTA:**

[ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

                 Woorde met 'n volstreep daaronder, dui invloegings in bestaande verordenings aan.

**WET**

Tot wysiging van die Wet op Vreemdelinge-beheer, 1991, ten einde sekere woordomskrywings in te voeg of te wysig; om verder voorsiening te maak vir delegasies deur die Minister; om die uitreiking van voorlopige permitte verder te reël; om paspoorte en visums verder te reël; om die pligte van immigrasiebeamptes by hawens verder te reël; om ooreenkoms tussen die Minister en skeepsseienaars betreffende die nakoming van sekere bepalings van die Wet verder te reël; om die aanstelling, samestelling en pligte van die Immigrantekeurraad opnuut te reël; om die stelsel van permitte vir permanente vestiging met 'n nuwe stelsel van immigrasiepermitte te vervang en om opnuut voorsiening te maak vir die uitreiking van sodanige permitte; om voorsiening te maak vir kategorieë tydelike verblyfpermitte en om die uitreiking van sodanige permitte verder te reël; om die verlening van vrystellings verder te reël; om die nietigheid en intrekking van permitte verder te reël; om die bepalings betreffende die uitreiking van permitte om die Republiek te verlaat, te herroep; om die bevoegdhede van 'n immigrasiebeampte betreffende verbode persone verder te reël; om die betreding van persele verder te reël; om die beperking van die regsvoegdheid van geregshowe te herroep; om die aanhouding van persone verder te reël; om die Minister se bevoegdheid om regulasies uit te vaardig verder te reël; om oortredings, strawwe en bewyslewering verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die President geteken.)  
(Goedgekeur op 28 September 1995.)*

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:

**Wysiging van Indeling van Wet 96 van 1991**

1. Die indeling van die Wet op Vreemdelinge-beheer, 1991 (Wet No. 96 van 1991) 5 (hieronder die Hoofwet genoem), word hierby gewysig deur—
  - (a) die woorde "Permit vir permanente verblyf in Republiek" onder Hoofstuk III deur die woorde "Immigrasiepermit" te vervang;
  - (b) die woorde "Tydelike verblyfpermit om in Republiek te vervoer" onder Hoofstuk III deur die woorde "Tydelike verblyfpermit" te vervang;
- 10 (c) die woorde "Permit om Republiek te verlaat" en "Terugkeer deur persoon wat permit het om Republiek permanent te verlaat" onder Hoofstuk IV te skrap;

- (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 5
- (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 10  
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];"; 15
- (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);"; 20
- (c) by the insertion after the definition of "immigration officer" of the following definition:  
 "‘immigration permit’ means an immigration permit issued under section 25;"; 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); 30  
 (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 40  
 (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;"; 45
- (f) 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 55  
 (c) any airport [or aerodrome] in the Republic, designated as such by the Minister and where an immigration officer is stationed;";

- 5 (d) die woorde "Straf van, en optrede teen, persone met wie voorheen kragtens Wet as verbode persone gehandel is" onder Hoofstuk V deur die woorde "Straf van, en optrede teen, verbode persone" te vervang;
- (e) die woorde "Verwydering van sekere kategorieë persone uit Republiek" onder Hoofstuk VI deur die woorde "Verwydering van sekere persone uit Republiek" te vervang; en
- (f) die woorde "Beperking van regsbevoegdheid van geregshewe, en beperking op aanhouding" onder Hoofstuk VII deur die woorde "Beperking op aanhouding" te vervang.

10 **Wysiging van artikel 1 van Wet 96 van 1991, soos gewysig deur artikel 5 van Wet 206 van 1993**

2. Artikel 1 van die Hoofwet word hierby gewysig deur—

- 15 (a) na die woordomskrywing van "eienaar" die volgende woordomskrywing in te voeg:
- "gebruiklike verbinding" die samelewé van 'n man en 'n vrou in 'n egtelike verhouding ooreenkomsdig inheemse reg en gebruik, waar nog die man nog die vrou 'n party is by 'n bestaande huwelik, wat deur die Minister ingevolge subartikel (2) erken word;"
- 20 (b) die woordomskrywing van "hawe" of "toegangspoort" deur die volgende woordomskrywing te vervang:
- "hawe" of "toegangspoort"—
- (a) 'n plek aan die kus van die Republiek;
- (b) 'n [spoorwegstasie of] plek in die Republiek op of naby een van die grense daarvan; of
- 25 (c) 'n lughawe [of vliegveld] in die Republiek,  
wat as sodanig deur die Minister aangewys is en waar 'n immigrasiebeampte gestasioneer is;"
- (c) na die woordomskrywing van "hierdie Wet" die volgende woordomskrywing in te voeg:
- "huwelik" ook 'n gebruiklike verbinding;"
- 30 (d) na die woordomskrywing van "immigrasiebeampte" die volgende woordomskrywing in te voeg:
- "immigrasiepermit" 'n immigrasiepermit kragtens artikel 25 uitgereik;"
- 35 (e) die woordomskrywing van "paspoort" deur die volgende woordomskrywing te vervang:
- "paspoort" enige paspoort[, toeristepaspoort, ander] of reisdokument [of voorgeskrewe identifikasiebewys] wat uitgereik is—
- 40 (a) aan iemand [namens die Regering van die Republiek] ingevolge die Wet op Suid-Afrikaanse Paspoorte en Reisdokumente, 1994 (Wet No. 4 van 1994);
- (b) namens die regering van 'n land of gebied, erken deur die Regering van die Republiek, aan iemand wat 'n burger van die betrokke land of gebied is maar nie ook 'n Suid-Afrikaanse burger is nie; of
- 45 (c) namens 'n internasionale organisasie, aldus erken, aan iemand wat nie 'n Suid-Afrikaanse burger is nie[; of
- (d) aan iemand ooreenkomstig 'n ooreenkoms tussen die Regering van die Republiek en die regering van 'n staat waarvan die grondgebied voorheen deel van die Republiek uitgemaak het], en wat—
- 50 (i) 'n persoonlike beskrywing van so iemand en die naam van die land waarin en die datum waarop hy of sy gebore is, bevat, en waaraan 'n foto van hom of haar aangebring is waarop al sy of haar gelaatstrekke duidelik en korrek afgebeeld is; en
- 55 (ii) in die geval beoog in paragraaf (c), vooraf as sodanig deur die Minister erken is;"
- (f) die woordomskrywing van "tydelike verblyfpermit" deur die volgende woordomskrywing te vervang:
- "tydelike verblyfpermit" ['n permit] enige van die permitte bedoel in artikel 26;"

- (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: 5  
 " '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." 10  
(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." 15  
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#### 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." 25  
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#### 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—

- (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 hear the offence."

#### Amendment of section 10 of Act 96 of 1991, as amended by section 9 of Act 3 of 1993 45

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

- (g) na die woordomskrywing van "verbode persoon" die volgende woordomskrywing in te voeg:  
 "visum" 'n visum bedoel in artikel 11;"
- (h) die woordomskrywing van "vreemdeling" deur die volgende woordomskrywing te vervang:  
 "vreemdeling" iemand wat nie 'n Suid-Afrikaanse burger [of 'n burger van 'n staat waaryan die grondgebied voorheen deel van die Republiek uitgemaak het,] is nie."; en
- (i) die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:  
 "(2) (a) 'n Gebruiklike verbinding word vir die doeleindes van hierdie Wet deur die Minister erken indien die Minister, op inligting wat aan hom of haar in die voorgeskrewe vorm voorgelê is deur die aansoeker en die persoon wat na bewering die aansoeker se gade in die gebruiklike verbinding is, oortuig is dat die aansoeker inderdaad 'n gade in die betrokke gebruiklike verbinding is.  
 (b) Die Minister kan, bykomstig tot enige inligting wat ingevolge paragraaf (a) voorgelê is of om enige inligting wat aldus voorgelê is op te klaar, vereis dat verdere inligting aan hom of haar voorgelê word, of kan enige persoon versoek om voor hom of haar te verskyn en sodanige persoon vereis of toelaat om sodanige inligting mondeling te lewer of om sodanige ander inligting aan te voer as wat na die oordeel van die Minister vir hom of haar van hulp kan wees om die betrokke aangeleentheid te besleg."

#### 25 Wysiging van artikel 4 van Wet 96 van 1991

3. Artikel 4 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die Minister kan, onderworpe aan die voorwaardes wat hy of sy nodig mag ag, 'n bevoegdheid by hierdie Wet aan hom of haar verleen, uitgesonderd 'n bevoegdheid bedoel in artikels 24, [37 en] 47, en 50 in die mate waarin dit van toepassing is op artikel 47 en 56, aan 'n beämpte of werknemer in [diens van die Departement] die staatsdiens deleger, maar is nie ontdoen nie van 'n bevoegdheid aldus gedelegeer, en kan 'n beslissing van die gedelegeerde geneem by die uitoefening van so 'n bevoegdheid, tersyde stel of wysig."

#### 35 Wysiging van artikel 5 van Wet 96 van 1991, soos gewysig deur artikel 1 van Wet 3 van 1993

4. Artikel 5 van die Hoofwet word hierby gewysig deur—

(a) subartikel (1) deur die volgende subartikel te vervang:

"(1) Behoudens die bepalings van [subartikels (2) en] subartikel (3), mag niemand die Republiek by 'n ander plek as 'n toegangspoort binnekom nie."

(b) subartikel (2) te skrap;

(c) subartikel (3) deur die volgende subartikel te vervang:

"(3) Die Minister kan op voorwaardes wat hy of sy bepaal, 'n bepaalde persoon of 'n kategorie persone van die bepalings van subartikel (1) vrystel."; en

(d) die volgende subartikel by te voeg:

"(6) Die hof van die distrik waarin die persoon bedoel in subartikel (5) gevind word, het regsbevoegdheid om die misdryf te verhoor."

#### 50 Wysiging van artikel 10 van Wet 96 van 1991, soos gewysig deur artikel 9 van Wet 3 van 1993

5. Artikel 10 van die Hoofwet word hierby gewysig deur—

(a) paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

"(b) Die Direkteur-generaal kan te eniger tyd 'n permit ingevolge paragraaf (a) uitgereik, kanselleer of die tydperk aldus in die permit vermeld, verleng of die voorwaardes of doel aldus vermeld, verander.";

(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.”.

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**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: 10

**“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.

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(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.

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(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.

25

(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;

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(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—

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(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.

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(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;

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(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.

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(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

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- (b) paragraaf (c) van subartikel (5) deur die volgende paragraaf te vervang:  
 “(c) Indien iemand kragtens paragraaf (b) skuldig bevind en gevonnis is, kan hy of sy voor verstryking van bedoelde vonnis uit die Republiek verwijder word op die wyse beoog in daardie paragraaf, en die bepalings van artikel [43(2) en (3)] 44(4) en (5) is *mutatis mutandis* ten opsigte van sy of haar verwijdering van toepassing.”.

**Vervanging van artikel 11 van Wet 96 van 1991, soos gewysig deur artikels 3 en 9 van Wet 3 van 1993**

6. Artikel 11 van die Hoofwet word hierby deur die volgende artikel vervang:

- 10           **“Paspoorte en visums**
- 15           11. (1) Iemand wat die Republiek binnekom en versuim om aan 'n immigrasiebeampte op sy of haar versoek 'n geldige paspoort en, behoudens die bepalings van subartikels (3) en (5), 'n geldige visum wat kragtens subartikel (4) uitgereik is te toon, is 'n verbode persoon, tensy bewys word dat hy of sy 'n Suid-Afrikaanse burger is.
- 20           (2) Iemand onder die ouerdom van 16 jaar word, by sy of haar binnekoms in die Republiek, geag in besit te wees van 'n geldige paspoort indien hy of sy vergesel word van sy of haar ouer wat in besit is van 'n paspoort waarin die naam van dié persoon ingevolge die bepalings van die Wet op Suid-Afrikaanse Paspoorté en Reisdokumente, 1994 (Wet No. 4 van 1994), of deur die uitrekende owerheid, ingeskryf is.
- 25           (3) Iemand wat die houer is van 'n geldige permit wat kragtens artikel 25 of 26(1)(b), (d) of (e) uitgereik is, word, by sy of haar eerste binnekoms in die Republiek na die uitreiking van sodanige permit, vir die doeleindes van hierdie artikel geag in besit te wees van 'n geldige visum.
- 30           (4) 'n Visum bedoel in subartikel (1)—  
 (a) kan deur die Minister, behoudens enige voorwaardes wat die Minister goedy vind, aan iemand wat nie kragtens subartikel (5) van die vereiste van 'n visum vrygestel is nie en wat in die voorgeskrewe vorm om sodanige visum aansoek gedoen het ten einde 'n besoekers-, besigheids- of mediese permit bedoel in artikel 26(1) te bekom, verleen word;
- 35           (b) moet 'n verklaring bevat met die strekking dat magtiging om na die Republiek te reis om by 'n immigrasiebeampte by 'n hawe of toegangspoort te rapporteer, deur die Minister verleen is aan—  
 (i) die houer van 'n paspoort, indien sodanige verklaring in die betrokke paspoort geëndosseer is; of  
 (ii) die persoon wat in die verklaring vermeld word, indien die visum in die vorm wat vir dié doel voorgeskryf is, uitgereik is; en
- 40           (c) kan te eniger tyd deur die Minister ingetrek en nietig verklaar word.
- 45           (5) Die Minister kan—  
 (a) 'n persoon of kategorie persone van die bepalings van subartikel (1) betreffende 'n visum ten einde 'n besoekers-, besigheids- of mediese permit bedoel in artikel 26(1) te bekom, vir 'n bepaalde of onbepaalde tydperk en óf onvoorwaardelik óf onderworpe aan die voorwaardes wat die Minister oplé, vrystel;
- 50           (b) van 'n vrystelling wat kragtens paragraaf (a) aan 'n kategorie persone verleen is, enige persoon wat tot daardie kategorie behoort, uitsluit; en  
 (c) 'n vrystelling kragtens paragraaf (a) verleen aan 'n kategorie persone of aan 'n persoon, intrek en, in die geval van 'n persoon, kan die Minister dit doen ongeag of daardie persoon as individu of as lid van 'n kategorie persone vrygestel is.
- 55           (6) Iemand wat kragtens subartikel (1) 'n verbode persoon is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande en, ongeag of hy of sy aan daardie misdryf skuldig bevind is al dan nie, kan 'n immigrasiebeampte genoemde persoon, indien hy of sy nie in hechtenis is nie, sonder 'n lasbrief arresteer of laat arresteer en hom of haar uit die Republiek

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.”.

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#### **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:

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“(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:

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“(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.”.

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#### **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.”.

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#### **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**

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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.”.

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verwyder of laat verwyder kragtens 'n lasbrief wat deur die Minister uitgereik is en kan hy of sy hom of haar, in afwagting van sy of haar verwydering, aanhou of laat aanhou op die wyse en plek wat deur die Direkteur-generaal bepaal word.

5 (7) Indien 'n persoon kragtens subartikel (6) gevonnis is, kan so 'n persoon voor die verstryking van bedoelde vonnis uit die Republiek verwijder word op die wyse in genoemde subartikel beoog, en die bepalings van artikel 44(4) en (5) is *mutatis mutandis* ten opsigte van bedoelde verwydering van toepassing.”.

#### 10 Wysiging van artikel 15 van Wet 96 van 1991

7. Artikel 15 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

15 “(3) 'n Immigrasiebeampte kan, indien hy of sy oortuig is dat 'n naam bygevoeg moet word tot, of geskrap moet word van, 'n lys bedoel in subartikel (1), sodanige byvoeging of skrapping magtig.”.

#### Wysiging van artikel 16 van Wet 96 van 1991

8. Artikel 16 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (5) deur die volgende paragraaf te vervang:

20 “(a) Indien 'n persoon in subartikel (1) bedoel, om die een of ander rede nie uit die Republiek verwijder word nie op die skip waarop hy of sy na die Republiek vervoer is (behalwe omdat bevind is dat hy of sy nie 'n verbode persoon is nie), moet die eienaar van daardie skip daardie persoon, op versoek van die immigrasiebeampte, sonder koste vir die Staat na 'n plek buite die Republiek vervoer of laat vervoer, en iemand, wat nie 'n immigrasiebeampte is nie, wat deur die Direkteur-generaal die plig opgelê is om so 'n persoon na so 'n plek te begelei, word geag 'n immigrasiebeampte te wees vir solank as wat hy of sy die plig wat hom of haar aldus opgelê is, uitvoer.”.

#### Wysiging van artikel 21 van Wet 96 van 1991

9. Artikel 21 van die Hoofwet word hierby gewysig deur subartikel (1) deur die 30 volgende subartikel te vervang:

“(1) Ten einde die uitklaring van 'n skip—  
 (a) wat gereeld by een of meer van die onderskeie hawens aandoen; of  
 (b) waarvan die eienaar of gesagvoerder behoorlik verteenwoordig word deur 'n agent by die aanloophawe,  
 35 te vergemaklik, kan die Minister na sy of haar goeddunke met die eienaar of gesagvoerder van dié skip of die verteenwoordiger agent van die eienaar of gesagvoerder 'n ooreenkoms aangaan (met of sonder die stel van sekerheid) waarby die eienaar of gesagvoerder onderneem, of namens [hom] die eienaar of gesagvoerder wat aldus verteenwoordig word, onderneem word, dat die bepalings 40 van artikels 15, 16, 17 en 18 nagekom sal word vir sover hulle op dié eienaar of gesagvoerder betrekking het.”.

#### Vervanging van artikel 23 van Wet 96 van 1991

10. Artikel 23 van die Hoofwet word hierby deur die volgende artikel vervang:

##### “Beperking op binnekoms en verblyf in Republiek”

45 23. Behoudens die bepalings van artikels 28 en 29 mag geen vreemdeling—

- (a) die Republiek binnekom of daarin vertoeft met die oog op permanente verblyf daarin nie, tensy hy of sy in besit is van 'n [permit vir permanente verblyf] immigrasiepermit wat ingevolge artikel 25 aan hom of haar uitgereik is; of
- 50 (b) die Republiek binnekom of daarin vertoeft met die oog op tydelike verblyf daarin nie, tensy hy of sy in besit is van 'n permit vir tydelike verblyf wat ingevolge artikel 26 aan hom of haar uitgereik is.”.

**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**

<p><b>24.</b> (1) There is hereby established a board to be known as the Immigrants Selection Board, consisting of—</p> <p>(a) a central committee seated at Pretoria; and</p> <p>(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.</p> <p>(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.</p> <p>(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).</p> <p>(b) All the members of the central committee and all the chairpersons of the regional committees, shall be members of the board.</p> <p>(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—</p> <p>(i) in accordance with the principles of transparency and openness; and</p> <p>(ii) with due regard to a person’s suitability to serve as a member by virtue of his or her qualifications and experience.</p> <p>(b) Such members shall be—</p> <p>(i) paid such remuneration, allowances and gratuities; and</p> <p>(ii) granted such leave privileges,</p> <p>as the Minister may, with the concurrence of the Minister of Finance, determine.</p> <p>(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.</p> <p>(d) Any vacancy in the central or a regional committee shall be filled in accordance with the provisions of subsection (4).</p> <p>(5) (a) The Minister shall designate one of the members of the central committee as the chairperson thereof.</p> <p>(b) The members of a regional committee shall at the committee’s first meeting elect a chairperson from their number.</p> <p>(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.</p> <p>(d) The chairperson of the central committee shall also be chairperson of the board, and the provisions of subparagraph (c) shall apply <i>mutatis mutandis</i> in respect of meetings of the board.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(b) The meetings of any committee shall be held at such times and places as the Director-General may determine.</p> <p>(8) The administrative work in connection with the functions of the board</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p>
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**Vervanging van artikel 24 van Wet 96 van 1991**

**11.** Artikel 24 van die Hoofwet word hierby deur die volgende artikel vervang:

**"Instelling van Immigrantekeurraad"**

- 24. (1)** Daar word hierby 'n raad ingestel wat die Immigrantekeurraad heet, en wat bestaan uit—
- (a) 'n sentrale komitee wat in Pretoria gesetel is; en
  - (b) minstens een streekkomitee vir elk van die provinsies van die Republiek, wat in elke provinsie by 'n kantoor van die Departement gesetel is wat deur die Direkteur-generaal aangewys is.
- (2) Die raad of enige komitee daarvan het die bevoegdhede, funksies en verpligte by of kragtens hierdie Wet aan hom verleen, toevertrou of opgelê.
- (3) (a) Die sentrale komitee bestaan uit minstens vyf lede, en elke streekkomitee bestaan uit minstens drie lede, wat ingevolge subartikel (4) aangestel is.
- (b) Al die lede van die sentrale komitee en al die voorsitters van die streekkomitees is lede van die raad.
- (4) (a) Die lede van die sentrale komitee en die lede van die streekkomitees word deur die Minister vanuit persone wat nie 'n winsbetrokking in die Republiek beklee nie, aangestel—
- (i) ooreenkomstig die beginsels van deursigtigheid en openheid; en
  - (ii) met behoorlike inagneming van iemand se geskiktheid vanweë sy of haar kwalifikasies en ondervinding om as 'n lid te dien.
- (b) Aan daardie lede word—
- (i) die besoldiging, toelaes en gratifikasies betaal; en
  - (ii) die verlofvoorregte verleen, wat die Minister, met die instemming van die Minister van Finansies, bepaal.
- (c) Die lede word aangestel vir sodanige ampstermyne as wat die Minister óf in die algemeen óf ten opsigte van 'n bepaalde lid bepaal, en 'n lid beklee sy of haar amp vir daardie termyn tensy hy of sy op 'n vroeër datum bedank of te sterwe kom, of tensy hy of sy deur die Minister ontslaan word weens wangedrag of onvermoë om sy of haar ampspligte doeltreffend te verrig.
- (d) Enige vakature in die sentrale of 'n streekkomitee word ooreenkomsdig die bepalings van subartikel (4) aangevul.
- (5)(a) Die Minister wys een van die lede van die sentrale komitee as voorsitter daarvan aan.
- (b) Die lede van 'n streekkomitee verkies by die komitee se eerste vergadering 'n voorsitter vanuit hul geledere.
- (c) Indien die voorsitter van enige vergadering van 'n komitee afwesig is, kies die aanwesige lede iemand vanuit hul geledere om by daardie vergadering voor te sit.
- (d) Die voorsitter van die sentrale komitee is ook die voorsitter van die raad, en die bepalings van paragraaf (c) is *mutatis mutandis* van toepassing op vergaderings van die raad.
- (6)(a) Die kworum vir enige vergadering van die raad of 'n komitee is 'n meerderheid van die totale getal lede van die raad of komitee, na gelang van die geval.
- (b) Die besluit van die meerderheid lede wat teenwoordig is by 'n vergadering van 'n komitee of die raad is die besluit van daardie komitee of die raad, na gelang van die geval, en in die geval van 'n staking van stemme het die persoon wat by die betrokke vergadering voorsit 'n beslissende stem benewens sy of haar beraadslagende stem.
- (7)(a) Die raad vergader op sodanige tye en plekke as wat die Minister bepaal, met die oog daarop om die Minister te adviseer in verband met enige aangeleentheid wat hy of sy na die raad verwys vir oorweging.
- (b) Die vergaderings van 'n komitee word op die tye en plekke deur die Direkteur-generaal bepaal, gehou.
- (8) Die administratiewe werk in verband met die werksaamhede van die

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.”.

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### **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.

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(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.

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(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.

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(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.

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(4) The regional committee concerned may authorize the issue to the applicant of an immigration permit if the applicant—

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(a) (i) is of a good character; and

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(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

raad of 'n komitee word deur beampies en werknemers van die Departement deur die Direkteur-generaal aangewys, verrig.

(9)(a) Behoudens die bepalings van paragraaf (b), mag 'n lid van die raad of 'n komitee nie stem of op enige ander wyse deelneem aan die verrigtinge van enige vergadering van die raad of komitee nie of teenwoordig wees by die plek waar sodanige vergadering gehou word nie indien hy of sy, met betrekking tot enige aangeleentheid voor die raad of 'n komitee, enige belang het wat hom of haar kan verhinder om sy of haar werksaamhede as 'n lid van die raad of komitee op 'n regverdig, onbevooroordelde en behoorlike wyse te verrig.

(b) Indien dit in enige stadium gedurende die verloop van enige verrigtinge voor die raad of 'n komitee blyk dat 'n lid 'n belang het of mag hê wat 'n botsing van belang aan sy of haar kant kan veroorsaak—

(i) moet sodanige lid onverwyld die aard van sy of haar belang ten volle openbaar en die vergadering verlaat ten einde die oorblywende lede in staat te stel om die aangeleentheid te bespreek en te bepaal of sodanige lid op grond van 'n botsing van belang uitgesluit is van deelname aan sodanige vergadering; en

(ii) word sodanige openbaarmaking en die bepaling van die oorblywende lede opgeneem in die notule van die betrokke vergadering.

(c) Indien enige lid van die raad of 'n komitee versium om enige belang te openbaar soos vereis by paragraaf (b) of, behoudens die bepalings van daardie paragraaf, indien hy of sy teenwoordig is by die plek waar 'n vergadering van die raad of komitee gehou word of op watter wyse ook al deelneem aan verrigtinge van die raad of komitee, is die betrokke verrigtinge van die raad of komitee nietig".

### Vervanging van artikel 25 van Wet 96 van 1991

12. Artikel 25 van die Hoofwet word hierby deur die volgende artikel vervang:

#### "Immigrasiepermit

25. (1) 'n Aansoek deur 'n vreemdeling om na die Republiek te immigreer, moet gedoen word in die vorm wat deur die Direkteur-generaal voorgeskryf word, moet die voorgeskrewe inligting bevat en moet aan die Direkteur-generaal voorgelê word.

(2)(a) Behoudens die bepalings van paragraaf (b) en subartikel (12) lê die Direkteur-generaal elke aansoek deur hom of haar ontvang aan 'n streekkomitee van die raad voor, tesame met enige inligting omtrent die aansoeker wat hy of sy mag verkry het en verstrek hy of sy aan die streekkomitee die bykomende inligting wat die komitee in verband met die aansoeker mag vereis.

(b) 'n Streekkomitee oorweeg nie 'n aansoek wat ingevolge paragraaf (a) na hom verwys is nie, tensy die aansoeker voornemens is om permanente verblyf in die provinsie ten opsigte waarvan daardie streekkomitee aangestel is, op te neem.

(3) Indien die uitreiking aan die aansoeker van 'n immigrasiepermit nie in stryd met die bepalings van hierdie Wet of 'n ander wet sou wees nie, kan die betrokke streekkomitee die uitreiking van so 'n permit aan die aansoeker magtig en die magtiging onderworpe stel aan die voorwaarde dat die aansoeker sy of haar beroep in die provinsie waarin hy of sy voornemens is om permanente verblyf op te neem, vir 'n minimum tydperk van 12 maande beoefen, en enige ander voorwaarde wat die komitee nodig ag.

(4) Die betrokke streekkomitee kan die uitreiking aan die aansoeker van 'n immigrasiepermit magtig indien die aansoeker—

- (a) (i) van goeie inbors is; en
- (ii) 'n gewenste inwoner van die Republiek sal wees; en
- (iii) waarskynlik nie die welvaart van die Republiek sal benadeel nie; en
- (iv) geen beroep beoefen of waarskynlik sal beoefen nie waarin daar, volgens die oordeel van die streekkomitee, 'n voldoende aantal persone in die Republiek beskikbaar is om in die behoeftes van die inwoners van die Republiek te voorsien; of

<p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <i>mutatis mutandis</i> 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.</p> <p>(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).</p> <p>(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.</p> <p>(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).</p> <p>(12) A regional committee—</p> <p>(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</p> <p>(b) may of its own accord,</p> <p>refer any application to the central committee for consideration or reconsideration.</p> <p>(13) Whenever an application is referred to the central committee in terms of subsection (12), the central committee may—</p> <p>(a) confirm or set aside the decision of a regional committee in respect of such application; and</p> <p>(b) if a decision is set aside or if the regional committee concerned has not yet made a decision—</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p> <p>65</p>
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- (b) 'n behoeftige, bejaarde of verswakte familielid van iemand is wat permanent en wettig in die Republiek woonagtig is, en in staat is en skriftelik onderneem om hom of haar te onderhou.
- (5) Ondanks die bepalings van subartikel (4), maar behoudens die bepalings van subartikels (3) en (6), kan 'n streekkomitee op aansoek van die gade of afhanklike kind van iemand wat permanent en wettig in die Republiek woonagtig is, die uitreiking van 'n immigrasiepermit magtig.
- (6) 'n Streekkomitee kan in die geval van iemand wat aansoek doen om 'n immigrasiepermit en wat minder as twee jaar voor die datum van sy of haar aansoek om 'n immigrasiepermit in die huwelik getree het met iemand wat permanent en wettig in die Republiek woonagtig is, weier om so 'n permit te magtig tensy die komitee oortuig is dat die huwelik nie aangegaan is met die doel om enige bepaling van hierdie Wet te omseil nie.
- (7) Wanneer 'n streekkomitee magtig verleen het vir die uitreiking van so 'n permit, reik die Direkteur-generaal die permit uit onderworpe aan die voorwaarde dat die persoon aan wie dit uitgereik word, die Republiek binne 'n tydperk van ses maande vanaf die datum van uitreiking van die permit moet binnekomb met die oog op permanente verblyf daarin. Met dien verstande dat die Direkteur-generaal op aansoek van die persoon aan wie dié permit uitgereik is, die geldigheidsduur daarvan van tyd tot tyd kan verleng vir die tydperk, van hoogstens ses maande op 'n keer, en op die voorwaardes wat die Direkteur-generaal bepaal.
- (8) Indien iemand aan wie 'n permit ingevolge subartikel (7) uitgereik is, nie binne 'n tydperk van ses maande vanaf die datum van die uitreiking van dié permit of binne die verdere tydperk wat die Direkteur-generaal bepaal, die Republiek binnekomb met die oog op permanente verblyf daarin nie, verval die geldigheid van daardie permit.
- (9)(a) 'n Streekkomitee kan, op 'n aansoek vermeld in subartikel (1) gedoeno deur 'n vreemdeling wat kragtens hierdie Wet toegelaat is om tydelik in die Republiek te vertoeft ingevolge 'n permit bedoel in artikel 26(1)(b), magtig verleen vir die uitreiking aan hom of haar van 'n permit ingevolge hierdie artikel *mutatis mutandis* asof hy of sy buite die Republiek was, en na uitreiking van daardie permit mag hy of sy permanent in die Republiek woon.
- (b) Ondanks die bepalings van paragraaf (a), kan 'n streekkomitee 'n permit ingevolge hierdie artikel magtig aan iemand wat kragtens artikel 26(1) toegelaat is om tydelik in die Republiek te vertoeft, indien so iemand 'n persoon is soos bedoel in subartikel (4)(b) of (5).
- (10) Indien 'n streekkomitee 'n aansoek wat ingevolge subartikel (2) aan hom voorgelê is van die hand wys, is die komitee nie verplig om daardie aansoek te hoorweeg nie, en oorweeg 'n streekkomitee nie 'n ander sodanige aansoek deur dieselfde persoon nie voor die verstryking van 'n tydperk van minstens 'n jaar vanaf die datum waarop genoemde persoon van die komitee se beslissing in kennis gestel is: Met dien verstande dat indien die Direkteur-generaal nuwe inligting aangaande dié persoon ontvang wat 'n streekkomitee mag beweeg om sy besluit in hoorweging te neem, hy of sy die komitee te eniger tyd kan versoek om eersgenoemde aansoek te hoorweeg.
- (11) Na ontvangs van 'n versoek ingevolge subartikel (10) hoorweeg die streekkomitee die betrokke aansoek asof dit ingevolge subartikel (2) aan dié komitee voorgelê is.
- (12) 'n Streekkomitee—
- (a) moet op versoek van die voorsitter van die sentrale komitee, indien daardie voorsitter dit nodig ag, of indien hersieningsverrigtinge op die voorgeskrewe wyse ingestel is; of
- (b) kan uit eie beweging, 'n aansoek na die sentrale komitee vir oorweging of hoorweging verwys.
- (13) Wanneer 'n aansoek na die sentrale komitee ingevolge subartikel (12) verwys word, kan die sentrale komitee—
- (a) die besluit van 'n streekkomitee in verband met die aansoek bekratig of tersyde stel; en
- (b) indien die besluit tersyde gestel is, of indien die betrokke streekkomitee nog nie tot 'n besluit geraak het nie—

- (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: 15

#### “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; 20
- (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; 25
- (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; 30
- (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; 35
- (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 40
- (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. 45
- (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. 50
- (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 55

- (i) die aansoek oorweeg asof dit ingevolge subartikel (2) aan die sentrale komitee voorgelê is; of  
 (ii) die aansoek na die streekkomitee terugverwys saam met sodanige aanbevelings as wat die sentrale komitee goedvind, in welke geval die streekkomitee die aansoek op dieselfde wyse *mutatis mutandis* in subartikel (11) bepaal, moet hoorweeg.
- 5 (14) Iemand wat poog om 'n lid van die komitee of 'n beampie of werkneemster wie se plig dit is om te werk met aansoeke om, of die uitreiking van, permitte kragtens hierdie artikel, te beweeg om die magtiging tot uitreiking van so 'n permit te bewerkstellig of daarvoor te stem of dit aan te beveel, is aan 'n misdryf skuldig.
- 10 (15) Die Direkteur-generaal kan, vir die doeleindes van subartikel (1), verskillende vorms vir verskillende kategorieë persone voorskryf.”.

### Vervanging van artikel 26 van Wet 96 van 1991

15 13. Artikel 26 van die Hoofwet word hierby deur die volgende artikel vervang:

#### “Tydelike verblyfpermit

- 26. (1) Vir die doeleindes van hierdie Wet is daar die volgende kategorieë tydelike verblyfpermitte:**
- (a) 'n Besoekerspermit, wat uitgereik kan word aan 'n vreemdeling wat aansoek doen om tydelik in die Republiek te vernoef vir enige *bona fide*-doel anders as 'n doel waarvoor 'n permit bedoel in paragrawe (b) tot (f) benodig word;
- 20 (b) 'n werkpermit, wat uitgereik kan word aan 'n vreemdeling wat om toestemming aansoek doen—  
 (i) om tydelik in die Republiek in diens geneem te word met of sonder vergoeding; of  
 (ii) om tydelik enige saak in die Republiek, hetsy vir eie rekening of nie, te bestuur of te bedryf;
- 25 (c) 'n besigheidspermit, wat uitgereik kan word aan 'n vreemdeling wat aansoek doen om toestemming om die Republiek binne te kom ten einde aandag te gee aan sake-aangeleenthede, anders as sake-aangeleenthede waarvoor 'n werkpermit benodig word;
- 30 (d) 'n studiepermit, wat uitgereik kan word aan 'n vreemdeling wat aansoek doen om die Republiek binne te kom en tydelik daarin te vernoef as 'n *bona fide*-student aan enige primêre, sekondêre of tersiêre opvoedkundige inrigting;
- 35 (e) 'n werksoekerspermit, wat uitgereik kan word aan 'n vreemdeling wat aansoek doen om toestemming om die Republiek binne te kom ten einde 'n dienskontrak met 'n werkewer in die Republiek bedoel in paragraaf (b)(i) of om 'n kontrak vir die doeleindes van paragraaf (b)(ii), aan te gaan; en
- 40 (f) 'n mediese permit, wat uitgereik kan word aan 'n vreemdeling wat aansoek doen om toestemming om die Republiek binne te kom met die doel om mediese behandeling te ontvang.
- 45 (2)(a) Behoudens paragraaf (b) en subartikel (5) kan aansoek om 'n werkpermit, studiepermit of 'n werksoekerspermit bedoel in subartikel (1), slegs gedoen word terwyl die aansoeker buite die Republiek is, en so 'n aansoeker word nie toegelaat om die Republiek binne te kom nie totdat 'n geldige permit aan hom of haar uitgereik is.
- 50 (b) Paragraaf (a) is nie van toepassing op die houer van 'n werksoekerspermit nie, indien hy of sy in die Republiek aansoek doen om 'n werkpermit nadat die dienskontrak of ander kontrak beoog in die werksoekerspermit, aangegaan is.
- 55 (3)(a) 'n Immigrasiebeampte, in die geval van 'n aansoek om 'n besoekers-, besigheids- of mediese permit bedoel in subartikel (1), of die Direkteur-generaal, in die geval van 'n aansoek om enigeen van die permitte bedoel in daardie subartikel, kan op aansoek van 'n vreemdeling wat voldoen het aan al die tersaaklike vereistes van hierdie Wet, aan hom of haar die toepaslike permit ingevolge subartikel (1) uitrek om die Republiek of 'n bepaalde deel van die Republiek binne te kom en daarin

<p>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.</p> <p>(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.</p> <p>(4) (a) If an immigration officer or the Director-General, as the case may be, intends issuing a temporary residence permit 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.</p> <p>(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 permit: 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.</p> <p>(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.</p> <p>(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.</p> <p>(6) The Director-General may from time to time extend the period for which, or alter the conditions subject to which, a permit was issued under subsection (3), and a permit so altered shall be deemed to have been issued under the said subsection.</p> <p>(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.”.</p>	5 10 15 20 25 30 35 40 45
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#### 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.”;

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te vertoeft, gedurende die tydperk en op die voorwaardes wat in die permit vermeld word.

(b) Die Direkteur-generaal reik alleenlik 'n werk- of werksoekerspermit uit met behoorlike inagneming van die bepalings van artikel 25(4)(a)(i) en (iv) van hierdie Wet.

(4)(a) Indien 'n immigrasiebeampte of die Direkteur-generaal, na gelang van die geval, voornemens is om 'n tydelike verblyfpermit kragtens subartikel (3) aan 'n vreemdeling uit te reik, kan hy of sy ten einde te verseker dat die tydperk van verblyf vermeld in die permit of die doel waarvoor, en die voorwaardes waarop, die permit uitgereik is, gevolg of nagekom word, vereis dat die vreemdeling, voordat die permit aan hom of haar uitgereik word, 'n bedrag wat die immigrasiebeampte bepaal maar nie 'n bedrag oorskry nie wat die Direkteur-generaal in die algemeen bepaal, by hom of haar stort of 'n waarborg deur 'n bank wat finaal geregistreer is ingevolge die Bankwet, 1990 (Wet No. 94 van 1990), vir die betrokke bedrag op die voorgeskrewe wyse by hom of haar inlewer.

(b) 'n Bedrag of waarborg wat ingevolge paragraaf (a) by 'n immigrasiebeampte gestort of ingelewer is, word, behoudens paragraaf (c), na die vreemdeling se finale vertrek uit die Republiek, of by sy of haar verkryging van 'n immigrasiepermit, aan hom of haar terugbetaal of geroeier, na gelang van die geval: Met dien verstande dat wanneer 'n immigrasiebeampte oortuig is dat 'n vreemdeling by verstryking van sy of haar permit nie oor voldoende fondse beskik om die koste van sy of haar vertrek uit die Republiek te dek nie, sodanige immigrasiebeampte die bedrag wat nodig is om sodanige koste te bestry, van die deposito of die borg, na gelang van die geval, kan verhaal.

(c) Indien, volgens die oordeel van die Direkteur-generaal, 'n vreemdeling versuum het om die Republiek by verstryking van die permit te verlaat of in stryd gehandel het met die doel waarvoor, of versuum het om te voldoen aan 'n voorwaarde waarop, 'n permit kragtens subartikel (3) aan hom of haar uitgereik is, kan die Direkteur-generaal gelas dat die bedrag wat by die immigrasiebeampte gestort is, aan die Staat verbeur word of, indien 'n waarborg by die immigrasiebeampte ingelewer is, dat die bedrag wat ingevolge die waarborg betaalbaar is, ten bate van die Staat verhaal word.

(5) Wanneer 'n tydelike verblyfpermit aan 'n vreemdeling uitgereik word, kan 'n toepaslike permit ingevolge hierdie artikel ook uitgereik word aan die gade en aan 'n afhanglike kind van daardie vreemdeling, asook aan 'n vreemdeling wat in diens is van en lid is van die huishouing van eersgenoemde vreemdeling, indien die gade, kind of werknemer eersgenoemde vreemdeling vergesel of by hom of haar woon.

(6) Die Direkteur-generaal kan van tyd tot tyd die tydperk verleng waarvoor, of die voorwaardes wysig waarop, 'n permit kragtens subartikel (3) uitgereik is, en 'n permit aldus gewysig, word geag kragtens genoemde subartikel uitgereik te wees.

(7) Iemand aan wie 'n permit kragtens subartikel (3) uitgereik is en wat in die Republiek bly na verloop van die tydperk waarvoor, of handel in stryd met die doel waarvoor, of versuum om te voldoen aan 'n voorwaarde waarop, dit uitgereik is, is aan 'n misdryf skuldig en kan kragtens hierdie Wet as 'n verbode persoon behandel word."

#### Wysiging van artikel 27 van Wet 96 van 1991, soos gewysig deur artikel 9 van Wet 3 van 1993

14. Artikel 27 van die Hoofwet word hierby gewysig—  
 (a) deur subartikel (1) deur die volgende subartikel te vervang:
- (1) 'n Vreemdeling wat die Republiek te eniger tyd binnegekom het en, ongeag die omstandighede van sy of haar binnekoms, nie in besit is nie of nie geag word in besit te wees nie van 'n **[permit vir permanente verblyf]** immigrasiepermit wat kragtens artikel 25, of 'n tydelike verblyfpermit wat kragtens artikel 26, aan hom of haar uitgereik is, of nie kragtens artikel 28 van die bepalings van artikel 23(a) of (b) vrygestel is nie, moet hom of haar by 'n immigrasiebeampte of by 'n beampte van die Departement in een van sy kantore aanmeld.”;

(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**

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**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.”.

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**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).

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(b) subartikel (3) deur die volgende subartikel te vervang:

“(3) ’n Vreemdeling bedoel in subartikel (1) wat versuim om aan die bepalings van dié subartikel te voldoen, of ’n vreemdeling in subartikel (2) bedoel wat versuim om aan die bepalings van laasgenoemde subartikel te voldoen, of ’n vreemdeling aldus bedoel wat, indien hy of sy deur ’n immigrasiebeampte daartoe aangesê word, versuim om die besonderhede bepaal deur die Direkteur-generaal op die plek aan dié immigrasiebeampte te verstrek ter einde hom of haar in staat te stel om die uitreiking aan genoemde vreemdeling van ’n tydelyke verblyfpermit kragtens artikel 26(1)(a) te oorweeg, is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met ’n boete of met gevangenisstraf vir ’n tydperk van hoogstens 12 maande, en ongeag of hy of sy aan die misdryf skuldig bevind is al dan nie, kan ’n immigrasiebeampte hom of haar indien hy of sy nie in hechtenis is nie, sonder ’n lasbrief in hechtenis neem of laat neem en hom of haar kragtens ’n lasbrief deur die Minister uitgereik, uit die Republiek verwyder of laat verwyder en hom of haar in afwagting van sodanige verwydering aanhou of laat aanhou, op die wyse en plek deur die Direkteur-generaal bepaal.”; en

(c) subartikel (5) deur die volgende subartikel te vervang:

“(5) Die bepalings van artikel [43(2) en (3)] 44(4) en (5) is *mutatis mutandis* van toepassing op ’n vreemdeling bedoel in subartikel (3) van hierdie artikel op dieselfde wyse waarop hulle van toepassing is op persone bedoel in subartikel (1) van eersgenoemde artikel.”.

#### Wysiging van artikel 28 van Wet 96 van 1991, soos gewysig deur artikel 37 van 25 Wet 132 van 1993

15. Artikel 28 van die Hoofwet word hierby gewysig deur—

(a) subartikel (2) deur die volgende subartikel te vervang:

“(2) Ondanks die bepalings van hierdie Wet kan die Minister, indien hy of sy oortuig is dat daar besondere omstandighede is wat sy of haar besluit regverdig, enige persoon of kategorie [van] persone vrystel van [al of enige van] die bepalings van [hierdie Hoofstuk] artikel 23, en wel vir ’n bepaalde of onbepaalde tydperk en [of onvoorwaardelik of] op die voorwaardes wat die Minister mag ople, en kan dit ook met terugwerkende krag doen.”; en

(b) subartikel (5) deur die volgende subartikel te vervang:

“(5) Die Minister kan, ondanks ’n andersluidende bepaling in hierdie Wet, aan iemand wie se vrystelling kragtens subartikel (4) ingetrek word, ’n toepaslike tydelyke verblyfpermit bedoel in artikel 26 uitrek om in die Republiek of ’n bepaalde deel van die Republiek te vernoef.”.

#### 40 Wysiging van artikel 29 van Wet 96 van 1991

16. Artikel 29 van die Hoofwet word hierby gewysig deur—

(a) subartikel (2) deur die volgende subartikel te vervang:

“(2) Indien ’n vreemdeling bedoel in paragraaf (b) van subartikel (1) ophou, terwyl hy of sy in die Republiek is, om te behoort tot ’n kategorie persone in daardie paragraaf beoog, kan hy of sy, na verloop van ’n tydperk van drie maande vanaf die tydstip waarop hy of sy ophou om tot bedoelde kategorie te behoort, kragtens hierdie Wet as ’n verbode persoon behandel word, tensy, ondanks ’n andersluidende bepaling in hierdie Wet, die raad hom of haar ingevolge artikel 25 toestemming verleen het om in die Republiek te bly met die oog op permanente verblyf daarin, of tensy hy of sy ingevolge artikel 26 [vergunning] ’n toepaslike permit verleen is om in die Republiek te bly gedurende die tydperk en op die voorwaardes wat die betrokke immigrasiebeampte bepaal het.”; en

(b) subartikel (3) te skrap.

**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

(f) 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

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**Wysiging van artikel 30 van Wet 96 van 1991, soos gewysig deur artikel 4 van Wet 3 van 1993**

**17.** Artikel 30 van die Hoofwet word hierby gewysig deur—

(a) subartikel (2) deur die volgende subartikel te vervang:

- 5                 “(2) Die Minister kan ’n immigrasiepermit wat ingevolge artikel 25 uitgereik is, intrek en die houer daarvan by skriftelike kennisgewing gelas om die Republiek binne ’n tydperk wat in die kennisgewing vermeld word te verlaat, indien—  
10                 (a) die aansoek om so ’n permit onjuiste besonderhede bevat; of  
(b) die houer van so ’n permit of sy of haar verteenwoordiger onjuiste besonderhede in verband met die aansoek of ’n aansoek om die verlenging van die geldigheidsduur van daardie permit verstrek het; of  
15                 (c) genoemde houer versuim om ’n voorwaarde wat kragtens artikel 25(3) opgelê is, na te kom; of  
(d) genoemde houer, binne ’n tydperk van drie jaar vanaf die datum van uitreiking van daardie permit, sonder die toestemming van die Minister in die Republiek ’n ander beroep beoefen as die beroep wat in genoemde permit as sy of haar beroep aangegee is; of  
20                 (e) genoemde houer so ’n permit op grond van ’n huwelik wat minder as twee jaar voor die datum van uitreiking van die permit aangegaan is, verkry het, en daardie huwelik binne twee jaar na genoemde datum geregtelik ontbind of beëindig word, tensy die Minister oortuig is dat daardie huwelik nie aangegaan is met die doel om die bepalings van hierdie Wet te omseil nie; of  
25                 (f) dit tot oortuiging van die Minister blyk dat genoemde houer nie die Republiek vir doeleindes van permanente verblyf daarin binnegekom het nie,  
en by verstryking van die tydperk wat in genoemde kennisgewing vermeld word, word daardie permit nietig; en  
30                 (b) die volgende subartikel by te voeg:  
                       “(6) Tensy die Minister anders gelas, word ’n permit in gesinsverband of kragtens artikel 25(5) of 26(5), na gelang van die geval, uitgereik aan die gade, afhanglike kind of werknemer van ’n vreemdeling wie se permit kragtens hierdie artikel ingetrek is, ook nietig op dieselfde wyse mutatis mutandis in subartikel (2) of (3) bepaal.”.

**Wysiging van artikel 35 van Wet 96 van 1991, soos gewysig deur artikel 9 van Wet 3 van 1993**

**18.** Artikel 35 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 40                 “(1) Niemand mag die Republiek verlaat met die doel om na ’n ander land te gaan nie—  
(a) tensy hy of sy, wanneer hy of sy die Republiek verlaat, in besit is van—  
(i) ’n paspoort;  
(ii) ’n permit wat ingevolge artikel 37(1)(a) aan hom uitgereik is; of  
(iii) ’n permit wat ingevolge artikel 37(1)(b) aan hom uitgereik is;]  
45                 (b) tensy, indien hy of sy ’n persoon onder die ouderdom van 16 jaar is wat nie ’n paspoort besit wat aan homself of haarsel uitgereik is nie, hy of sy vergesel word van sy of haar ouer wat in besit is van ’n paspoort waarin sy of haar naam ingeskryf is [**namens die Regering van die Republiek**] ingevolge die bepalings van die Wet op Suid-Afrikaanse Paspoorte en Reisdokumente, 1994 (Wet No. 4 van 1994), of ten behoeve van [**’n**] enige regering of internasionale organisasie wat deur die Regering van die Republiek erken word; en  
50                 (c) behalwe by ’n toegangspoort en, behoudens die bepalings van subartikel (2), tensy hy of sy hom of haar daar by ’n immigrasiebeampte aangemeld het[—  
(i) tensy op die paspoort [**of permit**] bedoel in paragraaf (a) wat hy of sy besit, ’n endossement voorkom, of hy of sy in besit is van ’n sertifikaat deur die Minister of ’n immigrasiebeampte ten effekte, dat aan hom of haar toestemming verleen is om die Republiek van tyd tot tyd by ’n ander plek as ’n toegangspoort te verlaat]; 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**

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**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**

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**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: 15

“(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 20 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, 25 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 30

(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. 35

(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].”.

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- (ii) tensy hy 'n persoon is wat behoort tot 'n kategorie van persone wat kragtens artikel 5(2) gemagtig is om die Republiek binne te kom by 'n plek in daardie artikel bedoel en die plek waar hy die Republiek verlaat daardie plek is.]".

## 5 Wysiging van artikel 36 van Wet 96 van 1991

19. Artikel 36 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die Minister kan, op die voorwaardes wat hy of sy goedvind, iemand of 'n kategorie persone van die bepalings van artikel 35(1) vrystel."

## 10 Herroeping van artikel 37 van Wet 96 van 1991

20. Artikel 37 van die Hoofwet word hierby herroep.

## Herroeping van artikel 38 van Wet 96 van 1991

21. Artikel 38 van die Hoofwet word hierby herroep.

## Wysiging van artikel 41 van Wet 96 van 1991

15. 22. Artikel 41 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (6) deur die volgende paragraaf te vervang:

"(b) Indien iemand ten opsigte van 'n misdryf kragtens paragraaf (a) skuldig bevind en gevonnis is, kan hy of sy voor die verstryking van sy of haar vonnis uit die Republiek verwijder word op die wyse in daardie paragraaf beoog, en die bepalings van artikel [43(2) en (3)] 44(4) en (5) is mutatis mutandis ten opsigte van so 'n persoon van toepassing."

## Vervanging van artikel 43 van Wet 96 van 1991, soos gewysig deur artikel 9 van Wet 3 van 1993

23. Artikel 43 van die Hoofwet word hierby deur die volgende artikel vervang:

### 25 "Straf van, en optrede teen, verbode persone

30 43. [(1)] Indien iemand nadat hy of sy (hetsy voor of na die inwerkting van hierdie Wet) toestemming geweier is om die Republiek binne te kom, of daaruit verwijder is of beveel is om dit te verlaat, in die Republiek gevind word, is hy of sy aan 'n misdryf skuldig en—

35 (a) is hy of sy by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande; en

40 (b) [kan] word hy of sy [te eniger tyd uit die Republiek verwijder word kragtens 'n lasbrief wat deur 'n immigrasiebeampte uitgereik is] mee gehandel ooreenkomsdig die bepalings van artikel 44]; en

45 (c) as hy nie in hechtenis is nie, kan hy sonder lasbrief in hechtenis geneem word en in awagting van sy verwydering, op die wyse en plek deur die Direkteur-generaal bepaal, aangehou word.

(2) Gevangenisstraf wat kragtens subartikel (1) opgelê is, eindig sodra die betrokke persoon uit die Republiek verwijder word.

45 (3) 'n Beampte aan die hoof van die betrokke gevangenis moet, indien 'n lasbrief vir die verwydering of loslating van 'n persoon in hierdie artikel bedoel, deur 'n immigrasiebeampte of polisiebeampte aan hom getoon word, dié persoon deur daardie immigrasiebeampte of polisiebeampte oorhandig, en indien dié persoon nie losgelaat word nie, word hy geag in wettige bewaring te wees terwyl hy in die bewaring is van 'n immigrasiebeampte of polisiebeampte wat op 'n betrokke tydstip in besit van daardie lasbrief is]."

**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.”.

**Vervanging van artikel 44 van Wet 96 van 1991, soos gewysig deur artikel 9 van Wet 3 van 1993**

24. Artikel 44 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verwydering van sekere persone uit Republiek**

- 5           **44.** (1)(a) 'n Immigrasiebeampte [moet iemand wat 'n verbode persoon is en die Republiek binnekomb of daarin gevind word, daaruit laat verwyder]] kan, indien iemand wat 'n verbode persoon is die Republiek binnekomb of daarin gevind word, en nie in aanhouding is nie, hom of haar in hegtenis neem of in hegtenis laat neem sonder 'n lasbrief, en moet, ongeag of so 'n persoon in hegtenis geneem word of nie, kragtens 'n lasbrief deur die Minister uitgereik, hom of haar uit die Republiek verwyder of aldus laat verwyder en kan, in afwagting van sy of haar verwydering, hom of haar aanhou of laat aanhou op die wyse en plek deur die Direkteur-generaal bepaal.
- 10           (b) 'n Immigrasiebeampte kan, voordat 'n verbode persoon kragtens paragraaf (a) of subartikel (2) verwyder word, van so 'n persoon vereis om by die Departement 'n bedrag geld wat voldoende is om enige uitgawes wat die Departement in verband met die verwydering, aanhouding, onderhoud en bewaking van so 'n persoon mag aangaan, te deponeer.
- 15           (c) Indien 'n deposito ingevolge paragraaf (b) bepaal word, kan die immigrasiebeampte op die voorgeskrewe wyse betaling van daardie deposito afdwing indien deur die Minister goedgekeur.
- 20           (d) Indien deur 'n gereghof beveel, word enige bates van die betrokke persoon in die Republiek, wat hy of sy in stryd met die bepalings van artikel 32 verkry het, tot die Staat verbeurd verklaar.
- 25           (e) Iemand wat in gebreke bly om 'n bevel wat ingevolge paragraaf (c) gemaak is, na te kom, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf van hoogstens 12 maande.
- 30           (2) Iemand (uitgesonderd 'n Suid-Afrikaanse burger [deur geboorte of afkoms]) wat—
- 35           (a) nadat hy of sy uit die Republiek verwyder is of, terwyl 'n bevel om die Republiek te verlaat wat kragtens 'n wet uitgereik is, op hom of haar van toepassing is, sonder wettige magtiging daarheen terugkeer of versium om aan dié bevel te voldoen; of
- 40           (b) nadat aan hom of haar, hetsy voor of na die inwerkingtreding van hierdie Wet, toestemming om die Republiek binne te kom, geweier is, die Republiek binnekomb het, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande en kan, indien hy of sy nie reeds in hegtenis is nie, sonder 'n lasbrief in hegtenis geneem en uit die Republiek verwyder word kragtens 'n lasbrief deur die Minister uitgereik en, in afwagting van sy of haar verwydering, op die wyse en plek deur die Direkteur-generaal bepaal, aangehou word.
- 45           (3) Indien iemand kragtens [subartikel (1)] artikel 43 of hierdie artikel skuldig bevind en gevonnis is, kan hy of sy voor die verstryking van sy of haar vonnis uit die Republiek verwyder word op die wyse in [daardie subartikel] hierdie artikel beoog[, en die bepalings van artikel 43(2) en (3) is mutatis mutandis ten opsigte van sy verwydering van toepassing].
- 50           (4) Gevangenisstraf wat kragtens artikel 43 of hierdie artikel opgelê is, eindig sodra die betrokke persoon uit die Republiek verwyder word.
- 55           (5) 'n Beampte aan die hoof van die betrokke gevangenis moet, indien 'n lasbrief vir die verwydering of loslating van 'n persoon in hierdie artikel bedoel, deur 'n immigrasiebeampte of polisiebeampte aan hom of haar getoon word, dié persoon aan daardie immigrasiebeampte of polisiebeampte oorhandig, en indien dié persoon nie losgelaat word nie, word hy of sy geag in wettige bewaring te wees terwyl hy of sy in die bewaring is van 'n immigrasiebeampte of polisiebeampte wat op 'n betrokke tydstip in besit van daardie lasbrief is.”.

**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 II in respect of which he or she has been sentenced to a fine of not less than R4 000, 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.”.

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**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.

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(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.”.

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**Amendment of section 47 of Act 96 of 1991**

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**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.”.

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**Vervanging van artikel 45 van Wet 96 van 1991**

**25.** Artikel 45 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verwydering uit Republiek van persone weens sekere misdrywe**

- 5           **45.** (1) Iemand (uitgesonderd 'n Suid-Afrikaanse burger [**deur geboorte of afkoms**]) wat, hetsy voor of na die inwerkingtreding van hierdie Wet, skuldig bevind is aan 'n misdryf bedoel in artikel 58 of Bylae I of II en ten opsigte waarvan hy of sy gevonnis is tot 'n boete van minstens R4 000, met of sonder gevangenisstraf as alternatief, of tot gevangenisstraf vir 'n tydperk van minstens 12 maande, hetsy as alternatief vir 'n boete of nie, kan kragtens 'n lasbrief deur die Minister uitgerek, in hegtenis geneem en uit die Republiek verwyder word en, in afwagting van sy of haar verwydering, op die wyse en plek deur die Direkteur-generaal bepaal, aangehou word.
- 10           (2) Die bepalings van artikel [43(2) en (3)] 44(4) en (5) is *mutatis mutandis* van toepassing ten opsigte van iemand bedoel in subartikel (1) van hierdie artikel.”.

**Vervanging van artikel 46 van Wet 96 van 1991**

**26.** Artikel 46 van die Hoofwet word hierby deur die volgende artikel vervang:

- 20           **“Verwydering uit Republiek van persone wat weens misdryf ongewenste inwoners van of besoekers in Republiek geag word**
- 25           **46.** (1) Iemand (uitgesonderd 'n Suid-Afrikaanse burger [**deur geboorte of afkoms**]) wat skuldig bevind word aan 'n misdryf deur hom of haar in die Republiek gepleeg binne drie jaar nadat hy of sy die Republiek binnegekom het uit hoofde van 'n [**permit**] immigrasiepermit wat ingevolge artikel 25 aan hom of haar uitgerek is of nadat hy of sy ingevolge artikel 28 vrygestel is van die verpligting om so 'n permit te verkry, of terwyl hy of sy 'n besoeker in die Republiek is en wat, weens die omstandighede van dié misdryf, sy of haar vorige veroordelings (indien daar is) en sy of haar gesinsaangeleenthede, deur die Minister geag word 'n ongewenste inwoner van of besoeker in die Republiek te wees, kan kragtens 'n lasbrief deur die Minister uitgerek, in hegtenis geneem en uit die Republiek verwyder word en kan, in afwagting van sy of haar verwydering, aangehou word op die wyse en plek deur die Direkteur-generaal bepaal.
- 30           (2) Die bepalings van artikel [43(2) en (3)] 44(4) en (5) is *mutatis mutandis* van toepassing ten opsigte van iemand bedoel in subartikel (1) van hierdie artikel.”.

**Wysiging van artikel 47 van Wet 96 van 1991**

**27.** Artikel 47 van die Hoofwet word hierby gewysig deur subartikel (2) te skrap.

**40 Wysiging van artikel 51 van Wet 96 van 1991, soos vervang deur artikel 6 van Wet 3 van 1993**

**28.** Artikel 51 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- 45           “(2) Indien iemand kragtens subartikel (1) gevonnis is, kan hy of sy voor die verstryking van sy of haar vonnis uit die Republiek verwyder word op die wyse in dié subartikel bepaal, en die bepalings van artikel [43(2) en (3)] 44(4) en (5) is *mutatis mutandis* ten opsigte van die verwydering van dié persoon van toepassing.”.

**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:

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“(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:

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“(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:

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“(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:

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“(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.

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(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.

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(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—

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(a) a person’s right to, respect for and the protection of his or her dignity;

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

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

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(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 regarding his or her authority to execute such a warrant.

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(8) (a) Any immigration officer may without a warrant enter upon any

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**Wysiging van artikel 53 van Wet 96 van 1991, soos gewysig deur artikel 9 van Wet 3 van 1993**

**29.** Artikel 53 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

5       “(3) Indien iemand 'n vonnis van gevangenisstraf kragtens subartikel (2) uitdien, kan hy of sy voor verstryking van dié vonnis uit die Republiek verwyder word op die wyse in daardie subartikel beoog, en die bepalings van artikel [43(2) en (3)] 44(4) en (5) is *mutatis mutandis* ten opsigte van sy of haar verwydering van toepassing.”.

**10 Wysiging van artikel 54 van Wet 96 van 1991**

**30.** Artikel 54 van die Hoofwet word hierby gewysig deur—

(a) paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) behoudens die bepalings van subartikels (5) tot (10), met 'n lasbrief, enige perseel betree en dit deursoek;”;

15       (b) paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:

“(c) boeke, aantekeninge, state, registers of ander stukke wat op dié perseel gevind word en op enige wyse op die okkupasie van of verbly op dié perseel betrekking het, ondersoek en afskrifte van of uittreksels uit dié boeke, aantekeninge, state, registers of ander stukke maak of, teen die uitreiking van 'n ontvangsbewys, beslag lê op enigiets op of in die perseel wat na sy of haar mening betrekking het op die aangeleenthede vermeld in paragraaf (d), of wat hy of sy vir verdere ondersoek of veilige bewaring wil hou;”;

20       (c) die skrapping van subartikel (3); en

25       (d) die volgende subartikels by te voeg:

“(4) Iemand van wie 'n boek of dokument ingevolge subartikel (1)(c) geneem is, moet op sy of haar versoek, en op sy of haar koste en onder toesig, toegelaat word om te eniger redelike tyd kopieë daarvan of uittreksels daaruit te maak.”;

30       (5) 'n Lasbrief in subartikel (1) bedoel word uitgereik deur 'n landdros wat regsvvoegdheid het in die gebied waar die betrokke perseel geleë is, en word slegs uitgereik indien dit aan die landdros blyk uit inligting onder eed dat daar redelike gronde is om te glo dat 'n verbode persoon, of enige boek, aanteking, staat, register of ander stuk in subartikel (1) genoem, op of in sodanige perseel is, en moet aandui welke van die handelinge in paragrawe (b) tot (e) van daardie subartikel daarkragtens verrig mag word deur die persoon aan wie dit uitgereik is.

35       (6) 'n Lasbrief uitgereik ingevolge hierdie artikel word in die dag uitgevoer tensy die landdros wat die lasbrief uitreik, uitvoering daarvan in die nag, op tye wat redelik is, magtig, en enige betreding en of deursoeking van enige perseel in sodanige lasbrief vermeld, word gedoen met streng voorbehoud van welvoeglikheid en orde, met inbegrip van—

40       (a) die reg van 'n persoon tot, eerbied vir en die beskerming van sy of haar waardigheid;

(b) die reg van 'n persoon tot vryheid en sekuriteit; en

(c) die reg van 'n persoon tot sy of haar persoonlike privaatheid.

45       (7) Enige immigrasiebeampte wat 'n lasbrief ingevolge hierdie artikel uitvoer, moet onmiddellik voordat hy of sy met die uitvoering begin—

50       (a) homself of haarsel identifiseer aan die persoon in beheer van die perseel, indien sodanige persoon teenwoordig is, en 'n afskrif van die lasbrief aan sodanige persoon oorhandig, of indien sodanige persoon nie teenwoordig is nie, sodanige afskrif op 'n opvallende plek by die perseel aanbring;

55       (b) aan sodanige persoon, op sy of haar versoek, besonderhede met betrekking tot sy of haar magtiging om sodanige lasbrief uit te voer, verskaf.

(8) (a) Enige immigrasiebeampte kan sonder 'n lasbrief enige perseel

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)—	5
(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	10
(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.	15
(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.	20
(10) A warrant issued in terms of this section may be issued on any day and shall be of force until—	25
(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, <u>whichever may occur first.</u> "	30

### 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. <u>(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.</u>	35
(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.	40
(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—	45
(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.	50
(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.	

- behalwe 'n privaatwoning betree en vir enige boek, aantekening, staat, register of ander stuk soek, daarop beslag lê en dit verwyder—
- (i) indien die persoon wat daartoe bevoeg is tot sodanige betreding, deursoeking, beslaglegging en verwydering instem; of
- (ii) indien hy of sy op redelike gronde vermoed dat—
- (aa) die vereiste lasbrief aan hom of haar uitgereik sou word ingevolge subartikel (5) indien hy of sy vir sodanige lasbrief aansoek sou doen; en
- (bb) die vertraging wat veroorsaak sal word deur die verkryging van sodanige lasbrief, die oogmerk van sodanige betreding, deursoeking, beslaglegging en verwydering sal verydel.
- (b) 'n Betreding en deursoeking ingevolge paragraaf (a) word gedurende die dag uitgevoer tensy die uitvoering daarvan in die nag geregverdig en nodig is.
- (9) (a) Enige immigrasiebeampte wat op gesag van 'n lasbrief uitgereik ingevolge subartikel (5), of kragtens die bepalings van subartikel (8), enige perseel betree of deursoek, kan die geweld gebruik wat redelikerwys nodig is om enige verset teen so 'n betreding en deursoeking van so 'n perseel te bowe te kom.
- (b) Geen immigrasiebeampte mag 'n perseel betree of deursoek nie tensy hy of sy eers hoorbaar toegang tot die perseel geëis het, en die doel van sy of haar betreding verklaar het, behalwe indien sodanige persoon op redelike gronde van mening is dat enige boek, aantekening, staat, register of ander stuk vernietig mag word indien sodanige toegang eers geëis word en sodanige doel eers verklaar word.
- (10) 'n Lasbrief ingevolge hierdie subartikel uitgereik, kan op enige dag uitgereik word en bly van krag totdat—
- (a) dit uitgevoer is; of
- (b) dit ingetrek word deur die landdros wat dit uitgereik het of, indien daardie landdros nie beskikbaar is nie, deur 'n ander landdros; of
- (c) een maand verstryk het vanaf die dag waarop dit uitgereik is; of
- (d) die doel van die uitreiking van die lasbrief verval het,  
welke ook al eerste plaasvind.”.

#### Vervanging van artikel 55 van Wet 96 van 1991

- 35 31. Artikel 55 van die Hoofwet word hierby deur die volgende artikel vervang:

#### **"Beperking op aanhouding**

55. (1) Indien iemand kragtens die bepalings van hierdie Wet by enige ander plek as op 'n skip aangehou word, mag sodanige aanhouding, behoudens die bepalings van subartikel (5), nie vir 'n langer tydperk as 48 uur vanaf die tydstip van sy of haar inhegtenisneming, of vanaf die tydstip waarop hy of sy in aanhouding geneem is, of vanaf die tydstip waarop 'n ondersoek ingevolge artikel 7 'n aanvang geneem het, na gelang van die geval, wees nie.
- (2) Indien die tydperk van 48 uur verstryk op 'n dag wat nie 'n gewone werksdag is nie, word die tydperk tot vieruur in die namiddag van die daaropvolgende gewone werksdag verleng.
- (3) Indien 'n ondersoek in artikel 7(1)(iii) of (iv) bedoel nie voor die verstryking van die 48 uur afgehandel is nie, moet die immigrasiebeampte—
- (a) die betrokke persoon vrylaat; of
- (b) aan bedoelde persoon 'n voorlopige permit ingevolge artikel 10 uitrek; of
- (c) nadat hy of sy die bedoelde persoon skriftelik in die voorgeskrewe vorm van die redes vir sodanige verdere aanhouding in kennis gestel het, bedoelde persoon vir so 'n langer tydperk van hoogstens 48 uur op 'n keer, vir solank as wat redelik en noodsaaklik is, aanhou.
- (4) Vir die doeleindes van hierdie artikel beteken 'gewone werksdag' enige dag van die week vanaf Maandag tot Vrydag wat nie 'n openbare vakansiedag is nie.

(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.”.

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**Amendment of section 56 of Act 96 of 1991, as amended by section 7 of Act 3 of 1993** 10

**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:  
“(f) 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
- (f) 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.”.

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(5) Subartikels (1) tot (4) is nie van toepassing op 'n persoon wat aangehou word kragtens hierdie Wet in afwagting op sy of haar verwydering nie: Met dien verstande dat sodanige aanhouding nie vir 'n langer tydperk as wat redelik en noodsaaklik is, mag wees nie, en dat enige aanhouding wat 30 dae oorskry onverwyld deur 'n regter van die Hooggereghof van die provinsiale afdeling in wie se regssgebied die betrokke persoon aangehou word, deur die Regter-president van daardie afdeling vir die doel aangewys, hersien word, en met dien verstande voorts dat so 'n aanhouding na verloop van elke daaropvolgende tydperk van 90 dae aldus hersien sal word.”.

## **Wysiging van artikel 56 van Wet 96 van 1991, soos gewysig deur artikel 7 van Wet 3 van 1993**

**32.** Artikel 56 van die Hoofwet word hierby gewysig deur—

- 15 (a) paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:  
 “(c) die prosedure wat die binnekoms in en vertrek uit die Republiek van persone [in die Republiek] by 'n toegangspoort, en die vereistes en voorwaardes wat by so 'n poort nagekom moet word, reël;”;

20 (b) paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:  
 “(f) die permitte en sertifikate wat kragtens hierdie Wet uitgereik kan word, die voorwaardes waarop dié permitte en sertifikate uitgereik kan word, die omstandighede waaronder dié permitte of sertifikate geroeier of ingetrek kan word, die gelde wat ten opsigte van aansoek om en die uitreiking van dié permitte of sertifikate gevorder kan word, en die bedrag en aard van die sekerheid wat vereis word om nakoming van die voorwaardes te verseker waarop 'n permit om binne te kom en vir 'n bepaalde tydperk te bly, aan 'n verbode persoon uitgereik kan word;”;

25 (c) paragraaf (j) van subartikel (1) deur die volgende paragraaf te vervang:  
 “(j) die gelde wat ten opsigte van aansoek om en die uitreiking van visums gevorder kan word;”;

30 (d) paragraaf (l) van subartikel (1) deur die volgende paragraaf te vervang:  
 “(l) die vereistes waaraan voldoen en die voorwaardes wat nagekom moet word deur iemand wat ten behoeve van iemand anders aansoek doen om 'n permit bedoel in artikel 25 of 26 of om die verlenging van die geldigheidsduur van 'n permit bedoel in artikel 26, en die registrasie van iemand, uitgesonderd 'n prokureur, wat dit sy of haar besigheid maak om ten behoeve van ander persone sodanige aansoek te doen, met inbegrip van die vereistes en voorwaardes waaronder so 'n registrasie mag plaasvind asook die omstandighede waaronder so 'n registrasie gekanselleer kan word;”;

35 (e) die volgende paragrawe by subartikel (1) te voeg:  
 “(m) die wyse waarop betaling van 'n deposito bedoel in artikel 44 afgedwing kan word;  
 (n) die stappe wat gedoen moet word ten einde behoorlike benutting van die plaaslike arbeidsmark te verseker voordat 'n werkpermit of werksoekerspermit kragtens artikel 26(1) uitgereik word;

40 (o) die bevoegdhede, werksaamhede en pligte van die Immigranteurraad en sy komitees, wat vir die doeltreffender verwesenliking van die doelstellings en oogmerke van hierdie Wet nodig geag word;

45 (p) die wyse waarop en die voorwaardes waaronder 'n beslissing van 'n streekkomitee van die Immigranteurraad gemaak kragtens artikel 25, aan hersiening deur die sentrale komitee van daardie raad, onderwerp kan word;  
 (q) die omstandighede waaronder en die wyse waarop 'n boete opgeloop kan word deur en ingevorder kan word van die eienaar, verteenwoordiger of persoon in beheer van 'nervoermiddel en wat 'n verbode persoon bedoel in artikel 11 na die Republiek vervoer het;”;

50 (f) die volgende subartikel by te voeg:  
 “(5) Enige gelde wat kragtens subartikel (1) voorgeskryf kan word, word deur die Minister met die instemming van die Minister van Finansies voorgeskryf.”.

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**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;”;

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(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];”;

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(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.”;

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

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**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].

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(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.”.

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**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.”.

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**Substitution of Schedule II of Act 96 of 1991**

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

**“Schedule II****Offences referred to in section 45**

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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).

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**Wysiging van artikel 57 van Wet 96 van 1991, soos gewysig deur artikel 9 van Wet 3 van 1993**

33. Artikel 57 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) deur die volgende paragraaf te vervang:

5       “(a) 'n persoon op enige wyse bystaan of help om in stryd met hierdie Wet die Republiek binne te kom of daarin te bly of te poog om dit aldus binne te kom of daarin te bly of dit te verlaat of te poog om dit te verlaat met die doel om na 'n ander land te gaan;”;

10      (b) deur paragraaf (c) deur die volgende paragraaf te vervang:

10       “(c) 'n persoon wat nie in besit is nie van 'n geldige visum of 'n geldige paspoort en nie 'n Suid-Afrikaanse burger [deur geboorte of afkoms] is nie, na die Republiek bring of laat bring of in die Republiek inbring of laat inbring;”; en

15       (c) deur paragraaf (e) deur die volgende paragraaf te vervang:

15       “(e) ten einde die Republiek in stryd met hierdie Wet binne te kom of daarin te bly, of die binnekoms of verblyf van homself of haarself of 'n ander persoon in die Republiek, hetsy dit in stryd met hierdie Wet is al dan nie, te vergemaklik of te bevorder, 'n bedrieglike handeling pleeg of deur gedrag, 'n verklaring of andersins 'n wanvoorstelling doen.”.

**Wysiging van artikel 58 van Wet 96 van 1991, soos gewysig deur artikels 8(b) en 9 van Wet 3 van 1993**

34. Artikel 58 van die Hoofwet word hierby gewysig deur subartikels (2) en (3) deur die volgende subartikels te vervang:

25       “(2) Indien 'n persoon aan 'n oortreding van artikel 32(1)(a) of (b), of artikel 32(2) of 57, skuldig bevind is, [moet die hof die bedrag van die koste vasstel] is hy of sy aanspreeklik om aan die Staat die koste wat die Staat aangegaan het of benodig by die aanhouding en verwydering van die betrokke vreemdeling uit die Republiek [en, ongeag enige straf opgelê, die veroordeelde gelas om dié bedrag aan die Staat] te betaal.

30       (3) 'n [Bevel] Bedrag wat ingevolge subartikel (2) [uitgereik] betaalbaar is, het, sodra deur die Direkteur-generaal bepaal, die uitwerking van 'n siviele vonnis in 'n landdroshof.”.

**Wysiging van artikel 59 van Wet 96 van 1991**

35      35. Artikel 59 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

35       “(3) 'n Sertifikaat, insluitende 'n sertifikaat betreffende 'n afskrif van of uittreksel uit enige boek, aantekening, staat, register of ander stuk bedoel in artikel 54(1)(c), of skriftelike magtiging onderteken deur 'n immigrasiebeampte is in 'n geding kragtens hierdie Wet *prima facie*-bewys van die feite wat daarin vermeld word, en dit is nie nodig om mondeline getuienis ten opsigte van dié feite voor te lê nie, tensy die hof waarvoor dié geding gevoer word, dit uitdruklik gelas, in welke geval 'n uitstel toegestaan moet word ten einde die immigrasiebeampte wie se teenwoordigheid vereis word, in staat te stel om teenwoordig te wees.”.

**45 Vervanging van Bylae II van Wet 96 van 1991**

36. Bylae II van die Hoofwet word hierby deur die volgende Bylae vervang:

**“Bylae II**

**Misdrywe bedoel in artikel 45**

50      Handeldryf in, verkoop of in besit wees van onbewerkte edele metaal of ruwe of ongeslypte edelstene in stryd met 'n wet.  
Oortreding van 'n bepaling van die Insolvencieswet, 1936 (Wet No. 24 van 1936).  
Oortreding van artikel 319(3) van die Strafproseswet, 1955 (Wet No. 56 van 1955).

**Act No. 76, 1995****ALIENS CONTROL AMENDMENT ACT, 1995**

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). 5	
[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).]	10
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), 15 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).] 20	
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**

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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*.

- Oortreding van artikel 36 of 37 van die Algemene Regswysigingswet, 1955 (Wet No. 62 van 1955).
- Oortreding van 'n bepaling van die Wet op Seksuele Misdrywe, 1957 (Wet No. 23 van 1957), wat kragtens daardie Wet 'n misdryf uitmaak.
- 5 Oortreding van die Wet op [**die Voorkoming van**] Korruptsie, [1958 (Wet No. 6 van 1958)] 1992, (Wet No. 94 van 1992).  
[Oortreding van artikel 22A van die Heraldiekwet, 1962 (Wet No. 18 van 1962).]
- 10 Oortreding van artikel 18 van die Wet op [**Prysbeheer**] Verkoop- en Diensaangeleenthede, 1964 (Wet No. 25 van 1964).  
[Oortreding van artikel 2(1) van die Wet op Onbetaamlike of Onwelvoeglike Fotografiese Materiaal, 1967 (Wet No. 37 van 1967).]
- Oortreding van artikel 39(1)(h), (i), (j), (k), (l) of (m) van die Wet op Wapens en Ammunisie, 1969 (Wet No. 75 van 1969).
- 15 Oortreding van die Wet op Intimidasie, 1982 (Wet No. 72 van 1982).  
Oortreding van artikel 54[**, 55, 56(1)(a), (b), (c), (g), (i), (j), (k), (m), (n), (o)** of (p), 57(1), 59 of 60] van die Wet op Binnelandse Veiligheid, 1982 (Wet No. 74 van 1982).  
[**'n Misdryf ten opsigte waarvan 'n straf ingevolge artikel 58 van die Wet op Binnelandse Veiligheid, 1982, opgelê is.**]
- 20 Oortreding van die Wet op die Beveiliging van Inligting, 1982 (Wet No. 84 van 1982).  
[Oortreding van artikel 92 van die Grondwet van die Republiek van Suid-Afrika, 1983 (Wet No. 110 van 1983).]
- 25 Handeldryf in of besit of vervoer van bedreigde, skaars en beskermde wild of plante of dele of oorblyfsels daarvan in stryd met 'n Provinciale Ordonnansie.  
Oortreding van 'n wet op deviesebeheer.”.

**Kort titel en inwerkingtreding**

37. Hierdie Wet heet die Wysigingswet op Vreemdelinge-beheer, 1995, en tree in werking op 'n datum deur die President by proklamasie in die Staatskoerant bepaal.

